

Bill No. CS for SB 1418

Amendment No. Barcode 053672

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Garcia moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

Section 1. Paragraph (d) of subsection (2) and paragraph (b) of subsection (5) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.--

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

(d) "Losses" means direct incurred losses under covered policies, which shall include losses for additional living expenses not to exceed 20 percent of the insured value of mobile homes or personal residential structures and 40 percent of the insured value of contents covered under a tenant's policy or a condominium unit owners policy and shall exclude ~~excluding losses attributable to additional living expense coverages and excluding~~ loss adjustment expenses.

"Losses" does not include losses for fair rental value associated with personal and commercial residential exposures

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1 or business interruption losses associated with commercial
2 residential exposures.

3 (5) REIMBURSEMENT PREMIUMS.--

4 (b) The State Board of Administration shall select an
5 independent consultant to develop a formula for determining
6 the actuarially indicated premium to be paid to the fund. The
7 formula shall specify, for each zip code or other limited
8 geographical area, the amount of premium to be paid by an
9 insurer for each \$1,000 of insured value under covered
10 policies in that zip code or other area. In establishing
11 premiums, the board shall consider the coverage elected under
12 paragraph (4)(b) and any factors that tend to enhance the
13 actuarial sophistication of ratemaking for the fund, including
14 deductibles, type of construction, type of coverage provided,
15 relative concentration of risks, a factor providing for more
16 rapid cash buildup in the fund until the fund capacity for a
17 single hurricane season is fully funded,and other such
18 factors deemed by the board to be appropriate. The formula
19 may provide for a procedure to determine the premiums to be
20 paid by new insurers that begin writing covered policies after
21 the beginning of a contract year, taking into consideration
22 when the insurer starts writing covered policies, the
23 potential exposure of the insurer, the potential exposure of
24 the fund, the administrative costs to the insurer and to the
25 fund, and any other factors deemed appropriate by the board.
26 The formula must be approved by unanimous vote of the board.
27 The board may, at any time, revise the formula pursuant to the
28 procedure provided in this paragraph.

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

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1 applicant or policyholder is eligible for coverage only if an
2 offer of coverage cannot be obtained by or for the applicant
3 or policyholder from an admitted insurer at approved rates.

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

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1 this state by all member insurers.

2 (II) Effective July 1, 2002, the association shall
3 operate subject to the supervision and approval of ~~The plan of~~
4 ~~operation shall provide for a board of governors who are the~~
5 same individuals that have been appointed by the Treasurer to
6 serve on the board of governors of the Citizens Property
7 Insurance Corporation ~~directors consisting of the Insurance~~
8 ~~Consumer Advocate appointed under s. 627.0613, 1 consumer~~
9 ~~representative appointed by the Insurance Commissioner, 1~~
10 ~~consumer representative appointed by the Governor, and 12~~
11 ~~additional members appointed as specified in the plan of~~
12 ~~operation. One of the 12 additional members shall be elected~~
13 ~~by the domestic companies of this state on the basis of~~
14 ~~cumulative weighted voting based on the net direct premiums of~~
15 ~~domestic companies in this state. Nothing in the 1997~~
16 ~~amendments to this paragraph terminates the existing board or~~
17 ~~the terms of any members of the board.~~

18 (III) The plan of operation shall provide a formula
19 whereby a company voluntarily providing windstorm coverage in
20 affected areas will be relieved wholly or partially from
21 apportionment of a regular assessment pursuant to
22 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

23 (IV) A company which is a member of a group of
24 companies under common management may elect to have its
25 credits applied on a group basis, and any company or group may
26 elect to have its credits applied to any other company or
27 group.

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

31 (VI) The plan of operation may also provide for the

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1 award of credits, for a period not to exceed 3 years, from a
2 regular assessment pursuant to sub-sub-subparagraph d.(I) or
3 sub-sub-subparagraph d.(II) as an incentive for taking
4 policies out of the Residential Property and Casualty Joint
5 Underwriting Association. In order to qualify for the
6 exemption under this sub-sub-subparagraph, the take-out plan
7 must provide that at least 40 percent of the policies removed
8 from the Residential Property and Casualty Joint Underwriting
9 Association cover risks located in Dade, Broward, and Palm
10 Beach Counties or at least 30 percent of the policies so
11 removed cover risks located in Dade, Broward, and Palm Beach
12 Counties and an additional 50 percent of the policies so
13 removed cover risks located in other coastal counties, and
14 must also provide that no more than 15 percent of the policies
15 so removed may exclude windstorm coverage. With the approval
16 of the department, the association may waive these geographic
17 criteria for a take-out plan that removes at least the lesser
18 of 100,000 Residential Property and Casualty Joint
19 Underwriting Association policies or 15 percent of the total
20 number of Residential Property and Casualty Joint Underwriting
21 Association policies, provided the governing board of the
22 Residential Property and Casualty Joint Underwriting
23 Association certifies that the take-out plan will materially
24 reduce the Residential Property and Casualty Joint
25 Underwriting Association's 100-year probable maximum loss from
26 hurricanes. With the approval of the department, the board
27 may extend such credits for an additional year if the insurer
28 guarantees an additional year of renewability for all policies
29 removed from the Residential Property and Casualty Joint
30 Underwriting Association, or for 2 additional years if the
31 insurer guarantees 2 additional years of renewability for all

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1 policies removed from the Residential Property and Casualty
2 Joint Underwriting Association.

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

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

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

23 (II) When the deficit incurred in a particular
24 calendar year exceeds 10 percent of the aggregate statewide
25 direct written premium for property insurance for the prior
26 calendar year for all member insurers, the association shall
27 levy an assessment on member insurers in an amount equal to
28 the greater of 10 percent of the deficit or 10 percent of the
29 aggregate statewide direct written premium for property
30 insurance for the prior calendar year for member insurers. Any
31 remaining deficit shall be recovered through emergency

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

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

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

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1 (V) If regular deficit assessments are made under
2 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
3 the Residential Property and Casualty Joint Underwriting
4 Association under sub-subparagraph (6)(b)3.a. or
5 sub-subparagraph (6)(b)3.b., the association shall levy upon
6 the association's policyholders, as part of its next rate
7 filing, or by a separate rate filing solely for this purpose,
8 a market equalization surcharge in a percentage equal to the
9 total amount of such regular assessments divided by the
10 aggregate statewide direct written premium for property
11 insurance for member insurers for the prior calendar year.
12 Market equalization surcharges under this sub-sub-subparagraph
13 are not considered premium and are not subject to commissions,
14 fees, or premium taxes; however, failure to pay a market
15 equalization surcharge shall be treated as failure to pay
16 premium.

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

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

31 3. The plan shall also provide that any member with a

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1 surplus as to policyholders of \$20 million or less writing 25
2 percent or more of its total countrywide property insurance
3 premiums in this state may petition the department, within the
4 first 90 days of each calendar year, to qualify as a limited
5 apportionment company. The apportionment of such a member
6 company in any calendar year for which it is qualified shall
7 not exceed its gross participation, which shall not be
8 affected by the formula for voluntary writings. In no event
9 shall a limited apportionment company be required to
10 participate in any apportionment of losses pursuant to
11 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
12 in the aggregate which exceeds \$50 million after payment of
13 available plan funds in any calendar year. However, a limited
14 apportionment company shall collect from its policyholders any
15 emergency assessment imposed under sub-sub-subparagraph
16 2.d.(III). The plan shall provide that, if the department
17 determines that any regular assessment will result in an
18 impairment of the surplus of a limited apportionment company,
19 the department may direct that all or part of such assessment
20 be deferred. However, there shall be no limitation or
21 deferment of an emergency assessment to be collected from
22 policyholders under sub-sub-subparagraph 2.d.(III).

23 4. The plan shall provide for the deferment, in whole
24 or in part, of a regular assessment of a member insurer under
25 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
26 but not for an emergency assessment collected from
27 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
28 opinion of the commissioner, payment of such regular
29 assessment would endanger or impair the solvency of the member
30 insurer. In the event a regular assessment against a member
31 insurer is deferred in whole or in part, the amount by which

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1 such assessment is deferred may be assessed against the other
2 member insurers in a manner consistent with the basis for
3 assessments set forth in sub-sub-subparagraph 2.d.(I) or
4 sub-sub-subparagraph 2.d.(II).

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

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

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

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1 a commercial lines residential risk with limits above \$10
2 million or a personal lines residential risk with limits above
3 \$1 million if coverage is not available in the authorized
4 market. The association may write coverage above the limits
5 specified in this subparagraph with or without facultative or
6 other reinsurance coverage, as the association determines
7 appropriate.

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

14 (I) Whether the likelihood of a loss for the
15 individual risk is substantially higher than for other risks
16 of the same class; and

17 (II) Whether the uncertainty associated with the
18 individual risk is such that an appropriate premium cannot be
19 determined.

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

25 e. The policies issued by the association must provide
26 that if the association obtains an offer from an authorized
27 insurer to cover the risk at its approved rates under either a
28 standard policy including wind coverage or, if consistent with
29 the insurer's underwriting rules as filed with the department,
30 a basic policy including wind coverage, the risk is no longer
31 eligible for coverage through the association. Upon

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1 termination of eligibility, the association shall provide
2 written notice to the policyholder and agent of record stating
3 that the association policy must be canceled as of 60 days
4 after the date of the notice because of the offer of coverage
5 from an authorized insurer. Other provisions of the insurance
6 code relating to cancellation and notice of cancellation do
7 not apply to actions under this sub-subparagraph.

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

16 6.a. The plan of operation may authorize the formation
17 of a private nonprofit corporation, a private nonprofit
18 unincorporated association, a partnership, a trust, a limited
19 liability company, or a nonprofit mutual company which may be
20 empowered, among other things, to borrow money by issuing
21 bonds or by incurring other indebtedness and to accumulate
22 reserves or funds to be used for the payment of insured
23 catastrophe losses. The plan may authorize all actions
24 necessary to facilitate the issuance of bonds, including the
25 pledging of assessments or other revenues.

26 b. Any entity created under this subsection, or any
27 entity formed for the purposes of this subsection, may sue and
28 be sued, may borrow money; issue bonds, notes, or debt
29 instruments; pledge or sell assessments, market equalization
30 surcharges and other surcharges, rights, premiums, contractual
31 rights, projected recoveries from the Florida Hurricane

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1 Catastrophe Fund, other reinsurance recoverables, and other
2 assets as security for such bonds, notes, or debt instruments;
3 enter into any contracts or agreements necessary or proper to
4 accomplish such borrowings; and take other actions necessary
5 to carry out the purposes of this subsection. The association
6 may issue bonds or incur other indebtedness, or have bonds
7 issued on its behalf by a unit of local government pursuant to
8 subparagraph (g)2., in the absence of a hurricane or other
9 weather-related event, upon a determination by the association
10 subject to approval by the department that such action would
11 enable it to efficiently meet the financial obligations of the
12 association and that such financings are reasonably necessary
13 to effectuate the requirements of this subsection. Any such
14 entity may accumulate reserves and retain surpluses as of the
15 end of any association year to provide for the payment of
16 losses incurred by the association during that year or any
17 future year. The association shall incorporate and continue
18 the plan of operation and articles of agreement in effect on
19 the effective date of chapter 76-96, Laws of Florida, to the
20 extent that it is not inconsistent with chapter 76-96, and as
21 subsequently modified consistent with chapter 76-96. The board
22 of directors and officers currently serving shall continue to
23 serve until their successors are duly qualified as provided
24 under the plan. The assets and obligations of the plan in
25 effect immediately prior to the effective date of chapter
26 76-96 shall be construed to be the assets and obligations of
27 the successor plan created herein.

28 c. In recognition of s. 10, Art. I of the State
29 Constitution, prohibiting the impairment of obligations of
30 contracts, it is the intent of the Legislature that no action
31 be taken whose purpose is to impair any bond indenture or

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1 financing agreement or any revenue source committed by
2 contract to such bond or other indebtedness issued or incurred
3 by the association or any other entity created under this
4 subsection.

5 7. On such coverage, an agent's remuneration shall be
6 that amount of money payable to the agent by the terms of his
7 or her contract with the company with which the business is
8 placed. However, no commission will be paid on that portion of
9 the premium which is in excess of the standard premium of that
10 company.

11 8. Subject to approval by the department, the
12 association may establish different eligibility requirements
13 and operational procedures for any line or type of coverage
14 for any specified eligible area or portion of an eligible area
15 if the board determines that such changes to the eligibility
16 requirements and operational procedures are justified due to
17 the voluntary market being sufficiently stable and competitive
18 in such area or for such line or type of coverage and that
19 consumers who, in good faith, are unable to obtain insurance
20 through the voluntary market through ordinary methods would
21 continue to have access to coverage from the association. When
22 coverage is sought in connection with a real property
23 transfer, such requirements and procedures shall not provide
24 for an effective date of coverage later than the date of the
25 closing of the transfer as established by the transferor, the
26 transferee, and, if applicable, the lender.

27 9. Notwithstanding any other provision of law:

28 a. The pledge or sale of, the lien upon, and the
29 security interest in any rights, revenues, or other assets of
30 the association created or purported to be created pursuant to
31 any financing documents to secure any bonds or other

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1 indebtedness of the association shall be and remain valid and
 2 enforceable, notwithstanding the commencement of and during
 3 the continuation of, and after, any rehabilitation,
 4 insolvency, liquidation, bankruptcy, receivership,
 5 conservatorship, reorganization, or similar proceeding against
 6 the association under the laws of this state or any other
 7 applicable laws.

8 b. No such proceeding shall relieve the association of
 9 its obligation, or otherwise affect its ability to perform its
 10 obligation, to continue to collect, or levy and collect,
 11 assessments, market equalization or other surcharges,
 12 projected recoveries from the Florida Hurricane Catastrophe
 13 Fund, reinsurance recoverables, or any other rights, revenues,
 14 or other assets of the association pledged.

15 c. Each such pledge or sale of, lien upon, and
 16 security interest in, including the priority of such pledge,
 17 lien, or security interest, any such assessments, emergency
 18 assessments, market equalization or renewal surcharges,
 19 projected recoveries from the Florida Hurricane Catastrophe
 20 Fund, reinsurance recoverables, or other rights, revenues, or
 21 other assets which are collected, or levied and collected,
 22 after the commencement of and during the pendency of or after
 23 any such proceeding shall continue unaffected by such
 24 proceeding.

25 d. As used in this subsection, the term "financing
 26 documents" means any agreement, instrument, or other document
 27 now existing or hereafter created evidencing any bonds or
 28 other indebtedness of the association or pursuant to which any
 29 such bonds or other indebtedness has been or may be issued and
 30 pursuant to which any rights, revenues, or other assets of the
 31 association are pledged or sold to secure the repayment of

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1 such bonds or indebtedness, together with the payment of
2 interest on such bonds or such indebtedness, or the payment of
3 any other obligation of the association related to such bonds
4 or indebtedness.

5 e. Any such pledge or sale of assessments, revenues,
6 contract rights or other rights or assets of the association
7 shall constitute a lien and security interest, or sale, as the
8 case may be, that is immediately effective and attaches to
9 such assessments, revenues, contract, or other rights or
10 assets, whether or not imposed or collected at the time the
11 pledge or sale is made. Any such pledge or sale is effective,
12 valid, binding, and enforceable against the association or
13 other entity making such pledge or sale, and valid and binding
14 against and superior to any competing claims or obligations
15 owed to any other person or entity, including policyholders in
16 this state, asserting rights in any such assessments,
17 revenues, contract, or other rights or assets to the extent
18 set forth in and in accordance with the terms of the pledge or
19 sale contained in the applicable financing documents, whether
20 or not any such person or entity has notice of such pledge or
21 sale and without the need for any physical delivery,
22 recordation, filing, or other action.

23 f. There shall be no liability on the part of, and no
24 cause of action of any nature shall arise against, any member
25 insurer or its agents or employees, agents or employees of the
26 association, members of the board of directors of the
27 association, or the department or its representatives, for any
28 action taken by them in the performance of their duties or
29 responsibilities under this subsection. Such immunity does not
30 apply to actions for breach of any contract or agreement
31 pertaining to insurance, or any willful tort.

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1 (6) CITIZENS RESIDENTIAL PROPERTY INSURANCE
2 CORPORATION AND CASUALTY JOINT UNDERWRITING ASSOCIATION.--

3 (a)1. The Legislature finds that actual and threatened
4 catastrophic losses to property in this state from hurricanes
5 have caused insurers to be unwilling or unable to provide
6 property insurance coverage to the extent sought and needed.
7 It is in the public interest and a public purpose to assist in
8 assuring that property in the state is insured so as to
9 facilitate the remediation, reconstruction, and replacement of
10 damaged or destroyed property in order to reduce or avoid the
11 negative effects otherwise resulting to the public health,
12 safety, and welfare; to the economy of the state; and to the
13 revenues of the state and local governments needed to provide
14 for the public welfare. It is necessary, therefore, to provide
15 property insurance to applicants who are in good faith
16 entitled to procure insurance through the voluntary market but
17 are unable to do so. The Legislature intends by this
18 subsection that property insurance be provided and that it
19 continues, as long as necessary, through an entity organized
20 to achieve efficiencies and economies, all toward the
21 achievement of the foregoing public purposes. Because it is
22 essential for the corporation to have the maximum financial
23 resources to pay claims following a catastrophic hurricane, it
24 is the intent of the Legislature that the income of the
25 corporation be exempt from federal income taxation and that
26 interest on the debt obligations issued by the corporation be
27 exempt from federal income taxation.

28 2. The Residential Property and Casualty Joint
29 Underwriting Association originally created by this statute
30 shall be known, as of July 1, 2002, as the Citizens Property
31 Insurance Corporation. The corporation shall provide insurance

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1 for residential and commercial

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

21 (b)1. All insurers authorized to write one or more
22 subject lines of business in this state are subject to
23 assessment by the corporation and, for the purposes of this
24 subsection, are referred to collectively as "assessable
25 insurers." Insurers writing one or more subject lines of
26 business in this state pursuant to part VIII of chapter 626
27 are not assessable insurers, but insureds who procure one or
28 more subject lines of business in this state pursuant to part
29 VIII of chapter 626 are subject to assessment by the
30 corporation and are referred to collectively as "assessable
31 insureds." An authorized insurer's assessment liability, ~~other~~

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1 ~~than underwriting associations or other entities created under~~
2 ~~this section, must participate in and be members of the~~
3 ~~Residential Property and Casualty Joint Underwriting~~
4 ~~Association. A member's participation shall begin on the first~~
5 ~~day of the calendar year following the year in which the~~
6 ~~insurer member was issued a certificate of authority to~~
7 ~~transact insurance for subject lines of business in this state~~
8 ~~and shall terminate 1 year after the end of the first calendar~~
9 ~~year during which the insurer member no longer holds a~~
10 ~~certificate of authority to transact insurance for subject~~
11 ~~lines of business in this state.~~

12 2.a. All revenues, assets, liabilities, losses, and
13 expenses of the corporation association shall be divided into
14 three two separate accounts as follows:

15 (I) A personal lines account for personal residential
16 policies issued by the corporation or issued by the
17 Residential Property and Casualty Joint Underwriting
18 Association and renewed by the corporation that provide
19 comprehensive, multi-peril coverage on risks that are not
20 located in areas eligible for coverage in the Florida
21 Windstorm Underwriting Association as those areas were defined
22 on January 1, 2002 and for such policies that do not provide
23 coverage for the peril of wind on risks that are located in
24 such areas;

25 (II) A commercial lines account for commercial
26 residential policies issued by the corporation or issued by
27 the Residential Property and Casualty Joint Underwriting
28 Association and renewed by the corporation that provide
29 coverage for basic property perils on risks that are not
30 located in areas eligible for coverage in the Florida
31 Windstorm Underwriting Association as those areas were defined

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1 on January 1, 2002 and for such policies that do not provide
2 coverage for the peril of wind on risks that are located in
3 such areas; and
4 (III) A high-risk account for personal residential
5 policies an commercial residential and commercial
6 non-residential property policies issued by ;the corporation
7 or transferred to the corporation that provide coverage for
8 the peril of wind on risks that are located in areas eligible
9 for coverage in the Florida Windstorm Underwriting Association
10 as those areas were defined on January 1, 2002. The high-risk
11 account must also include quota share primary insurance under
12 subparagraph (c)2. The area eligible for coverage under the
13 high-risk account also includes the area within Port
14 Canaveral, which is bordered on the south by the City of Cape
15 Canaveral, bordered on the west by the Banana River, and
16 bordered on the north by Federal Government property. The
17 department may remove territory from the area eligible for
18 wind-only and quota share coverage if, after a public hearing,
19 the department finds that authorized insurers in the voluntary
20 market are willing and able to write sufficient amounts of
21 personal and commercial residential coverage for all perils in
22 the territory, including coverage for the peril of wind, such
23 that risks covered by wind-only policies in the removed
24 territory could be issued a policy by the corporation in
25 either the personal lines or commercial lines account without
26 a significant increase in the corporations' probable maximum
27 loss in such account. Removal of territory from the area
28 eligible for wind-only or quota share coverage does not alter
29 the assignment of wind coverage written in such areas to the
30 high-risk account.
31 b. The three separate accounts must be maintained as

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1 long as financing obligations entered into by the Florida
 2 Windstorm Underwriting Association or Residential Property and
 3 Casualty Joint Underwriting Association are outstanding, in
 4 accordance with the terms of the corresponding financing
 5 documents. When the financing obligations are no longer
 6 outstanding, in accordance with the terms of the corresponding
 7 financing documents, the corporation may use a single account
 8 for all revenues, assets, liabilities, losses, and expenses of
 9 the corporation., one of which is for personal lines
 10 ~~residential coverages and the other of which is for commercial~~
 11 ~~lines residential coverages.~~

12 c. Creditors of the joint underwriting association
 13 shall have a claim against, and recourse to, the accounts
 14 referred to in sub-sub-subparagraphs a.(I) and (II) and shall
 15 have no claim against, or recourse to, the account referred to
 16 in sub-sub-subparagraph a.(III). Creditors of the Florida
 17 Windstorm Underwriting Association shall have a claim against,
 18 and recourse to, the account referred to in
 19 sub-sub-subparagraph a.(III) and shall have no claim against,
 20 or recourse to, the accounts referred to in
 21 sub-sub-subparagraphs a.(I) and (II).

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

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

29 f. No part of the income of the corporation may inure
 30 to the benefit of any private person.

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

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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

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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 agent 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, for as many years as necessary to cover the
20 deficits, to be collected by assessable member insurers and
21 the corporation and collected from assessable insureds by
22 ~~underwriting associations created under this section which~~
23 ~~write subject lines of business~~ upon issuance or renewal of
24 policies for subject lines of business, excluding National
25 Flood Insurance policies, ~~in the year or years following levy~~
26 ~~of the regular assessments.~~ The amount of the emergency
27 assessment collected in a particular year shall be a uniform
28 percentage of that year's direct written premium for subject
29 lines of business and all accounts of the corporation for all
30 ~~member insurers and underwriting associations~~, excluding
31 National Flood Insurance Program policy premiums, as annually

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

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

31 f. As used in this subsection, the term "subject lines

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1 of business" means insurance written by assessable insurers or
2 procured by assessable insureds on real or personal property,
3 as defined in s. 624.604, including insurance for fire,
4 industrial fire, allied lines, farmowners multiperil,
5 homeowners multiperil, commercial multiperil, and mobile
6 homes, and including liability coverage on all such insurance,
7 but excluding inland marine as defined in s. 624.607(3) and
8 excluding vehicle insurance as defined in s. 624.605(1) other
9 than insurance on mobile homes used as permanent dwellings.

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

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

28 (c) The plan of operation of the corporation
29 association:

30 i. May provide for one or more designated insurers,
31 able and willing to provide policy and claims service, to act

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1 ~~on behalf of the association to provide such service. Each~~
2 ~~licensed agent shall be entitled to indicate the order of~~
3 ~~preference regarding who will service the business placed by~~
4 ~~the agent. The association shall adhere to each agent's~~
5 ~~preferences unless after consideration of other factors in~~
6 ~~assigning agents, including, but not limited to, servicing~~
7 ~~capacity and fee arrangements, the association has reason to~~
8 ~~believe it is in the best interest of the association to make~~
9 ~~a different assignment.~~

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

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

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

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

31 ~~d. Basic personal lines policy forms without wind~~

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1 ~~coverage, which are the same as the policies described in~~
2 ~~sub-subparagraph c. except that they do not include wind~~
3 ~~coverage.~~

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

8 d. Personal lines and commercial lines residential
9 property insurance forms that cover the peril of wind only.
10 The forms are applicable only to residential properties
11 located in areas eligible for coverage under the high-risk
12 account referred to in sub-subparagraph (b)2.a.

13 e. Commercial lines nonresidential property insurance
14 forms that cover the peril of wind only. The forms are
15 applicable only to nonresidential properties located in areas
16 eligible for coverage under the high-risk account referred to
17 in sub-subparagraph (b)2.a.

18 2.a. Must provide that the corporation adopt a program
19 in which the corporation and authorized insurers enter into
20 quota share primary insurance agreements for hurricane
21 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
22 and adopt property insurance forms for eligible risks which
23 cover the peril of wind only. As used in this subsection, the
24 term:

25 (I) "Quota share primary insurance" means an
26 arrangement in which the primary hurricane coverage of an
27 eligible risk is provided in specified percentages by the
28 corporation and an authorized insurer. The corporation and
29 authorized insurer are each solely responsible for a specified
30 percentage of hurricane coverage of an eligible risk as set
31 forth in a quota share primary insurance agreement between the

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1 corporation and an authorized insurer and the insurance
2 contract. The responsibility of the corporation or authorized
3 insurer to pay its specified percentage of hurricane losses of
4 an eligible risk, as set forth in the quota share primary
5 insurance agreement, may not be altered by the inability of
6 the other party to the agreement to pay its specified
7 percentage of hurricane losses. Eligible risks that are
8 provided hurricane coverage through a quota share primary
9 insurance arrangement must be provided policy forms that set
10 forth the obligations of the corporation and authorized
11 insurer under the arrangement, clearly specify the percentages
12 of quota share primary insurance provided by the corporation
13 and authorized insurer, and conspicuously and clearly state
14 that neither the authorized insurer nor the corporation may be
15 held responsible beyond its specified percentage of coverage
16 of hurricane losses.

17 (II) "Eligible risks" means personal lines residential
18 and commercial lines residential risks that meet the
19 underwriting criteria of the corporation and are located in
20 areas that were eligible for coverage by the Florida Windstorm
21 Underwriting Association on January 1, 2002.

22 b. The corporation may enter into quota share primary
23 insurance agreements with authorized insurers at corporation
24 coverage levels of 90 percent and 50 percent.

25 c. If the corporation determines that additional
26 coverage levels are necessary to maximize participation in
27 quota share primary insurance agreements by authorized
28 insurers, the corporation may establish additional coverage
29 levels. However, the corporation's quota share primary
30 insurance coverage level may not exceed 90 percent.

31 d. Any quota share primary insurance agreement entered

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1 into between an authorized insurer and the corporation must
2 provide for a uniform, specified percentage of coverage of
3 hurricane losses, by county or territory as set forth by the
4 corporation board, for all eligible risks of the authorized
5 insurer covered under the quota share primary insurance
6 agreement.

7 e. Any quota share primary insurance agreement entered
8 into between an authorized insurer and the corporation is
9 subject to review and approval by the department. However,
10 such agreement shall be authorized only as to insurance
11 contracts entered into between an authorized insurer and an
12 insured who is already insured by the corporation for wind
13 coverage.

14 f. For all eligible risks covered under quota share
15 primary insurance agreements, the exposure and coverage levels
16 for both the corporation and authorized insurers shall be
17 reported by the corporation to the Florida Hurricane
18 Catastrophe Fund. For all policies of eligible risks covered
19 under quota share primary insurance agreements, the
20 corporation and the authorized insurer shall maintain complete
21 and accurate records for the purpose of exposure and loss
22 reimbursement audits as required by Florida Hurricane
23 Catastrophe Fund rules. The corporation and the authorized
24 insurer shall each maintain duplicate copies of policy
25 declaration pages and supporting claims documents.

26 g. The corporation board shall establish in its plan
27 of operation standards for quota share agreements which ensure
28 that there is no discriminatory application among insurers as
29 to the terms of quota share agreements, pricing of quota share
30 agreements, incentive provisions if any, and consideration
31 paid for servicing policies or adjusting claims.

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1 h. The quota share primary insurance agreement between
2 the corporation and an authorized insurer must set forth the
3 specific terms under which coverage is provided, including,
4 but not limited to, the sale and servicing of policies issued
5 under the agreement by the insurance agent of the authorized
6 insurer producing the business, the reporting of information
7 concerning eligible risks, the payment of premium to the
8 corporation, and arrangements for the adjustment and payment
9 of hurricane claims incurred on eligible risks by the claims
10 adjuster and personnel of the authorized insurer. Entering
11 into a quota sharing insurance agreement between the
12 corporation and an authorized insurer shall be voluntary and
13 at the discretion of the authorized insurer.

14 ~~f. Commercial lines residential policy forms without~~
15 ~~wind coverage, which are the same as the policies described in~~
16 ~~sub-subparagraph e. except that they do not include wind~~
17 ~~coverage.~~

18 3. May provide that the corporation association may
19 employ or otherwise contract with individuals or other
20 entities to provide administrative or professional services
21 that may be appropriate to effectuate the plan. The
22 corporation association shall have the power to borrow funds,
23 by issuing bonds or by incurring other indebtedness, and shall
24 have other powers reasonably necessary to effectuate the
25 requirements of this subsection. The corporation may, but is
26 not required to, seek judicial validation of its bonds or
27 other indebtedness under chapter 75.The corporation
28 ~~association~~ may issue bonds or incur other indebtedness, or
29 have bonds issued on its behalf by a unit of local government
30 pursuant to subparagraph (g)2., in the absence of a hurricane
31 or other weather-related event, upon a determination by the

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1 ~~corporation association~~, subject to approval by the
2 department, that such action would enable it to efficiently
3 meet the financial obligations of the ~~corporation association~~
4 and that such financings are reasonably necessary to
5 effectuate the requirements of this subsection. The
6 ~~corporation association~~ is authorized to take all actions
7 needed to facilitate tax-free status for any such bonds or
8 indebtedness, including formation of trusts or other
9 affiliated entities. The ~~corporation association~~ shall have
10 the authority to pledge assessments, projected recoveries from
11 the Florida Hurricane Catastrophe Fund, other reinsurance
12 recoverables, market equalization and other surcharges, and
13 other funds available to the ~~corporation association~~ as
14 security for bonds or other indebtedness. In recognition of s.
15 10, Art. I of the State Constitution, prohibiting the
16 impairment of obligations of contracts, it is the intent of
17 the Legislature that no action be taken whose purpose is to
18 impair any bond indenture or financing agreement or any
19 revenue source committed by contract to such bond or other
20 indebtedness.

21 4.a. Must require that the ~~corporation association~~
22 operate subject to the supervision and approval of a board of
23 governors consisting of 7 ~~13~~ individuals who are residents of
24 this state, from different geographical areas of this state,
25 appointed by the Treasurer. The Treasurer shall designate one
26 of the appointees as chair. All board members serve at the
27 pleasure of the Treasurer., ~~including 1 who is elected as~~
28 ~~chair. The board shall consist of:~~

29 a. ~~The insurance consumer advocate appointed under s.~~
30 ~~627.0613.~~

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

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1 ~~c. Five consumer representatives appointed by the~~
2 ~~Insurance Commissioner. Two of the consumer representatives~~
3 ~~must, at the time of appointment, be holders of policies~~
4 ~~issued by the association, who are selected with consideration~~
5 ~~given to reflecting the geographic balance of association~~
6 ~~policyholders. Two of the consumer members must be individuals~~
7 ~~who are minority persons as defined in s. 288.703(3). One of~~
8 ~~the consumer members shall have expertise in the field of~~
9 ~~mortgage lending.~~

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

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

30 b. To ensure the effective and efficient
31 implementation of this subsection, the Treasurer shall appoint

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1 the board of governors by July 1, 2002. The board of governors
2 shall work in conjunction with the Residential Property
3 Insurance Market Coordinating Council to address appropriate
4 organizational, operational, and financial matters relating to
5 the corporation. In addition, after consultation with the
6 Residential Property Insurance Market Coordinating Council,
7 the bond trustees and rating agencies, the Treasurer may
8 postpone for a period not to exceed 180 days after the
9 effective date, the implementation of the corporation or the
10 implementation of one or more of the provisions relating to
11 transfer of Florida Windstorm Underwriting Association
12 policies, obligations, rights, assets, and liabilities into
13 the high-risk accounts and such other provisions that may be
14 affected thereby if the Treasurer determines that postponement
15 is necessary:

16 (i) Due to emergency conditions;
17 (ii) To ensure the effective and efficient
18 implementation of the corporation's operations; or
19 (iii) To maintain existing financing arrangements
20 without a material adverse effect on the creditors of the
21 Residential Property and Casualty Joint Underwriting
22 Association or the Florida Windstorm Underwriting Association.

23 5. Must provide a procedure for determining the
24 eligibility of a risk for coverage, as follows:
25 a. With respect to personal lines residential risks,
26 if the risk is offered full coverage from an authorized
27 insurer at the insurer's approved rate under either a standard
28 policy ~~including wind coverage~~ or, if consistent with the
29 insurer's underwriting rules as filed with the department, a
30 basic policy ~~including wind coverage~~, the risk is not eligible
31 for any policy issued by the corporation ~~association~~. If the

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

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1 or a basic policy ~~including wind coverage~~ issued by the
2 corporation association; however, if the risk could not be
3 insured under a standard policy ~~including wind coverage~~
4 regardless of market conditions, the risk shall be eligible
5 for a basic policy ~~including wind coverage~~ unless rejected
6 under subparagraph 8. The corporation association shall
7 determine the type of policy to be provided on the basis of
8 objective standards specified in the underwriting manual and
9 based on generally accepted underwriting practices.

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

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

26 (II) Offer to allow the producing agent of record of
27 the policy to continue servicing the policy for a period of
28 not less than 1 year and offer to pay the agent the insurer's
29 usual and customary commission for the type of policy written.
30 If the producing agent is unwilling or unable to accept
31 appointment by the new insurer, the new insurer shall pay the

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1 ~~agent in accordance with sub-sub-subparagraph (I). appoint the~~
2 ~~agent to service the risk or, if the insurer places the~~
3 ~~coverage through a new agent, require the new agent who then~~
4 ~~writes the policy to pay not less than 50 percent of the first~~
5 ~~year's commission to the producing agent who submitted the~~
6 ~~application to the plan, except that if the new agent is an~~
7 ~~employee or exclusive agent of the insurer, the new agent~~
8 ~~shall pay a policy fee of \$50 to the producing agent in lieu~~
9 ~~of splitting the commission.~~

10

11 If the risk is not able to obtain any such offer, the risk is
12 eligible for a policy including wind coverage issued by the
13 corporation association.

14 ~~c. This subparagraph does not require the association~~
15 ~~to provide wind coverage or hurricane coverage in any area in~~
16 ~~which such coverage is available through the Florida Windstorm~~
17 ~~Underwriting Association.~~

18 6. Must include rules for classifications of risks and
19 rates therefor.

20 7. Must provide that if premium and investment income
21 for an account attributable to a particular calendar plan year
22 are in excess of projected losses and expenses for the account
23 ~~of the plan~~ attributable to that year, such excess shall be
24 held in surplus in the account. Such surplus shall be
25 available to defray deficits in that account as to future
26 years and shall be used for that purpose prior to assessing
27 assessable member insurers and assessable insureds as to any
28 calendar plan year.

29 8. Must provide objective criteria and procedures to
30 be uniformly applied for all applicants in determining whether
31 an individual risk is so hazardous as to be uninsurable. In

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1 making this determination and in establishing the criteria and
2 procedures, the following shall be considered:

3 a. Whether the likelihood of a loss for the individual
4 risk is substantially higher than for other risks of the same
5 class; and

6 b. Whether the uncertainty associated with the
7 individual risk is such that an appropriate premium cannot be
8 determined.

9
10 The acceptance or rejection of a risk by the corporation
11 ~~association~~ shall be construed as the private placement of
12 insurance, and the provisions of chapter 120 shall not apply.

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

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

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1 however, failure to pay a market equalization surcharge shall
2 be treated as failure to pay premium.

3 11. The policies issued by the corporation association
4 must provide that, if the corporation association or the
5 market assistance plan obtains an offer from an authorized
6 insurer to cover the risk at its approved rates ~~under either a~~
7 ~~standard policy including wind coverage or a basic policy~~
8 ~~including wind coverage~~, the risk is no longer eligible for
9 renewal coverage through the corporation association. However,
10 ~~if the risk is located in an area in which Florida Windstorm~~
11 ~~Underwriting Association coverage is available, such an offer~~
12 ~~of a standard or basic policy terminates eligibility~~
13 ~~regardless of whether or not the offer includes wind coverage.~~
14 ~~Upon termination of eligibility, the association shall provide~~
15 ~~written notice to the policyholder and agent of record stating~~
16 ~~that the association policy shall be canceled as of 60 days~~
17 ~~after the date of the notice because of the offer of coverage~~
18 ~~from an authorized insurer. Other provisions of the insurance~~
19 ~~code relating to cancellation and notice of cancellation do~~
20 ~~not apply to actions under this subparagraph.~~

21 12. Corporation Association policies and applications
22 must include a notice that the corporation association policy
23 could, under this section ~~or s. 627.3511~~, be replaced with a
24 policy issued by an authorized admitted insurer that does not
25 provide coverage identical to the coverage provided by the
26 corporation association. The notice shall also specify that
27 acceptance of corporation association coverage creates a
28 conclusive presumption that the applicant or policyholder is
29 aware of this potential.

30 13. May establish, subject to approval by the
31 department, different eligibility requirements and operational

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1 procedures for any line or type of coverage for any specified
2 county or area if the board determines that such changes to
3 the eligibility requirements and operational procedures are
4 justified due to the voluntary market being sufficiently
5 stable and competitive in such area or for such line or type
6 of coverage and that consumers who, in good faith, are unable
7 to obtain insurance through the voluntary market through
8 ordinary methods would continue to have access to coverage
9 from the corporation association. When coverage is sought in
10 connection with a real property transfer, such requirements
11 and procedures shall not provide for an effective date of
12 coverage later than the date of the closing of the transfer as
13 established by the transferor, the transferee, and, if
14 applicable, the lender.

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

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1 company, the department may direct that all or part of such
2 assessment be deferred as provided in subparagraph (g)4.
3 However, there shall be no limitation or deferment of an
4 emergency assessment to be collected from policyholders under
5 sub-subparagraph (b)3.d.

6 15. Must provide that the corporation appoint as its
7 licensed agents only those agents who also hold an appointment
8 as defined in s. 626.104 with an insurer who at the time of
9 the agent's initial appointment by the corporation is
10 authorized to write and is actually writing personal lines
11 residential property coverage, commercial residential property
12 coverage, or commercial nonresidential property coverage
13 within the state.

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

27 2. For each county, the average rates of the
28 corporation ~~association~~ for each line of business for personal
29 lines residential policies excluding rates for wind-only
30 policies shall be no lower than the average rates charged by
31 the insurer that had the highest average rate in that county

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1 among the 20 insurers with the greatest total direct written
2 premium in the state for that line of business in the
3 preceding year, except that with respect to mobile home
4 coverages, the average rates of the corporation association
5 shall be no lower than the average rates charged by the
6 insurer that had the highest average rate in that county among
7 the 5 insurers with the greatest total written premium for
8 mobile home owner's policies in the state in the preceding
9 year.

10 3. Rates for personal lines residential wind-only
11 policies must be actuarially sound and not competitive with
12 approved rates charged by authorized insurers. However, for
13 personal lines residential wind-only policies issued or
14 renewed between July 1, 2002, and June 30, 2003, the maximum
15 premium increase must be no greater than 10 percent of the
16 Florida Windstorm Underwriting Association premium for that
17 policy in effect on June 30, 2002, as adjusted for coverage
18 changes and seasonal occupancy surcharges. The personal lines
19 residential wind-only rates for the corporation effective July
20 1, 2003, must be based on a rate filing by the corporation
21 which establishes rates which are actuarially sound and not
22 competitive with approved rates charged by authorized
23 insurers. Corporation rate manuals shall include a rate
24 surcharge for seasonal occupancy. To ensure that personal
25 lines residential wind-only rates effective on or after July
26 1, 2003, are not competitive with approved rates charged by
27 authorized insurers, the department, by March 1 of each year,
28 shall provide the corporation, for each county in which there
29 are geographical areas in which personal lines residential
30 wind-only policies may be issued, the average rates charged by
31 the insurer that had the highest average rate in that county

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1 for wind coverage in that insurer's rating territories which
2 most closely approximate the geographical area in that county
3 in which personal lines residential wind-only policies may be
4 written by the corporation. The average rates provided must
5 be from an insurer among the 20 insurers with the greatest
6 total direct written premium in the state for personal lines
7 residential property insurance for the preceding year. With
8 respect to mobile homes, the five insurers with the greatest
9 total written premium for that line of business in the
10 preceding year shall be used. The corporation shall certify
11 to the department that its average personal lines residential
12 wind-only rates are no lower in each county than the average
13 rates provided by the department. The department is
14 authorized to adopt rules to establish reporting requirements
15 to obtain the necessary wind-only rate information from
16 insurers to implement this provision.

17 4.3. Rates for commercial lines ~~residential~~ coverage
18 shall not be subject to the requirements of subparagraph 2.,
19 but shall be subject to all other requirements of this
20 paragraph and s. 627.062.

21 5.4. Nothing in this paragraph shall require or allow
22 the corporation ~~association~~ to adopt a rate that is inadequate
23 under s. 627.062 ~~or to reduce rates approved under s. 627.062.~~

24 6.5. ~~The association may require arbitration of a~~
25 ~~filing pursuant to s. 627.062(6). Rate filings of the~~
26 ~~association under this paragraph shall be made on a use and~~
27 ~~file basis under s. 627.062(2)(a)2.~~ The corporation
28 ~~association~~ shall make a rate filing at least once a year, but
29 no more often than quarterly.

30 7. In addition to the rates otherwise determined
31 pursuant to this paragraph, the corporation shall impose and

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1 collect an amount equal to the premium tax provided for in s.
2 624.509 to augment the financial resources of the corporation.

3 (e) If coverage in an account through the association
4 is hereby activated effective upon approval of the plan, and
5 shall remain activated until coverage is deactivated pursuant
6 to paragraph (f). ~~Thereafter~~, coverage through the corporation
7 ~~association~~ shall be reactivated by order of the department
8 only under one of the following circumstances:

9 1. If the market assistance plan receives a minimum of
10 100 applications for coverage within a 3-month period, or 200
11 applications for coverage within a 1-year period or less for
12 residential coverage, unless the market assistance plan
13 provides a quotation from admitted carriers at their filed
14 rates for at least 90 percent of such applicants. Any market
15 assistance plan application that is rejected because an
16 individual risk is so hazardous as to be uninsurable using the
17 criteria specified in subparagraph (c)8. shall not be included
18 in the minimum percentage calculation provided herein. In the
19 event that there is a legal or administrative challenge to a
20 determination by the department that the conditions of this
21 subparagraph have been met for eligibility for coverage in the
22 corporation association, any eligible risk may obtain coverage
23 during the pendency of such challenge.

24 2. In response to a state of emergency declared by the
25 Governor under s. 252.36, the department may activate coverage
26 by order for the period of the emergency upon a finding by the
27 department that the emergency significantly affects the
28 availability of residential property insurance.

29 (f) 1. The corporation shall file with the department
30 quarterly statements of financial condition, an annual
31 statement of financial condition, and audited financial

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1 statements in the manner prescribed by law. In addition, the
2 corporation shall report to the department monthly on the
3 types, premium, exposure, and distribution by county of its
4 policies in force, and shall submit other reports as the
5 department requires to carry out its oversight of the
6 corporation.

7 2. The activities of the corporation ~~association~~ shall
8 be reviewed at least annually by the department to determine
9 ~~whether board and, upon recommendation by the board or~~
10 ~~petition of any interested party,~~ coverage shall be
11 deactivated in an account on the basis ~~if the department finds~~
12 that the conditions giving rise to its activation no longer
13 exist.

14 (g)1. The corporation ~~board~~ shall certify to the
15 department its needs for annual assessments as to a particular
16 calendar year, and for any ~~startup or~~ interim assessments that
17 it deems to be necessary to sustain operations as to a
18 particular year pending the receipt of annual assessments.
19 Upon verification, the department shall approve such
20 certification, and the corporation ~~board~~ shall levy such
21 annual, ~~startup,~~ or interim assessments. Such assessments
22 shall be prorated as provided in paragraph (b). The
23 corporation ~~board~~ shall take all reasonable and prudent steps
24 necessary to collect the amount of assessment due from each
25 assessable ~~participating member~~ insurer, including, if
26 prudent, filing suit to collect such assessment. If the
27 corporation ~~board~~ is unable to collect an assessment from any
28 assessable ~~member~~ insurer, the uncollected assessments shall
29 be levied as an additional assessment against the assessable
30 ~~participating member~~ insurers and any assessable ~~participating~~
31 ~~member~~ insurer required to pay an additional assessment as a

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1 result of such failure to pay shall have a cause of action
2 against such nonpaying assessable ~~member~~ insurer. Assessments
3 shall be included as an appropriate factor in the making of
4 rates. The failure of a surplus lines agent to collect and
5 remit any regular or emergency assessment levied by the
6 corporation is considered to be a violation of s. 626.936 and
7 subjects the surplus lines agent to the penalties provided in
8 that section.

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

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

24 3.a. ~~In addition to any credits, bonuses, or~~
25 ~~exemptions provided under s. 627.3511, The~~ corporation board
26 shall adopt one or more programs ~~a program~~ subject to approval
27 by the department for the reduction of both new and renewal
28 writings in the corporation association. The corporation board
29 may consider any prudent and not unfairly discriminatory
30 approach to reducing corporation association writings, and may
31 ~~but must~~ adopt ~~at least~~ a credit against assessment liability

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1 or other liability that provides an incentive for insurers to
2 take risks out of the corporation ~~association~~ and to keep
3 risks out of the corporation ~~association~~ by maintaining or
4 increasing voluntary writings in counties or areas in which
5 corporation ~~association~~ risks are highly concentrated and a
6 program to provide a formula under which an insurer
7 voluntarily taking risks out of the corporation ~~association~~ by
8 maintaining or increasing voluntary writings will be relieved
9 wholly or partially from assessments under sub-subparagraphs
10 (b)3.a. and b. When the corporation enters into a contractual
11 agreement for a take-out plan, the producing agent of record
12 of the corporation policy is entitled to retain any unearned
13 commission on such policy, and 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 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).

26 b. Any credit or exemption from regular assessments
27 adopted under this subparagraph shall last no longer than the
28 3 years following the cancellation or expiration of the policy
29 by the corporation ~~association~~. With the approval of the
30 department, the board may extend such credits for an
31 additional year if the insurer guarantees an additional year

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1 of renewability for all policies removed from the corporation
2 ~~association~~, or for 2 additional years if the insurer
3 guarantees 2 additional years of renewability for all policies
4 so removed.

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

8 4. The plan shall provide for the deferment, in whole
9 or in part, of the assessment of an assessable ~~a member~~
10 insurer, other than an emergency assessment collected from
11 policyholders pursuant to sub-subparagraph (b)3.d., if the
12 department finds that payment of the assessment would endanger
13 or impair the solvency of the insurer. In the event an
14 assessment against an assessable ~~a member~~ insurer is deferred
15 in whole or in part, the amount by which such assessment is
16 deferred may be assessed against the other assessable ~~member~~
17 insurers in a manner consistent with the basis for assessments
18 set forth in paragraph (b).

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

22 (i) There shall be no liability on the part of, and no
23 cause of action of any nature shall arise against, any
24 assessable ~~member~~ insurer or its agents or employees, the
25 corporation ~~association~~ or its agents or employees, members of
26 the board of governors or their respective designees at a
27 board meeting, corporation ~~association~~ committee members, or
28 the department or its representatives, for any action taken by
29 them in the performance of their duties or responsibilities
30 under this subsection. Such immunity does not apply to:

31 1. Any of the foregoing persons or entities for any

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1 willful tort;

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

5 3. The corporation ~~association~~ with respect to
6 issuance or payment of debt; or

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

10 (j) ~~The Residential Property and Casualty Joint~~
11 ~~Underwriting Association is not a state agency, board, or~~
12 ~~commission. However, For the purposes of s. 199.183(1), the~~
13 corporation Residential Property and Casualty Joint
14 Underwriting Association shall be considered a political
15 subdivision of the state and shall be exempt from the
16 corporate income tax. The premiums, assessments, investment
17 income, and other revenue of the corporation are funds
18 received for providing property insurance coverage as required
19 by this subsection, paying claims for Florida citizens insured
20 by the corporation, securing and repaying debt obligations
21 issued by the corporation, and conducting all other activities
22 of the corporation, and shall not be considered taxes, fees,
23 licenses, or charges for services imposed by the Legislature
24 on individuals, businesses, or agencies outside state
25 government. Bonds and other debt obligations issued by or on
26 behalf of the corporation are not to be considered "State
27 bonds" within the meaning of s. 215.58(10). The corporation is
28 not subject to the procurement provisions of chapter 287, and
29 policies and decisions of the corporation relating to
30 incurring debt, levying of assessments and the sale, issuance,
31 continuation, terms and claims under corporation policies, and

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1 all services relating thereto, are not subject to the
2 provisions of chapter 120. The corporation is not required to
3 obtain or to hold a certificate of authority issued by the
4 department, nor is it required to participate as a member
5 insurer of the Florida Insurance Guaranty Association.
6 However, the corporation is required to pay, in the same
7 manner as an authorized insurer, assessments pledged by the
8 Florida Insurance Guaranty Association to secure bonds issued
9 or other indebtedness incurred to pay covered claims arising
10 from insurer insolvencies caused by, or proximately related
11 to, hurricane losses. It is the intent of the Legislature that
12 the tax exemptions provided in this paragraph will augment the
13 financial resources of the corporation to better enable the
14 corporation to fulfill its public purposes. Any bonds issued
15 by the corporation, their transfer, and the income therefrom,
16 including any profit made on the sale thereof, shall at all
17 times be free from taxation of every kind by the state and any
18 political subdivision or local unit or other instrumentality
19 thereof; however, this exemption does not apply to any tax
20 imposed by chapter 200 on interest, income, or profits on debt
21 obligations owned by corporations other than the corporation.

22 (k) Upon a determination by the department ~~board of~~
23 ~~governors~~ that the conditions giving rise to the establishment
24 and activation of the corporation ~~association~~ no longer exist,
25 ~~and upon the consent thereto by order of the department, the~~
26 corporation ~~association~~ is dissolved. Upon dissolution, the
27 assets of the association shall be applied first to pay all
28 debts, liabilities, and obligations of the corporation
29 ~~association~~, including the establishment of reasonable
30 reserves for any contingent liabilities or obligations, and
31 all remaining assets of the corporation ~~association~~ shall

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1 become property of the state and deposited in the Florida
2 Hurricane Catastrophe Fund.

3 (1)1. Effective July 1, 2002, policies of the
4 Residential Property and Casualty Joint Underwriting
5 Association shall become policies of the corporation. All
6 obligations, rights, assets and liabilities of the Residential
7 Property and Casualty Joint Underwriting Association,
8 including bonds, note and debt obligations, and the financing
9 documents pertaining to them become those of the corporation
10 as of July 1, 2002. The corporation is not required to issue
11 endorsements or certificates of assumption to insureds during
12 the remaining term of in-force transferred policies.

13 2. Effective July 1, 2002, policies of the Florida
14 Windstorm Underwriting Association are transferred to the
15 corporation and shall become policies of the corporation. All
16 obligations, rights, assets, and liabilities of the Florida
17 Windstorm Underwriting Association, including bonds, note, and
18 debt obligations, and the financing documents pertaining to
19 them are transferred to and assumed by the corporation on July
20 1, 2002. The corporation is not required to issue endorsement
21 or certificates of assumption to insureds during the remaining
22 term of in-force transferred policies.

23 3. The Florida Windstorm Underwriting Association and
24 the Residential Property and Casualty Joint Underwriting
25 Association shall take all actions as may be proper to further
26 evidence the transfers and shall provide the documents and
27 instruments of further assurance as may reasonably be
28 requested by the corporation for that purpose. The corporation
29 shall execute assumptions and instruments as the trustees or
30 other parties to the financing documents of the Florida
31 Windstorm Underwriting Association or the Residential Property

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1 and Casualty Joint Underwriting Association may reasonably
2 request to further evidence the transfers and assumptions,
3 which transfers and assumptions, however, are effective on the
4 date provided under this paragraph whether or not, and
5 regardless of the date on which, the assumptions or
6 instruments are executed by the corporation. Subject to the
7 relevant financing documents pertaining to their outstanding
8 bonds, notes, indebtedness, or other financing obligations,
9 the moneys, investments, receivables, choses in action, and
10 other intangibles of the Florida Windstorm Underwriting
11 Association shall be credited to the high-risk account of the
12 corporation, and those of the personal lines residential
13 coverage account and the commercial lines residential coverage
14 account of the Residential Property and Casualty Joint
15 Underwriting Association shall be credited to the personal
16 lines account and the commercial lines account, respectively,
17 of the corporation.

18 4. Effective July 1, 2002, a new applicant for
19 property insurance coverage who would otherwise have been
20 eligible for coverage in the Florida Windstorm Underwriting
21 Association is eligible for coverage from the corporation as
22 provided in this subsection.

23 5. The transfer of all policies, obligations, rights,
24 assets, and liabilities from the Florida Windstorm
25 Underwriting Association to the corporation and the renaming
26 of the Residential Property and Casualty Joint Underwriting
27 Association as the corporation shall in no way affect the
28 coverage with respect to covered policies as defined in s.
29 215.555(2)(c) provided to these entities by the Florida
30 Hurricane Catastrophe Fund. The coverage provided by the
31 Florida Hurricane Catastrophe Fund to the Florida Windstorm

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1 Underwriting Association based on its exposures as of June 30,
2 2002, and each June 30 thereafter shall be redesignated as
3 coverage for the high-risk account of the corporation.
4 Notwithstanding any other provision of law, the coverage
5 provided by the Florida Hurricane Catastrophe Fund to the
6 Residential Property and Casualty Joint Underwriting
7 Association based on its exposures as of June 30, 2002, and
8 each June 30 thereafter shall be transferred to the personal
9 lines account and the commercial lines account of the
10 corporation. Notwithstanding any other provision of law, the
11 high-risk account shall be treated, for all Florida Hurricane
12 Catastrophe Fund purposes, as if it were a separate
13 participating insurer with its own exposures, reimbursement
14 premium, and loss reimbursement. Likewise, the personal lines
15 and commercial lines accounts shall be viewed together, for
16 all Florida Hurricane Catastrophe Fund purposes, as if the two
17 accounts were one and represent a single, separate
18 participating insurer with its own exposures, reimbursement
19 premium, and loss reimbursement. The coverage provided by the
20 Florida Hurricane Catastrophe Fund to the corporation shall
21 constitute and operate as a full transfer of coverage from the
22 Florida Windstorm Underwriting Association and Residential
23 Property and Casualty Joint Underwriting to the corporation.
24 ~~All obligations, rights, assets, and liabilities of the~~
25 ~~Florida Property and Casualty Joint Underwriting Association~~
26 ~~created by subsection (5), which obligations, rights, assets,~~
27 ~~or liabilities relate to the provision of commercial lines~~
28 ~~residential property insurance coverage as described in this~~
29 ~~section are hereby transferred to the Residential Property and~~
30 ~~Casualty Joint Underwriting Association. The Residential~~
31 ~~Property and Casualty Joint Underwriting Association is not~~

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1 ~~required to issue endorsements or certificates of assumption~~
2 ~~to insureds during the remaining term of in-force transferred~~
3 ~~policies.~~

4 (m) Notwithstanding any other provision of law:

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

16 2. No such proceeding shall relieve the corporation
17 ~~association~~ of its obligation, or otherwise affect its ability
18 to perform its obligation, to continue to collect, or levy and
19 collect, assessments, market equalization or other surcharges
20 under subparagraph (c)10., or any other rights, revenues, or
21 other assets of the corporation ~~association~~ pledged pursuant
22 to any financing documents.

23 3. Each such pledge or sale of, lien upon, and
24 security interest in, including the priority of such pledge,
25 lien, or security interest, any such assessments, market
26 equalization or other surcharges, or other rights, revenues,
27 or other assets which are collected, or levied and collected,
28 after the commencement of and during the pendency of, or
29 after, any such proceeding shall continue unaffected by such
30 proceeding. As used in this subsection, the term "financing
31 documents" means any agreement or agreements, instrument or

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1 ~~Residential Property and Casualty Joint Underwriting~~
2 ~~Association~~ are confidential and exempt from the provisions of
3 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:
4 a. Underwriting files, except that a policyholder or
5 an applicant shall have access to his or her own underwriting
6 files.
7 b. Claims files, until termination of all litigation
8 and settlement of all claims arising out of the same incident,
9 although portions of the claims files may remain exempt, as
10 otherwise provided by law. Confidential and exempt claims file
11 records may be released to other governmental agencies upon
12 written request and demonstration of need; such records held
13 by the receiving agency remain confidential and exempt as
14 provided for herein.
15 c. Records obtained or generated by an internal
16 auditor pursuant to a routine audit, until the audit is
17 completed, or if the audit is conducted as part of an
18 investigation, until the investigation is closed or ceases to
19 be active. An investigation is considered "active" while the
20 investigation is being conducted with a reasonable, good faith
21 belief that it could lead to the filing of administrative,
22 civil, or criminal proceedings.
23 d. Matters reasonably encompassed in privileged
24 attorney-client communications.
25 e. Proprietary information licensed to the corporation
26 ~~association~~ under contract and the contract provides for the
27 confidentiality of such proprietary information.
28 f. All information relating to the medical condition
29 or medical status of a corporation ~~an association~~ employee
30 which is not relevant to the employee's capacity to perform
31 his or her duties, except as otherwise provided in this

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1 paragraph. Information which is exempt shall include, but is
2 not limited to, information relating to workers' compensation,
3 insurance benefits, and retirement or disability benefits.

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

12 h. Information relating to negotiations for financing,
13 reinsurance, depopulation, or contractual services, until the
14 conclusion of the negotiations.

15 i. Minutes of closed meetings regarding underwriting
16 files, and minutes of closed meetings regarding an open claims
17 file until termination of all litigation and settlement of all
18 claims with regard to that claim, except that information
19 otherwise confidential or exempt by law will be redacted.

20

21 When an authorized insurer is considering underwriting a risk
22 insured by the corporation ~~association~~, relevant underwriting
23 files and confidential claims files may be released to the
24 insurer provided the insurer agrees in writing, notarized and
25 under oath, to maintain the confidentiality of such files.

26 When a file is transferred to an insurer that file is no
27 longer a public record because it is not held by an agency
28 subject to the provisions of the public records law.

29 Underwriting files and confidential claims files may also be
30 released to staff of and the board of governors of the market
31 assistance plan established pursuant to s. 627.3515, who must

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1 retain the confidentiality of such files, except such files
2 may be released to authorized insurers that are considering
3 assuming the risks to which the files apply, provided the
4 insurer agrees in writing, notarized and under oath, to
5 maintain the confidentiality of such files. Finally, the
6 corporation ~~association~~ or the board or staff of the market
7 assistance plan may make the following information obtained
8 from underwriting files and confidential claims files
9 available to licensed general lines insurance agents: name,
10 address, and telephone number of the residential property
11 owner or insured; location of the risk; rating information;
12 loss history; and policy type. The receiving licensed general
13 lines insurance agent must retain the confidentiality of the
14 information received.

15 2. Portions of meetings of the corporation ~~Residential~~
16 ~~Property and Casualty Joint Underwriting Association~~ are
17 exempt from the provisions of s. 286.011 and s. 24(b), Art. I
18 of the State Constitution wherein confidential underwriting
19 files or confidential open claims files are discussed. All
20 portions of corporation ~~association~~ meetings which are closed
21 to the public shall be recorded by a court reporter. The
22 court reporter shall record the times of commencement and
23 termination of the meeting, all discussion and proceedings,
24 the names of all persons present at any time, and the names of
25 all persons speaking. No portion of any closed meeting shall
26 be off the record. Subject to the provisions hereof and s.
27 119.07(2)(a), the court reporter's notes of any closed meeting
28 shall be retained by the corporation ~~association~~ for a minimum
29 of 5 years. A copy of the transcript, less any exempt matters,
30 of any closed meeting wherein claims are discussed shall
31 become public as to individual claims after settlement of the

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1 claim.

2 (o) It is the intent of the Legislature that the
3 amendments to this subsection enacted in 2002 should, over
4 time, reduce the probable maximum windstorm losses in the
5 residual markets and should reduce the potential assessments
6 to be levied on property insurers and policyholders statewide.
7 In furtherance of this intent:

8 1. The board shall, on or before February 1 of each
9 year, provide a report to the President of the Senate and the
10 Speaker of the House of Representatives showing the reduction
11 or increase in the 100-year probable maximum loss attributable
12 to wind-only coverages and the quota share program under this
13 subsection combined, as compared to the benchmark 100-year
14 probable maximum loss of the Florida Windstorm Underwriting
15 Association. For purposes of this paragraph, the benchmark
16 100-year probable maximum loss of the Florida Windstorm
17 Underwriting Association shall be the calculation dated
18 February 2001 and based on November 30, 2000, exposures. In
19 order to ensure comparability of data, the board shall use the
20 same methods for calculating its probable maximum loss as were
21 used to calculate the benchmark probable maximum loss.

22 2. Beginning February 1, 2007, if the report under
23 subparagraph 1. for any year indicates that the 100-year
24 probable maximum loss attributable to wind-only coverages and
25 the quota share program combined does not reflect a reduction
26 of at least 25 percent from the benchmark, the board shall
27 reduce the boundaries of the high-risk area eligible for
28 wind-only coverages under this subsection in a manner
29 calculated to reduce such probable maximum loss to an amount
30 at least 25 percent below the benchmark.

31 3. Beginning February 1, 2012, if the report under

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1 subparagraph 1. for any year indicates that the 100-year
2 probable maximum loss attributable to wind-only coverages and
3 the quota share program combined does not reflect a reduction
4 of at least 50 percent from the benchmark, the boundaries of
5 the high-risk area eligible for wind-only coverages under this
6 subsection shall be reduced by the elimination of any area
7 that is not seaward of a line 1,000 feet inland from the
8 Intracoastal Waterway.

9 (p) In enacting the provisions of this section, the
10 Legislature recognizes that both the Florida Windstorm
11 Underwriting Association and the Residential Property and
12 Casualty Joint Underwriting Association have entered into
13 financing arrangements that obligate each entity to service
14 its debts and maintain the capacity to repay funds secured
15 under these financing arrangements. It is the intent of the
16 Legislature that nothing in this section be construed to
17 compromise, diminish, or interfere with the rights of
18 creditors under such financing arrangements. It is further the
19 intent of the Legislature to preserve the obligations of the
20 Florida Windstorm Underwriting Association and Residential
21 Property and Casualty Joint Underwriting Association with
22 regard to outstanding financing arrangements, with such
23 obligations passing entirely and unchanged to the corporation
24 and, specifically, to the applicable account of the
25 corporation. So long as any bonds, notes, indebtedness, or
26 other financing obligations of the Florida Windstorm
27 Underwriting Association or the Residential Property and
28 Casualty Joint Underwriting Association are outstanding, under
29 the terms of the financing documents pertaining to them, the
30 governing board of the corporation shall have and shall
31 exercise the authority to levy, charge, collect, and receive

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1 all premiums, assessments, surcharges, charges, revenues and
2 receipts that the associations had authority to levy, charge,
3 collect, or receive under the provisions of subsection (2) and
4 subsection (6), respectively, as they existed on January 1,
5 2002, to the extent necessary to provide moneys, together with
6 other available moneys of the corporation in the applicable
7 account without exercise of the authority provided by this
8 paragraph, in at least the amounts, and by the times, as would
9 be provided under those former provisions of subsection (2) or
10 subsection (6), respectively, so that the value, amount, and
11 collectability of any assets, revenues, or revenue source
12 pledged or committed to, or any lien thereon securing such
13 outstanding bonds, notes, indebtedness, or other financing
14 obligations will not be diminished, impaired, or adversely
15 affected by the amendments made by this act and to permit
16 compliance with all provisions of financing documents
17 pertaining to such bonds, notes, indebtedness, or other
18 financing obligations, or the security or credit enhancement
19 for them, and any reference in this subsection to bonds,
20 notes, indebtedness, financing obligations, or similar
21 obligations, of the corporation shall include like instruments
22 or contracts of the Florida Windstorm Underwriting Association
23 and the Residential Property and Casualty Joint Underwriting
24 Association to the extent not inconsistent with the provisions
25 of the financing documents pertaining to them.

26 (q) Effective January 7, 2003, any reference in this
27 subsection to the Treasurer shall be deemed to be a reference
28 to the Chief Financial Officer and any reference to the
29 Department of Insurance shall be deemed to be a reference to
30 the Department of Insurance and Financial Services or other
31 successor to the Department of Insurance specified by law.

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1 (r) The corporation shall not require the securing of
2 flood insurance as a condition of coverage if the insured or
3 applicant executes a form approved by the department affirming
4 that flood insurance is not provided by the corporation and
5 that if flood insurance is not secured by the applicant or
6 insured in addition to coverage by the corporation, the risk
7 will not be covered for flood damage. A corporation
8 policyholder electing not to secure flood insurance and
9 executing a form as provided herein making a clam for water
10 damage against the corporation shall have the burden of
11 proving the damage was not caused by flooding. Notwithstanding
12 other provisions of this subsection, the corporation may deny
13 coverage to an applicant or insured who refuses to execute the
14 form described herein.

15 Section 3. Subsection (4) of section 627.3511, Florida
16 Statutes, is amended to read:

17 627.3511 Depopulation of Residential Property and
18 Casualty Joint Underwriting Association.--

19 (4) AGENT BONUS.--When the Residential Property and
20 Casualty Joint Underwriting Association enters into a
21 contractual agreement for a take-out plan that provides a
22 bonus to the insurer, the producing agent of record of the
23 association policy is entitled to retain any unearned
24 commission on such policy, and the insurer shall either:

25 (a) Pay to the producing agent of record of the
26 association policy, for the first year, an amount that is the
27 greater of ~~equal to~~ the insurer's usual and customary
28 commission for the type of policy written of a fee equal to
29 the ~~if the term of the association policy was in excess of 6~~
30 months, ~~or one-half of such~~ usual and customary commission ~~if~~
31 the term of the association policy ~~was 6 months or less; or~~

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1 (b) Offer to allow the producing agent of record of
2 the association policy to continue servicing the policy for a
3 period of not less than 1 year and offer to pay the agent the
4 greater of the insurer's or the association's usual and
5 customary commission for the type of policy written.

6
7 If the producing agent is unwilling or unable to accept
8 appointment, the new insurer shall pay the agent in accordance
9 with paragraph (a).~~The insurer need not take any further~~
10 ~~action if the offer is rejected. This subsection does not~~
11 ~~apply to any reciprocal interinsurance exchange, nonprofit~~
12 ~~federation, or any subsidiary or affiliate of such~~
13 ~~organization. This subsection does not apply if the agent is~~
14 ~~also the agent of record on the new coverage.~~The requirement
15 of this subsection that the producing agent of record is
16 entitled to retain the unearned commission on an association
17 policy does not apply to a policy for which coverage has been
18 provided in the association for 30 days or less or for which a
19 cancellation notice has been issued pursuant to s.
20 627.351(6)(c)11. during the first 30 days of coverage.

21 Section 4. Section 627.3517, Florida Statutes, is
22 created to read:

23 627.3517 Consumer choice.--No provision of s. 627.351,
24 s. 627.3511, or s. 627.3515 shall be construed to impair the
25 right of any insurance risk apportionment plan policyholder,
26 upon receipt of any keepout or takeout offer, to retain his or
27 her current agent so long as that agent is duly licensed and
28 appointed by the insurance risk apportionment plan or
29 otherwise authorized to place business with the insurance risk
30 apportionment plan. This right shall not be cancelled,
31 suspended, impeded, abridged, or otherwise compromised by any

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1 rule, plan of operation, or depopulation plan, whether through
2 keepout, takeout, midterm assumption, or any other means, or
3 any insurance risk apportionment plan or depopulation plan,
4 including, but not limited to, those described in s. 627.351,
5 s. 627.3511, or s. 627.3515. The department shall adopt any
6 rules necessary to cause any insurance risk apportionment plan
7 or market assistance plan under such sections to demonstrate
8 that the operations of the plan do not interfere with,
9 promote, or allow interference with the rights created under
10 this section. If the policyholder's current agent is unable or
11 unwilling to be appointed with the insurer making the takeout
12 or keepout offer, the policyholder shall not be disqualified
13 from participation in the appropriate insurance risk
14 apportionment plan because of an offer of coverage in the
15 voluntary market. An offer of full property insurance coverage
16 by the insurer writing either the ex-wind or wind-only
17 coverage on the policy to which the offer applies shall not be
18 considered a takeout or keepout offer. Any rule, plan of
19 operation, or plan of depopulation, through keepout, takeout,
20 midterm assumption, or any other means, of any property
21 insurance risk apportionment plan under s. 627.351(2) or s.
22 627.351(6) is subject to ss. 627.351(2)(b) and (6)(c) and
23 627.3511(4).

24 Section 5. This act shall take effect upon becoming a
25 law.

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27

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

29 And the title is amended as follows:

30 Delete everything before the enacting clause

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1 and insert:

2 A bill to be entitled

3 An act relating to insurance; amending s.

4 215.555, F.S.; revising a definition; providing

5 for certain additional coverages under the

6 Florida Hurricane Catastrophe Fund; increasing

7 the cap on fund liability; imposing an

8 additional liquidity enhancement factor to

9 reimbursement premiums; amending s. 627.351,

10 F.S.; providing for waiver of required flood

11 insurance under certain circumstances;

12 specifying policyholder burden of proof under

13 certain circumstances; authorizing an

14 association to deny certain coverage under

15 certain circumstances; renaming the Residential

16 Property and Casualty Joint Underwriting

17 Association as the Citizens Property Insurance

18 Corporation to provide residential and

19 commercial property insurance; requiring

20 insurers writing property insurance to

21 participate in the corporation; providing for

22 dividing the revenues, assets, liabilities,

23 losses, and expenses of the corporation into

24 three accounts; authorizing the Department of

25 Insurance to remove certain territories from

26 certain eligible areas under certain

27 circumstances; providing for emergency

28 assessments for policyholders of participating

29 insurers; providing a plan of operation;

30 defining the terms "quota share primary

31 insurance" and "eligible risks"; authorizing

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1 the corporation to enter into quota share
2 primary insurance agreements; providing for a
3 board of governors appointed by the Treasurer,
4 subject to confirmation by the Cabinet;
5 providing rate limitations and requirements;
6 requiring the Department of Insurance to
7 provide the corporation with certain rate
8 information for certain purposes; requiring the
9 corporation to certify certain rates to the
10 department; authorizing the department to adopt
11 rules; requiring the corporation to impose and
12 collect an additional amount to augment the
13 corporation's financial resources; requiring
14 the corporation to file quarterly statements of
15 financial condition and submit other reports to
16 the Department of Insurance; providing that the
17 corporation is not required to obtain a
18 certificate of authority from the Department of
19 Insurance; providing that the corporation is
20 not required to be a member of the Florida
21 Insurance Guaranty Association; requiring the
22 corporation to pay assessments pledged by the
23 association to secure bonds to pay covered
24 claims arising from insurer insolvencies caused
25 by hurricane losses; providing for transfer of
26 policies of the association and the Florida
27 Windstorm Underwriting Association to the
28 corporation; providing for a transfer of assets
29 and liabilities; requiring the associations to
30 take actions necessary to further the
31 transfers; providing for the redesignation of

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1 certain coverage as the high-risk account of
2 the corporation; providing that such account be
3 treated as if it were a separate participating
4 insurer for certain purposes; providing that
5 the personal lines and commercial lines
6 accounts be treated as a single participating
7 insurer for certain purposes; providing that
8 the department may postpone the July 1, 2002,
9 effective date of transfer under the act;
10 providing legislative intent; requiring the
11 board to report to the Legislature on certain
12 loss activities; requiring the board to reduce
13 certain eligibility boundaries under certain
14 circumstances; providing legislative intent not
15 to interfere with the rights of creditors, to
16 preserve the obligation of the association, and
17 to assure that outstanding financing agreements
18 pass unchanged to the corporation; amending s.
19 627.3511, F.S.; revising certain agent
20 commission payment policy servicing procedures
21 and requirements; creating s. 627.3517, F.S.;
22 preserving the right of a residual-market
23 policyholder to select and maintain an agent of
24 his or her own choice; providing an effective
25 date.

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