

1 F.S.; deleting provisions that allow an insurer
2 to require arbitration of a rate filing for
3 property and casualty insurance; amending s.
4 627.0629, F.S.; requiring underwriting rules
5 for homeowners' insurance to be filed with and
6 approved by the Office of Insurance Regulation;
7 providing for filing and approval provisions;
8 amending s. 627.0651, F.S.; deleting reference
9 to the filing of specified underwriting rules
10 for homeowners' insurance; amending s.
11 627.4025, F.S.; redefining the term "hurricane
12 coverage" to include coverage for damage from
13 wind-driven water; amending s. 627.4133, F.S.;
14 prohibiting an insurer from canceling or
15 nonrenewing a residential property insurance
16 policy for certain reasons; amending s.
17 627.4145, F.S.; increasing the minimum score on
18 the reading ease test for insurance policies;
19 creating s. 627.41494, F.S.; providing for
20 consumer participation in review of insurance
21 rate changes; providing for public inspection
22 of rate filings; providing for adoption of
23 rules by the Financial Services Commission;
24 requiring insurers to pay costs of consumer
25 advocacy groups under certain circumstances;
26 amending s. 627.701, F.S.; revising the
27 hurricane deductibles that insurers must offer
28 for personal lines residential property
29 insurance policies; creating s. 627.70105,
30 F.S.; requiring payment of living expenses
31 required due to uninhabitability of insured

1 property within a specified time; providing an
2 appropriation; providing effective dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 350.061, Florida Statutes, is
7 transferred, renumbered as section 11.402, Florida Statutes,
8 and amended to read:

9 11.402 ~~350.061~~ Public Counsel; appointment; oath;
10 restrictions on Public Counsel and his or her employees.--

11 (1) The Joint Legislative Auditing Committee shall
12 appoint a Public Counsel by majority vote of the members of
13 the committee to represent the general public of Florida
14 before the Florida Public Service Commission and the Office of
15 Insurance Regulation. The Public Counsel shall be an attorney
16 admitted to practice before the Florida Supreme Court and
17 shall serve at the pleasure of the Joint Legislative Auditing
18 Committee, subject to annual reconfirmation by the committee.
19 Vacancies in the office shall be filled in the same manner as
20 the original appointment.

21 (2) The Public Counsel shall take and subscribe to the
22 oath of office required of state officers by the State
23 Constitution.

24 (3) No officer or full-time employee of the Public
25 Counsel shall actively engage in any other business or
26 profession; serve as the representative of any political party
27 or on any executive committee or other governing body thereof;
28 serve as an executive, officer, or employee of any political
29 party, committee, organization, or association; receive
30 remuneration for activities on behalf of any candidate for
31 public office; or engage on behalf of any candidate for public

1 office in the solicitation of votes or other activities in
2 behalf of such candidacy. Neither the Public Counsel nor any
3 employee of the Public Counsel shall become a candidate for
4 election to public office unless he or she shall first resign
5 from his or her office or employment.

6 Section 2. Section 350.0611, Florida Statutes, is
7 transferred, renumbered as section 11.403, Florida Statutes,
8 and amended to read:

9 11.403 ~~350.0611~~ Public Counsel; duties and powers.--It
10 shall be the duty of the Public Counsel to provide legal
11 representation for the people of the state in proceedings
12 before the Public Service Commission and the Office of
13 Insurance Regulation and in proceedings before counties
14 pursuant to s. 367.171(8). The Public Counsel shall have such
15 powers as are necessary to carry out the duties of his or her
16 office, including, but not limited to, the following specific
17 powers:

18 (1) To recommend to the Public Service Commission or
19 the counties, by petition, the commencement of any proceeding
20 or action or to appear, in the name of the state or its
21 citizens, in any proceeding or action before the commission or
22 the counties.

23 (2) To recommend to the Office of Insurance
24 Regulation, by petition, the commencement of, and to appear in
25 the name of the state or its citizens in, any proceeding or
26 action before the office relating to:

27 (a) Rules governing residential property insurance; or

28 (b) Rate filings for residential property insurance

29 which, pursuant to standards determined by the office, request
30 an average statewide rate increase of 10 percent or greater as
31

1 compared to the current rates in effect or the rates in effect
2 12 months prior to the proposed effective date.

3
4 The Public Counsel may not stay any final order of the Office
5 of Insurance Regulation.

6 (3) To ~~and~~ urge in any proceeding or action to which
7 he or she is a party therein any position that ~~which~~ he or she
8 deems to be in the public interest, whether consistent or
9 inconsistent with positions previously adopted by the
10 commission, ~~or~~ the counties, or the office, and utilize
11 therein all forms of discovery available to attorneys in civil
12 actions generally, subject to protective orders of the
13 commission, ~~or~~ the counties, or the office, which shall be
14 reviewable by summary procedure in the circuit courts of this
15 state.†

16 (4)(2) To have access to and use of all files,
17 records, and data of the commission, ~~or~~ the counties, or the
18 office available to any other attorney representing parties in
19 a proceeding before the commission, ~~or~~ the counties, or the
20 office.†

21 (5)(3) In any proceeding in which he or she has
22 participated as a party, to seek review of any determination,
23 finding, or order of the commission, ~~or~~ the counties, or the
24 office, or of any hearing examiner designated by the
25 commission, ~~or~~ the counties, or the office, in the name of the
26 state or its citizens.†

27 (6)(4) To prepare and issue reports, recommendations,
28 and proposed orders to the commission or office, the Governor,
29 and the Legislature on any matter or subject within the
30 jurisdiction of the commission or office, and to make such
31 recommendations as he or she deems appropriate for legislation

1 relative to commission or office procedures, rules,
2 jurisdiction, personnel, and functions. ~~;~~ and

3 ~~(7)(5)~~ To appear before other state agencies, federal
4 agencies, and state and federal courts in connection with
5 matters under the jurisdiction of the commission or office, in
6 the name of the state or its citizens.

7 Section 3. Section 350.0612, Florida Statutes, is
8 transferred, renumbered as section 11.404, Florida Statutes,
9 and amended to read:

10 11.404 ~~350.0612~~ Public Counsel; location.--The Public
11 Counsel shall maintain his or her office in Leon County ~~on the~~
12 ~~premises of the commission or, if suitable space there cannot~~
13 ~~be provided,~~ at such ~~other~~ place convenient to the offices of
14 the Public Services Commission or the Office of Insurance
15 Regulation ~~commissioners~~ as will enable him or her to carry
16 out expeditiously the duties and functions of his or her
17 office.

18 Section 4. Section 350.0613, Florida Statutes, is
19 transferred, renumbered as section 11.405, Florida Statutes,
20 and amended to read:

21 11.405 ~~350.0613~~ Public Counsel; employees; receipt of
22 pleadings.--The Joint Legislative Auditing Committee may
23 authorize the Public Counsel to employ clerical and technical
24 assistants whose qualifications, duties, and responsibilities
25 the committee shall from time to time prescribe. The committee
26 may from time to time authorize retention of the services of
27 additional attorneys, actuaries, economists, or experts to the
28 extent that the best interests of the people of the state will
29 be better served thereby, including the retention of expert
30 witnesses and other technical personnel for participation in
31 contested proceedings before the Public Service Commission or

1 Office of Insurance Regulation. The commission shall furnish
2 the Public Counsel with copies of the initial pleadings in all
3 proceedings before the commission. The office shall furnish
4 the Public Counsel with copies of all filings that relate to
5 the jurisdiction of the Public Counsel pursuant to s.
6 11.403(2). ~~and~~ If the Public Counsel intervenes as a party in
7 any proceeding he or she shall be served with copies of all
8 subsequent pleadings, exhibits, and prepared testimony, if
9 used. Upon filing notice of intervention, the Public Counsel
10 shall serve all interested parties with copies of such notice
11 and all of his or her subsequent pleadings and exhibits.

12 Section 5. Section 350.0614, Florida Statutes, is
13 transferred, renumbered as section 11.406, Florida Statutes,
14 and amended to read:

15 11.406 ~~350.0614~~ Public Counsel; compensation and
16 expenses.--

17 (1) The salaries and expenses of the Public Counsel
18 and his or her employees shall be allocated by the committee
19 only from moneys appropriated to the Public Counsel by the
20 Legislature.

21 (2) The Legislature hereby declares and determines
22 that the Public Counsel is under the legislative branch of
23 government within the intention of the legislation as
24 expressed in chapter 216, and no power shall be in the
25 Executive Office of the Governor or its successor to release
26 or withhold funds appropriated to it, but the same shall be
27 available for expenditure as provided by law and the rules or
28 decisions of the Joint Auditing Committee.

29 (3) Neither the Executive Office of the Governor nor
30 the Department of Management Services or its successor shall
31 have power to determine the number, or fix the compensation,

1 of the employees of the Public Counsel or to exercise any
2 manner of control over them.

3 Section 6. Paragraph (b) of subsection (1) of section
4 112.3145, Florida Statutes, is amended to read:

5 112.3145 Disclosure of financial interests and clients
6 represented before agencies.--

7 (1) For purposes of this section, unless the context
8 otherwise requires, the term:

9 (b) "Specified state employee" means:

10 1. Public counsel created by chapter 11 350, an
11 assistant state attorney, an assistant public defender, a
12 full-time state employee who serves as counsel or assistant
13 counsel to any state agency, the Deputy Chief Judge of
14 Compensation Claims, a judge of compensation claims, an
15 administrative law judge, or a hearing officer.

16 2. Any person employed in the office of the Governor
17 or in the office of any member of the Cabinet if that person
18 is exempt from the Career Service System, except persons
19 employed in clerical, secretarial, or similar positions.

20 3. Each appointed secretary, assistant secretary,
21 deputy secretary, executive director, assistant executive
22 director, or deputy executive director of each state
23 department, commission, board, or council; unless otherwise
24 provided, the division director, assistant division director,
25 deputy director, bureau chief, and assistant bureau chief of
26 any state department or division; or any person having the
27 power normally conferred upon such persons, by whatever title.

28 4. The superintendent or institute director of a state
29 mental health institute established for training and research
30 in the mental health field or the warden or director of any
31

1 major state institution or facility established for
2 corrections, training, treatment, or rehabilitation.

3 5. Business managers, purchasing agents having the
4 power to make any purchase exceeding the threshold amount
5 provided for in s. 287.017 for CATEGORY ONE, finance and
6 accounting directors, personnel officers, or grants
7 coordinators for any state agency.

8 6. Any person, other than a legislative assistant
9 exempted by the presiding officer of the house by which the
10 legislative assistant is employed, who is employed in the
11 legislative branch of government, except persons employed in
12 maintenance, clerical, secretarial, or similar positions.

13 7. Each employee of the Commission on Ethics.

14 Section 7. Section 215.559, Florida Statutes, is
15 amended to read:

16 215.559 Hurricane Loss Mitigation Program.--

17 (1) There is created a Hurricane Loss Mitigation
18 Program. The Legislature shall annually appropriate \$10
19 million of the moneys authorized for appropriation under s.
20 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to
21 the Department of Community Affairs for the purposes set forth
22 in this section.

23 (2)(a) One Seven million dollars in funds provided in
24 subsection (1) shall be used for programs to improve the wind
25 resistance of ~~residences and mobile homes, including loans,~~
26 ~~subsidies, grants, demonstration projects, and direct~~
27 ~~assistance; cooperative programs with local governments and~~
28 ~~the Federal Government; and other efforts~~ to prevent or reduce
29 losses or reduce the cost of rebuilding after a disaster.

30 (b) Six million dollars in funds provided in
31 subsection (1) shall be used for programs to improve the wind

1 resistance of residences to prevent or reduce losses or reduce
2 the cost of rebuilding after a disaster.

3 (c) The department shall, with the funds authorized in
4 paragraphs (a) and (b), establish a program of low-interest
5 loans to qualified owners of residences and qualified owners
6 of mobile homes. For the purpose of this section, the term
7 "low-interest loan" means any direct loan or loan guarantee
8 issued or backed by such authorized funds to a qualified owner
9 to finance efforts to prevent or reduce losses or reduce the
10 cost of rebuilding after a disaster with a requirement for
11 repayment by the owner. Loans provided under this section
12 shall be made at a rate of up to 2 percent below the qualified
13 loan rate as determined by the department. The terms and
14 conditions of the low-interest loan program, including loan
15 incentive provisions, and the qualifications required of
16 owners of residences and owners of mobile homes shall be
17 determined by the department.

18 ~~(d)(b)~~ Three million dollars in funds provided in
19 subsection (1) shall be used to retrofit existing facilities
20 used as public hurricane shelters. The department must
21 prioritize the use of these funds for projects included in the
22 September 1, 2000, version of the Shelter Retrofit Report
23 prepared in accordance with s. 252.385(3), and each annual
24 report thereafter. The department must give funding priority
25 to projects in regional planning council regions that have
26 shelter deficits and to projects that maximize use of state
27 funds.

28 (3) Forty percent of the total appropriation in
29 paragraph (2)(a) shall be used to inspect and improve
30 tie-downs for mobile homes. Within 30 days after the effective
31 date of that appropriation, the department shall contract with

1 a public higher educational institution in this state which
2 has previous experience in administering the programs set
3 forth in this subsection to serve as the administrative entity
4 and fiscal agent pursuant to s. 216.346 for the purpose of
5 administering the programs set forth in this subsection in
6 accordance with established policy and procedures. The
7 administrative entity working with the advisory council set up
8 under subsection (5) shall develop a list of mobile home parks
9 and counties that may be eligible to participate in the
10 tie-down program.

11 (4) Of moneys provided to the Department of Community
12 Affairs in ~~paragraphs~~ ~~paragraph~~ (2)(a) and (b), 10 percent
13 shall be allocated to a Type I Center within the State
14 University System dedicated to hurricane research. The Type I
15 Center shall develop a preliminary work plan approved by the
16 advisory council set forth in subsection (5) to eliminate the
17 state and local barriers to upgrading existing residences,
18 mobile homes, and communities;~~;~~ research and develop a program
19 for the recycling of existing older mobile homes;~~;~~ and support
20 programs of research and development relating to hurricane
21 loss reduction devices and techniques for site-built
22 residences. The State University System also shall consult
23 with the Department of Community Affairs and assist the
24 department with the report required under subsection (7).

25 (5) Except for the program set forth in subsection
26 (3), the Department of Community Affairs shall develop the
27 programs set forth in this section in consultation with an
28 advisory council consisting of a representative designated by
29 the Chief Financial Officer, a representative designated by
30 the Florida Home Builders Association, a representative
31 designated by the Florida Insurance Council, a representative

1 designated by the Federation of Manufactured Home Owners, a
2 representative designated by the Florida Association of
3 Counties, and a representative designated by the Florida
4 Manufactured Housing Association.

5 (6) Moneys provided to the Department of Community
6 Affairs under this section are intended to supplement other
7 funding sources of the Department of Community Affairs and may
8 not supplant other funding sources of the Department of
9 Community Affairs.

10 (7) On January 1st of each year, the Department of
11 Community Affairs shall provide a full report and accounting
12 of activities under this section and an evaluation of such
13 activities to the Speaker of the House of Representatives, the
14 President of the Senate, and the Majority and Minority Leaders
15 of the House of Representatives and the Senate.

16 (8) This section is repealed June 30, 2011.

17 Section 8. Subsection (1) of section 408.40, Florida
18 Statutes, is amended to read:

19 408.40 Public Counsel.--

20 (1) Notwithstanding any other provisions of this
21 chapter, the Public Counsel shall represent the public in any
22 proceeding before the agency or its advisory panels in any
23 administrative hearing conducted pursuant to chapter 120 or
24 before any other state and federal agencies and courts in any
25 issue before the agency, any court, or any agency. With
26 respect to any such proceeding, the Public Counsel is subject
27 to the provisions of and may use the powers granted to him or
28 her by ss. 11.402-11.406 ~~ss. 350.061-350.0614~~.

29 Section 9. Paragraph (b) of subsection (3) of section
30 624.319, Florida Statutes, is amended to read:

31 624.319 Examination and investigation reports.--

1 (3)

2 (b) Workpapers and other information held by the
3 department or office, and workpapers and other information
4 received from another governmental entity or the National
5 Association of Insurance Commissioners, for the department's
6 or office's use in the performance of its examination or
7 investigation duties pursuant to this section and ss. 624.316,
8 624.3161, 624.317, and 624.318 are confidential and exempt
9 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
10 the State Constitution. This exemption applies to workpapers
11 and other information held by the department or office before,
12 on, or after the effective date of this exemption. Such
13 confidential and exempt information may be disclosed to
14 another governmental entity, if disclosure is necessary for
15 the receiving entity to perform its duties and
16 responsibilities, and may be disclosed to the National
17 Association of Insurance Commissioners. The Public Counsel
18 shall have access to such confidential and exempt information
19 pertaining to residential property insurance at any time. The
20 receiving governmental entity or the association must maintain
21 the confidential and exempt status of the information. The
22 information made confidential and exempt by this paragraph may
23 be used in a criminal, civil, or administrative proceeding so
24 long as the confidential and exempt status of such information
25 is maintained. This paragraph is subject to the Open
26 Government Sunset Review Act of 1995 in accordance with s.
27 119.15 and shall stand repealed on October 2, 2007, unless
28 reviewed and saved from repeal through reenactment by the
29 Legislature.
30
31

1 Section 10. Effective upon this act becoming a law,
2 subsection (6) of section 627.062, Florida Statutes, is
3 amended to read:

4 627.062 Rate standards.--

5 ~~(6)(a) After any action with respect to a rate filing~~
6 ~~that constitutes agency action for purposes of the~~
7 ~~Administrative Procedure Act, except for a rate filing for~~
8 ~~medical malpractice, an insurer may, in lieu of demanding a~~
9 ~~hearing under s. 120.57, require arbitration of the rate~~
10 ~~filing. Arbitration shall be conducted by a board of~~
11 ~~arbitrators consisting of an arbitrator selected by the~~
12 ~~office, an arbitrator selected by the insurer, and an~~
13 ~~arbitrator selected jointly by the other two arbitrators. Each~~
14 ~~arbitrator must be certified by the American Arbitration~~
15 ~~Association. A decision is valid only upon the affirmative~~
16 ~~vote of at least two of the arbitrators. No arbitrator may be~~
17 ~~an employee of any insurance regulator or regulatory body or~~
18 ~~of any insurer, regardless of whether or not the employing~~
19 ~~insurer does business in this state. The office and the~~
20 ~~insurer must treat the decision of the arbitrators as the~~
21 ~~final approval of a rate filing. Costs of arbitration shall be~~
22 ~~paid by the insurer.~~

23 ~~(b) Arbitration under this subsection shall be~~
24 ~~conducted pursuant to the procedures specified in ss.~~
25 ~~682.06-682.10. Either party may apply to the circuit court to~~
26 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~
27 ~~682.14. The commission shall adopt rules for arbitration under~~
28 ~~this subsection, which rules may not be inconsistent with the~~
29 ~~arbitration rules of the American Arbitration Association as~~
30 ~~of January 1, 1996.~~

1 ~~(c) Upon initiation of the arbitration process, the~~
2 ~~insurer waives all rights to challenge the action of the~~
3 ~~office under the Administrative Procedure Act or any other~~
4 ~~provision of law; however, such rights are restored to the~~
5 ~~insurer if the arbitrators fail to render a decision within 90~~
6 ~~days after initiation of the arbitration process.~~

7 Section 11. Section 627.0629, Florida Statutes, is
8 amended to read:

9 627.0629 Residential property insurance; rate filings;
10 underwriting rules.--

11 (1) Effective June 1, 2002, a rate filing for
12 residential property insurance must include actuarially
13 reasonable discounts, credits, or other rate differentials, or
14 appropriate reductions in deductibles, for properties on which
15 fixtures or construction techniques demonstrated to reduce the
16 amount of loss in a windstorm have been installed or
17 implemented. The fixtures or construction techniques shall
18 include, but not be limited to, fixtures or construction
19 techniques which enhance roof strength, roof covering
20 performance, roof-to-wall strength,
21 wall-to-floor-to-foundation strength, opening protection, and
22 window, door, and skylight strength. Credits, discounts, or
23 other rate differentials for fixtures and construction
24 techniques which meet the minimum requirements of the Florida
25 Building Code must be included in the rate filing. All
26 insurance companies must make a rate filing which includes the
27 credits, discounts, or other rate differentials by February
28 28, 2003.

29 (2)(a) A rate filing for residential property
30 insurance made on or before the implementation of paragraph
31 (b) may include rate factors that reflect the manner in which

1 building code enforcement in a particular jurisdiction
2 addresses the risk of wind damage; however, such a rate filing
3 must also provide for variations from such rate factors on an
4 individual basis based on an inspection of a particular
5 structure by a licensed home inspector, which inspection may
6 be at the cost of the insured.

7 (b) A rate filing for residential property insurance
8 made more than 150 days after approval by the office of a
9 building code rating factor plan submitted by a statewide
10 rating organization shall include positive and negative rate
11 factors that reflect the manner in which building code
12 enforcement in a particular jurisdiction addresses risk of
13 wind damage. The rate filing shall include variations from
14 standard rate factors on an individual basis based on
15 inspection of a particular structure by a licensed home
16 inspector. If an inspection is requested by the insured, the
17 insurer may require the insured to pay the reasonable cost of
18 the inspection. This paragraph applies to structures
19 constructed or renovated after the implementation of this
20 paragraph.

21 (c) The premium notice shall specify the amount by
22 which the rate has been adjusted as a result of this
23 subsection and shall also specify the maximum possible
24 positive and negative adjustments that are approved for use by
25 the insurer under this subsection.

26 (3) A rate filing made on or after July 1, 1995, for
27 mobile home owner's insurance must include appropriate
28 discounts, credits, or other rate differentials for mobile
29 homes constructed to comply with American Society of Civil
30 Engineers Standard ANSI/ASCE 7-88, adopted by the United
31 States Department of Housing and Urban Development on July 13,

1 1994, and that also comply with all applicable tie-down
2 requirements provided by state law.

3 (4) The Legislature finds that separate consideration
4 and notice of hurricane insurance premiums will assist
5 consumers by providing greater assurance that hurricane
6 premiums are lawful and by providing more complete information
7 regarding the components of property insurance premiums.
8 Effective January 1, 1997, a rate filing for residential
9 property insurance shall be separated into two components,
10 rates for hurricane coverage and rates for all other
11 coverages. A premium notice reflecting a rate implemented on
12 the basis of such a filing shall separately indicate the
13 premium for hurricane coverage and the premium for all other
14 coverages.

15 (5) In order to provide an appropriate transition
16 period, an insurer may, in its sole discretion, implement an
17 approved rate filing for residential property insurance over a
18 period of years. An insurer electing to phase in its rate
19 filing must provide an informational notice to the office
20 setting out its schedule for implementation of the phased-in
21 rate filing.

22 (6) An insurer may not write a residential property
23 insurance policy without providing windstorm coverage or
24 hurricane coverage as defined in s. 627.4025. This subsection
25 does not apply with respect to risks located in an area
26 eligible for coverage under the high-risk account of the
27 Citizens Property Insurance Corporation pursuant to s.
28 627.351(6).

29 (7) Any rate filing that is based in whole or part on
30 data from a computer model may not exceed 25 percent unless
31 there is a public hearing.

1 (8) An insurer may implement appropriate discounts or
2 other rate differentials of up to 10 percent of the annual
3 premium to mobile home owners who provide to the insurer
4 evidence of a current inspection of tie-downs for the mobile
5 home, certifying that the tie-downs have been properly
6 installed and are in good condition.

7 (9) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL
8 SOUNDNESS.--

9 (a) It is the intent of the Legislature to provide a
10 program whereby homeowners may obtain an evaluation of the
11 wind resistance of their homes with respect to preventing
12 damage from hurricanes, together with a recommendation of
13 reasonable steps that may be taken to upgrade their homes to
14 better withstand hurricane force winds.

15 (b) To the extent that funds are provided for this
16 purpose in the General Appropriations Act, the Legislature
17 hereby authorizes the establishment of a program to be
18 administered by the Citizens Property Insurance Corporation
19 for homeowners insured in the high-risk account.

20 (c) The program shall provide grants to homeowners,
21 for the purpose of providing homeowner applicants with funds
22 to conduct an evaluation of the integrity of their homes with
23 respect to withstanding hurricane force winds, recommendations
24 to retrofit the homes to better withstand damage from such
25 winds, and the estimated cost to make the recommended
26 retrofits.

27 (d) The Department of Community Affairs shall
28 establish by rule standards to govern the quality of the
29 evaluation, the quality of the recommendations for
30 retrofitting, the eligibility of the persons conducting the
31 evaluation, and the selection of applicants under the program.

1 In establishing the rule, the Department of Community Affairs
2 shall consult with the advisory committee to minimize the
3 possibility of fraud or abuse in the evaluation and
4 retrofitting process, and to ensure that funds spent by
5 homeowners acting on the recommendations achieve positive
6 results.

7 (e) The Citizens Property Insurance Corporation shall
8 identify areas of this state with the greatest wind risk to
9 residential properties and recommend annually to the
10 Department of Community Affairs priority target areas for such
11 evaluations and inclusion with the associated residential
12 construction mitigation program.

13 (10) A property insurance rate filing that includes
14 any adjustments related to premiums paid to the Florida
15 Hurricane Catastrophe Fund must include a complete calculation
16 of the insurer's catastrophe load, and the information in the
17 filing may not be limited solely to recovery of moneys paid to
18 the fund.

19 (11) The underwriting rules for homeowners' insurance
20 not contained in rating manuals shall be filed with the
21 office. All underwriting rules for homeowners' insurance must
22 be approved by the office and be reasonable and comply with
23 applicable provisions of law. The filing and form-approval
24 provisions under s. 627.410 apply to the filing and approval
25 of underwriting rules for homeowners' insurance.

26 Section 12. Subsection (13) of section 627.0651,
27 Florida Statutes, is amended to read:

28 627.0651 Making and use of rates for motor vehicle
29 insurance.--

30
31

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

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

13 Section 13. Paragraph (a) of subsection (2) of section
14 627.4025, Florida Statutes, is amended to read:

15 627.4025 Residential coverage and hurricane coverage
16 defined.--

17 (2) As used in policies providing residential
18 coverage:

19 (a) "Hurricane coverage" is coverage for loss or
20 damage caused by the peril of windstorm during a hurricane.
21 The term includes ensuing damage to the interior of a
22 building, or to property inside a building, caused by rain,
23 snow, sleet, hail, sand, or dust if the direct force of the
24 windstorm first damages the building, causing an opening
25 through which rain, snow, sleet, hail, sand, or dust enters
26 and causes damage. The term also includes coverage for damage
27 to the interior of a building, or to property inside a
28 building, which is caused by wind-driven water entering the
29 building during a hurricane.

1 Section 14. Effective upon this act becoming a law,
2 subsection (7) is added to section 627.4133, Florida Statutes,
3 to read:

4 627.4133 Notice of cancellation, nonrenewal, or
5 renewal premium.--

6 (7) An insurer may not cancel or nonrenew a
7 residential property insurance policy, based on only one claim
8 under the policy, or for any other reason other than a lawful
9 underwriting reason as filed with the office, for a
10 policyholder who has been continuously insured with that
11 insurer or with an insurer within the same insurance group for
12 5 years or longer.

13 Section 15. Subsection (1) of section 627.4145,
14 Florida Statutes, is amended to read:

15 627.4145 Readable language in insurance policies.--

16 (1) Every policy shall be readable as required by this
17 section. For the purposes of this section, the term "policy"
18 means a policy form or endorsement. A policy is deemed
19 readable if:

20 (a) The text achieves a minimum score of 50 ~~45~~ on the
21 Flesch reading ease test as computed in subsection (5) or an
22 equivalent score on any other test comparable in result and
23 approved by the office;

24 (b) It uses layout and spacing which separate the
25 paragraphs from each other and from the border of the paper;

26 (c) It has section titles that are captioned in
27 boldfaced type or that otherwise stand out significantly from
28 the text;

29 (d) It avoids the use of unnecessarily long,
30 complicated, or obscure words, sentences, paragraphs, or
31 constructions;

1 (e) The style, arrangement, and overall appearance of
2 the policy give no undue prominence to any portion of the text
3 of the policy or to any endorsements or riders; and

4 (f) It contains a table of contents or an index of the
5 principal sections of the policy, if the policy has more than
6 3,000 words or more than three pages.

7 Section 16. Section 627.41494, Florida Statutes, is
8 created to read:

9 627.41494 Consumer participation in rate review.--

10 (1) Upon the filing of a proposed rate change for
11 residential property insurance by an insurer under s. 627.062,
12 which filing would, pursuant to standards determined by the
13 office, result in an average statewide increase of 10 percent
14 or more as compared to the rates in effect at that time or the
15 rates in effect 12 months prior to the proposed effective
16 date, the insurer shall mail notice of such filing to each of
17 its policyholders or members.

18 (2) The rate filing shall be available for public
19 inspection. If any policyholder or member requests the office
20 within 30 days after the mailing of such notification pursuant
21 to subsection (1) to hold a hearing, the office shall hold a
22 hearing within 30 days after such request. Any consumer
23 advocacy group or the Public Counsel under chapter 11 may
24 participate in such hearing, and the commission may adopt
25 rules governing such participation.

26 (3) For purposes of this section, the term "consumer
27 advocacy group" means an organization with a membership of at
28 least 1,000 individuals, the purpose of which is to represent
29 the best interests of the public in matters relating, but not
30 limited, to insurance rate filings before the office. The
31 consumer advocacy group may:

1 (a) Appear in any proceeding or action before the
2 department or office or appear in any proceeding before the
3 Division of Administrative Hearings relating to rate filings
4 subject to subsection (1).

5 (b) Have access to and use of all files, records, and
6 data of the office relating to such rate filings.

7 (c) Examine such rate and form filings submitted to
8 the office.

9 (d) Recommend to the office any position deemed by the
10 group to be in the best interest of the public in matters
11 relating to such rate filings.

12
13 This subsection does not limit the rights of a consumer
14 advocacy group to have access to records of the office as
15 otherwise available pursuant to law.

16 (4) The office shall order the insurer to pay the
17 reasonable costs of the consumer advocacy group if the office
18 determines that the consumer advocacy group made a relevant
19 and substantial contribution to the final order on the rate
20 filing. In determining the reasonable costs the insurer shall
21 pay the consumer advocacy group, the office shall consider,
22 among other things, the time, labor, fees, and expenses
23 incurred by the advocacy group.

24 Section 17. Effective upon this act becoming a law,
25 subsection (3) and paragraph (b) of subsection (7) of section
26 627.701, Florida Statutes, are amended to read:

27 627.701 Liability of insureds; coinsurance;
28 deductibles.--

29 (3)(a) A policy of residential property insurance
30 shall include a deductible amount applicable to hurricane ~~or~~
31 ~~wind~~ losses no lower than \$500 and no higher than 5 ~~2~~ percent

1 of the policy dwelling limits with respect to personal lines
2 residential risks, and no higher than 3 percent of the policy
3 limits with respect to commercial lines residential risks;
4 however, if a risk was covered on August 24, 1992, under a
5 policy having a higher deductible than the deductibles allowed
6 by this paragraph, a policy covering such risk may include a
7 deductible no higher than the deductible in effect on August
8 24, 1992. Notwithstanding the other provisions of this
9 paragraph, a personal lines residential policy covering a risk
10 valued at \$50,000 or less may include a deductible amount
11 attributable to hurricane ~~or wind~~ losses no lower than \$250,
12 and a personal lines residential policy covering a risk valued
13 at \$100,000 or more may include a deductible amount
14 attributable to hurricane ~~or wind~~ losses no higher than 5
15 percent of the policy limits unless subject to a higher
16 deductible on August 24, 1992; however, no maximum deductible
17 is required with respect to a personal lines residential
18 policy covering a risk valued at more than \$500,000. An
19 insurer may require a higher deductible, provided such
20 deductible is the same as or similar to a deductible program
21 lawfully in effect on June 14, 1995. In addition to the
22 deductible amounts authorized by this paragraph, an insurer
23 may also offer policies with a copayment provision under
24 which, after exhaustion of the deductible, the policyholder is
25 responsible for 10 percent of the next \$10,000 of insured
26 hurricane ~~or wind~~ losses.

27 (b)1. Except as otherwise provided in this paragraph,
28 prior to issuing a personal lines residential property
29 insurance policy on or after March 1, 2005 ~~April 1, 1996~~, or
30 prior to the first renewal of a residential property insurance
31 policy on or after March 1, 2005 ~~April 1, 1996~~, the insurer

1 must offer alternative deductible amounts applicable to
2 hurricane ~~or wind~~ losses equal to \$500, 1 percent, ~~and 2~~
3 percent, ~~and 5 percent~~ of the policy dwelling limits, but it
4 need not offer a deductible expressed as a percentage when
5 that percentage unless the 2 percent deductible is less than
6 \$500. The written notice of the offer shall specify the
7 hurricane or wind deductible to be applied in the event that
8 the applicant or policyholder fails to affirmatively choose a
9 hurricane deductible. The insurer must provide such
10 policyholder with notice of the availability of the deductible
11 amounts specified in this paragraph in a form approved by the
12 office in conjunction with each renewal of the policy. The
13 failure to provide such notice constitutes a violation of this
14 code but does not affect the coverage provided under the
15 policy.

16 2. This paragraph does not apply with respect to a
17 deductible program lawfully in effect on June 14, 1995, or to
18 any similar deductible program, if the deductible program
19 requires a minimum deductible amount of no less than 1 ~~2~~
20 percent of the policy limits.

21 ~~3. With respect to a policy covering a risk with~~
22 ~~dwelling limits of at least \$100,000, but less than \$250,000,~~
23 ~~the insurer may, in lieu of offering a policy with a \$500~~
24 ~~hurricane or wind deductible as required by subparagraph 1.,~~
25 ~~offer a policy that the insurer guarantees it will not~~
26 ~~nonrenew for reasons of reducing hurricane loss for one~~
27 ~~renewal period and that contains up to a 2 percent hurricane~~
28 ~~or wind deductible as required by subparagraph 1.~~

29 ~~3.4.~~ With respect to a policy covering a risk with
30 dwelling limits of \$250,000 or more, the insurer need not
31 offer the \$500 hurricane ~~or wind~~ deductible as required by

1 subparagraph 1., but must, except as otherwise provided in
2 this subsection, offer the 1 percent, 2 percent, and 5 percent
3 hurricane deductibles ~~or wind deductible~~ as required by
4 subparagraph 1.

5 ~~(c) In order to provide for the transition from wind~~
6 ~~deductibles to hurricane deductibles as required by this~~
7 ~~subsection, an insurer is required to provide wind deductibles~~
8 ~~meeting the requirements of this subsection until the~~
9 ~~effective date of the insurer's first rate filing made after~~
10 ~~January 1, 1997, and is thereafter required to provide~~
11 ~~hurricane deductibles meeting the requirements of this~~
12 ~~subsection.~~

13 (7)

14 (b) Notwithstanding the provisions of subsection (3),
15 with respect to mobile home policies:

16 ~~1.~~ the deductible for hurricane coverage may not
17 exceed 10 percent of the property value if the property is not
18 subject to any liens and may not exceed 5 percent of the
19 property value if the property is subject to any liens.

20 ~~2. The insurer need not make the offers required by~~
21 ~~paragraph (3)(b).~~

22 Section 18. Section 627.70105, Florida Statutes, is
23 created to read:

24 627.70105 Hurricane coverage; additional
25 requirement.--Each insurance contract providing hurricane
26 coverage must include a provision that, if insured residential
27 property becomes uninhabitable due to damage from a hurricane
28 and the insurer is liable for living expenses of the insured
29 while the covered property remains uninhabitable, initial
30 living expense payments must be delivered to the insured no
31

1 later than 48 hours after a claim therefor is made with the
2 insurer.

3 Section 19. The sum of \$50 million is appropriated for
4 fiscal year 2005-2006 on a nonrecurring basis from the General
5 Revenue Fund to the Department of Community Affairs in the
6 special appropriation category "Residential Hurricane
7 Mitigation Low-Interest Loan Program" for low-interest loans
8 to qualified owners of residences and qualified owners of
9 mobile homes to finance efforts to improve the wind resistance
10 of residences to prevent or reduce losses or reduce the cost
11 of rebuilding after a disaster with a requirement of repayment
12 by the owner, as provided in section 7. These funds shall be
13 subject to the release provisions of chapter 216, Florida
14 Statutes. Up to 0.5 percent of this appropriation may be used
15 by the department for administration of the loan program.

16 Section 20. Except as otherwise expressly provided in
17 this act, this act shall take effect July 1, 2005.

SENATE SUMMARY

1
2
3 Authorizes the Public Counsel to represent the general
4 public before the Office of Insurance Regulation and
5 prescribes the Public Counsel's access to certain
6 records. Provides an additional breakdown for the
7 distribution of Hurricane Loss Mitigation Fund moneys
8 between programs relating to mobile homes and programs
9 relating to residences and creates a program of
10 low-interest loans to further the purposes of the fund.
11 Deletes provisions relating to arbitration of rate
12 filings. Includes coverage for damage from wind-driven
13 water in the definition of "hurricane coverage."
14 Prohibits cancellation or nonrenewal of residential
15 property insurance by an insurer who has insured the
16 property for 5 years or longer on the basis of a single
17 claim or for any other reason except a lawful
18 underwriting reason. Providing for notice to
19 policyholders of rate increases that exceed a threshold
20 amount. Provides for participation by consumer advocacy
21 groups, as defined, in the ratemaking process. Revises
22 guidelines relating to deductibles. Requires the Office
23 of Insurance Regulation to approve underwriting rules for
24 homeowners' insurance not contained in rating manuals.
25 Requires timely payment of living expenses necessitated
26 by uninhabitability of damaged residential property.
27 Provides an appropriation to the Department of Community
28 Affairs for a residential hurricane mitigation
29 low-interest loan program.
30
31