

1 A bill to be entitled
2 An act relating to property insurance; amending
3 s. 215.555, F.S.; revising the retention of
4 losses for which an insurer is not entitled to
5 reimbursement from the Florida Hurricane
6 Catastrophe Fund; amending s. 215.559, F.S.;
7 revising the allocation of funds appropriated
8 to the Department of Community Affairs from the
9 Florida Hurricane Catastrophe Fund for the
10 Hurricane Loss Mitigation Program; requiring
11 that the department establish a low-interest
12 loan program and pilot project for hurricane
13 loss mitigation; authorizing contractual
14 agreements between the department and financial
15 institutions; authorizing the Department of
16 Community Affairs to adopt rules; amending s.
17 627.062, F.S.; requiring the Office of
18 Insurance Regulation to submit a proposed plan
19 to the Legislature establishing uniform rating
20 territories to be used by insurers for
21 residential property insurance rate filings;
22 requiring a further act of the Legislature to
23 implement the plan; limiting the recoupment by
24 an insurer in its rates of the reimbursement
25 premium it pays to the Florida Hurricane
26 Catastrophe Fund; amending s. 627.0628, F.S.;
27 restricting the admissibility and relevance in
28 rate proceedings of findings of the Florida
29 Commission on Hurricane Loss Projection
30 Methodology; amending s. 627.0629, F.S.;
31 lowering the percentage amount of a rate filing

1 based on a computer model which requires a
2 public hearing; creating s. 627.06281, F.S.;
3 requiring residential property insurers and
4 rating and advisory organizations to report
5 hurricane loss data for development of a public
6 hurricane model for hurricane loss projections;
7 amending s. 627.351, F.S.; revising the
8 appointments to the board and the approval of
9 officers and employees of the corporation;
10 providing additional legislative intent
11 relating to the Citizens Property Insurance
12 Corporation; authorizing the corporation to
13 issue bonds and incur indebtedness for certain
14 purposes; requiring creation of a Market
15 Accountability Advisory Committee to assist the
16 corporation for certain purposes; providing for
17 appointment of committee members; providing for
18 terms; requiring reports to the corporation;
19 revising requirements for the plan of operation
20 of the corporation; deleting an obsolete
21 reporting requirement; establishing a pilot
22 program; specifying nonapplication of certain
23 policy requirements in a county lacking
24 reasonable degrees of competition for certain
25 policies under certain circumstances; requiring
26 the commission to adopt rules; deleting an
27 obsolete rate methodology panel reporting
28 requirement provision; creating s. 627.40951,
29 F.S.; providing legislative findings and
30 intent; providing for an advisory committee;
31 providing for membership; providing for

1 | recommendations to be submitted to the
2 | Legislature regarding standard residential
3 | property insurance policies; amending s.
4 | 627.411, F.S.; adding grounds for which the
5 | Office of Insurance Regulation must disapprove
6 | a form filed by an insurer; amending s.
7 | 627.4133, F.S.; prohibiting insurers from
8 | canceling or nonrenewing residential property
9 | insurance policies under certain emergency
10 | circumstances; providing exceptions; providing
11 | notice requirements; providing application to
12 | personal residential and commercial residential
13 | policies covering certain damaged property;
14 | extending the effective date of certain
15 | policies under certain hurricane circumstances;
16 | authorizing the insurer to collect premiums for
17 | the extended period; providing nonapplication;
18 | amending s. 627.4143, F.S.; requiring insurers
19 | to provide personal lines property insurance
20 | policyholders with a checklist of items
21 | contained in policies; authorizing the
22 | Financial Services Commission to adopt rules;
23 | prescribing elements to be contained in the
24 | checklist; requiring the checklist and outline
25 | of insurance coverage to be sent with each
26 | renewal; clarifying that homeowners' insurance
27 | includes mobile homeowners', dwelling, and
28 | condominium unit owners' insurance for purposes
29 | of the outline of coverage; amending s.
30 | 627.701, F.S.; increasing the maximum allowable
31 | hurricane deductible for personal lines and

1 certain commercial lines residential policies;
2 requiring insurers to offer specified hurricane
3 deductibles for such policies; requiring
4 insurers to provide written notice explaining
5 hurricane deductible options for such policies;
6 providing for computation and display of the
7 dollar value of hurricane deductibles;
8 requiring insurers to compute and display
9 actual dollar values of certain riders for
10 certain policies; amending s. 627.701, F.S.;
11 providing that the requirement for a hurricane
12 deductible to apply on an annual basis applies
13 to personal lines residential property
14 insurance policies; requiring insurers that
15 provide commercial residential property
16 insurance to offer alternative hurricane
17 deductibles that apply on an annual basis or to
18 each hurricane; amending s. 627.7011, F.S.;
19 requiring insurers to offer coverage for
20 additional costs of repair due to laws and
21 ordinances; requiring insurers to pay the
22 replacement cost for a loss insured on that
23 basis, whether or not the insured replaces or
24 repairs the dwelling or property; requiring
25 certain homeowner's insurance policies to
26 contain a specified statement; providing
27 intent; amending s. 627.7015, F.S.; revising
28 purpose and scope provisions relating to an
29 alternative procedure for resolution of
30 disputed property insurance claims; providing
31 that failure of an insurer to notify a claimant

1 of the availability of mediation excuses an
2 insured from being required to submit to
3 certain loss appraisal processes; amending s.
4 627.702, F.S.; providing legislative intent
5 regarding the requirement that an insurer pay
6 policy limits if there is a total loss of a
7 building; providing nonapplication of certain
8 insurer liability requirements under certain
9 circumstances; limiting an insurer's liability
10 to certain loss covered by a covered peril;
11 amending s. 627.706, F.S., relating to sinkhole
12 insurance; providing definitions; creating s.
13 627.7065, F.S.; providing legislative findings;
14 requiring the Department of Financial Services
15 and the Office of the Insurance Consumer
16 Advocate to consult with the Florida Geological
17 Survey and the Department of Environmental
18 Protection to implement a statewide automated
19 database of sinkholes and related activity;
20 providing requirements for the form and content
21 of the database; authorizing the Department of
22 Financial Services to require insurers to
23 provide certain information; providing for
24 management of the database; requiring the
25 department to investigate sinkhole activity
26 reports and include findings and investigations
27 in the database; requiring the Department of
28 Environmental Protection to report on the
29 database to the Governor, Legislature, and
30 Chief Financial Officer; authorizing the
31 Department of Financial Services to adopt

1 implementing rules; amending s. 627.707, F.S.;
2 revising standards for investigations of
3 sinkhole claims by insurers; requiring an
4 insurer to engage an engineer or professional
5 geologist for certain purposes; requiring a
6 report under certain circumstances; requiring
7 an insurer to provide written notice to a
8 policyholder disclosing certain information;
9 authorizing an insurer to deny a claim under
10 certain circumstances; authorizing a
11 policyholder to demand certain testing;
12 providing requirements; specifying required
13 activities for insurers if a sinkhole loss is
14 verified; specifying payment requirements for
15 insurers; providing limitations; requiring the
16 insurer to pay fees of the engineer and
17 geologist; authorizing an insurer to engage a
18 structural engineer for certain purposes;
19 creating s. 627.7072, F.S.; specifying
20 requirements for sinkhole testing by engineers
21 and geologists; creating s. 627.7073, F.S.;
22 providing reporting requirements for engineers
23 and geologists after testing for sinkholes;
24 specifying a presumption of correctness of
25 certain findings; requiring an insurer paying a
26 sinkhole loss claim to file a report and
27 certification with the county property
28 appraiser; requiring the property appraiser to
29 record the report and certification; requiring
30 the insurer to bear the cost of filing and
31 recording; requiring a seller of certain

1 | property to make certain disclosures to
2 | property buyers under certain circumstances;
3 | creating s. 627.711, F.S.; requiring insurers
4 | to notify applicants or policyholders of the
5 | availability and amounts of certain discounts,
6 | credits, rate differentials, or reductions in
7 | deductibles for properties on which certain
8 | fixtures have been installed or construction
9 | techniques have been implemented; requiring
10 | insurers to provide qualifying information;
11 | authorizing the Financial Services Commission
12 | to adopt rules; creating s. 627.712, F.S.;
13 | requiring property insurers to pay or deny
14 | claims within certain time periods; providing
15 | that overdue payments bear interest; creating
16 | the Task Force on Long-Term Solutions for
17 | Florida's Hurricane Insurance Market; requiring
18 | the Executive Office of the Governor, the
19 | Department of Financial Services, and the
20 | Office of Insurance Regulation to provide
21 | administrative support and staff support;
22 | providing membership; providing purpose and
23 | intent; providing for research and hearings on
24 | specified issues; requiring the task force to
25 | submit a report of findings and recommendations
26 | to the Governor, the Chief Financial Officer,
27 | the President of the Senate, and the Speaker of
28 | the House of Representatives; providing for
29 | additional activities; providing for expiration
30 | of the task force; requiring the Office of
31 | Insurance Regulation to submit a report to the

1 Legislature relating to residential property
 2 insurance; providing report requirements;
 3 requiring the Office of the Auditor General to
 4 conduct an operational audit of Citizens
 5 Property Insurance Corporation; specifying
 6 audit requirements; requiring a report;
 7 requiring the board of governors of the
 8 Citizens Property Insurance Corporation to
 9 submit a report to the Legislature relating to
 10 property and casualty insurance; specifying
 11 report requirements; providing an appropriation
 12 and authorizing positions; providing a
 13 contingent effective date; providing effective
 14 dates.

15
 16 Be It Enacted by the Legislature of the State of Florida:
 17

18 Section 1. Effective June 1, 2005, paragraph (e) of
 19 subsection (2) of section 215.555, Florida Statutes, is
 20 amended to read:

21 215.555 Florida Hurricane Catastrophe Fund.--

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

23 (e) "Retention" means the amount of losses below which
 24 an insurer is not entitled to reimbursement from the fund. An
 25 insurer's retention shall be calculated as follows:

26 1. The board shall calculate and report to each
 27 insurer the retention multiples for that year. For the
 28 contract year beginning June 1, 2005 ~~2004~~, the retention
 29 multiple shall be equal to \$4.5 billion divided by the total
 30 estimated reimbursement premium for the contract year; for
 31 subsequent years, the retention multiple shall be equal to

1 \$4.5 billion, adjusted based upon the reported exposure from
2 the prior contract year to reflect the percentage growth in
3 exposure to the fund for covered policies since 2004 ~~2003~~ ,
4 divided by the total estimated reimbursement premium for the
5 contract year. Total reimbursement premium for purposes of the
6 calculation under this subparagraph shall be estimated using
7 the assumption that all insurers have selected the 90-percent
8 coverage level.

9 2. The retention multiple as determined under
10 subparagraph 1. shall be adjusted to reflect the coverage
11 level elected by the insurer. For insurers electing the
12 90-percent coverage level, the adjusted retention multiple is
13 100 percent of the amount determined under subparagraph 1. For
14 insurers electing the 75-percent coverage level, the retention
15 multiple is 120 percent of the amount determined under
16 subparagraph 1. For insurers electing the 45-percent coverage
17 level, the adjusted retention multiple is 200 percent of the
18 amount determined under subparagraph 1.

19 3. An insurer shall determine its provisional
20 retention by multiplying its provisional reimbursement premium
21 by the applicable adjusted retention multiple and shall
22 determine its actual retention by multiplying its actual
23 reimbursement premium by the applicable adjusted retention
24 multiple.

25 4. For insurers who experience multiple covered events
26 causing loss during the contract year, beginning June 1, 2005,
27 each insurer's full retention shall be applied to each of the
28 covered events causing the two largest losses for that
29 insurer. For each other covered event resulting in losses, the
30 insurer's retention shall be reduced to one-third of the full
31 retention. The reimbursement contract shall provide for the

1 reimbursement of losses for each covered event based on the
2 full retention with adjustments made to reflect the reduced
3 retentions after January 1 of the contract year provided the
4 insurer reports its losses as specified in the reimbursement
5 contract.

6 Section 2. Effective July 1, 2005, section 215.559,
7 Florida Statutes, is amended to read:

8 215.559 Hurricane Loss Mitigation Program.--

9 (1) There is created a Hurricane Loss Mitigation
10 Program. The Legislature shall annually appropriate \$10
11 million of the moneys authorized for appropriation under s.
12 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to
13 the Department of Community Affairs for the purposes set forth
14 in this section.

15 (2)(a) Seven million dollars in funds provided in
16 subsection (1) shall be used for programs to improve the wind
17 resistance of residences and mobile homes, including loans,
18 subsidies, grants, demonstration projects, and direct
19 assistance; cooperative programs with local governments and
20 the Federal Government; and other efforts to prevent or reduce
21 losses or reduce the cost of rebuilding after a disaster.

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

1 (3) By the 2006-2007 fiscal year, the Department of
2 Community Affairs shall develop a low-interest loan program
3 for homeowners and mobile home owners to retrofit their homes
4 with fixtures or apply construction techniques that have been
5 demonstrated to reduce the amount of damage or loss due to a
6 hurricane. Funding for the program shall be used to subsidize
7 or guaranty private-sector loans for this purpose to qualified
8 homeowners by financial institutions chartered by the state or
9 Federal Government. The department may enter into contracts
10 with financial institutions for this purpose. The department
11 shall establish criteria for determining eligibility for the
12 loans and selecting recipients, standards for retrofitting
13 homes or mobile homes, limitations on loan subsidies and loan
14 guaranties, and other terms and conditions of the program,
15 which must be specified in the department's report to the
16 Legislature on January 1, 2006, required by subsection (8).
17 For the 2005-2006 fiscal year, the Department of Community
18 Affairs may use up to \$1 million of the funds appropriated
19 pursuant to paragraph (2)(a) to begin the low-interest loan
20 program as a pilot project in one or more counties. The
21 Department of Financial Services, the Office of Financial
22 Regulation, the Florida Housing Finance Corporation, and the
23 Office of Tourism, Trade, and Economic Development shall
24 assist the Department of Community Affairs in establishing the
25 program and pilot project. The department may use up to 2.5
26 percent of the funds appropriated in any given fiscal year for
27 administering the loan program. The department may adopt rules
28 to implement the program.

29 ~~(4)(3)~~ Forty percent of the total appropriation in
30 paragraph (2)(a) shall be used to inspect and improve
31 tie-downs for mobile homes. Within 30 days after the effective

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

12 (5)~~(4)~~ Of moneys provided to the Department of
13 Community Affairs in paragraph (2)(a), 10 percent shall be
14 allocated to a Type I Center within the State University
15 System dedicated to hurricane research. The Type I Center
16 shall develop a preliminary work plan approved by the advisory
17 council set forth in subsection (6)~~(5)~~ to eliminate the state
18 and local barriers to upgrading existing mobile homes and
19 communities, research and develop a program for the recycling
20 of existing older mobile homes, and support programs of
21 research and development relating to hurricane loss reduction
22 devices and techniques for site-built residences. The State
23 University System also shall consult with the Department of
24 Community Affairs and assist the department with the report
25 required under subsection (8)~~(7)~~.

26 (6)~~(5)~~ ~~Except for the program set forth in subsection~~
27 ~~(3)~~, The Department of Community Affairs shall develop the
28 programs set forth in this section in consultation with an
29 advisory council consisting of a representative designated by
30 the Chief Financial Officer, a representative designated by
31 the Florida Home Builders Association, a representative

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

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

11 ~~(8)(7)~~ On January 1st of each year, the Department of
12 Community Affairs shall provide a full report and accounting
13 of activities under this section and an evaluation of such
14 activities to the Speaker of the House of Representatives, the
15 President of the Senate, and the Majority and Minority Leaders
16 of the House of Representatives and the Senate.

17 ~~(9)(8)~~ This section is repealed June 30, 2011.

18 Section 3. Subsections (4) and (5) of section 627.062,
19 Florida Statutes, are amended to read:

20 627.062 Rate standards.--

21 (4) The establishment of any rate, rating
22 classification, rating plan or schedule, or variation thereof
23 in violation of part IX of chapter 626 is also in violation of
24 this section. In order to enhance the ability of consumers to
25 compare premiums and to increase the accuracy and usefulness
26 of rate-comparison information provided by the office to the
27 public, the office shall develop a proposed standard rating
28 territory plan to be used by all authorized property and
29 casualty insurers for residential property insurance. In
30 adopting the proposed plan, the office may consider
31 geographical characteristics relevant to risk, county lines,

1 major roadways, existing rating territories used by a
2 significant segment of the market, and other relevant factors.
3 Such plan shall be submitted to the President of the Senate
4 and the Speaker of the House of Representatives by January 15,
5 2006. The plan may not be implemented unless authorized by
6 further act of the Legislature.

7 (5) With respect to a rate filing involving coverage
8 of the type for which the insurer is required to pay a
9 reimbursement premium to the Florida Hurricane Catastrophe
10 Fund, the insurer may fully recoup in its property insurance
11 premiums any reimbursement premiums paid to the Florida
12 Hurricane Catastrophe Fund, together with reasonable costs of
13 other reinsurance, but may not recoup reinsurance costs that
14 duplicate coverage provided by the Florida Hurricane
15 Catastrophe Fund. An insurer may not recoup more than 1 year
16 of reimbursement premium at a time. Any under-recoupment from
17 the prior year may be added to the following year's
18 reimbursement premium and any over-recoupment shall be
19 subtracted from the following year's reimbursement premium.

20 Section 4. Paragraph (c) of subsection (1) and
21 paragraph (c) of subsection (3) of section 627.0628, Florida
22 Statutes, are amended to read:

23 627.0628 Florida Commission on Hurricane Loss
24 Projection Methodology.--

25 (1) LEGISLATIVE FINDINGS AND INTENT.--

26 (c) It is the intent of the Legislature to create the
27 Florida Commission on Hurricane Loss Projection Methodology as
28 a panel of experts to provide the most actuarially
29 sophisticated guidelines and standards for projection of
30 hurricane losses possible, given the current state of
31 actuarial science. It is the further intent of the Legislature

1 that such standards and guidelines must be used by the State
 2 Board of Administration in developing reimbursement premium
 3 rates for the Florida Hurricane Catastrophe Fund, and, subject
 4 to paragraph (3)(c), may be used by insurers in rate filings
 5 under s. 627.062 unless the way in which such standards and
 6 guidelines were applied by the insurer was erroneous, as shown
 7 by a preponderance of the evidence.

8 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

9 (c) With respect to a rate filing under s. 627.062, an
 10 insurer may employ actuarial methods, principles, standards,
 11 models, or output ranges found by the commission to be
 12 accurate or reliable to determine hurricane loss factors for
 13 use in a rate filing under s. 627.062. Such, which findings
 14 and factors are admissible and relevant in consideration of a
 15 rate filing by the office or in any arbitration or
 16 administrative or judicial review only if the office and the
 17 consumer advocate appointed pursuant to s. 627.0613 have
 18 access to all of the assumptions and factors that were used in
 19 developing the actuarial methods, principles, standards,
 20 models, or output ranges, and are not precluded from
 21 disclosing such information in a rate proceeding.

22 Section 5. Subsection (7) of section 627.0629, Florida
 23 Statutes, is amended to read:

24 627.0629 Residential property insurance; rate
 25 filings.--

26 (7) Any rate filing that is based in whole or part on
 27 data from a computer model may not exceed 15 ~~25~~ percent unless
 28 there is a public hearing.

29 Section 6. Section 627.06281, Florida Statutes, is
 30 created to read:

31

1 627.06281 Public hurricane loss projection model;
 2 reporting of data by insurers.--Within 30 days after a written
 3 request for loss data and associated exposure data by the
 4 office or a type I center within the State University System
 5 established to study mitigation, residential property insurers
 6 and licensed rating and advisory organizations that compile
 7 residential property insurance loss data shall provide loss
 8 data and associated exposure data for residential property
 9 insurance policies to the office or to a type I center within
 10 the State University System established to study mitigation,
 11 as directed by the office, for the purposes of developing,
 12 maintaining, and updating a public model for hurricane loss
 13 projections. The loss data and associated exposure data
 14 provided shall be in writing.

15 Section 7. Paragraphs (a), (c), and (d) of subsection
 16 (6) of section 627.351, Florida Statutes, are amended to read:

17 627.351 Insurance risk apportionment plans.--

18 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

19 (a)1. The Legislature finds that actual and threatened
 20 catastrophic losses to property in this state from hurricanes
 21 have caused insurers to be unwilling or unable to provide
 22 property insurance coverage to the extent sought and needed.
 23 It is in the public interest and a public purpose to assist in
 24 assuring that property in the state is insured so as to
 25 facilitate the remediation, reconstruction, and replacement of
 26 damaged or destroyed property in order to reduce or avoid the
 27 negative effects otherwise resulting to the public health,
 28 safety, and welfare; to the economy of the state; and to the
 29 revenues of the state and local governments needed to provide
 30 for the public welfare. It is necessary, therefore, to provide
 31 property insurance to applicants who are in good faith

1 entitled to procure insurance through the voluntary market but
2 are unable to do so. The Legislature intends by this
3 subsection that property insurance be provided and that it
4 continues, as long as necessary, through an entity organized
5 to achieve efficiencies and economies, while providing service
6 to policyholders, applicants, and agents that is no less than
7 the quality generally provided in the voluntary market, all
8 toward the achievement of the foregoing public purposes.
9 Because it is essential for the corporation to have the
10 maximum financial resources to pay claims following a
11 catastrophic hurricane, it is the intent of the Legislature
12 that the income of the corporation be exempt from federal
13 income taxation and that interest on the debt obligations
14 issued by the corporation be exempt from federal income
15 taxation.

16 2. The Residential Property and Casualty Joint
17 Underwriting Association originally created by this statute
18 shall be known, as of July 1, 2002, as the Citizens Property
19 Insurance Corporation. The corporation shall provide insurance
20 for residential and commercial property, for applicants who
21 are in good faith entitled, but are unable, to procure
22 insurance through the voluntary market. The corporation shall
23 operate pursuant to a plan of operation approved by order of
24 the office. The plan is subject to continuous review by the
25 office. The office may, by order, withdraw approval of all or
26 part of a plan if the office determines that conditions have
27 changed since approval was granted and that the purposes of
28 the plan require changes in the plan. For the purposes of this
29 subsection, residential coverage includes both personal lines
30 residential coverage, which consists of the type of coverage
31 provided by homeowner's, mobile home owner's, dwelling,

1 | tenant's, condominium unit owner's, and similar policies, and
2 | commercial lines residential coverage, which consists of the
3 | type of coverage provided by condominium association,
4 | apartment building, and similar policies.

5 | 3. It is the intent of the Legislature that
6 | policyholders, applicants, and agents of the corporation
7 | receive service and treatment of the highest possible level
8 | but never less than that generally provided in the voluntary
9 | market. It also is intended that the corporation be held to
10 | service standards no less than those applied to insurers in
11 | the voluntary market by the office with respect to
12 | responsiveness, timeliness, customer courtesy, and overall
13 | dealings with policyholders, applicants, or agents of the
14 | corporation.

15 | (c) The plan of operation of the corporation:

16 | 1. Must provide for adoption of residential property
17 | and casualty insurance policy forms and commercial residential
18 | and nonresidential property insurance forms, which forms must
19 | be approved by the office prior to use. The corporation shall
20 | adopt the following policy forms:

21 | a. Standard personal lines policy forms that are
22 | comprehensive multiperil policies providing full coverage of a
23 | residential property equivalent to the coverage provided in
24 | the private insurance market under an HO-3, HO-4, or HO-6
25 | policy.

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

31 |

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

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

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

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

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

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

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

19 b. The corporation may enter into quota share primary
20 insurance agreements with authorized insurers at corporation
21 coverage levels of 90 percent and 50 percent.

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

28 d. Any quota share primary insurance agreement entered
29 into between an authorized insurer and the corporation must
30 provide for a uniform specified percentage of coverage of
31 hurricane losses, by county or territory as set forth by the

1 corporation board, for all eligible risks of the authorized
2 insurer covered under the quota share primary insurance
3 agreement.

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

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

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

28 h. The quota share primary insurance agreement between
29 the corporation and an authorized insurer must set forth the
30 specific terms under which coverage is provided, including,
31 but not limited to, the sale and servicing of policies issued

1 under the agreement by the insurance agent of the authorized
2 insurer producing the business, the reporting of information
3 concerning eligible risks, the payment of premium to the
4 corporation, and arrangements for the adjustment and payment
5 of hurricane claims incurred on eligible risks by the claims
6 adjuster and personnel of the authorized insurer. Entering
7 into a quota sharing insurance agreement between the
8 corporation and an authorized insurer shall be voluntary and
9 at the discretion of the authorized insurer.

10 3. May provide that the corporation may employ or
11 otherwise contract with individuals or other entities to
12 provide administrative or professional services that may be
13 appropriate to effectuate the plan. The corporation shall have
14 the power to borrow funds, by issuing bonds or by incurring
15 other indebtedness, and shall have other powers reasonably
16 necessary to effectuate the requirements of this subsection,
17 including without limitation, the power to issue bonds and
18 incur other indebtedness in order to refinance outstanding
19 bonds or other indebtedness. The corporation may, but is not
20 required to, seek judicial validation of its bonds or other
21 indebtedness under chapter 75. The corporation may issue bonds
22 or incur other indebtedness, or have bonds issued on its
23 behalf by a unit of local government pursuant to subparagraph
24 (g)2., in the absence of a hurricane or other weather-related
25 event, upon a determination by the corporation, subject to
26 approval by the office, that such action would enable it to
27 efficiently meet the financial obligations of the corporation
28 and that such financings are reasonably necessary to
29 effectuate the requirements of this subsection. The
30 corporation is authorized to take all actions needed to
31 facilitate tax-free status for any such bonds or indebtedness,

1 including formation of trusts or other affiliated entities.
2 The corporation shall have the authority to pledge
3 assessments, projected recoveries from the Florida Hurricane
4 Catastrophe Fund, other reinsurance recoverables, market
5 equalization and other surcharges, and other funds available
6 to the corporation as security for bonds or other
7 indebtedness. In recognition of s. 10, Art. I of the State
8 Constitution, prohibiting the impairment of obligations of
9 contracts, it is the intent of the Legislature that no action
10 be taken whose purpose is to impair any bond indenture or
11 financing agreement or any revenue source committed by
12 contract to such bond or other indebtedness.

13 4.a. Must require that the corporation operate subject
14 to the supervision and approval of a board of governors
15 consisting of 8 ~~7~~ individuals who are residents of this state,
16 from different geographical areas of this state, ~~appointed by~~
17 ~~the Chief Financial Officer.~~ The Governor, the Chief Financial
18 Officer, the President of the Senate, and the Speaker of the
19 House of Representatives shall each appoint two members of the
20 board, effective August 1, 2005. At least one of the two
21 members appointed by each appointing officer must have
22 demonstrated expertise in insurance. The Chief Financial
23 Officer shall designate one of the appointees as chair. All
24 board members serve at the pleasure of the appointing officer
25 ~~Chief Financial Officer~~. All board members, including the
26 chair, must be appointed to serve for 3-year terms beginning
27 annually on a date designated by the plan. Any board vacancy
28 shall be filled for the unexpired term by the appointing
29 officer ~~Chief Financial Officer~~. The Chief Financial Officer
30 shall appoint a technical advisory group to provide
31 information and advice to the board of governors in connection

1 with the board's duties under this subsection. The executive
2 director and senior managers of the corporation shall be
3 engaged by the board, as recommended by the Chief Financial
4 Officer and serve at the pleasure of the ~~board~~Chief Financial
5 ~~Officer~~. The executive director is responsible for employing
6 other staff as the corporation may require, subject to review
7 and concurrence by the board and ~~office of~~ the Chief Financial
8 Officer.

9 b. The board shall create a Market Accountability
10 Advisory Committee to assist the corporation in developing
11 awareness of its rates and its customer and agent service
12 levels in relationship to the voluntary market insurers
13 writing similar coverage. The members of the advisory
14 committee shall consist of the following 11 persons, one of
15 whom must be elected chair by the members of the committee:
16 four representatives, one appointed by the Florida Association
17 of Insurance Agents, one by the Florida Association of
18 Insurance and Financial Advisors, one by the Professional
19 Insurance Agents of Florida, and one by the Latin American
20 Association of Insurance Agencies; three representatives
21 appointed by the insurers with the three highest voluntary
22 market share of residential property insurance business in the
23 state; one representative from the Office of Insurance
24 Regulation; one consumer appointed by the board who is insured
25 by the corporation at the time of appointment to the
26 committee; one representative appointed by the Florida
27 Association of Realtors; and one representative appointed by
28 the Florida Bankers Association. All members must serve for
29 3-year terms and may serve for consecutive terms. The
30 committee shall report to the corporation at each board
31 meeting on insurance market issues which may include rates and

1 rate competition with the voluntary market; service, including
2 policy issuance, claims processing, and general responsiveness
3 to policyholders, applicants, and agents; and matters relating
4 to depopulation.

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

7 a. Subject to the provisions of s. 627.3517, with
8 respect to personal lines residential risks, if the risk is
9 offered coverage from an authorized insurer at the insurer's
10 approved rate under either a standard policy including wind
11 coverage or, if consistent with the insurer's underwriting
12 rules as filed with the office, a basic policy including wind
13 coverage, the risk is not eligible for any policy issued by
14 the corporation. If the risk is not able to obtain any such
15 offer, the risk is eligible for either a standard policy
16 including wind coverage or a basic policy including wind
17 coverage issued by the corporation; however, if the risk could
18 not be insured under a standard policy including wind coverage
19 regardless of market conditions, the risk shall be eligible
20 for a basic policy including wind coverage unless rejected
21 under subparagraph 8. The corporation shall determine the type
22 of policy to be provided on the basis of objective standards
23 specified in the underwriting manual and based on generally
24 accepted underwriting practices.

25 (I) If the risk accepts an offer of coverage through
26 the market assistance plan or an offer of coverage through a
27 mechanism established by the corporation before a policy is
28 issued to the risk by the corporation or during the first 30
29 days of coverage by the corporation, and the producing agent
30 who submitted the application to the plan or to the
31

1 corporation is not currently appointed by the insurer, the
2 insurer shall:

3 (A) Pay to the producing agent of record of the
4 policy, for the first year, an amount that is the greater of
5 the insurer's usual and customary commission for the type of
6 policy written or a fee equal to the usual and customary
7 commission of the corporation; or

8 (B) Offer to allow the producing agent of record of
9 the policy to continue servicing the policy for a period of
10 not less than 1 year and offer to pay the agent the greater of
11 the insurer's or the corporation's usual and customary
12 commission for the type of policy written.

13
14 If the producing agent is unwilling or unable to accept
15 appointment, the new insurer shall pay the agent in accordance
16 with sub-sub-sub-subparagraph (A).

17 (II) When the corporation enters into a contractual
18 agreement for a take-out plan, the producing agent of record
19 of the corporation policy is entitled to retain any unearned
20 commission on the policy, and the insurer shall:

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

26 (B) Offer to allow the producing agent of record of
27 the corporation policy to continue servicing the policy for a
28 period of not less than 1 year and offer to pay the agent the
29 greater of the insurer's or the corporation's usual and
30 customary commission for the type of policy written.

31

1 If the producing agent is unwilling or unable to accept
2 appointment, the new insurer shall pay the agent in accordance
3 with sub-sub-sub-subparagraph (A).

4 b. With respect to commercial lines residential risks,
5 if the risk is offered coverage under a policy including wind
6 coverage from an authorized insurer at its approved rate, the
7 risk is not eligible for any policy issued by the corporation.
8 If the risk is not able to obtain any such offer, the risk is
9 eligible for a policy including wind coverage issued by the
10 corporation.

11 (I) If the risk accepts an offer of coverage through
12 the market assistance plan or an offer of coverage through a
13 mechanism established by the corporation before a policy is
14 issued to the risk by the corporation or during the first 30
15 days of coverage by the corporation, and the producing agent
16 who submitted the application to the plan or the corporation
17 is not currently appointed by the insurer, the insurer shall:

18 (A) Pay to the producing agent of record of the
19 policy, for the first year, an amount that is the greater of
20 the insurer's usual and customary commission for the type of
21 policy written or a fee equal to the usual and customary
22 commission of the corporation; or

23 (B) Offer to allow the producing agent of record of
24 the policy to continue servicing the policy for a period of
25 not less than 1 year and offer to pay the agent the greater of
26 the insurer's or the corporation's usual and customary
27 commission for the type of policy written.

28
29 If the producing agent is unwilling or unable to accept
30 appointment, the new insurer shall pay the agent in accordance
31 with sub-sub-sub-subparagraph (A).

1 (II) When the corporation enters into a contractual
2 agreement for a take-out plan, the producing agent of record
3 of the corporation policy is entitled to retain any unearned
4 commission on the policy, and the insurer shall:

5 (A) Pay to the producing agent of record of the
6 corporation policy, for the first year, an amount that is the
7 greater of the insurer's usual and customary commission for
8 the type of policy written or a fee equal to the usual and
9 customary commission of the corporation; or

10 (B) Offer to allow the producing agent of record of
11 the corporation policy to continue servicing the policy for a
12 period of not less than 1 year and offer to pay the agent the
13 greater of the insurer's or the corporation's usual and
14 customary commission for the type of policy written.

15
16 If the producing agent is unwilling or unable to accept
17 appointment, the new insurer shall pay the agent in accordance
18 with sub-sub-sub-subparagraph (A).

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

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

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 shall
11 be construed as the private placement of insurance, and the
12 provisions of chapter 120 shall not apply.

13 9. Must provide that the corporation shall make its
14 best efforts to procure catastrophe reinsurance at reasonable
15 rates, to cover its projected 100-year probable maximum loss
16 as determined by the board of governors.

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

1 11. The policies issued by the corporation must
2 provide that, if the corporation or the market assistance plan
3 obtains an offer from an authorized insurer to cover the risk
4 at its approved rates, the risk is no longer eligible for
5 renewal through the corporation.

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

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

30 14. Must provide that, with respect to the high-risk
31 account, any assessable insurer with a surplus as to

1 | policyholders of \$25 million or less writing 25 percent or
2 | more of its total countrywide property insurance premiums in
3 | this state may petition the office, within the first 90 days
4 | of each calendar year, to qualify as a limited apportionment
5 | company. In no event shall a limited apportionment company be
6 | required to participate in the portion of any assessment,
7 | within the high-risk account, pursuant to sub-subparagraph
8 | (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which
9 | exceeds \$50 million after payment of available high-risk
10 | account funds in any calendar year. However, a limited
11 | apportionment company shall collect from its policyholders any
12 | emergency assessment imposed under sub-subparagraph (b)3.d.
13 | The plan shall provide that, if the office determines that any
14 | regular assessment will result in an impairment of the surplus
15 | of a limited apportionment company, the office may direct that
16 | all or part of such assessment be deferred as provided in
17 | subparagraph (g)4. However, there shall be no limitation or
18 | deferment of an emergency assessment to be collected from
19 | policyholders under sub-subparagraph (b)3.d.

20 | 15. Must provide that the corporation appoint as its
21 | licensed agents only those agents who also hold an appointment
22 | as defined in s. 626.015(3) with an insurer who at the time of
23 | the agent's initial appointment by the corporation is
24 | authorized to write and is actually writing personal lines
25 | residential property coverage, commercial residential property
26 | coverage, or commercial nonresidential property coverage
27 | within the state.

28 | (d)1. It is the intent of the Legislature that the
29 | rates for coverage provided by the corporation be actuarially
30 | sound and not competitive with approved rates charged in the
31 | admitted voluntary market, so that the corporation functions

1 as a residual market mechanism to provide insurance only when
2 the insurance cannot be procured in the voluntary market.
3 Rates shall include an appropriate catastrophe loading factor
4 that reflects the actual catastrophic exposure of the
5 corporation.

6 2. For each county, the average rates of the
7 corporation for each line of business for personal lines
8 residential policies excluding rates for wind-only policies
9 shall be no lower than the average rates charged by the
10 insurer that had the highest average rate in that county among
11 the 20 insurers with the greatest total direct written premium
12 in the state for that line of business in the preceding year,
13 except that with respect to mobile home coverages, the average
14 rates of the corporation shall be no lower than the average
15 rates charged by the insurer that had the highest average rate
16 in that county among the 5 insurers with the greatest total
17 written premium for mobile home owner's policies in the state
18 in the preceding year.

19 3. Rates for personal lines residential wind-only
20 policies must be actuarially sound and not competitive with
21 approved rates charged by authorized insurers. ~~However, for~~
22 ~~personal lines residential wind only policies issued or~~
23 ~~renewed between July 1, 2002, and June 30, 2003, the maximum~~
24 ~~premium increase must be no greater than 10 percent of the~~
25 ~~Florida Windstorm Underwriting Association premium for that~~
26 ~~policy in effect on June 30, 2002, as adjusted for coverage~~
27 ~~changes and seasonal occupancy surcharges. For personal lines~~
28 ~~residential wind only policies issued or renewed between July~~
29 ~~1, 2003, and June 30, 2004, the corporation shall use its~~
30 ~~existing filed and approved wind only rating and~~
31 ~~classification plans, provided, however, that the maximum~~

1 ~~premium increase must be no greater than 20 percent of the~~
2 ~~premium for that policy in effect on June 30, 2003, as~~
3 ~~adjusted for coverage changes and seasonal occupancy~~
4 ~~surcharges.~~ Corporation rate manuals shall include a rate
5 surcharge for seasonal occupancy. To ensure that personal
6 lines residential wind-only rates ~~effective on or after July~~
7 ~~1, 2004,~~ are not competitive with approved rates charged by
8 authorized insurers, the corporation, in conjunction with the
9 office, shall develop a wind-only ratemaking methodology,
10 which methodology shall be contained in each ~~a~~ rate filing
11 made by the corporation with the office ~~by January 1, 2004.~~ If
12 the office ~~thereafter~~ determines that the wind-only rates or
13 rating factors filed by the corporation fail to comply with
14 the wind-only ratemaking methodology provided for in this
15 subsection, it shall so notify the corporation and require the
16 corporation to amend its rates or rating factors to come into
17 compliance within 90 days of notice from the office. ~~The~~
18 ~~office shall report to the Speaker of the House of~~
19 ~~Representatives and the President of the Senate on the~~
20 ~~provisions of the wind only ratemaking methodology by January~~
21 ~~31, 2004.~~

22 4. For the purposes of establishing a pilot program to
23 evaluate issues relating to the availability and affordability
24 of insurance in an area where historically there has been
25 little market competition, the provisions of subparagraph 2.
26 do not apply to coverage provided by the corporation in Monroe
27 County if the office determines that a reasonable degree of
28 competition does not exist for personal lines residential
29 policies. The provisions of subparagraph 3. do not apply to
30 coverage provided by the corporation in Monroe County if the
31 office determines that a reasonable degree of competition does

1 not exist for personal lines residential policies in the area
2 of that county which is eligible for wind-only coverage. In
3 this county, the rates for personal lines residential coverage
4 shall be actuarially sound and not excessive, inadequate, or
5 unfairly discriminatory and are subject to the other
6 provisions of the paragraph and s. 627.062. The commission
7 shall adopt rules establishing the criteria for determining
8 whether a reasonable degree of competition exists for personal
9 lines residential policies in Monroe County. By March 1, 2006,
10 the office shall submit a report to the Legislature providing
11 an evaluation of the implementation of the pilot program
12 affecting Monroe County.

13 ~~5.4.~~ Rates for commercial lines coverage shall not be
14 subject to the requirements of subparagraph 2., but shall be
15 subject to all other requirements of this paragraph and s.
16 627.062.

17 ~~6.5.~~ Nothing in this paragraph shall require or allow
18 the corporation to adopt a rate that is inadequate under s.
19 627.062.

20 ~~7.6.~~ The corporation shall certify to the office at
21 least twice annually that its personal lines rates comply with
22 the requirements of subparagraphs 1. and 2. If any adjustment
23 in the rates or rating factors of the corporation is necessary
24 to ensure such compliance, the corporation shall make and
25 implement such adjustments and file its revised rates and
26 rating factors with the office. If the office thereafter
27 determines that the revised rates and rating factors fail to
28 comply with the provisions of subparagraphs 1. and 2., it
29 shall notify the corporation and require the corporation to
30 amend its rates or rating factors in conjunction with its next
31 rate filing. The office must notify the corporation by

1 | electronic means of any rate filing it approves for any
2 | insurer among the insurers referred to in subparagraph 2.

3 | ~~8.7.~~ In addition to the rates otherwise determined
4 | pursuant to this paragraph, the corporation shall impose and
5 | collect an amount equal to the premium tax provided for in s.
6 | 624.509 to augment the financial resources of the corporation.

7 | 9.8-a. To assist the corporation in developing
8 | additional ratemaking methods to assure compliance with
9 | subparagraphs 1. and 4., the corporation shall appoint a rate
10 | methodology panel consisting of one person recommended by the
11 | Florida Association of Insurance Agents, one person
12 | recommended by the Professional Insurance Agents of Florida,
13 | one person recommended by the Florida Association of Insurance
14 | and Financial Advisors, one person recommended by the insurer
15 | with the highest voluntary market share of residential
16 | property insurance business in the state, one person
17 | recommended by the insurer with the second-highest voluntary
18 | market share of residential property insurance business in the
19 | state, one person recommended by an insurer writing commercial
20 | residential property insurance in this state, one person
21 | recommended by the Office of Insurance Regulation, and one
22 | board member designated by the board chairman, who shall serve
23 | as chairman of the panel.

24 | b. By January 1, 2004, the rate methodology panel
25 | shall provide a report to the corporation of its findings and
26 | recommendations for the use of additional ratemaking methods
27 | and procedures, including the use of a rate equalization
28 | surcharge in an amount sufficient to assure that the total
29 | cost of coverage for policyholders or applicants to the
30 | corporation is sufficient to comply with subparagraph 1.

31 |

1 c. Within 30 days after such report, the corporation
2 shall present to the President of the Senate, the Speaker of
3 the House of Representatives, the minority party leaders of
4 each house of the Legislature, and the chairs of the standing
5 committees of each house of the Legislature having
6 jurisdiction of insurance issues, a plan for implementing the
7 additional ratemaking methods and an outline of any
8 legislation needed to facilitate use of the new methods.

9 d. The plan must include a provision that producer
10 commissions paid by the corporation shall not be calculated in
11 such a manner as to include any rate equalization surcharge.
12 However, without regard to the plan to be developed or its
13 implementation, producer commissions paid by the corporation
14 for each account, other than the quota share primary program,
15 shall remain fixed as to percentage, effective rate,
16 calculation, and payment method until January 1, 2004.

17 ~~10.9.~~ By January 1, 2004, the corporation shall
18 develop a notice to policyholders or applicants that the rates
19 of Citizens Property Insurance Corporation are intended to be
20 higher than the rates of any admitted carrier and providing
21 other information the corporation deems necessary to assist
22 consumers in finding other voluntary admitted insurers willing
23 to insure their property.

24 Section 8. Section 627.40951, Florida Statutes, is
25 created to read:

26 627.40951 Standard personal lines residential
27 insurance policy.--

28 (1) The Legislature finds that many consumers who
29 filed property loss claims as a result of the hurricanes that
30 struck this state in 2004 were inadequately insured due to the
31 difficulty consumers encounter in trying to understand the

1 complex nature of property insurance policies. The purpose and
2 intent of this section is to have property and casualty
3 insurers offer standard personal lines residential property
4 insurance policies and standard checklists of policy contents,
5 in accordance with s. 627.4143, to consumers and to ensure
6 that these policies and checklists are written in a simple
7 format with easily readable language that will enable most
8 consumers to understand the principal benefits and coverage
9 provided in the policy; the principal exclusions and
10 limitations or reductions contained in the policy, including,
11 but not limited to, deductibles, coinsurance, and any other
12 limitations or reductions; and any additional coverage
13 provided through any rider or endorsement that accompanies the
14 policy and renewal or cancellation provisions.

15 (2) The Chief Financial Officer shall appoint an
16 advisory committee composed of two representatives of insurers
17 currently selling personal lines residential property
18 insurance coverage, two representatives of property and
19 casualty agents, two representatives of consumers, two
20 representatives of the Commissioner of Insurance Regulation,
21 and the Insurance Consumer Advocate or her or his designee.
22 The Chief Financial Officer or her or his designee shall serve
23 as chair of the committee. The committee shall develop policy
24 language for coverage that represents general industry
25 standards in the market for comprehensive coverage under
26 personal lines residential insurance policies and shall
27 develop a checklist to be used with each type of personal
28 lines residential property insurance policy. The committee
29 shall review policies and related forms written by Insurance
30 Services Office, Inc. The committee shall file a report
31 containing its recommendations to the President of the Senate

1 and the Speaker of the House of Representatives by January 15,
 2 2006. No insurer shall be required to offer the standard
 3 policy unless required by further act of the Legislature.

4 Section 9. Subsection (1) of section 627.411, Florida
 5 Statutes, is amended to read:

6 627.411 Grounds for disapproval.--

7 (1) The office shall disapprove any form filed under
 8 s. 627.410, or withdraw any previous approval thereof, only if
 9 the form:

10 (a) Is in any respect in violation of, or does not
 11 comply with, this code.

12 (b) Contains or incorporates by reference, where such
 13 incorporation is otherwise permissible, any inconsistent,
 14 ambiguous, or misleading clauses, or exceptions and conditions
 15 which deceptively affect the risk purported to be assumed in
 16 the general coverage of the contract.

17 (c) Has any title, heading, or other indication of its
 18 provisions which is misleading.

19 (d) Is printed or otherwise reproduced in such manner
 20 as to render any material provision of the form substantially
 21 illegible.

22 (e) Is for residential property insurance and contains
 23 provisions that are unfair or inequitable or encourage
 24 misrepresentation.

25 ~~(f)(e)~~ Is for health insurance, and:

26 1. Provides benefits that are unreasonable in relation
 27 to the premium charged.†

28 2. Contains provisions that are unfair or inequitable
 29 or contrary to the public policy of this state or that
 30 encourage misrepresentation.†

31

1 3. Contains provisions that apply rating practices
2 that result in unfair discrimination pursuant to s.
3 626.9541(1)(g)2.

4 ~~(g)(f)~~ Excludes coverage for human immunodeficiency
5 virus infection or acquired immune deficiency syndrome or
6 contains limitations in the benefits payable, or in the terms
7 or conditions of such contract, for human immunodeficiency
8 virus infection or acquired immune deficiency syndrome which
9 are different than those which apply to any other sickness or
10 medical condition.

11 Section 10. Paragraphs (d) and (e) are added to
12 subsection (2) of section 627.4133, Florida Statutes, to read:

13 627.4133 Notice of cancellation, nonrenewal, or
14 renewal premium.--

15 (2) With respect to any personal lines or commercial
16 residential property insurance policy, including, but not
17 limited to, any homeowner's, mobile home owner's, farmowner's,
18 condominium association, condominium unit owner's, apartment
19 building, or other policy covering a residential structure or
20 its contents:

21 (d)1. Upon a declaration of an emergency pursuant to
22 s. 252.36 and the filing of an order by the Commissioner of
23 Insurance Regulation, an insurer may not cancel or nonrenew a
24 personal residential or commercial residential property
25 insurance policy covering a dwelling or residential property
26 located in this state which has been damaged as a result of a
27 hurricane or wind loss that is the subject of the declaration
28 of emergency for a period of 90 days after the dwelling or
29 residential property has been repaired. A structure is deemed
30 to be repaired when substantially completed and restored to
31

1 the extent that it is insurable by another authorized insurer
2 that is writing policies in this state.

3 2. However, an insurer or agent may cancel or nonrenew
4 such a policy prior to the repair of the dwelling or
5 residential property:

6 a. Upon 10 days' notice for nonpayment of premium; or

7 b. Upon 45 days' notice:

8 (I) For a material misstatement or fraud related to
9 the claim;

10 (II) If the insurer determines that the insured has
11 unreasonably caused a delay in the repair of the dwelling; or

12 (III) If the insurer has paid policy limits.

13 3. If the insurer elects to nonrenew a policy covering
14 a property that has been damaged, the insurer shall provide at
15 least 90 days' notice to the insured that the insurer intends
16 to nonrenew the policy 90 days after the dwelling or
17 residential property has been repaired. Nothing in this
18 paragraph shall prevent the insurer from canceling or
19 nonrenewing the policy 90 days after the repairs are complete
20 for the same reasons the insurer would otherwise have canceled
21 or nonrenewed the policy but for the limitations of
22 subparagraph 1. The Financial Services Commission may adopt
23 rules, and the Commissioner of Insurance Regulation may issue
24 orders, necessary to implement this paragraph.

25 4. This paragraph shall also apply to personal
26 residential and commercial residential policies covering
27 property that was damaged as the result of Tropical Storm
28 Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan,
29 or Hurricane Jeanne.

30 (e) If any cancellation or nonrenewal of a policy
31 subject to this subsection is to take effect during the

1 duration of a hurricane as defined in s. 627.4025(2)(c), the
2 effective date of such cancellation or nonrenewal is extended
3 until the end of the duration of such hurricane. The insurer
4 may collect premium at the prior rates or the rates then in
5 effect for the period of time for which coverage is extended.
6 This paragraph does not apply to any property with respect to
7 which replacement coverage has been obtained and which is in
8 effect for a claim occurring during the duration of the
9 hurricane.

10 Section 11. Effective January 1, 2006, section
11 627.4143, Florida Statutes, is amended to read:

12 627.4143 Outline of coverage.--

13 (1) No private passenger automobile or basic
14 homeowner's policy shall be delivered or issued for delivery
15 in this state unless an appropriate outline of coverage has
16 been delivered prior to issuance of the policy or accompanies
17 the policy when issued.

18 (2) The outline of coverage for a private passenger
19 motor vehicle insurance policy shall contain all of the
20 following:

21 (a) A brief description of the principal benefits and
22 coverage provided in the policy, broken down by each class or
23 type of coverage provided under the policy for which a premium
24 is charged, and itemization of the applicable premium.

25 (b) A summary statement of the principal exclusions
26 and limitations or reductions contained in the policy by class
27 or type, including, but not limited to, deductibles,
28 coinsurance, and any other limitations or reductions.

29 (c) A summary statement of any renewal or cancellation
30 provisions.

31

1 (d) A description of the credit or surcharge plan that
2 is being applied. The description may display numerical or
3 alphabetical codes on the declarations page or premium notice
4 to enable the insured to determine the reason or reasons why
5 her or his policy is being surcharged or is receiving a
6 credit.

7 (e) A list of any additional coverage provided through
8 any rider or endorsement which accompanies the policy. The
9 list shall contain a descriptive reference to each additional
10 coverage, rather than solely a reference to a form or code
11 number.

12 (f) ~~For a private passenger motor vehicle insurance~~
13 ~~policy,~~ The extent of coverage provided to the insured in the
14 event of collision damage to a rental vehicle rented by the
15 insured. The proof-of-insurance card required by s. 316.646
16 must also specify whether rental car coverage is provided, and
17 may refer to the outline of coverage as to the details or
18 extent of coverage.

19 (3) A basic homeowners', mobile homeowners', dwelling,
20 or condominium unit owners' policy may not be delivered or
21 issued for delivery in this state unless a comprehensive
22 checklist of coverage on a form adopted by the commission and
23 an appropriate outline of coverage have been delivered prior
24 to issuance of the policy or accompanies the policy when
25 issued. The commission shall, by rule, adopt a form for the
26 checklist for each type of policy to which this subsection
27 applies. Each form shall indicate that it was adopted by the
28 commission.

29 (a) The checklist must contain a list of the standard
30 provisions and elements that may typically be included in
31 these policies, whether or not they are included in the

1 particular policy being issued, in a format that allows the
2 insurer to place a check mark next to the provisions elements
3 that are included so that the consumer can see both what is
4 included and what is not included in the policy. As an
5 alternative to checking the boxes on the checklist, an insurer
6 may delete the check boxes from the form and replace them with
7 text indicating whether the provision's elements are included
8 or not. Limits of liability shall be listed for each item. The
9 checklist must include, but is not limited to, the following:
10 1. Property coverage for the principal premises shown
11 in the declarations.
12 2. Property coverage for other structures on the
13 residence premises.
14 3. Whether the principal premises and other structures
15 are insured against the following perils:
16 a. Fire.
17 b. Lightning.
18 c. Explosion.
19 d. Hurricane loss.
20 e. Nonhurricane wind loss.
21 f. Collapse.
22 g. Mold.
23 h. Sinkhole loss.
24 i. Vandalism.
25 4. Personal property coverage.
26 5. Whether personal property is insured against the
27 following perils:
28 a. Fire.
29 b. Lightning.
30 c. Hurricane loss.
31 d. Nonhurricane wind loss.

- 1 e. Collapse.
- 2 f. Mold.
- 3 g. Sinkhole loss.
- 4 h. Theft.
- 5 6. The following additional coverages:
- 6 a. Debris removal.
- 7 b. Loss assessment.
- 8 c. Additional living expenses.
- 9 7. Personal liability coverage.
- 10 8. Medical payments coverage.
- 11 9. Discounts applied to the premium.
- 12 10. Deductibles for loss due to hurricane and loss to
- 13 other perils.
- 14 11. Building ordinance or law coverage.
- 15 12. Replacement cost coverage.
- 16 13. Actual cash value coverage.
- 17 (b) The forms shall allow insurers to place other
- 18 coverages on the checklists which may or may not be included
- 19 in the insurer's policies.
- 20 (c) The outline of coverage must contain:
- 21 1. A brief description of the principal benefits and
- 22 coverage provided in the policy, broken down by each class or
- 23 type of coverage provided under the policy for which a premium
- 24 is charged, and itemization of the applicable premium.
- 25 2. A summary statement of the principal exclusions and
- 26 limitations or reductions contained in the policy by class or
- 27 type, including, but not limited to, deductibles, coinsurance,
- 28 and any other limitations or reductions.
- 29 3. A summary statement of any renewal or cancellation
- 30 provisions.
- 31

1 4. A description of the credit or surcharge plan that
2 is being applied. The description may display numerical or
3 alphabetical codes on the declarations page or premium notice
4 to enable the insured to determine the reason or reasons why
5 her or his policy is being surcharged or is receiving a
6 credit.

7 5. A summary of any additional coverage provided
8 through any rider or endorsement that accompanies the policy.

9 ~~(4)(3)~~ The outline of coverage for a private
10 passenger motor vehicle policy is required only on the initial
11 policy issued by an insurer. The outline of coverage and the
12 checklist for a basic homeowners', mobile homeowners',
13 dwelling, or condominium unit owners' policy is required on
14 the initial policy and each renewal thereof issued by an
15 insurer.

16 ~~(5)(4)~~ An insurer must insert the following language
17 on the outline of coverage:

18
19 " The following outline of coverage or checklist is for
20 informational purposes only. Florida law prohibits this
21 outline or checklist from changing any of the provisions of
22 the insurance contract which is the subject of this
23 outline. Any endorsement regarding changes in types of
24 coverage, exclusions, limitations, reductions, deductibles,
25 coinsurance, renewal provisions, cancellation provisions,
26 surcharges, or credits will be sent separately."

27 ~~(6)(5)~~ Neither this section nor the outline of
28 coverage or checklist mandated by this section alters or
29 modifies the terms of the insurance contract, creates a cause
30 of action, or is admissible in any civil action.

31

1 Section 12. Effective October 1, 2005, subsections
2 (3), (4), (8), and (9) of section 627.701, Florida Statutes,
3 as amended by section 4 of chapter 2004-480, Laws of Florida,
4 are amended to read:

5 627.701 Liability of insureds; coinsurance;
6 deductibles.--

7 (3)(a) A policy of residential property insurance
8 shall include a deductible amount applicable to hurricane ~~or~~
9 ~~wind~~ losses no lower than \$500 and no higher than 2 percent of
10 the policy dwelling limits with respect to personal lines
11 residential risks, and no higher than 3 percent of the policy
12 limits with respect to commercial lines residential risks;
13 however, if a risk was covered on August 24, 1992, under a
14 policy having a higher deductible than the deductibles allowed
15 by this paragraph, a policy covering such risk may include a
16 deductible no higher than the deductible in effect on August
17 24, 1992. Notwithstanding the other provisions of this
18 paragraph, a personal lines residential policy covering a risk
19 valued at \$50,000 or less may include a deductible amount
20 attributable to hurricane ~~or wind~~ losses no lower than \$250,
21 and a personal lines residential policy covering a risk valued
22 at \$100,000 or more may include a deductible amount
23 attributable to hurricane ~~or wind~~ losses no higher than 10 ~~5~~
24 percent of the policy limits unless subject to a higher
25 deductible on August 24, 1992; however, no maximum deductible
26 is required with respect to a personal lines residential
27 policy covering a risk valued at more than \$500,000. An
28 insurer may require a higher deductible, provided such
29 deductible is the same as or similar to a deductible program
30 lawfully in effect on June 14, 1995. In addition to the
31 deductible amounts authorized by this paragraph, an insurer

1 may also offer policies with a copayment provision under
2 which, after exhaustion of the deductible, the policyholder is
3 responsible for 10 percent of the next \$10,000 of insured
4 hurricane ~~or wind~~ losses.

5 (b)1. Except as otherwise provided in this paragraph,
6 prior to issuing a personal lines residential property
7 insurance policy on or after January 1, 2006 ~~April 1, 1996~~, or
8 prior to the first renewal of a residential property insurance
9 policy on or after January 1, 2006 ~~April 1, 1996~~, the insurer
10 must offer alternative deductible amounts applicable to
11 hurricane ~~or wind~~ losses equal to \$500, ~~and 2 percent,~~ 5
12 percent, and 10 percent of the policy dwelling limits, unless
13 the specific percentage ~~2 percent~~ deductible is less than
14 \$500. The written notice of the offer shall specify the
15 hurricane or wind deductible to be applied in the event that
16 the applicant or policyholder fails to affirmatively choose a
17 hurricane deductible. The insurer must provide such
18 policyholder with notice of the availability of the deductible
19 amounts specified in this paragraph in a form approved by the
20 office in conjunction with each renewal of the policy. The
21 failure to provide such notice constitutes a violation of this
22 code but does not affect the coverage provided under the
23 policy.

24 2. This paragraph does not apply with respect to a
25 deductible program lawfully in effect on June 14, 1995, or to
26 any similar deductible program, if the deductible program
27 requires a minimum deductible amount of no less than 2 percent
28 of the policy limits.

29 3. With respect to a policy covering a risk with
30 dwelling limits of at least \$100,000, but less than \$250,000,
31 the insurer may, in lieu of offering a policy with a \$500

1 hurricane or wind deductible as required by subparagraph 1.,
 2 offer a policy that the insurer guarantees it will not
 3 nonrenew for reasons of reducing hurricane loss for one
 4 renewal period and that contains up to a 2 percent hurricane
 5 or wind deductible as required by subparagraph 1.

6 4. With respect to a policy covering a risk with
 7 dwelling limits of \$250,000 or more, the insurer need not
 8 offer the \$500 hurricane ~~or wind~~ deductible as required by
 9 subparagraph 1., but must, except as otherwise provided in
 10 this subsection, offer the other 2 percent hurricane
 11 deductibles ~~or wind deductible~~ as required by subparagraph 1.

12 ~~(c) In order to provide for the transition from wind~~
 13 ~~deductibles to hurricane deductibles as required by this~~
 14 ~~subsection, an insurer is required to provide wind deductibles~~
 15 ~~meeting the requirements of this subsection until the~~
 16 ~~effective date of the insurer's first rate filing made after~~
 17 ~~January 1, 1997, and is thereafter required to provide~~
 18 ~~hurricane deductibles meeting the requirements of this~~
 19 ~~subsection.~~

20 (4)(a) Any policy that contains a separate hurricane
 21 deductible must on its face include in boldfaced type no
 22 smaller than 18 points the following statement: "THIS POLICY
 23 CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY
 24 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy
 25 containing a coinsurance provision applicable to hurricane
 26 losses must on its face include in boldfaced type no smaller
 27 than 18 points the following statement: "THIS POLICY CONTAINS
 28 A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET
 29 EXPENSES TO YOU."

30 (b) Beginning October 1, 2005, for any personal lines
 31 residential property insurance policy containing a separate

1 hurricane deductible, the insurer shall compute and
2 prominently display the actual dollar value of the hurricane
3 deductible on the declarations page of the policy at issuance
4 and, for renewal, on the renewal declarations page of the
5 policy or on the premium renewal notice.

6 (c) Beginning October 1, 2005, for any personal lines
7 residential property insurance policy containing an inflation
8 guard rider, the insurer shall compute and prominently display
9 the actual dollar value of the hurricane deductible on the
10 declarations page of the policy at issuance and, for renewal,
11 on the renewal declarations page of the policy or on the
12 premium renewal notice. In addition, beginning October 1,
13 2005, for any personal lines residential property insurance
14 policy containing an inflation guard rider, the insurer shall
15 notify the policyholder of the possibility that the hurricane
16 deductible may be higher than indicated when loss occurs due
17 to application of the inflation guard rider. Such notification
18 shall be made on the declarations page of the policy at
19 issuance and, for renewal, on the renewal declarations page of
20 the policy or on the premium renewal notice.

21 ~~(8)(a) The Legislature finds that property insurance~~
22 ~~coverage has become unaffordable for a significant number of~~
23 ~~mobile home owners, as evidenced by reports that up to 100,000~~
24 ~~mobile home owners have terminated their insurance coverage~~
25 ~~because they cannot afford to pay approved rates charged in~~
26 ~~the voluntary or residual markets. The Legislature further~~
27 ~~finds that additional flexibility in available coverages will~~
28 ~~enable mobile home owners to obtain affordable insurance and~~
29 ~~increase capacity.~~

30 ~~(b) Notwithstanding the provisions of subsection (3),~~
31 ~~with respect to mobile home policies:~~

1 ~~1. The deductible for hurricane coverage may not~~
 2 ~~exceed 10 percent of the property value if the property is not~~
 3 ~~subject to any liens and may not exceed 5 percent of the~~
 4 ~~property value if the property is subject to any liens.~~

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

7 ~~(8)(9)~~ Notwithstanding the other provisions of this
 8 section or of other law, but only as to hurricane coverage as
 9 defined in s. 627.4025 for commercial lines residential
 10 coverages, an insurer may offer a deductible in an amount not
 11 exceeding ~~5 percent of the insured value with respect to a~~
 12 ~~condominium association or cooperative association policy, or~~
 13 ~~in an amount not exceeding~~ 10 percent of the insured value
 14 ~~with respect to any other commercial lines residential policy,~~
 15 if, at the time of such offer and at each renewal, the insurer
 16 also offers to the policyholder a deductible in the amount of
 17 3 percent of the insured value. Nothing in this subsection
 18 prohibits any deductible otherwise authorized by this section.
 19 All forms by which the offers authorized in this subsection
 20 are made or required to be made shall be on forms that are
 21 adopted or approved by the commission or office.

22 Section 13. Subsection (5) of section 627.701, Florida
 23 Statutes, as amended by section 4 of chapter 2004-480, Laws of
 24 Florida, is amended to read:

25 627.701 Liability of Insureds; coinsurance;
 26 deductibles.--

27 ~~(5)~~(a) The hurricane deductible of any personal lines
 28 residential property insurance policy issued or renewed on or
 29 after May 1, 2005, shall be applied as follows:

30 ~~1.(a)~~ The hurricane deductible shall apply on an
 31 annual basis to all covered hurricane losses that occur during

1 the calendar year for losses that are covered under one or
2 more policies issued by the same insurer or an insurer in the
3 same insurer group.

4 ~~2.(b)~~ If a hurricane deductible applies separately to
5 each of one or more structures insured under a single policy,
6 the requirements of this paragraph ~~subsection~~ apply with
7 respect to the deductible for each structure.

8 ~~3.(c)~~ If there was a hurricane loss for a prior
9 hurricane or hurricanes during the calendar year, the insurer
10 may apply a deductible to a subsequent hurricane which ~~that~~ is
11 the greater of the remaining amount of the hurricane
12 deductible or the amount of the deductible that applies to
13 perils other than a hurricane. Insurers may require
14 policyholders to report hurricane losses that are below the
15 hurricane deductible or to maintain receipts or other records
16 of such hurricane losses in order to apply such losses to
17 subsequent hurricane claims.

18 ~~4.(d)~~ If there are hurricane losses in a calendar year
19 on more than one policy issued by the same insurer or an
20 insurer in the same insurer group, the hurricane deductible
21 shall be the highest amount stated in any one of the policies.
22 If a policyholder who had a hurricane loss under the prior
23 policy is provided or offered a lower hurricane deductible
24 under the new or renewal policy, the insurer must notify the
25 policyholder, in writing, at the time the lower hurricane
26 deductible is provided or offered, that the lower hurricane
27 deductible will not apply until January 1 of the following
28 calendar year.

29 (b) For commercial residential property insurance
30 policies issued or renewed on or after January 1, 2006, the
31

1 insurer must offer the policyholder the following alternative
 2 hurricane deductibles:

3 1. A hurricane deductible that applies on an annual
 4 basis as provided in paragraph (a); and

5 2. A hurricane deductible that applies to each
 6 hurricane.

7 Section 14. Effective October 1, 2005, section
 8 627.7011, Florida Statutes, is amended to read:

9 627.7011 Homeowners' policies; offer of replacement
 10 cost coverage and law and ordinance coverage.--

11 (1) Prior to issuing a homeowner's insurance policy on
 12 or after October 1, 2005 ~~June 1, 1994~~, or prior to the first
 13 renewal of a homeowner's insurance policy on or after October
 14 1, 2005 ~~June 1, 1994~~, the insurer must offer each of the
 15 following:

16 (a) A policy or endorsement providing that any loss
 17 which is repaired or replaced will be adjusted on the basis of
 18 replacement costs not exceeding policy limits as to the
 19 dwelling, rather than actual cash value, but not including
 20 costs necessary to meet applicable laws and ordinances
 21 regulating the construction, use, or repair of any property or
 22 requiring the tearing down of any property, including the
 23 costs of removing debris.

24 (b) A policy or endorsement providing that, subject to
 25 other policy provisions, any loss which is repaired or
 26 replaced at any location will be adjusted on the basis of
 27 replacement costs not exceeding policy limits as to the
 28 dwelling, rather than actual cash value, and also including
 29 costs necessary to meet applicable laws and ordinances
 30 regulating the construction, use, or repair of any property or
 31 requiring the tearing down of any property, including the

1 costs of removing debris; however, such additional costs
2 necessary to meet applicable laws and ordinances may be
3 limited to either 25 percent or 50 percent of the dwelling
4 limit, as selected by the policyholder, and such coverage
5 shall apply only to repairs of the damaged portion of the
6 structure unless the total damage to the structure exceeds 50
7 percent of the replacement cost of the structure.

8
9 An insurer is not required to make the offers required by this
10 subsection with respect to the issuance or renewal of a
11 homeowner's policy that contains the provisions specified in
12 paragraph (b) for law and ordinance coverage limited to 25
13 percent of the dwelling limit, except that the insurer must
14 offer the law and ordinance coverage limited to 50 percent of
15 the dwelling limit. This subsection does not prohibit the
16 offer of a guaranteed replacement cost policy.

17 (2) Unless the insurer obtains the policyholder's
18 written refusal of the policies or endorsements specified in
19 subsection (1), any policy covering the dwelling is deemed to
20 include the coverage specified in paragraph (1)(b). The
21 rejection or selection of alternative coverage shall be made
22 on a form approved by the office. The form shall fully advise
23 the applicant of the nature of the coverage being rejected. If
24 this form is signed by a named insured, it will be
25 conclusively presumed that there was an informed, knowing
26 rejection of the coverage or election of the alternative
27 coverage on behalf of all insureds. Unless the policyholder
28 requests in writing the coverage specified in this section, it
29 need not be provided in or supplemental to any other policy
30 that renews, insures, extends, changes, supersedes, or
31 replaces an existing policy when the policyholder has rejected

1 the coverage specified in this section or has selected
2 alternative coverage. The insurer must provide such
3 policyholder with notice of the availability of such coverage
4 in a form approved by the office at least once every 3 years.
5 The failure to provide such notice constitutes a violation of
6 this code, but does not affect the coverage provided under the
7 policy.

8 (3) In the event of a loss for which a dwelling or
9 personal property is insured on the basis of replacement
10 costs, the insurer shall pay the replacement cost without
11 reservation or holdback of any depreciation in value, whether
12 or not the insured replaces or repairs the dwelling or
13 property.

14 (4) Any homeowner's insurance policy issued or renewed
15 on or after October 1, 2005, must include in bold type no
16 smaller than 18 points the following statement:

17 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
18 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO CONSIDER
19 THE PURCHASE OF FLOOD INSURANCE FROM THE NATIONAL FLOOD
20 INSURANCE PROGRAM. WITHOUT THIS COVERAGE, YOU MAY HAVE
21 UNCOVERED LOSSES. PLEASE DISCUSS THESE COVERAGES WITH YOUR
22 INSURANCE AGENT."

23
24 The intent of this subsection is to encourage policyholders to
25 purchase sufficient coverage to protect them in case events
26 excluded from the standard homeowners policy, such as law and
27 ordinance enforcement and flood, combine with covered events
28 to produce damage or loss to the insured property. The intent
29 is also to encourage policyholders to discuss these issues
30 with their insurance agent.

31

1 ~~(5)(3)~~ Nothing in this section shall be construed to
 2 apply to policies not considered to be "homeowners' policies,"
 3 as that term is commonly understood in the insurance industry.
 4 This section specifically does not apply to mobile home
 5 policies. Nothing in this section shall be construed as
 6 limiting the ability of any insurer to reject or nonrenew any
 7 insured or applicant on the grounds that the structure does
 8 not meet underwriting criteria applicable to replacement cost
 9 or law and ordinance policies or for other lawful reasons.

10 Section 15. Effective July 1, 2005, subsections (1)
 11 and (7) of section 627.7015, Florida Statutes, are amended,
 12 and subsection (2) of that section is reenacted, to read:

13 627.7015 Alternative procedure for resolution of
 14 disputed property insurance claims.--

15 (1) PURPOSE AND SCOPE.--This section sets forth a
 16 nonadversarial alternative dispute resolution procedure for a
 17 mediated claim resolution conference prompted by the need for
 18 effective, fair, and timely handling of property insurance
 19 claims. There is a particular need for an informal,
 20 nonthreatening forum for helping parties who elect this
 21 procedure to resolve their claims disputes because most
 22 homeowner's and commercial residential insurance policies
 23 obligate insureds to participate in a potentially expensive
 24 and time-consuming adversarial appraisal process prior to
 25 litigation. The procedure set forth in this section is
 26 designed to bring the parties together for a mediated claims
 27 settlement conference without any of the trappings or
 28 drawbacks of an adversarial process. Before resorting to these
 29 procedures, insureds and insurers are encouraged to resolve
 30 claims as quickly and fairly as possible. This section is
 31 available with respect to claims under personal lines and

1 commercial residential policies for all claimants and insurers
 2 prior to commencing the appraisal process, or commencing
 3 litigation. If requested by the insured, participation by
 4 legal counsel shall be permitted. Mediation under this section
 5 is also available to litigants referred to the department by a
 6 county court or circuit court. This section does not apply to
 7 commercial coverages, to private passenger motor vehicle
 8 insurance coverages, or to disputes relating to liability
 9 coverages in policies of property insurance.

10 (2) At the time a first-party claim within the scope
 11 of this section is filed, the insurer shall notify all
 12 first-party claimants of their right to participate in the
 13 mediation program under this section. The department shall
 14 prepare a consumer information pamphlet for distribution to
 15 persons participating in mediation under this section.

16 (7) If the insurer fails to comply with subsection (2)
 17 by failing to notify a first-party claimant of its right to
 18 participate in the mediation program under this section or if
 19 the insurer requests the mediation, and the mediation results
 20 are rejected by either party, the insured shall not be
 21 required to submit to or participate in any contractual loss
 22 appraisal process of the property loss damage as a
 23 precondition to legal action for breach of contract against
 24 the insurer for its failure to pay the policyholder's claims
 25 covered by the policy.

26 Section 16. Subsection (1) of section 627.702, Florida
 27 Statutes, is amended to read:

28 627.702 Valued policy law.--

29 (1)(a) In the event of the total loss of any building,
 30 structure, mobile home as defined in s. 320.01(2), or
 31 manufactured building as defined in s. 553.36(12), located in

1 this state and insured by any insurer as to a covered peril,
2 in the absence of any change increasing the risk without the
3 insurer's consent and in the absence of fraudulent or criminal
4 fault on the part of the insured or one acting in her or his
5 behalf, the insurer's liability, ~~if any,~~ under the policy for
6 such total loss, if caused by a covered peril, shall be in the
7 amount of money for which such property was so insured as
8 specified in the policy and for which a premium has been
9 charged and paid.

10 (b) The intent of this subsection is not to deprive an
11 insurer of any proper defense under the policy, to create new
12 or additional coverage under the policy, or to require an
13 insurer to pay for a loss caused by a peril other than the
14 covered peril. In furtherance of such legislative intent, when
15 a loss was caused in part by a covered peril and in part by a
16 noncovered peril, paragraph (a) does not apply. In such
17 circumstances, the insurer's liability under this section
18 shall be limited to the amount of the loss caused by the
19 covered peril. However, if the covered perils alone would have
20 caused the total loss, paragraph (a) shall apply. The insurer
21 is never liable for more than the amount necessary to repair,
22 rebuild, or replace the structure following the total loss,
23 after considering all other benefits actually paid for the
24 total loss.

25 (c) It is the intent of the Legislature that the
26 amendment to this section shall not be applied retroactively
27 and shall apply only to claims filed after effective date of
28 such amendment.

29 Section 17. Section 627.706, Florida Statutes, is
30 amended to read:

31 627.706 Sinkhole insurance; definitions.--

1 (1) Every insurer authorized to transact property
2 insurance in this state shall make available coverage for
3 insurable sinkhole losses on any structure, including contents
4 of personal property contained therein, to the extent provided
5 in the form to which the sinkhole coverage attaches.

6 (2) As used in ss. 627.706-627.7074, and as used in
7 connection with any policy providing coverage for sinkhole
8 losses:

9 (a) "Sinkhole" means a landform created by subsidence
10 of soil, sediment, or rock as underlying strata are dissolved
11 by ground water. A sinkhole may form by collapse into
12 subterranean voids created by dissolution of limestone or
13 dolostone or by subsidence as these strata are dissolved.

14 (b)~~(2)~~ "Sinkhole loss" means structural damage to the
15 building, including the foundation, caused by sinkhole
16 activity. Contents coverage shall apply only if there is
17 structural damage to the building caused by sinkhole activity.

18 (c)~~(3)~~ "Sinkhole activity loss" means actual physical
19 damage to the property covered arising out of or caused by
20 sudden settlement or systematic weakening collapse of the
21 earth supporting such property only when such settlement or
22 systematic weakening collapse results from movement or
23 raveling of soils, sediments, or rock materials into
24 subterranean voids created by the effect action of water on a
25 limestone or similar rock formation.

26 (d) "Engineer" means a person, as defined in s.
27 471.005, who has a bachelor degree or higher in engineering
28 with a specialty in the geotechnical engineering field. An
29 engineer must have geotechnical experience and expertise in
30 the identification of sinkhole activity as well as other
31 potential causes of damage to the structure.

1 (e) "Professional geologist" means a person, as
2 defined by s. 492.102, who has a bachelor degree or higher in
3 geology or related earth science with expertise in the geology
4 of Florida. A professional geologist must have geological
5 experience and expertise in the identification of sinkhole
6 activity as well as other potential geologic causes of damage
7 to the structure.

8 ~~(3)(4)~~ Every insurer authorized to transact property
9 insurance in this state shall make a proper filing with the
10 office for the purpose of extending the appropriate forms of
11 property insurance to include coverage for ~~insurable~~ sinkhole
12 losses.

13 Section 18. Section 627.7065, Florida Statutes, is
14 created to read:

15 627.7065 Database of information relating to
16 sinkholes; the Department of Financial Services and the
17 Department of Environmental Protection.--

18 (1) The Legislature finds that there has been a
19 dramatic increase in the number of sinkholes and insurance
20 claims for sinkhole damage in the state during the past 10
21 years. Accordingly, the Legislature recognizes the need to
22 track current and past sinkhole activity and to make the
23 information available for prevention and remediation
24 activities. The Legislature further finds that the Florida
25 Geological Survey of the Department of Environmental
26 Protection has created a partial database of some sinkholes
27 identified in Florida, although the database is not reflective
28 of all sinkholes or insurance claims for sinkhole damage. The
29 Legislature determines that creating a complete electronic
30 database of sinkhole activity serves an important purpose in
31

1 protecting the public and in studying property claims
2 activities in the insurance industry.

3 (2) The Department of Financial Services, including
4 the employee of the Division of Consumer Services designated
5 as the primary contact for consumers on issues relating to
6 sinkholes, and the Office of the Insurance Consumer Advocate
7 shall consult with the Florida Geological Survey and the
8 Department of Environmental Protection to implement a
9 statewide automated database of sinkholes and related activity
10 identified in the state.

11 (3) Representatives of the Department of Financial
12 Services, with the agreement of the Department of
13 Environmental Protection, shall determine the form and content
14 of the database. The content may include standards for
15 reporting and investigating sinkholes for inclusion in the
16 database and requirements for insurers to report to the
17 departments the receipt of claims involving sinkhole loss and
18 other similar activities. The Department of Financial Services
19 may require insurers to report present and past data of
20 sinkhole claims. The database also may include information of
21 damage due to ground settling and other subsidence activity.

22 (4) The Department of Financial Services may manage
23 the database or may contract for its management and
24 maintenance. The Department of Environmental Protection shall
25 investigate reports of sinkhole activity and include its
26 findings and investigations in the database.

27 (5) The Department of Environmental Protection, in
28 consultation with the Department of Financial Services, shall
29 present a report of activities relating to the sinkhole
30 database, including recommendations regarding the database and
31 similar matters, to the Governor, the Speaker of the House of

1 Representatives, the President of the Senate, and the Chief
 2 Financial Officer by December 31, 2005. The report may
 3 consider the need for the Legislature to create an entity to
 4 study the increase in sinkhole activity in the state and other
 5 similar issues relating to sinkhole damage, including
 6 recommendations and costs for staffing the entity. The report
 7 may include other information, as appropriate.

8 (6) The Department of Financial Services, in
 9 consultation with the Department of Environmental Protection,
 10 may adopt rules to implement this section.

11 Section 19. Section 627.707, Florida Statutes, is
 12 amended to read:

13 627.707 ~~Minimum~~ Standards for investigation of
 14 sinkhole claims by insurers; nonrenewals.--

15 ~~(1)~~ Upon receipt of a claim for a sinkhole loss, an
 16 insurer must meet the following ~~minimum~~ standards in
 17 investigating a claim:

18 ~~(1)(a) Upon receipt of a claim for a sinkhole loss,~~
 19 The insurer must make an inspection of the insured's premises
 20 to determine if there has been physical damage to the
 21 structure which ~~may~~ ~~might~~ be the result of sinkhole activity.

22 ~~(b) If, upon the investigation pursuant to paragraph~~
 23 ~~(a), the insurer discovers damage to a structure which is~~
 24 ~~consistent with sinkhole activity or if the structure is~~
 25 ~~located in close proximity to a structure in which sinkhole~~
 26 ~~damage has been verified, then prior to denying a claim, the~~
 27 ~~insurer must obtain a written certification from an individual~~
 28 ~~qualified to determine the existence of sinkhole activity,~~
 29 ~~stating that the cause of the claim is not sinkhole activity,~~
 30 ~~and that the analysis conducted was of sufficient scope to~~
 31 ~~eliminate sinkhole activity as the cause of damage within a~~

1 ~~reasonable professional probability. The written certification~~
2 ~~must also specify the professional discipline and professional~~
3 ~~licensure or registration under which the analysis was~~
4 ~~conducted.~~

5 (2) Following the insurer's initial inspection, the
6 insurer shall engage an engineer or a professional geologist
7 to conduct testing as provided in s. 627.7072 to determine the
8 cause of the loss within a reasonable professional probability
9 and issue a report as provided in s. 627.7073, if:

10 (a) The insurer is unable to identify a valid cause of
11 the damage or discovers damage to the structure which is
12 consistent with sinkhole loss; or

13 (b) The policyholder demands testing in accordance
14 with this section or s. 627.7072.

15 (3) Following the initial inspection of the insured
16 premises, the insurer shall provide written notice to the
17 policyholder disclosing the following information:

18 (a) What the insurer has determined to be the cause of
19 damage, if the insurer has made such a determination.

20 (b) A statement of the circumstances under which the
21 insurer is required to engage an engineer or a professional
22 geologist to verify or eliminate sinkhole loss and to engage
23 an engineer to make recommendations regarding land and
24 building stabilization and foundation repair.

25 (c) A statement regarding the right of the
26 policyholder to request testing by an engineer or a
27 professional geologist and the circumstances under which the
28 policyholder may demand certain testing.

29 (4) If the insurer determines that there is no
30 sinkhole loss, the insurer may deny the claim. If the insurer
31 denies the claim, without performing testing under s.

1 627.7072, the policyholder may demand testing by the insurer
2 under s. 627.7072. The policyholder's demand for testing must
3 be communicated to the insurer in writing after the
4 policyholder's receipt of the insurer's denial of the claim.

5 (5)(a) Subject to paragraph (b), if a sinkhole loss is
6 verified, the insurer shall pay to stabilize the land and
7 building and repair the foundation in accordance with the
8 recommendations of the engineer as provided under s. 627.7073,
9 and in consultation with the policyholder, subject to the
10 coverage and terms of the policy. The insurer shall pay for
11 other repairs to the structure and contents in accordance with
12 the terms of the policy.

13 (b) The insurer may limit its payment to the actual
14 cash value of the sinkhole loss, not including underpinning or
15 grouting or any other repair technique performed below the
16 existing foundation of the building, until the policyholder
17 enters into a contract for the performance of building
18 stabilization or foundation repairs. After the policyholder
19 enters into the contract, the insurer shall pay the amounts
20 necessary to begin and perform such repairs as the work is
21 performed and the expenses are incurred. The insurer may not
22 require the policyholder to advance payment for such repairs.
23 If repair has begun and the engineer selected or approved by
24 the insurer determines that the repair cannot be completed
25 within the policy limits, the insurer must either complete the
26 engineer's recommended repair or tender the policy limits to
27 the policyholder without a reduction for the repair expenses
28 incurred.

29 (6) Except as provided in subsection (7), the fees and
30 costs of the engineer or the professional geologist shall be
31 paid by the insurer.

1 ~~(7)(c)~~ If the insurer obtains, pursuant to s. 627.7073
 2 ~~paragraph (b)~~, written certification that there is no sinkhole
 3 loss or that the cause of the damage claim was not sinkhole
 4 activity, and if the policyholder has submitted the sinkhole
 5 claim without good faith grounds for submitting such claim,
 6 the policyholder shall reimburse the insurer for 50 percent of
 7 the actual costs ~~cost~~ of the analyses and services provided
 8 ~~analysis~~ under ss. 627.7072 and 627.7073 ~~paragraph (b)~~;
 9 however, a policyholder is not required to reimburse an
 10 insurer more than \$2,500 with respect to any claim. A
 11 policyholder is required to pay reimbursement under this
 12 subsection ~~paragraph~~ only if the insurer, prior to ordering
 13 the analysis under s. 627.7072 ~~paragraph (b)~~, informs the
 14 policyholder in writing of the policyholder's potential
 15 liability for reimbursement and gives the policyholder the
 16 opportunity to withdraw the claim.

17 ~~(8)(2)~~ No insurer shall nonrenew any policy of
 18 property insurance on the basis of filing of claims for
 19 partial loss caused by sinkhole damage or clay shrinkage as
 20 long as the total of such payments does not exceed the current
 21 policy limits of coverage for property damage, and provided
 22 the insured has repaired the structure in accordance with the
 23 engineering recommendations upon which any payment or policy
 24 proceeds were based.

25 (9) The insurer may engage a structural engineer to
 26 make recommendations as to the repair of the structure.

27 Section 20. Section 627.7072, Florida Statutes, is
 28 created to read:

29 627.7072 Testing standards for sinkholes.--

30 (1) The engineer and professional geologist shall
 31 perform such tests as sufficient, in their professional

1 opinion, to determine the presence or absence of sinkhole loss
2 or other cause of damage within reasonable professional
3 probability and for the engineer to make recommendations
4 regarding necessary building stabilization, and foundation
5 repair.

6 (2) Testing by a professional geologist shall be
7 conducted in compliance with the Florida Geological Survey
8 Special Publication No. 57 (2005).

9 Section 21. Section 627.7073, Florida Statutes, is
10 created to read:

11 627.7073 Sinkhole reports.--

12 (1) Upon completion of testing as provided in s.
13 627.7072, the engineer and professional geologist shall issue
14 a report and certification to the insurer and the policyholder
15 as provided in this section.

16 (a) Sinkhole loss is verified if, based upon tests
17 performed in accordance with s. 627.7072, an engineer and a
18 professional geologist issue a written report and
19 certification stating:

20 1. That the cause of the actual physical and
21 structural damage is sinkhole activity within a reasonable
22 professional probability.

23 2. That the analyses conducted were of sufficient
24 scope to identify sinkhole activity as the cause of damage
25 within a reasonable professional probability.

26 3. A description of the tests performed.

27 4. A recommendation by the engineer of methods for
28 stabilizing the land and building and for making repairs to
29 the foundation.

30 (b) If sinkhole activity is eliminated as the cause of
31 damage to the structure, the engineer and professional

1 geologist shall issue a written report and certification to
2 the policyholder and the insurer stating:

3 1. That the cause of the damage is not sinkhole
4 activity within a reasonable professional probability.

5 2. That the analyses and tests conducted were of
6 sufficient scope to eliminate sinkhole activity as the cause
7 of damage within a reasonable professional probability.

8 3. A statement of the cause of the damage within a
9 reasonable professional probability.

10 4. A description of the tests performed.

11 (c) The respective findings, opinions, and
12 recommendations of the engineer and professional geologist as
13 to the verification or elimination of a sinkhole loss and the
14 findings, opinions, and recommendations of the engineer as to
15 land and building stabilization and foundation repair shall be
16 presumed correct.

17 (2) Any insurer that has paid a claim for a sinkhole
18 loss shall file a copy of the report and certification,
19 prepared pursuant to subsection (1), with the county property
20 appraiser who shall record the report and certification with
21 the parcel number. The insurer shall bear the cost of filing
22 and recording the report and certification. There shall be no
23 cause of action or liability against an insurer for compliance
24 with this section. The seller of real property upon which a
25 sinkhole claim has been made shall disclose to the buyer of
26 such property that a claim has been paid and whether or not
27 the full amount of the proceeds were used to repair the
28 sinkhole damage.

29 Section 22. Effective October 1, 2005, and applicable
30 to policies issued or renewed on or after that date, section
31 627.711, Florida Statutes, is created to read:

1 627.711 Notice of premium discounts for hurricane loss
2 mitigation.--Using a form prescribed by the Office of
3 Insurance Regulation, the insurer shall clearly notify the
4 applicant or policyholder of any personal lines residential
5 property insurance policy, at the time of the issuance of the
6 policy and at each renewal, of the availability and the range
7 of each premium discount, credit, other rate differential, or
8 reduction in deductibles for properties on which fixtures or
9 construction techniques demonstrated to reduce the amount of
10 loss in a windstorm can or have been installed or implemented.
11 The prescribed form shall describe generally what actions the
12 policyholders may be able to take to reduce their windstorm
13 premium. The prescribed form and a list of such ranges
14 approved by the office for each insurer licensed in the state
15 and providing such discounts, credits, other rate
16 differentials, or reductions in deductibles for properties
17 described in this subsection shall be available for electronic
18 viewing and download from the Department of Financial
19 Services' or the Office of Insurance Regulation's Internet
20 website. The Financial Services Commission may adopt rules to
21 implement this subsection.

22 Section 23. (1)(a) Upon an insurer's receiving a
23 communication with respect to a claim, the insurer shall,
24 within 14 calendar days, review and acknowledge receipt of
25 such communication unless payment is made within that period
26 of time or unless the failure to acknowledge is caused by
27 factors beyond the control of the insurer which reasonably
28 prevent such acknowledgement. If the acknowledgement is not in
29 writing, a notification indicating acknowledgement shall be
30 made in the insurer's claim file and dated. A communication
31

1 made to or by an agent of an insurer with respect to a claim
2 shall constitute communication to or by the insurer.

3 (b) As used in this subsection, the term "agent" means
4 any person to whom an insurer has granted authority or
5 responsibility to receive or make such communications with
6 respect to claims on behalf of the insurer.

7 (c) This subsection shall not apply to claimants
8 represented by counsel beyond those communications necessary
9 to provide forms and instructions.

10 (2) Such acknowledgement shall be responsive to the
11 communication. If the communication constitutes a notification
12 of a claim, unless the acknowledgement reasonably advises the
13 claimant that the claim appears not to be covered by the
14 insurer, the acknowledgement shall provide necessary claim
15 forms, and instructions, including an appropriate telephone
16 number.

17 (3) Unless otherwise provided by the policy of
18 insurance or by law, within 10 working days after an insurer
19 receives proof of loss statements the insurer shall begin such
20 investigation as is reasonably necessary unless the failure to
21 begin such investigation is caused by factors beyond the
22 control of the insurer which reasonably prevent the
23 commencement of such investigation.

24 (4) For purposes of this section, the term "insurer"
25 means any residential property insurer.

26 Section 24. Task Force on Long-Term Solutions for
27 Florida's Hurricane Insurance Market.--

28 (1) TASK FORCE CREATED.--There is created the Task
29 Force on Long-Term Solutions for Florida's Hurricane Insurance
30 Market.

31

1 (2) ADMINISTRATION.--The task force shall be
2 administratively housed within the Office of the Chief
3 Financial Officer, but shall operate independently of any
4 state officer or agency. The Office of the Chief Financial
5 Officer shall provide such administrative support as the task
6 force deems necessary to accomplish its mission and shall
7 provide necessary funding for the task force within its
8 existing resources. The Executive Office of the Governor, the
9 Department of Financial Services, and the Office of Insurance
10 Regulation shall provide substantive staff support for the
11 task force.

12 (3) MEMBERSHIP.--The members of the task force shall
13 be appointed as follows:

14 (a) The Governor shall appoint three members who have
15 expertise in financial matters, one of whom is a
16 representative of the mortgage lending industry, one of whom
17 is a representative of the real estate or construction
18 industry, and one of whom is a representative of insurance
19 consumers.

20 (b) The Chief Financial Officer shall appoint three
21 members who have expertise in financial matters, one of whom
22 is a representative of a national property insurer or of a
23 Florida-only subsidiary of a national property insurer, one of
24 whom is a representative of a domestic property insurer in
25 this state, and one of whom is a representative of insurance
26 agents.

27 (c) The President of the Senate shall appoint three
28 members.

29 (d) The Speaker of the House of Representatives shall
30 appoint three members.

31

1 (e) The Commissioner of Insurance Regulation shall
2 serve as an ex officio voting member of the task force.

3
4 Members of the task force shall serve without compensation but
5 are entitled to receive reimbursement for per diem and travel
6 expenses as provided in section 112.061, Florida Statutes.

7 (4) PURPOSE AND INTENT.--The Legislature recognizes
8 that the continued availability of hurricane insurance
9 coverage for property owners in this state is essential to the
10 state's economic survival. The Legislature further recognizes
11 that legislative efforts to resolve problems in the hurricane
12 insurance market in 2005 may not be sufficient to address this
13 state's long-term needs and that further action may be
14 necessary in subsequent legislative sessions. The purpose of
15 the task force is to make recommendations to the legislative
16 and executive branches of this state's government relating to
17 the creation and maintenance of insurance capacity in the
18 private sector and public sector which is sufficient to ensure
19 that all property owners in this state are able to obtain
20 appropriate insurance coverage for hurricane losses, as
21 further described in this section.

22 (5) SPECIFIC TASKS.--The task force shall conduct such
23 research and hearings as it deems necessary to achieve the
24 purposes specified in subsection (4) and shall develop
25 information on relevant issues, including, but not limited to,
26 the following issues:

27 (a) Whether this state currently has sufficient
28 hurricane insurance capacity to ensure the continuation of a
29 healthy, competitive marketplace, taking into consideration
30 both private-sector resources and public-sector resources.

31

1 (b) Identifying the future demands on this state's
2 hurricane insurance capacity, taking into account population
3 growth, coastal growth, and anticipated future hurricane
4 activity.

5 (c) Whether the Florida Hurricane Catastrophe Fund
6 fulfilled its purpose of creating additional insurance
7 capacity sufficient to ameliorate the current dangers to the
8 state's economy and to the public health, safety, and welfare
9 in its response to the 2004 hurricane season.

10 (d) The extent to which the growth in Citizens
11 Property Insurance Corporation is attributable to insufficient
12 insurance capacity.

13 (e) The extent to which the growth trends of Citizens
14 Property Insurance Corporation create long-term problems for
15 property owners, buyers, and sellers in this state and for
16 other persons and businesses that depend on a viable market.

17 (f) The operation and role of Citizens Property
18 Insurance Corporation, including:

19 1. How to ensure that the corporation operates as an
20 insurer of last resort which does not compete with insurers in
21 the voluntary market, but which charges rates that are not
22 excessive, inadequate, or unfairly discriminatory;

23 2. Whether the bonuses paid by the corporation to
24 carriers taking policies out of the corporation provide a
25 cost-effective means of reducing the potential liability of
26 the corporation;

27 3. Whether the "Consumer Choice" law should be
28 repealed or amended to ensure that the corporation serves as
29 the insurer of last resort;

30 4. Whether coverage amounts should be limited;
31

1 5. Whether the corporation has hired an adequate level
2 of permanent claims and adjusting staff in addition to
3 outsourcing its claims-adjusting functions to independent
4 adjusting firms;

5 6. The effect of reducing or expanding the areas that
6 are eligible for coverage in the high-risk, wind-only account;

7 7. Whether the corporation should purchase reinsurance
8 or take other actions that reduce the potential for debt
9 financing and deficit assessments; and

10 8. An evaluation of the infrastructure and
11 administration of the corporation and how to improve customer
12 service, claims handling, and communication and the exchange
13 of information with agents of policyholders of the
14 corporation.

15 (6) REPORT AND RECOMMENDATIONS.--By April 1, 2006, the
16 task force shall provide a report containing findings relating
17 to the tasks identified in subsection (5) and recommendations
18 consistent with the purposes of this section and also
19 consistent with such findings. The task force shall submit the
20 report to the Governor, the Chief Financial Officer, the
21 President of the Senate, and the Speaker of the House of
22 Representatives. The task force may also submit such interim
23 reports as it deems appropriate.

24 (7) ADDITIONAL ACTIVITIES.--The task force shall
25 monitor the implementation of hurricane insurance-related
26 legislation enacted during the 2005 Regular Session and shall
27 make such additional recommendations as it deems appropriate
28 for further legislative action during the 2004-2006
29 legislative biennium.

30 (8) EXPIRATION.--The task force shall expire at the
31 end of the 2004-2006 legislative biennium.

1 Section 25. The Office of Insurance Regulation shall,
2 by January 1, 2006, submit a report to the President of the
3 Senate, the Speaker of the House of Representatives, the
4 minority party leaders of the Senate and the House of
5 Representatives, and the chairs of the standing committees of
6 the Senate and the House of Representatives having
7 jurisdiction over matters relating to property and casualty
8 insurance. The report shall include findings and
9 recommendations on requiring residential property insurers to
10 provide law and ordinance coverage for residential property
11 insurance policies, the increase or decrease in insurance
12 costs associated with requiring such coverage, and such other
13 related information as the Office of Insurance Regulation
14 determines is appropriate for the Legislature to consider.

15 Section 26. Notwithstanding that revenues of Citizens
16 Property Insurance Corporation are not state revenues, the
17 Auditor General shall perform an operational audit, as defined
18 in section 11.45(1), Florida Statutes, of the Citizens
19 Property Insurance Corporation created under section
20 627.351(6), Florida Statutes. The scope of the audit shall
21 also include:

22 (1) An analysis of the corporation's infrastructure,
23 customer service, claims handling, accessibility of
24 policyholder information to the agent of record, take-out
25 programs, take-out bonuses, and financing arrangements.

26 (2) An evaluation of costs associated with the
27 administration and servicing of the policies issued by the
28 corporation to determine alternatives by which costs can be
29 reduced, customer service improved, and claims handling
30 improved.

31

1 The audit shall contain policy alternatives for the
2 Legislature to consider. The Auditor General shall submit a
3 report to the Governor, the President of the Senate, and the
4 Speaker of the House of Representatives no later than February
5 1, 2006.

6 Section 27. The board of governors of the Citizens
7 Property Insurance Corporation created under section
8 627.351(6), Florida Statutes, shall, by February 1, 2006,
9 submit a report to the President of the Senate, the Speaker of
10 the House of Representatives, the minority party leaders of
11 the Senate and the House of Representatives, and the chairs of
12 the standing committees of the Senate and the House of
13 Representatives having jurisdiction over matters relating to
14 property and casualty insurance. The report shall include the
15 board's findings and recommendations on the following issues:

16 (1) The number of policies and the aggregate premium
17 of the Citizens Property Insurance Corporation, before and
18 after enactment of this act, and projections for future policy
19 and premium growth.

20 (2) Increases or decreases in availability of
21 residential property coverage in the voluntary market and the
22 effectiveness of this act in improving the availability of
23 residential property coverage in the voluntary market in the
24 state.

25 (3) The board's efforts to depopulate the corporation
26 and the willingness of insurers in the voluntary market to
27 avail themselves of depopulation incentives.

28 (4) Further actions that could be taken by the
29 Legislature to improve availability of residential property
30 coverage in the voluntary and residual markets.

31

1 (5) Actions that the board has taken to restructure
2 the corporation and recommendations for legislative action to
3 restructure the corporation, including, but not limited to,
4 actions relating to claims handling and customer service.

5 (6) Projected surpluses or deficits and possible means
6 of providing funding to ensure the continued solvency of the
7 corporation.

8 (7) The corporation's efforts to procure catastrophe
9 reinsurance to cover its projected 100-year probable maximum
10 loss with specification as to what best efforts were made by
11 the corporation to procure such reinsurance.

12 (8) Such other issues as the board determines are
13 worthy of the Legislature's consideration.

14 Section 28. For the 2005-2006 fiscal year, there is
15 appropriated \$350,000 in recurring funds from the Insurance
16 Regulatory Trust Fund and four positions are authorized to the
17 Office of the Consumer Advocate within the Department of
18 Financial Services for the purposes provided in section
19 627.0613, Florida Statutes.

20 Section 29. The amendment to section 627.0628, Florida
21 Statutes, and the creation of section 627.06281, Florida
22 Statutes, as provided in this act shall take effect on the
23 same date that House Bill 1939, Senate Bill 1478, or similar
24 legislation takes effect, if such legislation is adopted in
25 the same legislative session or an extension thereof and
26 becomes a law.

27 Section 30. Except as otherwise expressly provided in
28 this act, this act shall take effect upon becoming a law.
29
30
31