

Bill No. SB 1488

Barcode 060960

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Proposed Committee Substitute by the Committee on Banking and Insurance

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; repealing provisions allowing

27 an insurer to submit a rate filing to an

28 arbitration panel; amending s. 627.0628, F.S.;

29 restricting the admissibility and relevance in

30 rate proceedings of findings of the Florida

31 Commission on Hurricane Loss Projection

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1 Methodology; amending s. 627.0629, F.S.;

2 lowering the percentage amount of a rate filing

3 based on a computer model which requires a

4 public hearing; creating s. 627.06291, F.S.;

5 requiring residential property insurance and

6 rating and advisory organizations to report

7 hurricane loss data for development of a public

8 hurricane model for hurricane loss projections;

9 amending s. 627.351, F.S.; limiting the

10 coverage limits for dwellings insured by

11 Citizens Property Insurance Corporation;

12 revising the appointments to the board and the

13 approval of officers and employees of the

14 corporation; creating a Market Accountability

15 Advisory Committee to assist the corporation in

16 developing awareness of it rates and service

17 levels; providing for membership of the

18 committee; providing terms of office; requiring

19 the committee to report to the corporation at

20 each board meeting; revising the criteria and

21 standards for establishing the rates charged

22 for coverage by the corporation; providing that

23 rates may not be increased by more than a

24 specified percentage; creating s. 627.40951,

25 F.S.; providing legislative findings and

26 intent; providing for an advisory committee;

27 providing for membership; providing for

28 recommendations to be submitted to the

29 Legislature regarding standard residential

30 property insurance policies; amending s.

31 627.411, F.S.; adding grounds for which the

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1 Office of Insurance Regulation must disapprove
2 a form filed by an insurer; amending s.
3 627.4143, F.S.; requiring insurers to provide
4 personal lines property insurance policyholders
5 with a checklist of items contained in
6 policies; authorizing the Financial Services
7 Commission to adopt rules; prescribing elements
8 to be contained in the checklist; requiring the
9 checklist and outline of insurance coverage to
10 be sent with each renewal; clarifying that
11 homeowners' insurance includes mobile
12 homeowners', dwelling, and condominium unit
13 owners' insurance for purposes of the outline
14 of coverage; amending s. 627.701, F.S.;
15 increasing the maximum allowable hurricane
16 deductible for personal lines and certain
17 commercial lines residential policies;
18 requiring insurers to offer specified hurricane
19 deductibles for such policies; requiring
20 insurers to provide written notice explaining
21 hurricane deductible options for such policies;
22 amending s. 627.7011, F.S.; requiring insurers
23 to offer coverage for additional costs of
24 repair due to laws and ordinances; requiring
25 insurers to pay the replacement cost for a loss
26 insured on that basis, whether or not the
27 insured replaces or repairs the dwelling or
28 property; amending s. 627.7015, F.S.; providing
29 a penalty for an insurer that fails to notify a
30 claimant of the availability of mediation
31 procedures for resolving a disputed property

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1 insurance claim; amending s. 627.702, F.S.;

2 providing legislative intent regarding the

3 requirement that an insurer pay policy limits

4 if there is a total loss of a building;

5 amending s. 627.706, F.S., relating to sinkhole

6 insurance; providing definitions; amending s.

7 627.707, F.S.; revising requirements for

8 insurers in investigating sinkhole claims;

9 requiring that the insurer provide certain

10 notification to the policyholder; requiring

11 that the insurer engage an engineer and

12 professional geologist; providing requirements

13 for the insurer if a claim is denied; providing

14 requirements if a sinkhole loss is verified;

15 creating s. 627.7071, F.S.; requiring that the

16 Department of Business and Professional

17 Regulation certify persons as qualified to

18 identify sinkholes and recommend remediation of

19 sinkhole damage; providing for the Department

20 of Financial Services to select engineers and

21 professional geologists to verify sinkhole

22 loss; requiring that the insurer pay the fees

23 of the department in selecting the engineer or

24 geologist; authorizing the Department of

25 Business and Professional Regulation to adopt

26 rules; creating s. 627.7072, F.S.; providing

27 testing standards for sinkholes; authorizing

28 the Department of Financial Services to adopt

29 rules; creating s. 627.7073, F.S.; providing

30 requirements for reports issued by engineers

31 and professional geologists; requiring certain

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1 reports and certifications to be issued to the
2 policyholder and the insurer; requiring that
3 the insurer file a copy of the report and
4 certification with the clerk of court to be
5 recorded with the certificate of title or deed
6 for the property; providing that there is no
7 cause of action or liability against an insurer
8 for filing such report and certification;
9 creating s. 627.711, F.S.; requiring insurers
10 to provide written notice to applicants and
11 policyholders of the amount of the premium
12 discounts and credits for fixtures and
13 construction techniques that reduce the amount
14 of windstorm loss; authorizing the Financial
15 Services Commission to adopt rules; creating s.
16 627.712, F.S.; requiring property insurers to
17 pay or deny claims within certain time periods;
18 providing that overdue payments bear interest;
19 requiring the Office of the Auditor General to
20 conduct an operational audit of Citizens
21 Property Insurance Corporation; providing that
22 the amendment to s. 627.702, F.S., is intended
23 to be remedial and clarifying in nature;
24 providing an appropriation and authorizing
25 positions; providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Effective June 1, 2005, paragraph (e) of
30 subsection (2) of section 215.555, Florida Statutes, is
31 amended to read:

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1 215.555 Florida Hurricane Catastrophe Fund.--

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

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

6 1. The board shall calculate and report to each
7 insurer the retention multiples for that year. For the
8 contract year beginning June 1, 2005 ~~2004~~, the retention
9 multiple shall be equal to \$4.5 billion divided by the total
10 estimated reimbursement premium for the contract year; for
11 subsequent years, the retention multiple shall be equal to
12 \$4.5 billion, adjusted based upon the reported exposure from
13 the prior contract year to reflect the percentage growth in
14 exposure to the fund for covered policies since 2004 ~~2003~~,
15 divided by the total estimated reimbursement premium for the
16 contract year. Total reimbursement premium for purposes of the
17 calculation under this subparagraph shall be estimated using
18 the assumption that all insurers have selected the 90-percent
19 coverage level.

20 2. The retention multiple as determined under
21 subparagraph 1. shall be adjusted to reflect the coverage
22 level elected by the insurer. For insurers electing the
23 90-percent coverage level, the adjusted retention multiple is
24 100 percent of the amount determined under subparagraph 1. For
25 insurers electing the 75-percent coverage level, the retention
26 multiple is 120 percent of the amount determined under
27 subparagraph 1. For insurers electing the 45-percent coverage
28 level, the adjusted retention multiple is 200 percent of the
29 amount determined under subparagraph 1.

30 3. An insurer shall determine its provisional
31 retention by multiplying its provisional reimbursement premium

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1 by the applicable adjusted retention multiple and shall
2 determine its actual retention by multiplying its actual
3 reimbursement premium by the applicable adjusted retention
4 multiple.

5 4. For insurers who experience multiple covered events
6 causing loss during the contract year, beginning June 1, 2005,
7 each insurer's full retention shall be applied to each of the
8 covered events causing the two largest losses for that
9 insurer. For each other covered event resulting in losses, the
10 insurer's retention shall be reduced to one-third of the full
11 retention. The reimbursement contract shall provide for the
12 reimbursement of losses for each covered event based on the
13 full retention with adjustments made to reflect the reduced
14 retentions after January 1 of the contract year provided the
15 insurer reports its losses as specified in the reimbursement
16 contract.

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

19 215.559 Hurricane Loss Mitigation Program.--

20 (1) There is created a Hurricane Loss Mitigation
21 Program. The Legislature shall annually appropriate \$10
22 million of the moneys authorized for appropriation under s.
23 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to
24 the Department of Community Affairs for the purposes set forth
25 in this section.

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

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1 losses or reduce the cost of rebuilding after a disaster.

2 (b) Three million dollars in funds provided in
3 subsection (1) shall be used to retrofit existing facilities
4 used as public hurricane shelters. The department must
5 prioritize the use of these funds for projects included in the
6 September 1, 2000, version of the Shelter Retrofit Report
7 prepared in accordance with s. 252.385(3), and each annual
8 report thereafter. The department must give funding priority
9 to projects in regional planning council regions that have
10 shelter deficits and to projects that maximize use of state
11 funds.

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

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1 Department of Financial Services, the Office of Financial
 2 Regulation, the Florida Housing Finance Corporation, and the
 3 Office of Tourism, Trade, and Economic Development shall
 4 assist the Department of Community Affairs in establishing the
 5 program and pilot project. The department may use up to 2.5
 6 percent of the funds appropriated in any given fiscal year for
 7 administering the loan program. The department may adopt rules
 8 to implement the program.

9 ~~(4)(3)~~ Forty percent of the total appropriation in
 10 paragraph (2)(a) shall be used to inspect and improve
 11 tie-downs for mobile homes. Within 30 days after the effective
 12 date of that appropriation, the department shall contract with
 13 a public higher educational institution in this state which
 14 has previous experience in administering the programs set
 15 forth in this subsection to serve as the administrative entity
 16 and fiscal agent pursuant to s. 216.346 for the purpose of
 17 administering the programs set forth in this subsection in
 18 accordance with established policy and procedures. The
 19 administrative entity working with the advisory council set up
 20 under subsection~~(6)(5)~~ shall develop a list of mobile home
 21 parks and counties that may be eligible to participate in the
 22 tie-down program.

23 ~~(5)(4)~~ Of moneys provided to the Department of
 24 Community Affairs in paragraph (2)(a), 10 percent shall be
 25 allocated to a Type I Center within the State University
 26 System dedicated to hurricane research. The Type I Center
 27 shall develop a preliminary work plan approved by the advisory
 28 council set forth in subsection~~(6)(5)~~ to eliminate the state
 29 and local barriers to upgrading existing mobile homes and
 30 communities, research and develop a program for the recycling
 31 of existing older mobile homes, and support programs of

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1 research and development relating to hurricane loss reduction
2 devices and techniques for site-built residences. The State
3 University System also shall consult with the Department of
4 Community Affairs and assist the department with the report
5 required under subsection ~~(8)(7)~~.

6 ~~(6)(5)~~ Except for the program set forth in subsection
7 ~~(3)~~, The Department of Community Affairs shall develop the
8 programs set forth in this section in consultation with an
9 advisory council consisting of a representative designated by
10 the Chief Financial Officer, a representative designated by
11 the Florida Home Builders Association, a representative
12 designated by the Florida Insurance Council, a representative
13 designated by the Federation of Manufactured Home Owners, a
14 representative designated by the Florida Association of
15 Counties, and a representative designated by the Florida
16 Manufactured Housing Association.

17 ~~(7)(6)~~ Moneys provided to the Department of Community
18 Affairs under this section are intended to supplement other
19 funding sources of the Department of Community Affairs and may
20 not supplant other funding sources of the Department of
21 Community Affairs.

22 ~~(8)(7)~~ On January 1st of each year, the Department of
23 Community Affairs shall provide a full report and accounting
24 of activities under this section and an evaluation of such
25 activities to the Speaker of the House of Representatives, the
26 President of the Senate, and the Majority and Minority Leaders
27 of the House of Representatives and the Senate.

28 ~~(9)(8)~~ This section is repealed June 30, 2011.

29 Section 3. Subsections (4) and (5) of section 627.062,
30 Florida Statutes, are amended, subsection (6) of that section
31 is repealed, and subsections (7) and (8) of that section are

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1 renumbered as subsections (6) and (7), respectively, to read:

2 627.062 Rate standards.--

3 (4) The establishment of any rate, rating
 4 classification, rating plan or schedule, or variation thereof
 5 in violation of part IX of chapter 626 is also in violation of
 6 this section. In order to enhance the ability of consumers to
 7 compare premiums and to increase the accuracy and usefulness
 8 of rate-comparison information provided by the office to the
 9 public, the office shall develop a proposed standard rating
 10 territory plan to be used by all authorized property and
 11 casualty insurers for residential property insurance. In
 12 adopting the proposed plan, the office may consider
 13 geographical characteristics relevant to risk, county lines,
 14 major roadways, existing rating territories used by a
 15 significant segment of the market, and other relevant factors.
 16 Such plan shall be submitted to the President of the Senate
 17 and the Speaker of the House of Representatives by January 15,
 18 2006. The plan may not be implemented unless authorized by
 19 further act of the Legislature.

20 (5) With respect to a rate filing involving coverage
 21 of the type for which the insurer is required to pay a
 22 reimbursement premium to the Florida Hurricane Catastrophe
 23 Fund, the insurer may fully recoup in its property insurance
 24 premiums any reimbursement premiums paid to the Florida
 25 Hurricane Catastrophe Fund, together with reasonable costs of
 26 other reinsurance, but may not recoup reinsurance costs that
 27 duplicate coverage provided by the Florida Hurricane
 28 Catastrophe Fund. An insurer may not recoup more than 1 year
 29 of reimbursement premium at a time. Any under-recoupment from
 30 the prior year may be added to the following year's
 31 reimbursement premium and any over-recoupment shall be

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1 subtracted from the following year's reimbursement premium.

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

20 ~~(b) Arbitration under this subsection shall be~~
21 ~~conducted pursuant to the procedures specified in ss.~~
22 ~~682.06-682.10. Either party may apply to the circuit court to~~
23 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~
24 ~~682.14. The commission shall adopt rules for arbitration under~~
25 ~~this subsection, which rules may not be inconsistent with the~~
26 ~~arbitration rules of the American Arbitration Association as~~
27 ~~of January 1, 1996.~~

28 ~~(c) Upon initiation of the arbitration process, the~~
29 ~~insurer waives all rights to challenge the action of the~~
30 ~~office under the Administrative Procedure Act or any other~~
31 ~~provision of law; however, such rights are restored to the~~

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1 ~~insurer if the arbitrators fail to render a decision within 90~~
 2 ~~days after initiation of the arbitration process.~~

3 (6)(7)(a) The provisions of this subsection apply only
 4 with respect to rates for medical malpractice insurance and
 5 shall control to the extent of any conflict with other
 6 provisions of this section.

7 (b) Any portion of a judgment entered or settlement
 8 paid as a result of a statutory or common-law bad faith action
 9 and any portion of a judgment entered which awards punitive
 10 damages against an insurer may not be included in the
 11 insurer's rate base, and shall not be used to justify a rate
 12 or rate change. Any common-law bad faith action identified as
 13 such, any portion of a settlement entered as a result of a
 14 statutory or common-law action, or any portion of a settlement
 15 wherein an insurer agrees to pay specific punitive damages may
 16 not be used to justify a rate or rate change. The portion of
 17 the taxable costs and attorney's fees which is identified as
 18 being related to the bad faith and punitive damages in these
 19 judgments and settlements may not be included in the insurer's
 20 rate base and may not be utilized to justify a rate or rate
 21 change.

22 (c) Upon reviewing a rate filing and determining
 23 whether the rate is excessive, inadequate, or unfairly
 24 discriminatory, the office shall consider, in accordance with
 25 generally accepted and reasonable actuarial techniques, past
 26 and present prospective loss experience, either using loss
 27 experience solely for this state or giving greater credibility
 28 to this state's loss data after applying actuarially sound
 29 methods of assigning credibility to such data.

30 (d) Rates shall be deemed excessive if, among other
 31 standards established by this section, the rate structure

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1 provides for replenishment of reserves or surpluses from
2 premiums when the replenishment is attributable to investment
3 losses.

4 (e) The insurer must apply a discount or surcharge
5 based on the health care provider's loss experience or shall
6 establish an alternative method giving due consideration to
7 the provider's loss experience. The insurer must include in
8 the filing a copy of the surcharge or discount schedule or a
9 description of the alternative method used, and must provide a
10 copy of such schedule or description, as approved by the
11 office, to policyholders at the time of renewal and to
12 prospective policyholders at the time of application for
13 coverage.

14 (f) Each medical malpractice insurer must make a rate
15 filing under this section, sworn to by at least two executive
16 officers of the insurer, at least once each calendar year.

17 ~~(7)~~~~(8)~~(a)1. No later than 60 days after the effective
18 date of medical malpractice legislation enacted during the
19 2003 Special Session D of the Florida Legislature, the office
20 shall calculate a presumed factor that reflects the impact
21 that the changes contained in such legislation will have on
22 rates for medical malpractice insurance and shall issue a
23 notice informing all insurers writing medical malpractice
24 coverage of such presumed factor. In determining the presumed
25 factor, the office shall use generally accepted actuarial
26 techniques and standards provided in this section in
27 determining the expected impact on losses, expenses, and
28 investment income of the insurer. To the extent that the
29 operation of a provision of medical malpractice legislation
30 enacted during the 2003 Special Session D of the Florida
31 Legislature is stayed pending a constitutional challenge, the

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1 impact of that provision shall not be included in the
2 calculation of a presumed factor under this subparagraph.

3 2. No later than 60 days after the office issues its
4 notice of the presumed rate change factor under subparagraph
5 1., each insurer writing medical malpractice coverage in this
6 state shall submit to the office a rate filing for medical
7 malpractice insurance, which will take effect no later than
8 January 1, 2004, and apply retroactively to policies issued or
9 renewed on or after the effective date of medical malpractice
10 legislation enacted during the 2003 Special Session D of the
11 Florida Legislature. Except as authorized under paragraph (b),
12 the filing shall reflect an overall rate reduction at least as
13 great as the presumed factor determined under subparagraph 1.
14 With respect to policies issued on or after the effective date
15 of such legislation and prior to the effective date of the
16 rate filing required by this subsection, the office shall
17 order the insurer to make a refund of the amount that was
18 charged in excess of the rate that is approved.

19 (b) Any insurer or rating organization that contends
20 that the rate provided for in paragraph (a) is excessive,
21 inadequate, or unfairly discriminatory shall separately state
22 in its filing the rate it contends is appropriate and shall
23 state with specificity the factors or data that it contends
24 should be considered in order to produce such appropriate
25 rate. The insurer or rating organization shall be permitted to
26 use all of the generally accepted actuarial techniques
27 provided in this section in making any filing pursuant to this
28 subsection. The office shall review each such exception and
29 approve or disapprove it prior to use. It shall be the
30 insurer's burden to actuarially justify any deviations from
31 the rates required to be filed under paragraph (a). The

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1 insurer making a filing under this paragraph shall include in
2 the filing the expected impact of medical malpractice
3 legislation enacted during the 2003 Special Session D of the
4 Florida Legislature on losses, expenses, and rates.

5 (c) If any provision of medical malpractice
6 legislation enacted during the 2003 Special Session D of the
7 Florida Legislature is held invalid by a court of competent
8 jurisdiction, the office shall permit an adjustment of all
9 medical malpractice rates filed under this section to reflect
10 the impact of such holding on such rates so as to ensure that
11 the rates are not excessive, inadequate, or unfairly
12 discriminatory.

13 (d) Rates approved on or before July 1, 2003, for
14 medical malpractice insurance shall remain in effect until the
15 effective date of a new rate filing approved under this
16 subsection.

17 (e) The calculation and notice by the office of the
18 presumed factor pursuant to paragraph (a) is not an order or
19 rule that is subject to chapter 120. If the office enters into
20 a contract with an independent consultant to assist the office
21 in calculating the presumed factor, such contract shall not be
22 subject to the competitive solicitation requirements of s.
23 287.057.

24 Section 4. Paragraph (c) of subsection (1) and
25 paragraph (c) of subsection (3) of section 627.0628, Florida
26 Statutes, are amended to read:

27 627.0628 Florida Commission on Hurricane Loss
28 Projection Methodology.--

29 (1) LEGISLATIVE FINDINGS AND INTENT.--

30 (c) It is the intent of the Legislature to create the
31 Florida Commission on Hurricane Loss Projection Methodology as

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1 a panel of experts to provide the most actuarially
 2 sophisticated guidelines and standards for projection of
 3 hurricane losses possible, given the current state of
 4 actuarial science. It is the further intent of the Legislature
 5 that such standards and guidelines must be used by the State
 6 Board of Administration in developing reimbursement premium
 7 rates for the Florida Hurricane Catastrophe Fund, and, subject
 8 to paragraph (3)(c), may be used by insurers in rate filings
 9 under s. 627.062 unless the way in which such standards and
 10 guidelines were applied by the insurer was erroneous, as shown
 11 by a preponderance of the evidence.

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

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

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

28 627.0629 Residential property insurance; rate
 29 filings.--

30 (7) Any rate filing that is based in whole or part on
 31 data from a computer model may not exceed 15 ~~25~~ percent unless

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1 there is a public hearing.

2 Section 6. Section 627.06291, Florida Statutes, is
3 created to read:

4 627.06291 Reports of hurricane loss data for the
5 public hurricane model.--Residential property insurers and
6 licensed rating and advisory organizations that compile loss
7 data concerning residential property insurance shall report
8 residential hurricane loss data and associated exposure data,
9 within such time and in such manner as specified by the
10 office, to the office or to a type I center at a state
11 university under contract with the office, for the purpose of
12 developing, maintaining, and updating a public hurricane model
13 for hurricane loss projections.

14 Section 7. Effective August 1, 2005, paragraphs (c),
15 (d), and (g) of subsection (6) of section 627.351, Florida
16 Statutes, are amended to read:

17 627.351 Insurance risk apportionment plans.--

18 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

19 (c) The plan of operation of the corporation:

20 1. Must provide for adoption of residential property
21 and casualty insurance policy forms and commercial residential
22 and nonresidential property insurance forms, which forms must
23 be approved by the office prior to use. The corporation shall
24 adopt the following policy forms:

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

30 b. Basic personal lines policy forms that are policies
31 similar to an HO-8 policy or a dwelling fire policy that

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1 provide coverage meeting the requirements of the secondary
2 mortgage market, but which coverage is more limited than the
3 coverage under a standard policy.

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

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

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

18
19 The dwelling limits for any personal lines policy in both the
20 personal lines account and the high-risk account may not
21 exceed \$1 million. Residential structures valued in excess of
22 \$1 million are not eligible for coverage from the corporation.

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

30 (I) "Quota share primary insurance" means an
31 arrangement in which the primary hurricane coverage of an

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

22 (II) "Eligible risks" means personal lines residential
23 and commercial lines residential risks that meet the
24 underwriting criteria of the corporation and are located in
25 areas that were eligible for coverage by the Florida Windstorm
26 Underwriting Association on January 1, 2002.

27 b. The corporation may enter into quota share primary
28 insurance agreements with authorized insurers at corporation
29 coverage levels of 90 percent and 50 percent.

30 c. If the corporation determines that additional
31 coverage levels are necessary to maximize participation in

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1 quota share primary insurance agreements by authorized
 2 insurers, the corporation may establish additional coverage
 3 levels. However, the corporation's quota share primary
 4 insurance coverage level may not exceed 90 percent.

5 d. Any quota share primary insurance agreement entered
 6 into between an authorized insurer and the corporation must
 7 provide for a uniform specified percentage of coverage of
 8 hurricane losses, by county or territory as set forth by the
 9 corporation board, for all eligible risks of the authorized
 10 insurer covered under the quota share primary insurance
 11 agreement.

12 e. Any quota share primary insurance agreement entered
 13 into between an authorized insurer and the corporation is
 14 subject to review and approval by the office. However, such
 15 agreement shall be authorized only as to insurance contracts
 16 entered into between an authorized insurer and an insured who
 17 is already insured by the corporation for wind coverage.

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

30 g. The corporation board shall establish in its plan
 31 of operation standards for quota share agreements which ensure

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1 that there is no discriminatory application among insurers as
 2 to the terms of quota share agreements, pricing of quota share
 3 agreements, incentive provisions if any, and consideration
 4 paid for servicing policies or adjusting claims.

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

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

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

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

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1 annually on a date designated by the plan. Any board vacancy
2 shall be filled for the unexpired term by the appointing
3 officer ~~Chief Financial Officer~~. The Chief Financial Officer
4 shall appoint a technical advisory group to provide
5 information and advice to the board of governors in connection
6 with the board's duties under this subsection. The executive
7 director and senior managers of the corporation shall be
8 engaged by the board, as recommended by the Chief Financial
9 Officer and serve at the pleasure of the board ~~Chief Financial~~
10 ~~Officer~~. The executive director is responsible for employing
11 other staff as the corporation may require, subject to review
12 and concurrence by the board and ~~office of~~ the Chief Financial
13 Officer.

14 b. A Market Accountability Advisory Committee shall be
15 created to assist the corporation in developing awareness of
16 its customer and agent service levels in relationship to the
17 voluntary market insurers that are writing similar coverage.
18 The members of the advisory committee shall consist of the
19 following 10 persons, one of whom must be elected chair by the
20 members of the committee: one representative appointed by each
21 of the three largest property and casualty insurance agents
22 associations in this state; one representative appointed by
23 each of the insurers having the three highest voluntary market
24 share of residential property insurance business in the state;
25 one representative from the Office of Insurance Regulation;
26 one consumer appointed by the board who is insured by the
27 corporation at the time of appointment to the committee; one
28 representative appointed by the Florida Association of
29 Realtors; and one representative appointed by the Florida
30 Bankers Association. All members shall be appointed to 3-year
31 terms and may serve consecutive terms. The Market

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1 Accountability Advisory Committee shall report to the
2 corporation at each board meeting on insurance market issues,
3 which may include service levels, policy issuance, claims
4 processing and general responsiveness to policyholders,
5 applicants, and agents, and matters relating to depopulation.

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

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

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

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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

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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).

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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

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

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

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

9
10 The acceptance or rejection of a risk by the corporation 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, as determined by the board of governors.

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

31 11. The policies issued by the corporation must

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

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

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

29 14. Must provide that, with respect to the high-risk
30 account, any assessable insurer with a surplus as to
31 policyholders of \$25 million or less writing 25 percent or

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

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

27 (d)1. It is the intent of the Legislature that the
28 rates for coverage provided by the corporation be actuarially
29 sound and not competitive with approved rates charged in the
30 admitted voluntary market, so that the corporation functions
31 as a residual market mechanism to provide insurance only when

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1 the insurance cannot be procured in the voluntary market.
2 Rates shall include an appropriate catastrophe loading factor
3 that reflects the actual catastrophic exposure of the
4 corporation.

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

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

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1 ~~premium for that policy in effect on June 30, 2003, as~~
2 ~~adjusted for coverage changes and seasonal occupancy~~
3 ~~surcharges.~~ Corporation rate manuals shall include a rate
4 surcharge for seasonal occupancy. To ensure that personal
5 lines residential wind-only rates ~~effective on or after July~~
6 ~~1, 2004,~~ are not competitive with approved rates charged by
7 authorized insurers, the corporation, in conjunction with the
8 office, shall develop a wind-only ratemaking methodology,
9 which methodology shall be contained in each ~~a~~ rate filing
10 made by the corporation with the office ~~by January 1, 2004.~~ If
11 the office ~~thereafter~~ determines that the wind-only rates or
12 rating factors filed by the corporation fail to comply with
13 the wind-only ratemaking methodology provided for in this
14 subsection, it shall so notify the corporation and require the
15 corporation to amend its rates or rating factors to come into
16 compliance within 90 days of notice from the office. ~~The~~
17 ~~office shall report to the Speaker of the House of~~
18 ~~Representatives and the President of the Senate on the~~
19 ~~provisions of the wind-only ratemaking methodology by January~~
20 ~~31, 2004.~~

21 4. The provisions of subparagraph 2. do not apply to
22 coverage provided by the corporation in any county for which
23 the office determines that a reasonable degree of competition
24 does not exist for personal lines residential policies. The
25 provisions of subparagraph 3. do not apply to coverage
26 provided by the corporation in any county for which the office
27 determines that a reasonable degree of competition does not
28 exist for personal lines residential policies in the area of
29 that county which is eligible for wind-only coverage. In such
30 counties, the rates for personal lines residential coverage
31 shall be actuarially sound and not excessive, inadequate, or

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1 unfairly discriminatory and are subject to the other
2 provisions of this paragraph and s. 627.062. The commission
3 may adopt rules establishing the criteria for determining
4 whether a reasonable degree of competition exists for personal
5 lines residential policies. Beginning October 1, 2005, and
6 each 6 months thereafter, the office shall determine and
7 identify those counties for which a reasonable degree of
8 competition does not exist for purposes of subparagraphs 2.
9 and 3., respectively.

10 5. Notwithstanding subparagraphs 2., 3., and 4., for
11 personal lines residential policies and personal lines
12 residential wind-only policies issued or renewed between July
13 1, 2005, and June 30, 2006, the maximum premium increase must
14 be not greater than 5 percent of the premium for that policy
15 in effect on June 30, 2005, as adjusted for coverage changes
16 and seasonal-occupancy surcharges.

17 6.4. Rates for commercial lines coverage shall not be
18 subject to the requirements of subparagraph 2., but shall be
19 subject to all other requirements of this paragraph and s.
20 627.062.

21 7.5. Nothing in this paragraph shall require or allow
22 the corporation to adopt a rate that is inadequate under s.
23 627.062.

24 8.6. The corporation shall certify to the office at
25 least twice annually that its personal lines rates comply with
26 the requirements of this paragraph ~~subparagraphs 1. and 2.~~ If
27 any adjustment in the rates or rating factors of the
28 corporation is necessary to ensure such compliance, the
29 corporation shall make and implement such adjustments and file
30 its revised rates and rating factors with the office. If the
31 office thereafter determines that the revised rates and rating

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1 factors fail to comply with the provisions of this paragraph
2 ~~subparagraphs 1. and 2.~~, it shall notify the corporation and
3 require the corporation to amend its rates or rating factors
4 in conjunction with its next rate filing. The office must
5 notify the corporation by electronic means of any rate filing
6 it approves for any insurer among the insurers referred to in
7 subparagraph 2.

8 9.7. In addition to the rates otherwise determined
9 pursuant to this paragraph, the corporation shall impose and
10 collect an amount equal to the premium tax provided for in s.
11 624.509 to augment the financial resources of the corporation.

12 10.8.a. To assist the corporation in developing
13 additional ratemaking methods to assure compliance with this
14 paragraph ~~subparagraphs 1. and 4.~~, the corporation shall
15 appoint a rate methodology panel consisting of one person
16 recommended by the Florida Association of Insurance Agents,
17 one person recommended by the Professional Insurance Agents of
18 Florida, one person recommended by the Florida Association of
19 Insurance and Financial Advisors, one person recommended by
20 the insurer with the highest voluntary market share of
21 residential property insurance business in the state, one
22 person recommended by the insurer with the second-highest
23 voluntary market share of residential property insurance
24 business in the state, one person recommended by an insurer
25 writing commercial residential property insurance in this
26 state, one person recommended by the Office of Insurance
27 Regulation, and one board member designated by the board
28 chairman, who shall serve as chairman of the panel.

29 ~~b. By January 1, 2004, the rate methodology panel~~
30 ~~shall provide a report to the corporation of its findings and~~
31 ~~recommendations for the use of additional ratemaking methods~~

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1 ~~and procedures, including the use of a rate equalization~~
2 ~~surcharge in an amount sufficient to assure that the total~~
3 ~~cost of coverage for policyholders or applicants to the~~
4 ~~corporation is sufficient to comply with subparagraph 1.~~

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

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

21 ~~11.9. By January 1, 2004, The corporation shall~~
22 ~~develop a notice to policyholders or applicants that the rates~~
23 ~~of Citizens Property Insurance Corporation are intended to be~~
24 ~~higher than the rates of any admitted carrier and providing~~
25 ~~other information the corporation deems necessary to assist~~
26 ~~consumers in finding other voluntary admitted insurers willing~~
27 ~~to insure their property.~~

28 (g)1. The corporation shall certify to the office its
29 needs for annual assessments as to a particular calendar year,
30 and for any interim assessments that it deems to be necessary
31 to sustain operations as to a particular year pending the

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

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

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

30 3.a. The corporation shall adopt one or more programs
31 subject to approval by the office for the reduction of both

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1 new and renewal writings in the corporation. The corporation
2 may consider any prudent and not unfairly discriminatory
3 approach to reducing corporation writings, and may adopt a
4 credit against assessment liability or other liability that
5 provides an incentive for insurers to take risks out of the
6 corporation and to keep risks out of the corporation by
7 maintaining or increasing voluntary writings in counties or
8 areas in which corporation risks are highly concentrated and a
9 program to provide a formula under which an insurer
10 voluntarily taking risks out of the corporation by maintaining
11 or increasing voluntary writings will be relieved wholly or
12 partially from assessments under sub-subparagraphs (b)3.a. and
13 b. When the corporation enters into a contractual agreement
14 for a take-out plan, the producing agent of record of the
15 corporation policy is entitled to retain any unearned
16 commission on such policy, and the insurer shall either:

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

22 (II) Offer to allow the producing agent of record of
23 the policy to continue servicing the policy for a period of
24 not less than 1 year and offer to pay the agent the insurer's
25 usual and customary commission for the type of policy written.
26 If the producing agent is unwilling or unable to accept
27 appointment by the new insurer, the new insurer shall pay the
28 agent in accordance with sub-sub-subparagraph (I).

29 b. Any credit or exemption from regular assessments
30 adopted under this subparagraph shall last no longer than the
31 3 years following the cancellation or expiration of the policy

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1 by the corporation. With the approval of the office, the board
2 may extend such credits for an additional year if the insurer
3 guarantees an additional year of renewability for all policies
4 removed from the corporation, or for 2 additional years if the
5 insurer guarantees 2 additional years of renewability for all
6 policies so removed.

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

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

20 Section 8. Section 627.40951, Florida Statutes, is
21 created to read:

22 627.40951 Standard personal lines residential
23 insurance policy.--

24 (1) The Legislature finds that many consumers who
25 filed property loss claims as a result of the hurricanes that
26 struck this state in 2004 were inadequately insured due to the
27 difficulty consumers encounter in trying to understand the
28 complex nature of property insurance policies. The purpose and
29 intent of this section is to have property and casualty
30 insurers offer standard personal lines residential property
31 insurance policies and standard checklists of policy contents,

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1 in accordance with s. 627.4143, to consumers and to ensure
2 that these policies and checklists are written in a simple
3 format with easily readable language that will enable most
4 consumers to understand the principal benefits and coverage
5 provided in the policy; the principal exclusions and
6 limitations or reductions contained in the policy, including,
7 but not limited to, deductibles, coinsurance, and any other
8 limitations or reductions; and any additional coverage
9 provided through any rider or endorsement that accompanies the
10 policy and renewal or cancellation provisions.

11 (2) The Chief Financial Officer shall appoint an
12 advisory committee composed of two representatives of insurers
13 currently selling personal lines residential property
14 insurance coverage, two representatives of property and
15 casualty agents, two representatives of consumers, two
16 representatives of the Commissioner of Insurance Regulation,
17 and the Insurance Consumer Advocate or her or his designee.
18 The Chief Financial Officer or her or his designee shall serve
19 as chair of the committee. The committee shall develop policy
20 language for coverage that represents general industry
21 standards in the market for comprehensive coverage under
22 personal lines residential insurance policies and shall
23 develop a checklist to be used with each type of personal
24 lines residential property insurance policy. The committee
25 shall review policies and related forms written by Insurance
26 Services Office, Inc. The committee shall file a report
27 containing its recommendations to the President of the Senate
28 and the Speaker of the House of Representatives by January 15,
29 2006. No insurer shall be required to offer the standard
30 policy unless required by further act of the Legislature.

31 Section 9. Subsection (1) of section 627.411, Florida

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1 Statutes, is amended to read:

2 627.411 Grounds for disapproval.--

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

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

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

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

15 (d) Is printed or otherwise reproduced in such manner
16 as to render any material provision of the form substantially
17 illegible.

18 (e) Contains provisions that are unfair or inequitable
19 or contrary to the public policy of this state or that
20 encourage misrepresentation.

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

22 1. Provides benefits that are unreasonable in relation
23 to the premium charged; or

24 ~~2. Contains provisions that are unfair or inequitable~~
25 ~~or contrary to the public policy of this state or that~~
26 ~~encourage misrepresentation;~~

27 ~~2.3.~~ Contains provisions that apply rating practices
28 that result in unfair discrimination pursuant to s.
29 626.9541(1)(g)2.

30 ~~(g)(f)~~ Excludes coverage for human immunodeficiency
31 virus infection or acquired immune deficiency syndrome or

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1 contains limitations in the benefits payable, or in the terms
2 or conditions of such contract, for human immunodeficiency
3 virus infection or acquired immune deficiency syndrome which
4 are different than those which apply to any other sickness or
5 medical condition.

6 Section 10. Effective January 1, 2006, subsection
7 627.4143, Florida Statutes, is amended to read:

8 627.4143 Outline of coverage.--

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

14 (2) The outline of coverage for a private passenger
15 motor vehicle insurance policy shall contain all of the
16 following:

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

21 (b) A summary statement of the principal exclusions
22 and limitations or reductions contained in the policy by class
23 or type, including, but not limited to, deductibles,
24 coinsurance, and any other limitations or reductions.

25 (c) A summary statement of any renewal or cancellation
26 provisions.

27 (d) A description of the credit or surcharge plan that
28 is being applied. The description may display numerical or
29 alphabetical codes on the declarations page or premium notice
30 to enable the insured to determine the reason or reasons why
31 her or his policy is being surcharged or is receiving a

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1 credit.

2 (e) A list of any additional coverage provided through
3 any rider or endorsement which accompanies the policy. The
4 list shall contain a descriptive reference to each additional
5 coverage, rather than solely a reference to a form or code
6 number.

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

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

24 (a) The checklist must contain a list of the standard
25 provisions and elements that may typically be included in
26 these policies, whether or not they are included in the
27 particular policy being issued, in a format that allows the
28 insurer to place a check mark next to the provisions elements
29 that are included so that the consumer can see both what is
30 included and what is not included in the policy. As an
31 alternative to checking the boxes on the checklist, an insurer

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1 may delete the check boxes from the form and replace them with
 2 text indicating whether the provision's elements are included
 3 or not. Limits of liability shall be listed for each item. The
 4 checklist must include, but is not limited to, the following:

5 1. Property coverage for the principal premises shown
 6 in the declarations.

7 2. Property coverage for other structures on the
 8 residence premises.

9 3. Whether the principal premises and other structures
 10 are insured against the following perils:

11 a. Fire.

12 b. Lightning.

13 c. Explosion.

14 d. Hurricane loss.

15 e. Nonhurricane wind loss.

16 f. Collapse.

17 g. Mold.

18 h. Sinkhole loss.

19 i. Vandalism.

20 4. Personal property coverage.

21 5. Whether personal property is insured against the
 22 following perils:

23 a. Fire.

24 b. Lightning.

25 c. Hurricane loss.

26 d. Nonhurricane wind loss.

27 e. Collapse.

28 f. Mold.

29 g. Sinkhole loss.

30 h. Theft.

31 6. The following additional coverages:

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a. Debris removal.

b. Loss assessment.

c. Additional living expenses.

7. Personal liability coverage.

8. Medical payments coverage.

9. Discounts applied to the premium.

10. Deductibles for loss due to hurricane and loss to other perils.

11. Building ordinance or law coverage.

12. Replacement cost coverage.

13. Actual cash value coverage.

(b) The forms shall allow insurers to place other coverages on the checklists which may or may not be included in the insurer's policies.

(c) The outline of coverage must contain:

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

2. A summary statement of the principal exclusions and limitations or reductions contained in the policy by class or type, including, but not limited to, deductibles, coinsurance, and any other limitations or reductions.

3. A summary statement of any renewal or cancellation provisions.

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

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

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

10 ~~(5)(4)~~ An insurer must insert the following language
 11 on the outline of coverage:

12
 13 "The following outline of coverage or checklist is for
 14 informational purposes only. Florida law prohibits this
 15 outline or checklist from changing any of the provisions of
 16 the insurance contract which is the subject of this outline.
 17 Any endorsement regarding changes in types of coverage,
 18 exclusions, limitations, reductions, deductibles, coinsurance,
 19 renewal provisions, cancellation provisions, surcharges, or
 20 credits will be sent separately."
 21

22 ~~(6)(5)~~ Neither this section nor the outline of
 23 coverage or checklist mandated by this section alters or
 24 modifies the terms of the insurance contract, creates a cause
 25 of action, or is admissible in any civil action.

26 Section 11. Effective January 1, 2006, subsections
 27 (3), (8), and (9) of section 627.701, Florida Statutes, as
 28 amended by section 4 of chapter 2004-480, Laws of Florida, are
 29 amended to read:

30 627.701 Liability of insureds; coinsurance;
 31 deductibles.--

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

30 (b)1. Except as otherwise provided in this paragraph,
31 prior to issuing a personal lines residential property

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

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

23 ~~2.3.~~ With respect to a policy covering a risk with
24 dwelling limits of at least \$100,000, but less than \$250,000,
25 the insurer may, in lieu of offering a policy with a \$500
26 hurricane or wind deductible as required by subparagraph 1.,
27 offer a policy that the insurer guarantees it will not
28 nonrenew for reasons of reducing hurricane loss for one
29 renewal period and that contains up to a 2 percent hurricane
30 or wind deductible as required by subparagraph 1.

31 ~~3.4.~~ With respect to a policy covering a risk with

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1 dwelling limits of \$250,000 or more, the insurer need not
2 offer the \$500 hurricane ~~or wind~~ deductible as required by
3 subparagraph 1., but must, except as otherwise provided in
4 this subsection, offer the other 2 percent hurricane
5 deductibles or wind deductible as required by subparagraph 1.

6 (c) Before issuing a personal lines residential
7 property insurance policy and before each renewal thereof, an
8 insurer must provide each policyholder and applicant with a
9 notice of the availability of the deductible amounts that
10 insurers are required to offer and any other deductible that
11 the insurer chooses to offer which is not prohibited by this
12 section. The notice shall be on a form approved by the office.
13 The form shall fully advise the policyholder or applicant of
14 the nature of the deductible, including the fact that higher
15 deductibles result in lower premiums but will also result in
16 higher out-of-pocket expenses to the policyholder in the event
17 of a hurricane damage claim. For each percentage deductible
18 available to the policyholder or applicant, the form shall
19 include the dollar amount of the deduction which will result
20 from application of the percentage deductible. The heading of
21 the form shall be in 12-point bold type and shall state: "You
22 are required by Florida law to choose a deductible that will
23 apply to any claims that you may have with your insurer as a
24 result of damage to your residence by a hurricane. This form
25 explains the deductible options that your insurer is required
26 or permitted to offer to you. Please read carefully." If this
27 form is signed by the named insured, it will be conclusively
28 presumed that there was an informed, knowing selection of the
29 amount of the deductible. Such notice shall provide for a
30 means to allow the policyholder or applicant to select the
31 deductible. The failure to provide such notice constitutes a

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1 violation of this code but does not affect the coverage
2 provided under the policy.

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

11 ~~(8)(a) The Legislature finds that property insurance~~
12 ~~coverage has become unaffordable for a significant number of~~
13 ~~mobile home owners, as evidenced by reports that up to 100,000~~
14 ~~mobile home owners have terminated their insurance coverage~~
15 ~~because they cannot afford to pay approved rates charged in~~
16 ~~the voluntary or residual markets. The Legislature further~~
17 ~~finds that additional flexibility in available coverages will~~
18 ~~enable mobile home owners to obtain affordable insurance and~~
19 ~~increase capacity.~~

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

22 ~~1. The deductible for hurricane coverage may not~~
23 ~~exceed 10 percent of the property value if the property is not~~
24 ~~subject to any liens and may not exceed 5 percent of the~~
25 ~~property value if the property is subject to any liens.~~

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

28 ~~(8)(9) Notwithstanding the other provisions of this~~
29 ~~section or of other law, but only as to hurricane coverage as~~
30 ~~defined in s. 627.4025 for commercial lines residential~~
31 ~~coverages, an insurer may offer a deductible in an amount not~~

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1 ~~exceeding 5 percent of the insured value with respect to a~~
 2 ~~condominium association or cooperative association policy, or~~
 3 ~~in an amount not exceeding 10 percent of the insured value~~
 4 ~~with respect to any other commercial lines residential policy,~~
 5 if, at the time of such offer and at each renewal, the insurer
 6 also offers to the policyholder a deductible in the amount of
 7 3 percent of the insured value. Nothing in this subsection
 8 prohibits any deductible otherwise authorized by this section.
 9 All forms by which the offers authorized in this subsection
 10 are made or required to be made shall be on forms that are
 11 adopted or approved by the commission or office.

12 Section 12. Effective October 1, 2005, section
 13 627.7011, Florida Statutes, is amended to read:

14 627.7011 Homeowners' policies; offer of replacement
 15 cost coverage and law and ordinance coverage.--

16 (1) Prior to issuing a homeowner's insurance policy on
 17 or after October 1, 2005 ~~June 1, 1994~~, or prior to the first
 18 renewal of a homeowner's insurance policy on or after October
 19 1, 2005 ~~June 1, 1994~~, the insurer must offer each of the
 20 following:

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

29 (b) A policy or endorsement providing that, subject to
 30 other policy provisions, any loss which is repaired or
 31 replaced at any location will be adjusted on the basis of

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1 replacement costs not exceeding policy limits as to the
 2 dwelling, rather than actual cash value, and also including
 3 costs necessary to meet applicable laws and ordinances
 4 regulating the construction, use, or repair of any property or
 5 requiring the tearing down of any property, including the
 6 costs of removing debris; however, such additional costs
 7 necessary to meet applicable laws and ordinances may be
 8 limited to either 25 percent or 50 percent of the dwelling
 9 limit, as selected by the policyholder, and such coverage
 10 shall apply only to repairs of the damaged portion of the
 11 structure unless the total damage to the structure exceeds 50
 12 percent of the replacement cost of the structure.

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

22 (2) Unless the insurer obtains the policyholder's
 23 written refusal of the policies or endorsements specified in
 24 subsection (1), any policy covering the dwelling is deemed to
 25 include the coverage specified in paragraph (1)(b). The
 26 rejection or selection of alternative coverage shall be made
 27 on a form approved by the office. The form shall fully advise
 28 the applicant of the nature of the coverage being rejected. If
 29 this form is signed by a named insured, it will be
 30 conclusively presumed that there was an informed, knowing
 31 rejection of the coverage or election of the alternative

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1 coverage on behalf of all insureds. Unless the policyholder
2 requests in writing the coverage specified in this section, it
3 need not be provided in or supplemental to any other policy
4 that renews, insures, extends, changes, supersedes, or
5 replaces an existing policy when the policyholder has rejected
6 the coverage specified in this section or has selected
7 alternative coverage. The insurer must provide such
8 policyholder with notice of the availability of such coverage
9 in a form approved by the office at least once every 3 years.
10 The failure to provide such notice constitutes a violation of
11 this code, but does not affect the coverage provided under the
12 policy.

13 (3) In the event of a loss for which a dwelling or
14 personal property is insured on the basis of replacement
15 costs, the insurer shall pay the replacement cost without
16 reservation or holdback of any depreciation in value, whether
17 or not the insured replaces or repairs the dwelling or
18 property.

19 (4)(3) Nothing in this section shall be construed to
20 apply to policies not considered to be "homeowners' policies,"
21 as that term is commonly understood in the insurance industry.
22 This section specifically does not apply to mobile home
23 policies. Nothing in this section shall be construed as
24 limiting the ability of any insurer to reject or nonrenew any
25 insured or applicant on the grounds that the structure does
26 not meet underwriting criteria applicable to replacement cost
27 or law and ordinance policies or for other lawful reasons.

28 Section 13. Effective July 1, 2005, subsection (7) of
29 section 627.7015, Florida Statutes, is amended, and subsection
30 (2) of that section is republished, to read:

31 627.7015 Alternative procedure for resolution of

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1 disputed property insurance claims.--

2 (2) At the time a first-party claim within the scope
3 of this section is filed, the insurer shall notify all
4 first-party claimants of their right to participate in the
5 mediation program under this section. The department shall
6 prepare a consumer information pamphlet for distribution to
7 persons participating in mediation under this section.

8 (7) If the insurer fails to comply with the
9 requirements of subsection (2) by failing to notify a
10 first-party claimant of his or her right to participate in the
11 mediation program under this section, or if the insurer
12 requests the mediation, and the mediation results are rejected
13 by either party, the insured shall not be required to submit
14 to or participate in any contractual loss appraisal process of
15 the property loss damage as a precondition to legal action for
16 breach of contract against the insurer for its failure to pay
17 the policyholder's claims covered by the policy.

18 Section 14. Subsection (1) of section 627.702, Florida
19 Statutes, is amended to read:

20 627.702 Valued policy law.--

21 (1)(a) In the event of the total loss of any building,
22 structure, mobile home as defined in s. 320.01(2), or
23 manufactured building as defined in s. 553.36(12), located in
24 this state and insured by any insurer as to a covered peril,
25 in the absence of any change increasing the risk without the
26 insurer's consent and in the absence of fraudulent or criminal
27 fault on the part of the insured or one acting in her or his
28 behalf, the insurer's liability, if any, under the policy for
29 such total loss shall be in the amount of money for which such
30 property was so insured as specified in the policy and for
31 which a premium has been charged and paid.

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1 (b) The legislative intent of this subsection is not
 2 to require an insurer to pay for a loss caused by a peril
 3 other than the covered peril. In furtherance of such
 4 legislative intent, when a loss was caused in part by a
 5 covered peril and in part by a noncovered peril, the insurer's
 6 liability under this section is limited to the percentage of
 7 the loss caused by the covered peril.

8 Section 15. Section 627.706, Florida Statutes, is
 9 amended to read:

10 627.706 Sinkhole insurance; definitions.--

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

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

19 (a)(2) "Sinkhole loss" means structural damage to the
 20 building caused by sinkhole activity. Contents coverage shall
 21 apply only if there is structural damage to the building
 22 caused by sinkhole activity. Building coverage shall apply
 23 only to the reasonable costs to stabilize the land if possible
 24 and building if necessary and to repair the damage to the
 25 foundation and building, subject to the coverage and terms of
 26 the policy.

27 (b)(3) "Sinkhole activity loss" means ~~actual physical~~
 28 ~~damage to the property covered arising out of or caused by~~
 29 ~~sudden~~ settlement or systematic weakening ~~collapse~~ of the
 30 earth supporting such property only when such settlement or
 31 systematic weakening ~~collapse~~ results from naturally occurring

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1 movement or raveling of soils, sediments, or rock materials
 2 into subterranean voids created by the effect ~~action~~ of water
 3 on a limestone or similar rock formation.

4 (c) "Engineer" means a person, as defined in s.
 5 471.005, who has a bachelor degree or higher in engineering
 6 with a specialty in the geotechnical engineering field. An
 7 engineer must have geotechnical experience and expertise in
 8 the identification of sinkhole activity as well as other
 9 potential causes of damage to the structure.

10 (d) "Professional geologist" means a person, as
 11 defined by s. 492.102, who has a bachelor degree or higher in
 12 geology or related earth science with expertise in the geology
 13 of Florida. A professional geologist must have geological
 14 experience and expertise in the identification of sinkhole
 15 activity as well as other potential causes of damage to the
 16 structure.

17 ~~(3)(4)~~ Every insurer authorized to transact property
 18 insurance in this state shall make a proper filing with the
 19 office for the purpose of extending the appropriate forms of
 20 property insurance to include coverage for ~~insurable~~ sinkhole
 21 losses.

22 Section 16. Section 627.707, Florida Statutes, is
 23 amended to read:

24 627.707 ~~Minimum~~ Standards for investigation of
 25 sinkhole claims by insurers; nonrenewals.--

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

29 ~~(1)(a) Upon receipt of a claim for a sinkhole loss,~~
 30 The insurer must make an inspection of the insured's premises
 31 to determine if there has been physical damage to the

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1 structure which ~~may~~ ~~might~~ be the result of sinkhole activity.

2 ~~(b) If, upon the investigation pursuant to paragraph~~
3 ~~(a), the insurer discovers damage to a structure which is~~
4 ~~consistent with sinkhole activity or if the structure is~~
5 ~~located in close proximity to a structure in which sinkhole~~
6 ~~damage has been verified, then prior to denying a claim, the~~
7 ~~insurer must obtain a written certification from an individual~~
8 ~~qualified to determine the existence of sinkhole activity,~~
9 ~~stating that the cause of the claim is not sinkhole activity,~~
10 ~~and that the analysis conducted was of sufficient scope to~~
11 ~~eliminate sinkhole activity as the cause of damage within a~~
12 ~~reasonable professional probability. The written~~
13 ~~certification must also specify the professional discipline~~
14 ~~and professional licensure or registration under which the~~
15 ~~analysis was conducted.~~

16 (2) Following the initial inspection of the insured
17 premises, the insurer shall provide written notice to the
18 policyholder containing the following disclosure:

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

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

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

30 (3)(a) Following the insurer's initial inspection, the
31 insurer shall engage an engineer and a professional geologist

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1 to conduct testing as provided in s. 627.7072 to determine the
2 cause of the loss within a reasonable professional probability
3 and issue a report as provided in s. 627.7073, if:

4 1. The insurer is unable to identify a valid cause of
5 the damage or discovers damage to the structure which is
6 consistent with sinkhole loss; or

7 2. The policyholder demands testing in accordance with
8 this section or s. 627.7072.

9 (4) If the insurer determines that there is no
10 sinkhole loss, the insurer may deny the claim. If the insurer
11 denies the claim, the policyholder may demand testing under s.
12 627.7072. The policyholder's demand for testing must be
13 communicated to the insurer in writing within 60 days after
14 the policyholder's receipt of insurer's denial of the claim.

15 (5) If a sinkhole loss is verified, the insurer shall
16 pay to stabilize the land, if possible, and building, if
17 necessary, and repair the foundation and building in
18 accordance with the recommendations of the engineer and the
19 professional geologist as provided under s. 627.7073, and in
20 consultation with the insurer and the policyholder, subject to
21 the coverage and terms of the policy. The insurer shall pay
22 for other repairs to the structure and contents in accordance
23 with the terms of the policy. The insurer may make payment
24 directly to the persons performing the land and building
25 stabilization and foundation repairs. The insurer has no
26 liability for the work performed unless it agrees to such
27 liability in writing.

28 (6)(a) Except as provided in paragraph (b), the fees
29 and costs of the engineer or the professional geologist shall
30 be paid by the insurer.

31 (7)(c) If the insurer obtains, pursuant to s. 627.7073

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

16 ~~(8)(2)~~ No insurer shall nonrenew any policy of
 17 property insurance on the basis of filing of claims for
 18 partial loss caused by sinkhole damage or clay shrinkage as
 19 long as the total of such payments does not exceed the current
 20 policy limits of coverage for property damage, and provided
 21 the insured has repaired the structure in accordance with the
 22 engineering recommendations upon which any payment or policy
 23 proceeds were based.

24 Section 17. Section 627.7071, Florida Statutes, is
 25 created to read:

26 627.7071 Certification of engineers and professional
 27 geologists.--

28 (1) The Department of Business and Professional
 29 Regulation in consultation with the Florida Geological Survey
 30 and Florida Board of Professional Engineers shall certify
 31 persons as engineers and professional geologists qualified to

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1 identify sinkholes and make recommendations for remediation of
2 sinkhole damage to real property and structures thereon. The
3 Department of Business and Professional Regulation shall
4 forward the list to the Department of Financial Services.

5 (2) If requested by the insurer or the policyholder,
6 the Department of Financial Services randomly shall select up
7 to three engineers and three professional geologists to
8 perform the services provided in ss. 627.7072 and 627.7073.
9 The policyholder or the insurer each may reject any one
10 engineer and one professional geologist selected by the
11 department. The insurer shall pay the fees of the department
12 for its services in selecting the engineer or professional
13 geologist.

14 (3) The Department of Financial Services and the
15 Department of Business and Professional Regulation, in
16 consultation with the Florida Geological Survey and Florida
17 Board of Professional Engineers may adopt rules to administer
18 this section.

19 Section 18. Section 627.7072, Florida Statutes, is
20 created to read:

21 627.7072 Testing standards for sinkholes.--

22 (1) The engineer and professional geologist shall
23 perform such tests as sufficient, in their professional
24 opinion, to determine the presence or absence of sinkhole loss
25 or other cause of damage within reasonable professional
26 probability, and to make recommendations regarding necessary
27 building stabilization.

28 (2) Testing shall be conducted in compliance with
29 standards of the American Society for Testing and Materials
30 International, the United States Army Corps of Engineers, the
31 Department of Transportation, or other appropriate standards,

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1 as determined by rule of the department, to the extent
2 applicable.

3 (3) The department may adopt rules to establish
4 testing standards to administer this section.

5 Section 19. Section 627.7073, Florida Statutes, is
6 created to read:

7 627.7073 Sinkhole reports.--

8 (1) Upon completion of testing as provided in s.
9 627.7072, the engineer or professional geologist shall issue a
10 report and certification to the insurer and the policyholder
11 as provided in this section.

12 (a) Sinkhole loss is verified only if an engineer or a
13 professional geologist performs tests in accordance with s.
14 627.7072 and issues a written report and certification to the
15 policyholder and the insurer stating:

16 1. That the cause of the actual physical and
17 structural damage is sinkhole activity within a reasonable
18 professional probability.

19 2. That the analyses conducted was of sufficient scope
20 to eliminate any other activity as the cause of damage within
21 a reasonable professional probability.

22 3. A description of the tests performed.

23 4. A recommendation of methods for stabilizing the
24 land, if possible, and building, if required, and
25 recommendations for making repairs to the foundation.

26 (b) If sinkhole activity is eliminated as the cause of
27 damage to the structure, the engineer or professional
28 geologist shall issue a written report and certification to
29 the policyholder and the insurer stating:

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

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

4 3. A statement of the cause of the damage within a
5 reasonable professional probability.

6 4. A description of the tests performed.

7 (c) The respective findings, opinions and
8 recommendations of the engineer or professional geologist as
9 to the verification of a sinkhole loss, land and building
10 stabilization, foundation repair, and elimination of sinkhole
11 loss shall be presumed correct, unless rebutted by clear and
12 convincing evidence in a civil proceeding.

13 (2) Any insurer that has paid a claim for a sinkhole
14 loss shall file a copy of the report and certification
15 prepared pursuant to subsection (1), with the clerk of court
16 and the clerk shall record the report and certification with
17 the certificate of title or deed for that property. The
18 insurer shall bear the cost of filing and recording the report
19 and certification. There shall be no cause of action or
20 liability against an insurer for compliance with this section.

21 Section 20. Effective October 1, 2005, and applicable
22 to policies issued or renewed on or after that date, section
23 627.711, Florida Statutes, is created to read:

24 627.711 Notice of premium discounts for hurricane loss
25 mitigation.--Before issuing a personal lines residential
26 property insurance policy and as part of each premium renewal
27 notice, the insurer shall provide written notice to the
28 applicant or policyholder, on a form approved by the office,
29 of the availability and amount of the premium discounts and
30 credits for fixtures and construction techniques that reduce
31 the amount of loss in a windstorm, as required by s.

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1 627.0629(1). The notice must clearly inform the applicant or
 2 policyholder as to what the policyholder must do to qualify
 3 for such credits or discounts. The commission may adopt rules
 4 to administer this section.

5 Section 21. Section 627.712, Florida Statutes, is
 6 created to read:

7 627.712 Timely payment of claims.--

8 (1) An insurer shall, within 30 days after receipt of
 9 a claim under a property insurance policy:

10 (a) Pay that portion of the claim for which the
 11 policyholder has submitted all information that is required
 12 for payment under the terms of the policy;

13 (b) Provide a written denial to the policyholder for
 14 that portion of a claim which the insurer determines is not
 15 covered under the policy, including the specific reasons; and

16 (c) Specify, in writing, the additional information
 17 that the policyholder must submit to the insurer in order for
 18 any remaining amount of the claim to be paid.

19 (2) Within 30 days after receipt of the additional
 20 information specified in paragraph (1)(c), the insurer shall
 21 either pay or deny the claim as specified in paragraph (1)(a)
 22 or paragraph (1)(b).

23 (3) Payment shall be considered made on the date a
 24 check or other valid payment instrument is placed in the
 25 United States mail in a properly addressed, postpaid envelope,
 26 or if not so posted, on the date of delivery.

27 (4) All overdue payments shall bear simple interest at
 28 the rate of 10 percent per year.

29 (5) Following a hurricane or natural disaster, the
 30 requirements of this section are subject to such exceptions or
 31 alternative requirements as may be provided by rule of the

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1 commission or order of the office.

2 Section 22. By January 15, 2006, the Office of the
3 Auditor General shall conduct an operational audit of Citizens
4 Property Insurance Corporation regarding its customer service,
5 claims handling, accessibility of policyholder information to
6 the agent of record, take-out programs, and financing
7 arrangements, including recommendations for legislative
8 changes related to the findings of the audit.

9 Section 23. The amendment to section 627.702, Florida
10 Statutes, contained in this act is remedial in nature and
11 intended to clarify the intent of that section.

12 Section 24. For the 2005-2006 fiscal year, there is
13 appropriated \$350,000 in recurring funds from the Insurance
14 Regulatory Trust Fund and four positions are authorized to the
15 Office of the Consumer Advocate within the Department of
16 Financial Services for the purposes provided in section
17 627.0613, Florida Statutes.

18 Section 25. Except as otherwise expressly provided in
19 this act, this act shall take effect upon becoming a law.

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