

Bill No. SB 1488

Barcode 160040

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| | CHAMBER ACTION | |
| <u>Senate</u> | | <u>House</u> |

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The Committee on Banking and Insurance (Garcia) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

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

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

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

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

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

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

7 215.559 Hurricane Loss Mitigation Program.--

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

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

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

31 (3) The department shall establish a low-interest loan

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1 program for homeowners and mobile homeowners to retrofit their
2 homes with fixtures or construction techniques demonstrated to
3 reduce the amount of damage or loss due to a hurricane. The
4 department may use up to \$5 million of the funds appropriated
5 pursuant to paragraph (2)(a) to subsidize or guaranty loans
6 for this purpose made by state or federally chartered
7 financial institutions, pursuant to contractual agreements
8 with such institutions, as approved by the Office of Financial
9 Regulation. The department shall establish the qualifications
10 and limitations for such loans and approve such other terms
11 and conditions of the loan agreements in consultation with the
12 Office of Financial Regulation. The obligations of the state
13 for any loan guaranty or subsidy is limited to the amount
14 appropriated for this purpose. Forty percent of the total
15 appropriation in paragraph (2)(a) shall be used to inspect and
16 improve tie-downs for mobile homes. Within 30 days after the
17 effective date of that appropriation, the department shall
18 contract with a public higher educational institution in this
19 state which has previous experience in administering the
20 programs set forth in this subsection to serve as the
21 administrative entity and fiscal agent pursuant to s. 216.346
22 for the purpose of administering the programs set forth in
23 this subsection in accordance with established policy and
24 procedures. The administrative entity working with the
25 advisory council set up under subsection (5) shall develop a
26 list of mobile home parks and counties that may be eligible to
27 participate in the tie-down program.

28 (4) Of moneys provided to the Department of Community
29 Affairs in paragraph (2)(a), 10 percent shall be allocated to
30 a Type I Center within the State University System dedicated
31 to hurricane research. The Type I Center shall develop a

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1 preliminary work plan approved by the advisory council set
 2 forth in subsection (5) to eliminate the state and local
 3 barriers to upgrading existing mobile homes and communities,
 4 research and develop a program for the recycling of existing
 5 older mobile homes, and support programs of research and
 6 development relating to hurricane loss reduction devices and
 7 techniques for site-built residences. The State University
 8 System also shall consult with the Department of Community
 9 Affairs and assist the department with the report required
 10 under subsection (7).

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

22 (6) Moneys provided to the Department of Community
 23 Affairs under this section are intended to supplement other
 24 funding sources of the Department of Community Affairs and may
 25 not supplant other funding sources of the Department of
 26 Community Affairs.

27 (7) On January 1st of each year, the Department of
 28 Community Affairs shall provide a full report and accounting
 29 of activities under this section and an evaluation of such
 30 activities to the Speaker of the House of Representatives, the
 31 President of the Senate, and the Majority and Minority Leaders

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1 of the House of Representatives and the Senate.

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

3 Section 3. Subsections (4) and (5) of section 627.062,
4 Florida Statutes, are amended, subsection (6) of that section
5 is repealed, and subsections (7) and (8) of that section are
6 renumbered as subsections (6) and (7), respectively, to read:

7 627.062 Rate standards.--

8 (4) The establishment of any rate, rating
9 classification, rating plan or schedule, or variation thereof
10 in violation of part IX of chapter 626 is also in violation of
11 this section. In order to enhance the ability of consumers to
12 compare premiums and to increase the accuracy and usefulness
13 of rate-comparison information provided by the office to the
14 public, the commission shall adopt, by rule, standard rating
15 territories to be used by all authorized property and casualty
16 insurers for residential property insurance. In adopting such
17 rules, the commission may consider geographical
18 characteristics relevant to risk, county lines, major
19 roadways, existing rating territories used by a significant
20 segment of the market, and other relevant factors. Such rules
21 shall be adopted by January 1, 2006, and may specify such
22 future date or dates when insurers must use the standard
23 rating territories in their residential property insurance
24 rate filings.

25 (5) With respect to a rate filing involving coverage
26 of the type for which the insurer is required to pay a
27 reimbursement premium to the Florida Hurricane Catastrophe
28 Fund, the insurer may fully recoup in its property insurance
29 premiums any reimbursement premiums paid to the Florida
30 Hurricane Catastrophe Fund, together with reasonable costs of
31 other reinsurance, but may not recoup reinsurance costs that

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1 duplicate coverage provided by the Florida Hurricane
 2 Catastrophe Fund. An insurer may not recoup more than 1 year
 3 of reimbursement premium at a time. Any under-recoupment from
 4 the prior year may be added to the following year's
 5 reimbursement premium and any over-recoupment shall be
 6 subtracted from the following year's reimbursement premium.

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

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

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1 ~~of January 1, 1996.~~

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

8 (6)~~(7)~~(a) The provisions of this subsection apply only
9 with respect to rates for medical malpractice insurance and
10 shall control to the extent of any conflict with other
11 provisions of this section.

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

27 (c) Upon reviewing a rate filing and determining
28 whether the rate is excessive, inadequate, or unfairly
29 discriminatory, the office shall consider, in accordance with
30 generally accepted and reasonable actuarial techniques, past
31 and present prospective loss experience, either using loss

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1 | experience solely for this state or giving greater credibility
2 | to this state's loss data after applying actuarially sound
3 | methods of assigning credibility to such data.

4 | (d) Rates shall be deemed excessive if, among other
5 | standards established by this section, the rate structure
6 | provides for replenishment of reserves or surpluses from
7 | premiums when the replenishment is attributable to investment
8 | losses.

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

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

22 | ~~(7)~~(8)(a)1. No later than 60 days after the effective
23 | date of medical malpractice legislation enacted during the
24 | 2003 Special Session D of the Florida Legislature, the office
25 | shall calculate a presumed factor that reflects the impact
26 | that the changes contained in such legislation will have on
27 | rates for medical malpractice insurance and shall issue a
28 | notice informing all insurers writing medical malpractice
29 | coverage of such presumed factor. In determining the presumed
30 | factor, the office shall use generally accepted actuarial
31 | techniques and standards provided in this section in

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1 determining the expected impact on losses, expenses, and
 2 investment income of the insurer. To the extent that the
 3 operation of a provision of medical malpractice legislation
 4 enacted during the 2003 Special Session D of the Florida
 5 Legislature is stayed pending a constitutional challenge, the
 6 impact of that provision shall not be included in the
 7 calculation of a presumed factor under this subparagraph.

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

24 (b) Any insurer or rating organization that contends
 25 that the rate provided for in paragraph (a) is excessive,
 26 inadequate, or unfairly discriminatory shall separately state
 27 in its filing the rate it contends is appropriate and shall
 28 state with specificity the factors or data that it contends
 29 should be considered in order to produce such appropriate
 30 rate. The insurer or rating organization shall be permitted to
 31 use all of the generally accepted actuarial techniques

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1 provided in this section in making any filing pursuant to this
 2 subsection. The office shall review each such exception and
 3 approve or disapprove it prior to use. It shall be the
 4 insurer's burden to actuarially justify any deviations from
 5 the rates required to be filed under paragraph (a). The
 6 insurer making a filing under this paragraph shall include in
 7 the filing the expected impact of medical malpractice
 8 legislation enacted during the 2003 Special Session D of the
 9 Florida Legislature on losses, expenses, and rates.

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

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

22 (e) The calculation and notice by the office of the
 23 presumed factor pursuant to paragraph (a) is not an order or
 24 rule that is subject to chapter 120. If the office enters into
 25 a contract with an independent consultant to assist the office
 26 in calculating the presumed factor, such contract shall not be
 27 subject to the competitive solicitation requirements of s.
 28 287.057.

29 Section 4. Paragraph (c) of subsection (1) and
 30 paragraph (c) of subsection (3) of section 627.0628, Florida
 31 Statutes, are amended to read:

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1 627.0628 Florida Commission on Hurricane Loss

2 Projection Methodology.--

3 (1) LEGISLATIVE FINDINGS AND INTENT.--

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

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

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

31 Section 5. Subsection (7) of section 627.0629, Florida

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1 Statutes, is amended to read:

2 627.0629 Residential property insurance; rate
3 filings.--

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

7 Section 6. Section 627.06291, Florida Statutes, is
8 created to read:

9 627.06291 Reports of hurricane loss data for the
10 public hurricane model.--Residential property insurers and
11 licensed rating and advisory organizations that compile loss
12 data shall report residential hurricane loss data, as
13 specified by the office, to the type I center at a state
14 university under contract with the office for the development
15 and updating of a public hurricane model.

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

19 627.351 Insurance risk apportionment plans.--

20 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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

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

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1 b. Basic personal lines policy forms that are policies
 2 similar to an HO-8 policy or a dwelling fire policy that
 3 provide coverage meeting the requirements of the secondary
 4 mortgage market, but which coverage is more limited than the
 5 coverage under a standard policy.

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

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

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

20
 21 The dwelling limits for any personal lines policy in both the
 22 personal lines account and the high-risk account may not
 23 exceed \$1 million.

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

31 (I) "Quota share primary insurance" means an

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

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

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

31 c. If the corporation determines that additional

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

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

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

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

31 g. The corporation board shall establish in its plan

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

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

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

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

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

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

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

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

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1 (I) If the risk accepts an offer of coverage through
 2 the market assistance plan or an offer of coverage through a
 3 mechanism established by the corporation before a policy is
 4 issued to the risk by the corporation or during the first 30
 5 days of coverage by the corporation, and the producing agent
 6 who submitted the application to the plan or to the
 7 corporation is not currently appointed by the insurer, the
 8 insurer shall:

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

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

19
 20 If the producing agent is unwilling or unable to accept
 21 appointment, the new insurer shall pay the agent in accordance
 22 with sub-sub-sub-subparagraph (A).

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

27 (A) Pay to the producing agent of record of the
 28 corporation policy, for the first year, an amount that is the
 29 greater of the insurer's usual and customary commission for
 30 the type of policy written or a fee equal to the usual and
 31 customary commission of the corporation; or

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

6
 7 If the producing agent is unwilling or unable to accept
 8 appointment, the new insurer shall pay the agent in accordance
 9 with sub-sub-sub-subparagraph (A).

10 b. With respect to commercial lines residential risks,
 11 if the risk is offered coverage under a policy including wind
 12 coverage from an authorized insurer at its approved rate, the
 13 risk is not eligible for any policy issued by the corporation.
 14 If the risk is not able to obtain any such offer, the risk is
 15 eligible for a policy including wind coverage issued by the
 16 corporation.

17 (I) If the risk accepts an offer of coverage through
 18 the market assistance plan or an offer of coverage through a
 19 mechanism established by the corporation before a policy is
 20 issued to the risk by the corporation or during the first 30
 21 days of coverage by the corporation, and the producing agent
 22 who submitted the application to the plan or the corporation
 23 is not currently appointed by the insurer, the insurer shall:

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

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

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1 the insurer's or the corporation's usual and customary
2 commission for the type of policy written.

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

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

11 (A) Pay to the producing agent of record of the
12 corporation policy, for the first year, an amount that is the
13 greater of the insurer's usual and customary commission for
14 the type of policy written or a fee equal to the usual and
15 customary commission of the corporation; or

16 (B) Offer to allow the producing agent of record of
17 the corporation policy to continue servicing the policy for a
18 period of not less than 1 year and offer to pay the agent the
19 greater of the insurer's or the corporation's usual and
20 customary commission for the type of policy written.

21
22 If the producing agent is unwilling or unable to accept
23 appointment, the new insurer shall pay the agent in accordance
24 with sub-sub-sub-subparagraph (A).

25 6. Must include rules for classifications of risks and
26 rates therefor.

27 7. Must provide that if premium and investment income
28 for an account attributable to a particular calendar year are
29 in excess of projected losses and expenses for the account
30 attributable to that year, such excess shall be held in
31 surplus in the account. Such surplus shall be available to

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1 defray deficits in that account as to future years and shall
2 be used for that purpose prior to assessing assessable
3 insurers and assessable insureds as to any calendar year.

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

9 a. Whether the likelihood of a loss for the individual
10 risk is substantially higher than for other risks of the same
11 class; and

12 b. Whether the uncertainty associated with the
13 individual risk is such that an appropriate premium cannot be
14 determined.

15
16 The acceptance or rejection of a risk by the corporation shall
17 be construed as the private placement of insurance, and the
18 provisions of chapter 120 shall not apply.

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

23 10. Must provide that in the event of regular deficit
24 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
25 (b)3.b., in the personal lines account, the commercial lines
26 residential account, or the high-risk account, the corporation
27 shall levy upon corporation policyholders in its next rate
28 filing, or by a separate rate filing solely for this purpose,
29 a market equalization surcharge arising from a regular
30 assessment in such account in a percentage equal to the total
31 amount of such regular assessments divided by the aggregate

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1 statewide direct written premium for subject lines of business
 2 for the prior calendar year. Market equalization surcharges
 3 under this subparagraph are not considered premium and are not
 4 subject to commissions, fees, or premium taxes; however,
 5 failure to pay a market equalization surcharge shall be
 6 treated as failure to pay premium.

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

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

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

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1 | procedures shall not provide for an effective date of coverage
2 | later than the date of the closing of the transfer as
3 | established by the transferor, the transferee, and, if
4 | applicable, the lender.

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

26 | 15. Must provide that the corporation appoint as its
27 | licensed agents only those agents who also hold an appointment
28 | as defined in s. 626.015(3) with an insurer who at the time of
29 | the agent's initial appointment by the corporation is
30 | authorized to write and is actually writing personal lines
31 | residential property coverage, commercial residential property

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1 coverage, or commercial nonresidential property coverage
2 within the state.

3 (d)1. It is the intent of the Legislature that the
4 rates for coverage provided by the corporation be actuarially
5 sound and not competitive with approved rates charged in the
6 admitted voluntary market, so that the corporation functions
7 as a residual market mechanism to provide insurance only when
8 the insurance cannot be procured in the voluntary market.
9 Rates shall include an appropriate catastrophe loading factor
10 that reflects the actual catastrophic exposure of the
11 corporation.

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

25 3. Rates for personal lines residential wind-only
26 policies must be actuarially sound and not competitive with
27 approved rates charged by authorized insurers. ~~However, for~~
28 ~~personal lines residential wind-only policies issued or~~
29 ~~renewed between July 1, 2002, and June 30, 2003, the maximum~~
30 ~~premium increase must be no greater than 10 percent of the~~
31 ~~Florida Windstorm Underwriting Association premium for that~~

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1 ~~policy in effect on June 30, 2002, as adjusted for coverage~~
 2 ~~changes and seasonal occupancy surcharges. For personal lines~~
 3 ~~residential wind only policies issued or renewed between July~~
 4 ~~1, 2003, and June 30, 2004, the corporation shall use its~~
 5 ~~existing filed and approved wind only rating and~~
 6 ~~classification plans, provided, however, that the maximum~~
 7 ~~premium increase must be no greater than 20 percent of the~~
 8 ~~premium for that policy in effect on June 30, 2003, as~~
 9 ~~adjusted for coverage changes and seasonal occupancy~~
 10 ~~surcharges. Corporation rate manuals shall include a rate~~
 11 ~~surcharge for seasonal occupancy. To ensure that personal~~
 12 ~~lines residential wind-only rates effective on or after July~~
 13 ~~1, 2004, are not competitive with approved rates charged by~~
 14 ~~authorized insurers, the corporation, in conjunction with the~~
 15 ~~office, shall develop a wind-only ratemaking methodology,~~
 16 ~~which methodology shall be contained in each a rate filing~~
 17 ~~made by the corporation with the office by January 1, 2004. If~~
 18 ~~the office thereafter determines that the wind-only rates or~~
 19 ~~rating factors filed by the corporation fail to comply with~~
 20 ~~the wind-only ratemaking methodology provided for in this~~
 21 ~~subsection, it shall so notify the corporation and require the~~
 22 ~~corporation to amend its rates or rating factors to come into~~
 23 ~~compliance within 90 days of notice from the office. The~~
 24 ~~office shall report to the Speaker of the House of~~
 25 ~~Representatives and the President of the Senate on the~~
 26 ~~provisions of the wind-only ratemaking methodology by January~~
 27 ~~31, 2004.~~

28 4. The provisions of subparagraph 2. do not apply to
 29 coverage provided by the corporation in any county for which
 30 the office determines that a reasonable degree of competition
 31 does not exist for personal lines residential policies. The

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1 provisions of subparagraph 3. do not apply to coverage
2 provided by the corporation in any county for which the office
3 determines that a reasonable degree of competition does not
4 exist for personal lines residential policies in the area of
5 that county which is eligible for wind-only coverage. In such
6 counties, the rates for personal lines residential coverage
7 shall be actuarially sound and not excessive, inadequate, or
8 unfairly discriminatory and are subject to the other
9 provisions of this paragraph and s. 627.062. The commission
10 may adopt rules establishing the criteria for determining
11 whether a reasonable degree of competition exists for personal
12 lines residential policies. Beginning October 1, 2005, and
13 each 6 months thereafter, the office shall determine and
14 identify those counties for which a reasonable degree of
15 competition does not exist for purposes of subparagraphs 2.
16 and 3., respectively.

17 5.4. 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 6.5. Nothing in this paragraph shall require or allow
22 the corporation to adopt a rate that is inadequate under s.
23 627.062.

24 7.6. 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 ~~8.7.~~ 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 ~~9.8.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 10.9. ~~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, other than take-out
 4 bonuses or payments to insurers, and may adopt a credit
 5 against assessment liability or other liability that provides
 6 an incentive for insurers to take risks out of the corporation
 7 and to keep risks out of the corporation by maintaining or
 8 increasing voluntary writings in counties or areas in which
 9 corporation risks are highly concentrated and a program to
 10 provide a formula under which an insurer voluntarily taking
 11 risks out of the corporation by maintaining or increasing
 12 voluntary writings will be relieved wholly or partially from
 13 assessments under sub-subparagraphs (b)3.a. and b. When the
 14 corporation enters into a contractual agreement for a take-out
 15 plan, the producing agent of record of the corporation policy
 16 is entitled to retain any unearned commission on such policy,
 17 and the insurer shall either:

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

23 (II) 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 insurer's
 26 usual and customary commission for the type of policy written.
 27 If the producing agent is unwilling or unable to accept
 28 appointment by the new insurer, the new insurer shall pay the
 29 agent in accordance with sub-sub-subparagraph (I).

30 b. Any credit or exemption from regular assessments
 31 adopted under this subparagraph shall last no longer than the

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

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

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

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

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

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

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

12 (2) The Chief Financial Officer shall appoint an
13 advisory committee composed of two representatives of insurers
14 currently selling personal lines residential property
15 insurance coverage, two representatives of property and
16 casualty agents, two representatives of consumers, two
17 representatives of the Commissioner of Insurance Regulation,
18 and the Insurance Consumer Advocate or her or his designee.
19 The Chief Financial Officer or her or his designee shall serve
20 as chair of the committee. The committee shall develop policy
21 language for coverage that represents general industry
22 standards in the market for comprehensive coverage under
23 personal lines residential insurance policies and shall
24 develop a checklist to be used with each type of personal
25 lines residential property insurance policy. The committee
26 shall review policies and related forms written by Insurance
27 Services Office, Inc. The committee shall file a report
28 containing its recommendations to the office by January 1,
29 2006.

30 (3) If the Commissioner of Insurance Regulation
31 accepts the recommendations of the committee, the commissioner

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1 shall issue an order approving standard personal lines
2 residential insurance policies and a checklist for each type
3 of personal lines residential insurance policy.

4 (4) Within 12 months after the effective date of the
5 order, each insurer offering similar coverage shall offer the
6 standard plan in addition to other products it is authorized
7 to offer. This does not preclude insurers from underwriting
8 risks to determine eligibility of an applicant in accordance
9 with the insurer's underwriting guidelines.

10 (5) After approval of the standard policies, the
11 commissioner may make modifications to a policy which he or
12 she finds appropriate as market conditions change and loss
13 experience is determined for standard policies that have been
14 issued. The commissioner may determine that modifications are
15 necessary if he or she finds that any of the standard policies
16 are providing coverage that is significantly different than
17 what the market has available. Modifications shall be made by
18 order of the commissioner.

19 (6) The Financial Services Commission may adopt rules
20 to administer this section.

21 (7) For purposes of this section, personal lines
22 residential property insurance includes homeowners', dwelling,
23 and condominium unit owners' insurance.

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

26 627.411 Grounds for disapproval.--

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

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

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1 (b) Contains or incorporates by reference, where such
 2 incorporation is otherwise permissible, any inconsistent,
 3 ambiguous, or misleading clauses, or exceptions and conditions
 4 which deceptively affect the risk purported to be assumed in
 5 the general coverage of the contract.

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

8 (d) Is printed or otherwise reproduced in such manner
 9 as to render any material provision of the form substantially
 10 illegible.

11 (e) Contains provisions that are unfair or inequitable
 12 or contrary to the public policy of this state or that
 13 encourage misrepresentation.

14 (f)(e) Is for health insurance, and:

15 1. Provides benefits that are unreasonable in relation
 16 to the premium charged; or

17 ~~2. Contains provisions that are unfair or inequitable~~
 18 ~~or contrary to the public policy of this state or that~~
 19 ~~encourage misrepresentation;~~

20 ~~2.3.~~ Contains provisions that apply rating practices
 21 that result in unfair discrimination pursuant to s.
 22 626.9541(1)(g)2.

23 (g)(f) Excludes coverage for human immunodeficiency
 24 virus infection or acquired immune deficiency syndrome or
 25 contains limitations in the benefits payable, or in the terms
 26 or conditions of such contract, for human immunodeficiency
 27 virus infection or acquired immune deficiency syndrome which
 28 are different than those which apply to any other sickness or
 29 medical condition.

30 Section 10. Effective January 1, 2006, subsection
 31 627.4143, Florida Statutes, is amended to read:

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1 627.4143 Outline of coverage.--

2 (1) No private passenger automobile or basic
3 homeowner's policy shall be delivered or issued for delivery
4 in this state unless an appropriate outline of coverage has
5 been delivered prior to issuance of the policy or accompanies
6 the policy when issued.

7 (2) The outline of coverage for a private passenger
8 motor vehicle insurance policy shall contain all of the
9 following:

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

14 (b) A summary statement of the principal exclusions
15 and limitations or reductions contained in the policy by class
16 or type, including, but not limited to, deductibles,
17 coinsurance, and any other limitations or reductions.

18 (c) A summary statement of any renewal or cancellation
19 provisions.

20 (d) A description of the credit or surcharge plan that
21 is being applied. The description may display numerical or
22 alphabetical codes on the declarations page or premium notice
23 to enable the insured to determine the reason or reasons why
24 her or his policy is being surcharged or is receiving a
25 credit.

26 (e) A list of any additional coverage provided through
27 any rider or endorsement which accompanies the policy. The
28 list shall contain a descriptive reference to each additional
29 coverage, rather than solely a reference to a form or code
30 number.

31 (f) ~~For a private passenger motor vehicle insurance~~

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1 ~~policy,~~ The extent of coverage provided to the insured in the
 2 event of collision damage to a rental vehicle rented by the
 3 insured. The proof-of-insurance card required by s. 316.646
 4 must also specify whether rental car coverage is provided, and
 5 may refer to the outline of coverage as to the details or
 6 extent of coverage.

7 (3) A basic homeowners', mobile homeowners', dwelling,
 8 or condominium unit owners' policy may not be delivered or
 9 issued for delivery in this state unless a checklist of
 10 coverage and an appropriate outline of coverage have been
 11 delivered prior to issuance of the policy or accompanies the
 12 policy when issued. Insurers must use the checklists developed
 13 pursuant to s. 627.40951.

14 (a) The checklist must contain a list of the standard
 15 provisions and elements that may typically be included in
 16 these policies, whether or not they are included in the
 17 particular policy being issued, in a format that allows the
 18 insurer to place a check mark next to the provisions elements
 19 that are included so that the consumer can see both what is
 20 included and what is not included in the policy. Limits of
 21 liability shall be listed for each item. The checklist must
 22 include, but is not limited to, the following:

23 1. Covered real property. Items for this category
 24 shall be broader than simply listing "dwelling." It shall
 25 include references to specific property in the category of
 26 attached and unattached structures that may be covered in a
 27 typical policy. It shall include references to whether
 28 coverage for damaged property is based on replacement cost
 29 coverage or actual cash value coverage.

30 2. Primary exclusions from real property coverage
 31 shall be listed after the real property coverage items.

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- 1 3. Personal property coverage.
- 2 4. Primary exclusions from personal property coverage
3 items shall be listed after the personal property coverage.
- 4 5. Personal liability coverage.
- 5 6. Primary exclusions from personal liability coverage
6 shall be listed after the personal liability coverage items.
- 7 7. Medical payments coverage.
- 8 8. Primary discounts that are available.
- 9 9. Hurricane deductibles that are available. The
10 notice to consumers set forth in s. 627.701(3)(c) shall be set
11 forth immediately following the list of deductibles.
- 12 10. References to specific additional property
13 coverage that may be provided through any rider or
14 endorsement. This shall include building ordinance or law
15 coverage, personal injury endorsements, motor vehicle
16 endorsements, jewelry, furs, and communication property
17 endorsements, home business endorsements, and replacement cost
18 endorsement for contents.
- 19 11. Covered perils.
- 20 12. Excluded perils.
- 21 (b) The outline of coverage must contain:
- 22 1. A brief description of the principal benefits and
23 coverage provided in the policy, broken down by each class or
24 type of coverage provided under the policy for which a premium
25 is charged, and itemization of the applicable premium.
- 26 2. A summary statement of the principal exclusions and
27 limitations or reductions contained in the policy by class or
28 type, including, but not limited to, deductibles, coinsurance,
29 and any other limitations or reductions.
- 30 3. A summary statement of any renewal or cancellation
31 provisions.

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

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

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

16 ~~(5)(4)~~ An insurer must insert the following language
 17 on the outline of coverage:
 18
 19 "The following outline of coverage or checklist is for
 20 informational purposes only. Florida law prohibits this
 21 outline or checklist from changing any of the provisions of
 22 the insurance contract which is the subject of this outline.
 23 Any endorsement regarding changes in types of coverage,
 24 exclusions, limitations, reductions, deductibles, coinsurance,
 25 renewal provisions, cancellation provisions, surcharges, or
 26 credits will be sent separately."

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

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1 Section 11. Effective January 1, 2006, subsections
2 (3), (8), and (9) of section 627.701, Florida Statutes, as
3 amended by section 4 of chapter 2004-480, Laws of Florida, are
4 amended to read:

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

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

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

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

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

29 2.3. With respect to a policy covering a risk with
30 dwelling limits of at least \$100,000, but less than \$250,000,
31 the insurer may, in lieu of offering a policy with a \$500

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

6 ~~3.4.~~ With respect to a policy covering a risk with
7 dwelling limits of \$250,000 or more, the insurer need not
8 offer the \$500 hurricane ~~or wind~~ deductible as required by
9 subparagraph 1., but must, except as otherwise provided in
10 this subsection, offer the other 2 percent hurricane
11 deductibles or wind deductible as required by subparagraph 1.

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

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1 or permitted to offer to you. Please read carefully." If this
 2 form is signed by the named insured, it will be conclusively
 3 presumed that there was an informed, knowing selection of the
 4 amount of the deductible. Such notice shall provide for a
 5 means to allow the policyholder or applicant to select the
 6 deductible. The failure to provide such notice constitutes a
 7 violation of this code but does not affect the coverage
 8 provided under the policy.

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

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

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

28 ~~1. The deductible for hurricane coverage may not~~
 29 ~~exceed 10 percent of the property value if the property is not~~
 30 ~~subject to any liens and may not exceed 5 percent of the~~
 31 ~~property value if the property is subject to any liens.~~

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

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

18 Section 12. Effective October 1, 2006, section
19 627.7011, Florida Statutes, is amended to read:

20 627.7011 Homeowners' policies; offer of replacement
21 cost coverage and law and ordinance coverage.--

22 (1) ~~An~~ ~~Prior to issuing a homeowner's insurance policy~~
23 ~~on or after June 1, 1994, or prior to the first renewal of a~~
24 ~~homeowner's insurance policy on or after June 1, 1994, the~~
25 insurer must offer each of the following:

26 (a) A policy or endorsement providing that any loss
27 which is repaired or replaced will be adjusted on the basis of
28 replacement costs not exceeding policy limits as to the
29 dwelling, rather than actual cash value, but not including
30 costs necessary to meet applicable laws regulating the
31 construction, use, or repair of any property or requiring the

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1 tearing down of any property, including the costs of removing
2 debris.

3 (b) A policy or endorsement providing that, subject to
4 other policy provisions, any loss which is repaired or
5 replaced at any location will be adjusted on the basis of
6 replacement costs not exceeding policy limits as to the
7 dwelling, rather than actual cash value, and also including
8 costs necessary to meet applicable laws regulating the
9 construction, use, or repair of any property or requiring the
10 tearing down of any property, including the costs of removing
11 debris; however, such additional costs necessary to meet
12 applicable laws may be limited to 25 percent of the dwelling
13 limit, and such coverage shall apply only to repairs of the
14 damaged portion of the structure unless the total damage to
15 the structure exceeds 50 percent of the replacement cost of
16 the structure.

17
18 An insurer is not required to make the offers required by this
19 subsection with respect to the issuance or renewal of a
20 homeowner's policy that contains the provisions specified in
21 paragraph (b). This subsection does not prohibit the offer of
22 a guaranteed replacement cost policy.

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

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

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

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

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

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1 627.7015 Alternative procedure for resolution of
2 disputed property insurance claims.--

3 (1) PURPOSE AND SCOPE.--This section sets forth a
4 nonadversarial alternative dispute resolution procedure for a
5 mediated claim resolution conference prompted by the need for
6 effective, fair, and timely handling of property insurance
7 claims. There is a particular need for an informal,
8 nonthreatening forum for helping parties who elect this
9 procedure to resolve their claims disputes because most
10 homeowner's and commercial insurance policies obligate
11 insureds to participate in a potentially expensive and
12 time-consuming adversarial appraisal process prior to
13 litigation. The procedure set forth in this section is
14 designed to bring the parties together for a mediated claims
15 settlement conference without any of the trappings or
16 drawbacks of an adversarial process. Before resorting to these
17 procedures, insureds and insurers are encouraged to resolve
18 claims as quickly and fairly as possible. This section is
19 available with respect to claims under personal lines and
20 commercial policies for all claimants and insurers prior to
21 commencing the appraisal process, or commencing litigation. If
22 requested by the insured, participation by legal counsel shall
23 be permitted. Mediation under this section is also available
24 to litigants referred to the department by a county court or
25 circuit court. This section does not apply to ~~commercial~~
26 ~~coverages~~, to private passenger motor vehicle insurance
27 coverages, or to disputes relating to liability coverages in
28 policies of property insurance.

29 (2) At the time a first-party claim within the scope
30 of this section is filed, the insurer shall notify all
31 first-party claimants of their right to participate in the

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1 mediation program under this section. The department shall
 2 prepare a consumer information pamphlet for distribution to
 3 persons participating in mediation under this section.

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

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

16 627.702 Valued policy law.--

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

28 (b) The legislative intent of this subsection is not
 29 to require an insurer to pay for a loss caused by a peril
 30 other than the covered peril. In furtherance of such
 31 legislative intent, when a loss was caused in part by a

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1 covered peril and in part by a noncovered peril, the insurer's
2 liability under this section is limited to the amount of the
3 loss caused by the covered peril.

4 Section 15. Effective October 1, 2005, and applicable
5 to policies issued or renewed on or after that date, section
6 627.711, Florida Statutes, is created to read:

7 627.711 Notice of premium discounts for hurricane loss
8 mitigation.--Before issuing a personal lines residential
9 property insurance policy and as part of each premium renewal
10 notice, the insurer shall provide written notice to the
11 applicant or policyholder, on a form approved by the office,
12 of the availability and amount of the premium discounts and
13 credits for fixtures and construction techniques that reduce
14 the amount of loss in a windstorm, as required by s.
15 627.0629(1). The notice must clearly inform the applicant or
16 policyholder as to what the policyholder must do to qualify
17 for such credits or discounts. The commission may adopt rules
18 to administer this section.

19 Section 16. Section 627.712, Florida Statutes, is
20 created to read:

21 627.712 Timely payment of claims.--

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

24 (a) Pay that portion of the claim for which the
25 policyholder has submitted all information that is required
26 for payment under the terms of the policy;

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

30 (c) Specify, in writing, the additional information
31 that the policyholder must submit to the insurer in order for

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1 any remaining amount of the claim to be paid.

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

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

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

12 Section 17. The Office of the Auditor General shall
13 conduct an operational audit of Citizens Property Insurance
14 Corporation regarding its customer service, claims handling,
15 accessibility of policyholder information to the agent of
16 record, take-out programs, and financing arrangements,
17 including recommendations for legislative changes related to
18 the findings of the audit.

19 Section 18. Section 627.3511, Florida Statutes, is
20 repealed.

21 Section 19. The amendment to section 627.702, Florida
22 Statutes, contained in this act is remedial in nature and
23 intended to clarify the intent of that section.

24 Section 20. The sum of \$350,000 is appropriated from
25 the Insurance Regulatory Trust Fund and four additional
26 full-time equivalent positions are authorized in the Office of
27 the Consumer Advocate within the Department of Financial
28 Services for the 2005-2006 fiscal year.

29 Section 21. Except as otherwise expressly provided in
30 this act, this act shall take effect upon becoming a law.

31

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

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

7 An act relating to property insurance; amending

8 s. 215.555, F.S.; revising the retention of

9 losses for which an insurer is not entitled to

10 reimbursement from the Florida Hurricane

11 Catastrophe Fund; amending s. 215.559, F.S.;

12 revising the allocation of funds appropriated

13 to the Department of Community Affairs from the

14 Florida Hurricane Catastrophe Fund for the

15 Hurricane Loss Mitigation Program; requiring

16 that the department establish a low-interest

17 loan program for hurricane loss mitigation;

18 authorizing contractual agreements between the

19 department and financial institutions, subject

20 to approval by the Office of Financial

21 Regulation; amending s. 627.062, F.S.;

22 requiring the Financial Services Commission to

23 adopt rules establishing uniform rating

24 territories to be used by insurers for

25 residential property insurance rate filings;

26 limiting the recoupment by an insurer in its

27 rates of the reimbursement premium it pays to

28 the Florida Hurricane Catastrophe Fund;

29 repealing provisions allowing an insurer to

30 submit a rate filing to an arbitration panel;

31 amending s. 627.0628, F.S.; restricting the

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1 admissibility and relevance in rate proceedings
2 of findings of the Florida Commission on
3 Hurricane Loss Projection Methodology; amending
4 s. 627.0629, F.S.; lowering the percentage
5 amount of a rate filing based on a computer
6 model which requires a public hearing; creating
7 s. 627.06291, F.S.; requiring residential
8 property insurance and rating and advisory
9 organizations to report hurricane loss data for
10 development of a public hurricane model;
11 amending s. 627.351, F.S.; limiting the
12 coverage limits for dwellings insured by
13 Citizens Property Insurance Corporation;
14 revising the appointments to the board and the
15 approval of officers and employees of the
16 corporation; specifying the level of
17 reinsurance that the board of the corporation
18 should make its best efforts to procure;
19 revising the criteria and standards for
20 establishing the rates charged for coverage by
21 the corporation; eliminating the corporation's
22 authority to pay take-out bonuses to insurers;
23 creating s. 627.40951, F.S.; providing
24 legislative findings and intent; providing for
25 an advisory committee; providing for
26 membership; providing authority for the Office
27 of Insurance Regulation to require standard
28 residential property insurance policies;
29 amending s. 627.411, F.S.; adding grounds for
30 which the Office of Insurance Regulation must
31 disapprove a form filed by an insurer; amending

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1 s. 627.4143, F.S.; requiring insurers to
2 provide personal lines property insurance
3 policyholders with a checklist of items
4 contained in policies; prescribing elements to
5 be contained in the checklist; requiring the
6 checklist and outline of insurance coverage to
7 be sent with each renewal; clarifying that
8 homeowners' insurance includes mobile
9 homeowners', dwelling, and condominium unit
10 owners' insurance for purposes of the outline
11 of coverage; amending s. 627.701, F.S.;
12 increasing the maximum allowable hurricane
13 deductible for personal lines and certain
14 commercial lines residential policies;
15 requiring insurers to offer specified hurricane
16 deductibles for such policies; requiring
17 insurers to provide written notice explaining
18 hurricane deductible options for such policies;
19 amending s. 627.7011, F.S.; requiring insurers
20 to pay the replacement cost for a loss insured
21 on that basis, whether or not the insured
22 replaces or repairs the dwelling or property;
23 amending s. 627.7015, F.S.; including
24 commercial policies within the mediation
25 procedures for resolution of disputed property
26 insurance claims; providing a penalty for an
27 insurer that fails to notify a claimant of the
28 availability of the mediation program; amending
29 s. 627.702, F.S.; providing legislative intent
30 regarding the requirement that an insurer pay
31 policy limits if there is a total loss of a

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1 building; creating s. 627.711, F.S.; requiring
2 insurers to provide written notice to
3 applicants and policyholders of the amount of
4 the premium discounts and credits for fixtures
5 and construction techniques that reduce the
6 amount of windstorm loss; authorizing the
7 Financial Services Commission to adopt rules;
8 creating s. 627.712, F.S.; requiring property
9 insurers to pay or deny claims within certain
10 time periods; providing that overdue payments
11 bear interest; requiring the Office of the
12 Auditor General to conduct an operational audit
13 of Citizens Property Insurance Corporation;
14 repealing s. 627.3511, F.S., relating to
15 payment of take-out bonuses and other financial
16 incentives to insurers taking policies out of
17 Citizens Property Insurance Corporation;
18 providing that the amendment to s. 627.702,
19 F.S., is intended to be remedial and clarifying
20 in nature; providing appropriations; providing
21 effective dates.

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