

Bill No. SB 1488

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Proposed Committee Substitute by the Committee on Banking and Insurance

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A bill to be entitled
An act relating to property insurance; amending
s. 215.555, F.S.; revising the retention of
losses for which an insurer is not entitled to
reimbursement from the Florida Hurricane
Catastrophe Fund; amending s. 215.559, F.S.;
revising the allocation of funds appropriated
to the Department of Community Affairs from the
Florida Hurricane Catastrophe Fund for the
Hurricane Loss Mitigation Program; requiring
that the department establish a low-interest
loan program for hurricane loss mitigation;
authorizing contractual agreements between the
department and financial institutions, subject
to approval by the Department of Financial
Services and the Office of Financial
Regulation; authorizing the Department of
Community Affairs to adopt rules; amending s.
627.062, F.S.; requiring the Financial Services
Commission to adopt rules establishing uniform
rating territories to be used by insurers for
residential property insurance rate filings;
limiting the recoupment by an insurer in its
rates of the reimbursement premium it pays to
the Florida Hurricane Catastrophe Fund;
repealing provisions allowing an insurer to
submit a rate filing to an arbitration panel;
amending s. 627.0628, F.S.; restricting the
admissibility and relevance in rate proceedings
of findings of the Florida Commission on
Hurricane Loss Projection Methodology; amending

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1 s. 627.0629, F.S.; lowering the percentage
2 amount of a rate filing based on a computer
3 model which requires a public hearing; creating
4 s. 627.06291, F.S.; requiring residential
5 property insurance and rating and advisory
6 organizations to report hurricane loss data for
7 development of a public hurricane model for
8 hurricane loss projections; amending s.
9 627.351, F.S.; limiting the coverage limits for
10 dwellings insured by Citizens Property
11 Insurance Corporation; revising the
12 appointments to the board and the approval of
13 officers and employees of the corporation;
14 specifying the level of reinsurance that the
15 board of the corporation should make its best
16 efforts to procure; revising the criteria and
17 standards for establishing the rates charged
18 for coverage by the corporation; eliminating
19 the corporation's authority to pay take-out
20 bonuses to insurers; creating s. 627.40951,
21 F.S.; providing legislative findings and
22 intent; providing for an advisory committee;
23 providing for membership; providing authority
24 for the Office of Insurance Regulation to
25 require standard residential property insurance
26 policies; amending s. 627.411, F.S.; adding
27 grounds for which the Office of Insurance
28 Regulation must disapprove a form filed by an
29 insurer; amending s. 627.4143, F.S.; requiring
30 insurers to provide personal lines property
31 insurance policyholders with a checklist of

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1 items contained in policies; prescribing
2 elements to be contained in the checklist;
3 requiring the checklist and outline of
4 insurance coverage to be sent with each
5 renewal; clarifying that homeowners' insurance
6 includes mobile homeowners', dwelling, and
7 condominium unit owners' insurance for purposes
8 of the outline of coverage; amending s.
9 627.701, F.S.; increasing the maximum allowable
10 hurricane deductible for personal lines and
11 certain commercial lines residential policies;
12 requiring insurers to offer specified hurricane
13 deductibles for such policies; requiring
14 insurers to provide written notice explaining
15 hurricane deductible options for such policies;
16 amending s. 627.7011, F.S.; requiring insurers
17 to pay the replacement cost for a loss insured
18 on that basis, whether or not the insured
19 replaces or repairs the dwelling or property;
20 amending s. 627.7015, F.S.; including
21 commercial policies within the mediation
22 procedures for resolution of disputed property
23 insurance claims; providing a penalty for an
24 insurer that fails to notify a claimant of the
25 availability of the mediation program; amending
26 s. 627.702, F.S.; providing legislative intent
27 regarding the requirement that an insurer pay
28 policy limits if there is a total loss of a
29 building; creating s. 627.711, F.S.; requiring
30 insurers to provide written notice to
31 applicants and policyholders of the amount of

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

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Effective June 1, 2005, paragraph (e) of
 24 subsection (2) of section 215.555, Florida Statutes, is
 25 amended to read:

26 215.555 Florida Hurricane Catastrophe Fund.--

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

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

31 1. The board shall calculate and report to each

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

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

24 3. An insurer shall determine its provisional
25 retention by multiplying its provisional reimbursement premium
26 by the applicable adjusted retention multiple and shall
27 determine its actual retention by multiplying its actual
28 reimbursement premium by the applicable adjusted retention
29 multiple.

30 4. For insurers who experience multiple covered events
31 causing loss during the contract year, beginning June 1, 2005,

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1 each insurer's full retention shall be applied to each of the
2 covered events causing the two largest losses for that
3 insurer. For each other covered event resulting in losses, the
4 insurer's retention shall be reduced to one-third of the full
5 retention. The reimbursement contract shall provide for the
6 reimbursement of losses for each covered event based on the
7 full retention with adjustments made to reflect the reduced
8 retentions after January 1 of the contract year provided the
9 insurer reports its losses as specified in the reimbursement
10 contract.

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

13 215.559 Hurricane Loss Mitigation Program.--

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

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

27 (b) Three million dollars in funds provided in
28 subsection (1) shall be used to retrofit existing facilities
29 used as public hurricane shelters. The department must
30 prioritize the use of these funds for projects included in the
31 September 1, 2000, version of the Shelter Retrofit Report

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1 prepared in accordance with s. 252.385(3), and each annual
2 report thereafter. The department must give funding priority
3 to projects in regional planning council regions that have
4 shelter deficits and to projects that maximize use of state
5 funds.

6 (3) The department shall establish a low-interest loan
7 program for homeowners and mobile homeowners to retrofit their
8 homes with fixtures or construction techniques demonstrated to
9 reduce the amount of damage or loss due to a hurricane. The
10 department may use up to \$3 million of the funds appropriated
11 pursuant to paragraph (2)(a) to subsidize or guaranty loans
12 for this purpose made by state or federally chartered
13 financial institutions, pursuant to contractual agreements
14 with such institutions, as approved by the Department of
15 Financial Services and the Office of Financial Regulation. The
16 Department of Community Affairs shall establish the
17 qualifications and limitations for such loans and approve such
18 other terms and conditions of the loan agreements in
19 consultation with the Department of Financial Services and the
20 Office of Financial Regulation. The obligations of the state
21 for any loan guaranty or subsidy is limited to the amount
22 appropriated for this purpose. The Department of Community
23 Affairs may begin the low-interest loan program as a pilot
24 project in a single county or multiple counties and may adopt
25 rules to administer this program. ~~Forty percent of the total~~
26 ~~appropriation in paragraph (2)(a) shall be used to inspect and~~
27 ~~improve tie-downs for mobile homes. Within 30 days after the~~
28 ~~effective date of that appropriation, the department shall~~
29 ~~contract with a public higher educational institution in this~~
30 ~~state which has previous experience in administering the~~
31 ~~programs set forth in this subsection to serve as the~~

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1 ~~administrative entity and fiscal agent pursuant to s. 216.346~~
2 ~~for the purpose of administering the programs set forth in~~
3 ~~this subsection in accordance with established policy and~~
4 ~~procedures. The administrative entity working with the~~
5 ~~advisory council set up under subsection (5) shall develop a~~
6 ~~list of mobile home parks and counties that may be eligible to~~
7 ~~participate in the tie-down program.~~

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

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

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1 Manufactured Housing Association.

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

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

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

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

18 627.062 Rate standards.--

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

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1 shall be adopted by January 1, 2006, and may specify such
2 future date or dates when insurers must use the standard
3 rating territories in their residential property insurance
4 rate filings.

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

18 ~~(6) (a) After any action with respect to a rate filing~~
19 ~~that constitutes agency action for purposes of the~~
20 ~~Administrative Procedure Act, except for a rate filing for~~
21 ~~medical malpractice, an insurer may, in lieu of demanding a~~
22 ~~hearing under s. 120.57, require arbitration of the rate~~
23 ~~filing. Arbitration shall be conducted by a board of~~
24 ~~arbitrators consisting of an arbitrator selected by the~~
25 ~~office, an arbitrator selected by the insurer, and an~~
26 ~~arbitrator selected jointly by the other two arbitrators. Each~~
27 ~~arbitrator must be certified by the American Arbitration~~
28 ~~Association. A decision is valid only upon the affirmative~~
29 ~~vote of at least two of the arbitrators. No arbitrator may be~~
30 ~~an employee of any insurance regulator or regulatory body or~~
31 ~~of any insurer, regardless of whether or not the employing~~

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1 ~~insurer does business in this state. The office and the~~
2 ~~insurer must treat the decision of the arbitrators as the~~
3 ~~final approval of a rate filing. Costs of arbitration shall be~~
4 ~~paid by the insurer.~~

5 ~~(b) Arbitration under this subsection shall be~~
6 ~~conducted pursuant to the procedures specified in ss.~~
7 ~~682.06-682.10. Either party may apply to the circuit court to~~
8 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~
9 ~~682.14. The commission shall adopt rules for arbitration under~~
10 ~~this subsection, which rules may not be inconsistent with the~~
11 ~~arbitration rules of the American Arbitration Association as~~
12 ~~of January 1, 1996.~~

13 ~~(c) Upon initiation of the arbitration process, the~~
14 ~~insurer waives all rights to challenge the action of the~~
15 ~~office under the Administrative Procedure Act or any other~~
16 ~~provision of law; however, such rights are restored to the~~
17 ~~insurer if the arbitrators fail to render a decision within 90~~
18 ~~days after initiation of the arbitration process.~~

19 ~~(6)(7)(a)~~ (a) The provisions of this subsection apply only
20 with respect to rates for medical malpractice insurance and
21 shall control to the extent of any conflict with other
22 provisions of this section.

23 (b) Any portion of a judgment entered or settlement
24 paid as a result of a statutory or common-law bad faith action
25 and any portion of a judgment entered which awards punitive
26 damages against an insurer may not be included in the
27 insurer's rate base, and shall not be used to justify a rate
28 or rate change. Any common-law bad faith action identified as
29 such, any portion of a settlement entered as a result of a
30 statutory or common-law action, or any portion of a settlement
31 wherein an insurer agrees to pay specific punitive damages may

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1 not be used to justify a rate or rate change. The portion of
2 the taxable costs and attorney's fees which is identified as
3 being related to the bad faith and punitive damages in these
4 judgments and settlements may not be included in the insurer's
5 rate base and may not be utilized to justify a rate or rate
6 change.

7 (c) Upon reviewing a rate filing and determining
8 whether the rate is excessive, inadequate, or unfairly
9 discriminatory, the office shall consider, in accordance with
10 generally accepted and reasonable actuarial techniques, past
11 and present prospective loss experience, either using loss
12 experience solely for this state or giving greater credibility
13 to this state's loss data after applying actuarially sound
14 methods of assigning credibility to such data.

15 (d) Rates shall be deemed excessive if, among other
16 standards established by this section, the rate structure
17 provides for replenishment of reserves or surpluses from
18 premiums when the replenishment is attributable to investment
19 losses.

20 (e) The insurer must apply a discount or surcharge
21 based on the health care provider's loss experience or shall
22 establish an alternative method giving due consideration to
23 the provider's loss experience. The insurer must include in
24 the filing a copy of the surcharge or discount schedule or a
25 description of the alternative method used, and must provide a
26 copy of such schedule or description, as approved by the
27 office, to policyholders at the time of renewal and to
28 prospective policyholders at the time of application for
29 coverage.

30 (f) Each medical malpractice insurer must make a rate
31 filing under this section, sworn to by at least two executive

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1 officers of the insurer, at least once each calendar year.

2 ~~(7)~~(8)(a)1. No later than 60 days after the effective
3 date of medical malpractice legislation enacted during the
4 2003 Special Session D of the Florida Legislature, the office
5 shall calculate a presumed factor that reflects the impact
6 that the changes contained in such legislation will have on
7 rates for medical malpractice insurance and shall issue a
8 notice informing all insurers writing medical malpractice
9 coverage of such presumed factor. In determining the presumed
10 factor, the office shall use generally accepted actuarial
11 techniques and standards provided in this section in
12 determining the expected impact on losses, expenses, and
13 investment income of the insurer. To the extent that the
14 operation of a provision of medical malpractice legislation
15 enacted during the 2003 Special Session D of the Florida
16 Legislature is stayed pending a constitutional challenge, the
17 impact of that provision shall not be included in the
18 calculation of a presumed factor under this subparagraph.

19 2. No later than 60 days after the office issues its
20 notice of the presumed rate change factor under subparagraph
21 1., each insurer writing medical malpractice coverage in this
22 state shall submit to the office a rate filing for medical
23 malpractice insurance, which will take effect no later than
24 January 1, 2004, and apply retroactively to policies issued or
25 renewed on or after the effective date of medical malpractice
26 legislation enacted during the 2003 Special Session D of the
27 Florida Legislature. Except as authorized under paragraph (b),
28 the filing shall reflect an overall rate reduction at least as
29 great as the presumed factor determined under subparagraph 1.
30 With respect to policies issued on or after the effective date
31 of such legislation and prior to the effective date of the

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1 rate filing required by this subsection, the office shall
2 order the insurer to make a refund of the amount that was
3 charged in excess of the rate that is approved.

4 (b) Any insurer or rating organization that contends
5 that the rate provided for in paragraph (a) is excessive,
6 inadequate, or unfairly discriminatory shall separately state
7 in its filing the rate it contends is appropriate and shall
8 state with specificity the factors or data that it contends
9 should be considered in order to produce such appropriate
10 rate. The insurer or rating organization shall be permitted to
11 use all of the generally accepted actuarial techniques
12 provided in this section in making any filing pursuant to this
13 subsection. The office shall review each such exception and
14 approve or disapprove it prior to use. It shall be the
15 insurer's burden to actuarially justify any deviations from
16 the rates required to be filed under paragraph (a). The
17 insurer making a filing under this paragraph shall include in
18 the filing the expected impact of medical malpractice
19 legislation enacted during the 2003 Special Session D of the
20 Florida Legislature on losses, expenses, and rates.

21 (c) If any provision of medical malpractice
22 legislation enacted during the 2003 Special Session D of the
23 Florida Legislature is held invalid by a court of competent
24 jurisdiction, the office shall permit an adjustment of all
25 medical malpractice rates filed under this section to reflect
26 the impact of such holding on such rates so as to ensure that
27 the rates are not excessive, inadequate, or unfairly
28 discriminatory.

29 (d) Rates approved on or before July 1, 2003, for
30 medical malpractice insurance shall remain in effect until the
31 effective date of a new rate filing approved under this

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1 subsection.

2 (e) The calculation and notice by the office of the
3 presumed factor pursuant to paragraph (a) is not an order or
4 rule that is subject to chapter 120. If the office enters into
5 a contract with an independent consultant to assist the office
6 in calculating the presumed factor, such contract shall not be
7 subject to the competitive solicitation requirements of s.
8 287.057.

9 Section 4. Paragraph (c) of subsection (1) and
10 paragraph (c) of subsection (3) of section 627.0628, Florida
11 Statutes, are amended to read:

12 627.0628 Florida Commission on Hurricane Loss
13 Projection Methodology.--

14 (1) LEGISLATIVE FINDINGS AND INTENT.--

15 (c) It is the intent of the Legislature to create the
16 Florida Commission on Hurricane Loss Projection Methodology as
17 a panel of experts to provide the most actuarially
18 sophisticated guidelines and standards for projection of
19 hurricane losses possible, given the current state of
20 actuarial science. It is the further intent of the Legislature
21 that such standards and guidelines must be used by the State
22 Board of Administration in developing reimbursement premium
23 rates for the Florida Hurricane Catastrophe Fund, and, subject
24 to paragraph (3)(c), may be used by insurers in rate filings
25 under s. 627.062 unless the way in which such standards and
26 guidelines were applied by the insurer was erroneous, as shown
27 by a preponderance of the evidence.

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

29 (c) With respect to a rate filing under s. 627.062, an
30 insurer may employ actuarial methods, principles, standards,
31 models, or output ranges found by the commission to be

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1 accurate or reliable to determine hurricane loss factors for
2 use in a rate filing under s. 627.062. ~~Such, which~~ findings
3 and factors are admissible and relevant in consideration of a
4 rate filing by the office or in any ~~arbitration or~~
5 administrative or judicial review only if the office and the
6 consumer advocate appointed pursuant to s. 627.0613 have
7 access to all of the assumptions and factors that were used in
8 developing the actuarial methods, principles, standards,
9 models, or output ranges, and are not precluded from
10 disclosing such information in a rate proceeding.

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

13 627.0629 Residential property insurance; rate
14 filings.--

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

18 Section 6. Section 627.06291, Florida Statutes, is
19 created to read:

20 627.06291 Reports of hurricane loss data for the
21 public hurricane model.--Residential property insurers and
22 licensed rating and advisory organizations that compile loss
23 data concerning residential property insurance shall report
24 residential hurricane loss data and associated exposure data,
25 within such time and in such manner as specified by the
26 office, to the office or to a type I center at a state
27 university under contract with the office, for the purpose of
28 developing, maintaining, and updating a public hurricane model
29 for hurricane loss projections.

30 Section 7. Effective August 1, 2005, paragraphs (c),
31 (d), and (g) of subsection (6) of section 627.351, Florida

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1 Statutes, are amended to read:

2 627.351 Insurance risk apportionment plans.--

3 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

5 1. Must provide for adoption of residential property
6 and casualty insurance policy forms and commercial residential
7 and nonresidential property insurance forms, which forms must
8 be approved by the office prior to use. The corporation shall
9 adopt the following policy forms:

10 a. Standard personal lines policy forms that are
11 comprehensive multiperil policies providing full coverage of a
12 residential property equivalent to the coverage provided in
13 the private insurance market under an HO-3, HO-4, or HO-6
14 policy.

15 b. Basic personal lines policy forms that are policies
16 similar to an HO-8 policy or a dwelling fire policy that
17 provide coverage meeting the requirements of the secondary
18 mortgage market, but which coverage is more limited than the
19 coverage under a standard policy.

20 c. Commercial lines residential policy forms that are
21 generally similar to the basic perils of full coverage
22 obtainable for commercial residential structures in the
23 admitted voluntary market.

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

29 e. Commercial lines nonresidential property insurance
30 forms that cover the peril of wind only. The forms are
31 applicable only to nonresidential properties located in areas

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1 eligible for coverage under the high-risk account referred to
2 in sub-subparagraph (b)2.a.

3

4 The dwelling limits for any personal lines policy in both the
5 personal lines account and the high-risk account may not
6 exceed \$1 million. Residential structures valued in excess of
7 \$1 million are not eligible for coverage from the corporation.

8 2.a. Must provide that the corporation adopt a program
9 in which the corporation and authorized insurers enter into
10 quota share primary insurance agreements for hurricane
11 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
12 and adopt property insurance forms for eligible risks which
13 cover the peril of wind only. As used in this subsection, the
14 term:

15 (I) "Quota share primary insurance" means an
16 arrangement in which the primary hurricane coverage of an
17 eligible risk is provided in specified percentages by the
18 corporation and an authorized insurer. The corporation and
19 authorized insurer are each solely responsible for a specified
20 percentage of hurricane coverage of an eligible risk as set
21 forth in a quota share primary insurance agreement between the
22 corporation and an authorized insurer and the insurance
23 contract. The responsibility of the corporation or authorized
24 insurer to pay its specified percentage of hurricane losses of
25 an eligible risk, as set forth in the quota share primary
26 insurance agreement, may not be altered by the inability of
27 the other party to the agreement to pay its specified
28 percentage of hurricane losses. Eligible risks that are
29 provided hurricane coverage through a quota share primary
30 insurance arrangement must be provided policy forms that set
31 forth the obligations of the corporation and authorized

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1 insurer under the arrangement, clearly specify the percentages
2 of quota share primary insurance provided by the corporation
3 and authorized insurer, and conspicuously and clearly state
4 that neither the authorized insurer nor the corporation may be
5 held responsible beyond its specified percentage of coverage
6 of hurricane losses.

7 (II) "Eligible risks" means personal lines residential
8 and commercial lines residential risks that meet the
9 underwriting criteria of the corporation and are located in
10 areas that were eligible for coverage by the Florida Windstorm
11 Underwriting Association on January 1, 2002.

12 b. The corporation may enter into quota share primary
13 insurance agreements with authorized insurers at corporation
14 coverage levels of 90 percent and 50 percent.

15 c. If the corporation determines that additional
16 coverage levels are necessary to maximize participation in
17 quota share primary insurance agreements by authorized
18 insurers, the corporation may establish additional coverage
19 levels. However, the corporation's quota share primary
20 insurance coverage level may not exceed 90 percent.

21 d. Any quota share primary insurance agreement entered
22 into between an authorized insurer and the corporation must
23 provide for a uniform specified percentage of coverage of
24 hurricane losses, by county or territory as set forth by the
25 corporation board, for all eligible risks of the authorized
26 insurer covered under the quota share primary insurance
27 agreement.

28 e. Any quota share primary insurance agreement entered
29 into between an authorized insurer and the corporation is
30 subject to review and approval by the office. However, such
31 agreement shall be authorized only as to insurance contracts

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1 entered into between an authorized insurer and an insured who
2 is already insured by the corporation for wind coverage.

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

15 g. The corporation board shall establish in its plan
16 of operation standards for quota share agreements which ensure
17 that there is no discriminatory application among insurers as
18 to the terms of quota share agreements, pricing of quota share
19 agreements, incentive provisions if any, and consideration
20 paid for servicing policies or adjusting claims.

21 h. The quota share primary insurance agreement between
22 the corporation and an authorized insurer must set forth the
23 specific terms under which coverage is provided, including,
24 but not limited to, the sale and servicing of policies issued
25 under the agreement by the insurance agent of the authorized
26 insurer producing the business, the reporting of information
27 concerning eligible risks, the payment of premium to the
28 corporation, and arrangements for the adjustment and payment
29 of hurricane claims incurred on eligible risks by the claims
30 adjuster and personnel of the authorized insurer. Entering
31 into a quota sharing insurance agreement between the

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1 corporation and an authorized insurer shall be voluntary and
2 at the discretion of the authorized insurer.

3 3. May provide that the corporation may employ or
4 otherwise contract with individuals or other entities to
5 provide administrative or professional services that may be
6 appropriate to effectuate the plan. The corporation shall have
7 the power to borrow funds, by issuing bonds or by incurring
8 other indebtedness, and shall have other powers reasonably
9 necessary to effectuate the requirements of this subsection.
10 The corporation may, but is not required to, seek judicial
11 validation of its bonds or other indebtedness under chapter
12 75. The corporation may issue bonds or incur other
13 indebtedness, or have bonds issued on its behalf by a unit of
14 local government pursuant to subparagraph (g)2., in the
15 absence of a hurricane or other weather-related event, upon a
16 determination by the corporation, subject to approval by the
17 office, that such action would enable it to efficiently meet
18 the financial obligations of the corporation and that such
19 financings are reasonably necessary to effectuate the
20 requirements of this subsection. The corporation is authorized
21 to take all actions needed to facilitate tax-free status for
22 any such bonds or indebtedness, including formation of trusts
23 or other affiliated entities. The corporation shall have the
24 authority to pledge assessments, projected recoveries from the
25 Florida Hurricane Catastrophe Fund, other reinsurance
26 recoverables, market equalization and other surcharges, and
27 other funds available to the corporation as security for bonds
28 or other indebtedness. In recognition of s. 10, Art. I of the
29 State Constitution, prohibiting the impairment of obligations
30 of contracts, it is the intent of the Legislature that no
31 action be taken whose purpose is to impair any bond indenture

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1 or financing agreement or any revenue source committed by
2 contract to such bond or other indebtedness.

3 4. Must require that the corporation operate subject
4 to the supervision and approval of a board of governors
5 consisting of 8 ~~7~~ individuals who are residents of this state,
6 from different geographical areas of this state, ~~appointed by~~
7 ~~the Chief Financial Officer. The Governor, the Chief Financial~~
8 ~~Officer, the President of the Senate, and the Speaker of the~~
9 ~~House of Representatives shall each appoint two members of the~~
10 ~~board, effective August 1, 2005.~~ The Chief Financial Officer
11 shall designate one of the appointees as chair. All board
12 members serve at the pleasure of the appointing officer ~~Chief~~
13 ~~Financial Officer~~. All board members, including the chair,
14 must be appointed to serve for 3-year terms beginning annually
15 on a date designated by the plan. Any board vacancy shall be
16 filled for the unexpired term by the appointing officer ~~Chief~~
17 ~~Financial Officer~~. The Chief Financial Officer shall appoint a
18 technical advisory group to provide information and advice to
19 the board of governors in connection with the board's duties
20 under this subsection. The executive director and senior
21 managers of the corporation shall be engaged by the board, as
22 recommended by the Chief Financial Officer and serve at the
23 pleasure of the board ~~Chief Financial Officer~~. The executive
24 director is responsible for employing other staff as the
25 corporation may require, subject to review and concurrence by
26 the board and ~~office of~~ the Chief Financial Officer.

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

29 a. Subject to the provisions of s. 627.3517, with
30 respect to personal lines residential risks, if the risk is
31 offered coverage from an authorized insurer at the insurer's

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1 approved rate under either a standard policy including wind
2 coverage or, if consistent with the insurer's underwriting
3 rules as filed with the office, a basic policy including wind
4 coverage, the risk is not eligible for any policy issued by
5 the corporation. If the risk is not able to obtain any such
6 offer, the risk is eligible for either a standard policy
7 including wind coverage or a basic policy including wind
8 coverage issued by the corporation; however, if the risk could
9 not be insured under a standard policy including wind coverage
10 regardless of market conditions, the risk shall be eligible
11 for a basic policy including wind coverage unless rejected
12 under subparagraph 8. The corporation shall determine the type
13 of policy to be provided on the basis of objective standards
14 specified in the underwriting manual and based on generally
15 accepted underwriting practices.

16 (I) If the risk accepts an offer of coverage through
17 the market assistance plan or an offer of coverage through a
18 mechanism established by the corporation before a policy is
19 issued to the risk by the corporation or during the first 30
20 days of coverage by the corporation, and the producing agent
21 who submitted the application to the plan or to the
22 corporation is not currently appointed by the insurer, the
23 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 b. With respect to commercial lines residential risks,
26 if the risk is offered coverage under a policy including wind
27 coverage from an authorized insurer at its approved rate, the
28 risk is not eligible for any policy issued by the corporation.
29 If the risk is not able to obtain any such offer, the risk is
30 eligible for a policy including wind coverage issued by the
31 corporation.

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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 the corporation
7 is not currently appointed by the insurer, the insurer shall:

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

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

18

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

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

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

31 (B) Offer to allow the producing agent of record of

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

5

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

9 6. Must include rules for classifications of risks and
10 rates therefor.

11 7. Must provide that if premium and investment income
12 for an account attributable to a particular calendar year are
13 in excess of projected losses and expenses for the account
14 attributable to that year, such excess shall be held in
15 surplus in the account. Such surplus shall be available to
16 defray deficits in that account as to future years and shall
17 be used for that purpose prior to assessing assessable
18 insurers and assessable insureds as to any calendar year.

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

24 a. Whether the likelihood of a loss for the individual
25 risk is substantially higher than for other risks of the same
26 class; and

27 b. Whether the uncertainty associated with the
28 individual risk is such that an appropriate premium cannot be
29 determined.

30

31 The acceptance or rejection of a risk by the corporation shall

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

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

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

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

27 12. Corporation policies and applications must include
28 a notice that the corporation policy could, under this
29 section, be replaced with a policy issued by an authorized
30 insurer that does not provide coverage identical to the
31 coverage provided by the corporation. The notice shall also

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1 specify that acceptance of corporation coverage creates a
2 conclusive presumption that the applicant or policyholder is
3 aware of this potential.

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

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

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1 apportionment company shall collect from its policyholders any
2 emergency assessment imposed under sub-subparagraph (b)3.d.
3 The plan shall provide that, if the office determines that any
4 regular assessment will result in an impairment of the surplus
5 of a limited apportionment company, the office may direct that
6 all or part of such assessment be deferred as provided in
7 subparagraph (g)4. However, there shall be no limitation or
8 deferment of an emergency assessment to be collected from
9 policyholders under sub-subparagraph (b)3.d.

10 15. Must provide that the corporation appoint as its
11 licensed agents only those agents who also hold an appointment
12 as defined in s. 626.015(3) with an insurer who at the time of
13 the agent's initial appointment by the corporation is
14 authorized to write and is actually writing personal lines
15 residential property coverage, commercial residential property
16 coverage, or commercial nonresidential property coverage
17 within the state.

18 (d)1. It is the intent of the Legislature that the
19 rates for coverage provided by the corporation be actuarially
20 sound and not competitive with approved rates charged in the
21 admitted voluntary market, so that the corporation functions
22 as a residual market mechanism to provide insurance only when
23 the insurance cannot be procured in the voluntary market.
24 Rates shall include an appropriate catastrophe loading factor
25 that reflects the actual catastrophic exposure of the
26 corporation.

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

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

9 3. Rates for personal lines residential wind-only
10 policies must be actuarially sound and not competitive with
11 approved rates charged by authorized insurers. ~~However, for~~
12 ~~personal lines residential wind-only policies issued or~~
13 ~~renewed between July 1, 2002, and June 30, 2003, the maximum~~
14 ~~premium increase must be no greater than 10 percent of the~~
15 ~~Florida Windstorm Underwriting Association premium for that~~
16 ~~policy in effect on June 30, 2002, as adjusted for coverage~~
17 ~~changes and seasonal occupancy surcharges. For personal lines~~
18 ~~residential wind-only policies issued or renewed between July~~
19 ~~1, 2003, and June 30, 2004, the corporation shall use its~~
20 ~~existing filed and approved wind-only rating and~~
21 ~~classification plans, provided, however, that the maximum~~
22 ~~premium increase must be no greater than 20 percent of the~~
23 ~~premium for that policy in effect on June 30, 2003, as~~
24 ~~adjusted for coverage changes and seasonal occupancy~~
25 ~~surcharges.~~ Corporation rate manuals shall include a rate
26 surcharge for seasonal occupancy. To ensure that personal
27 lines residential wind-only rates ~~effective on or after July~~
28 ~~1, 2004,~~ are not competitive with approved rates charged by
29 authorized insurers, the corporation, in conjunction with the
30 office, shall develop a wind-only ratemaking methodology,
31 which methodology shall be contained in each a rate filing

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1 made by the corporation with the office ~~by January 1, 2004~~. If
2 the office ~~thereafter~~ determines that the wind-only rates or
3 rating factors filed by the corporation fail to comply with
4 the wind-only ratemaking methodology provided for in this
5 subsection, it shall so notify the corporation and require the
6 corporation to amend its rates or rating factors to come into
7 compliance within 90 days of notice from the office. ~~The~~
8 ~~office shall report to the Speaker of the House of~~
9 ~~Representatives and the President of the Senate on the~~
10 ~~provisions of the wind-only ratemaking methodology by January~~
11 ~~31, 2004.~~

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

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1 ~~5.4.~~ Rates for commercial lines coverage shall not be
2 subject to the requirements of subparagraph 2., but shall be
3 subject to all other requirements of this paragraph and s.
4 627.062.

5 ~~6.5.~~ Nothing in this paragraph shall require or allow
6 the corporation to adopt a rate that is inadequate under s.
7 627.062.

8 ~~7.6.~~ The corporation shall certify to the office at
9 least twice annually that its personal lines rates comply with
10 the requirements of this paragraph ~~subparagraphs 1. and 2.~~ If
11 any adjustment in the rates or rating factors of the
12 corporation is necessary to ensure such compliance, the
13 corporation shall make and implement such adjustments and file
14 its revised rates and rating factors with the office. If the
15 office thereafter determines that the revised rates and rating
16 factors fail to comply with the provisions of this paragraph
17 ~~subparagraphs 1. and 2.~~, it shall notify the corporation and
18 require the corporation to amend its rates or rating factors
19 in conjunction with its next rate filing. The office must
20 notify the corporation by electronic means of any rate filing
21 it approves for any insurer among the insurers referred to in
22 subparagraph 2.

23 ~~8.7.~~ In addition to the rates otherwise determined
24 pursuant to this paragraph, the corporation shall impose and
25 collect an amount equal to the premium tax provided for in s.
26 624.509 to augment the financial resources of the corporation.

27 ~~9.8.a.~~ To assist the corporation in developing
28 additional ratemaking methods to assure compliance with this
29 paragraph ~~subparagraphs 1. and 4.~~, the corporation shall
30 appoint a rate methodology panel consisting of one person
31 recommended by the Florida Association of Insurance Agents,

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1 one person recommended by the Professional Insurance Agents of
2 Florida, one person recommended by the Florida Association of
3 Insurance and Financial Advisors, one person recommended by
4 the insurer with the highest voluntary market share of
5 residential property insurance business in the state, one
6 person recommended by the insurer with the second-highest
7 voluntary market share of residential property insurance
8 business in the state, one person recommended by an insurer
9 writing commercial residential property insurance in this
10 state, one person recommended by the Office of Insurance
11 Regulation, and one board member designated by the board
12 chairman, who shall serve as chairman of the panel.

13 ~~b. By January 1, 2004, the rate methodology panel~~
14 ~~shall provide a report to the corporation of its findings and~~
15 ~~recommendations for the use of additional ratemaking methods~~
16 ~~and procedures, including the use of a rate equalization~~
17 ~~surcharge in an amount sufficient to assure that the total~~
18 ~~cost of coverage for policyholders or applicants to the~~
19 ~~corporation is sufficient to comply with subparagraph 1.~~

20 ~~c. Within 30 days after such report, the corporation~~
21 ~~shall present to the President of the Senate, the Speaker of~~
22 ~~the House of Representatives, the minority party leaders of~~
23 ~~each house of the Legislature, and the chairs of the standing~~
24 ~~committees of each house of the Legislature having~~
25 ~~jurisdiction of insurance issues, a plan for implementing the~~
26 ~~additional ratemaking methods and an outline of any~~
27 ~~legislation needed to facilitate use of the new methods.~~

28 ~~d. The plan must include a provision that producer~~
29 ~~commissions paid by the corporation shall not be calculated in~~
30 ~~such a manner as to include any rate equalization surcharge.~~
31 ~~However, without regard to the plan to be developed or its~~

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1 ~~implementation, producer commissions paid by the corporation~~
2 ~~for each account, other than the quota share primary program,~~
3 ~~shall remain fixed as to percentage, effective rate,~~
4 ~~calculation, and payment method until January 1, 2004.~~

5 10.9. ~~By January 1, 2004,~~ The corporation shall
6 develop a notice to policyholders or applicants that the rates
7 of Citizens Property Insurance Corporation are intended to be
8 higher than the rates of any admitted carrier and providing
9 other information the corporation deems necessary to assist
10 consumers in finding other voluntary admitted insurers willing
11 to insure their property.

12 (g)1. The corporation shall certify to the office its
13 needs for annual assessments as to a particular calendar year,
14 and for any interim assessments that it deems to be necessary
15 to sustain operations as to a particular year pending the
16 receipt of annual assessments. Upon verification, the office
17 shall approve such certification, and the corporation shall
18 levy such annual or interim assessments. Such assessments
19 shall be prorated as provided in paragraph (b). The
20 corporation shall take all reasonable and prudent steps
21 necessary to collect the amount of assessment due from each
22 assessable insurer, including, if prudent, filing suit to
23 collect such assessment. If the corporation is unable to
24 collect an assessment from any assessable insurer, the
25 uncollected assessments shall be levied as an additional
26 assessment against the assessable insurers and any assessable
27 insurer required to pay an additional assessment as a result
28 of such failure to pay shall have a cause of action against
29 such nonpaying assessable insurer. Assessments shall be
30 included as an appropriate factor in the making of rates. The
31 failure of a surplus lines agent to collect and remit any

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1 regular or emergency assessment levied by the corporation is
2 considered to be a violation of s. 626.936 and subjects the
3 surplus lines agent to the penalties provided in that section.

4 2. The governing body of any unit of local government,
5 any residents of which are insured by the corporation, may
6 issue bonds as defined in s. 125.013 or s. 166.101 from time
7 to time to fund an assistance program, in conjunction with the
8 corporation, for the purpose of defraying deficits of the
9 corporation. In order to avoid needless and indiscriminate
10 proliferation, duplication, and fragmentation of such
11 assistance programs, any unit of local government, any
12 residents of which are insured by the corporation, may provide
13 for the payment of losses, regardless of whether or not the
14 losses occurred within or outside of the territorial
15 jurisdiction of the local government. Revenue bonds under this
16 subparagraph may not be issued until validated pursuant to
17 chapter 75, unless a state of emergency is declared by
18 executive order or proclamation of the Governor pursuant to s.
19 252.36 making such findings as are necessary to determine that
20 it is in the best interests of, and necessary for, the
21 protection of the public health, safety, and general welfare
22 of residents of this state and declaring it an essential
23 public purpose to permit certain municipalities or counties to
24 issue such bonds as will permit relief to claimants and
25 policyholders of the corporation. Any such unit of local
26 government may enter into such contracts with the corporation
27 and with any other entity created pursuant to this subsection
28 as are necessary to carry out this paragraph. Any bonds issued
29 under this subparagraph shall be payable from and secured by
30 moneys received by the corporation from emergency assessments
31 under sub-subparagraph (b)3.d., and assigned and pledged to or

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1 on behalf of the unit of local government for the benefit of
2 the holders of such bonds. The funds, credit, property, and
3 taxing power of the state or of the unit of local government
4 shall not be pledged for the payment of such bonds. If any of
5 the bonds remain unsold 60 days after issuance, the office
6 shall require all insurers subject to assessment to purchase
7 the bonds, which shall be treated as admitted assets; each
8 insurer shall be required to purchase that percentage of the
9 unsold portion of the bond issue that equals the insurer's
10 relative share of assessment liability under this subsection.
11 An insurer shall not be required to purchase the bonds to the
12 extent that the office determines that the purchase would
13 endanger or impair the solvency of the insurer.

14 3.a. The corporation shall adopt one or more programs
15 subject to approval by the office for the reduction of both
16 new and renewal writings in the corporation. The corporation
17 may consider any prudent and not unfairly discriminatory
18 approach to reducing corporation writings, other than take-out
19 bonuses or payments to insurers, and may adopt a credit
20 against assessment liability or other liability that provides
21 an incentive for insurers to take risks out of the corporation
22 and to keep risks out of the corporation by maintaining or
23 increasing voluntary writings in counties or areas in which
24 corporation risks are highly concentrated and a program to
25 provide a formula under which an insurer voluntarily taking
26 risks out of the corporation by maintaining or increasing
27 voluntary writings will be relieved wholly or partially from
28 assessments under sub-subparagraphs (b)3.a. and b. When the
29 corporation enters into a contractual agreement for a take-out
30 plan, the producing agent of record of the corporation policy
31 is entitled to retain any unearned commission on such policy,

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1 and the insurer shall either:

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

7 (II) Offer to allow the producing agent of record of
8 the policy to continue servicing the policy for a period of
9 not less than 1 year and offer to pay the agent the insurer's
10 usual and customary commission for the type of policy written.
11 If the producing agent is unwilling or unable to accept
12 appointment by the new insurer, the new insurer shall pay the
13 agent in accordance with sub-sub-subparagraph (I).

14 b. Any credit or exemption from regular assessments
15 adopted under this subparagraph shall last no longer than the
16 3 years following the cancellation or expiration of the policy
17 by the corporation. With the approval of the office, the board
18 may extend such credits for an additional year if the insurer
19 guarantees an additional year of renewability for all policies
20 removed from the corporation, or for 2 additional years if the
21 insurer guarantees 2 additional years of renewability for all
22 policies so removed.

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

26 4. The plan shall provide for the deferment, in whole
27 or in part, of the assessment of an assessable insurer, other
28 than an emergency assessment collected from policyholders
29 pursuant to sub-subparagraph (b)3.d., if the office finds that
30 payment of the assessment would endanger or impair the
31 solvency of the insurer. In the event an assessment against an

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1 assessable insurer is deferred in whole or in part, the amount
2 by which such assessment is deferred may be assessed against
3 the other assessable insurers in a manner consistent with the
4 basis for assessments set forth in paragraph (b).

5 Section 8. Section 627.40951, Florida Statutes, is
6 created to read:

7 627.40951 Standard personal lines residential
8 insurance policy.--

9 (1) The Legislature finds that many consumers who
10 filed property loss claims as a result of the hurricanes that
11 struck this state in 2004 were inadequately insured due to the
12 difficulty consumers encounter in trying to understand the
13 complex nature of property insurance policies. The purpose and
14 intent of this section is to have property and casualty
15 insurers offer standard personal lines residential property
16 insurance policies and standard checklists of policy contents,
17 in accordance with s. 627.4143, to consumers and to ensure
18 that these policies and checklists are written in a simple
19 format with easily readable language that will enable most
20 consumers to understand the principal benefits and coverage
21 provided in the policy; the principal exclusions and
22 limitations or reductions contained in the policy, including,
23 but not limited to, deductibles, coinsurance, and any other
24 limitations or reductions; and any additional coverage
25 provided through any rider or endorsement that accompanies the
26 policy and renewal or cancellation provisions.

27 (2) The Chief Financial Officer shall appoint an
28 advisory committee composed of two representatives of insurers
29 currently selling personal lines residential property
30 insurance coverage, two representatives of property and
31 casualty agents, two representatives of consumers, two

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1 representatives of the Commissioner of Insurance Regulation,
2 and the Insurance Consumer Advocate or her or his designee.
3 The Chief Financial Officer or her or his designee shall serve
4 as chair of the committee. The committee shall develop policy
5 language for coverage that represents general industry
6 standards in the market for comprehensive coverage under
7 personal lines residential insurance policies and shall
8 develop a checklist to be used with each type of personal
9 lines residential property insurance policy. The committee
10 shall review policies and related forms written by Insurance
11 Services Office, Inc. The committee shall file a report
12 containing its recommendations to the office by January 1,
13 2006.

14 (3) If the Commissioner of Insurance Regulation
15 accepts the recommendations of the committee, the commissioner
16 shall issue an order approving standard personal lines
17 residential insurance policies and a checklist for each type
18 of personal lines residential insurance policy.

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

25 (5) After approval of the standard policies, the
26 commissioner may make modifications to a policy which he or
27 she finds appropriate as market conditions change and loss
28 experience is determined for standard policies that have been
29 issued. The commissioner may determine that modifications are
30 necessary if he or she finds that any of the standard policies
31 are providing coverage that is significantly different than

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1 what the market has available. Modifications shall be made by
2 order of the commissioner.

3 (6) The Financial Services Commission may adopt rules
4 to administer this section.

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

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

10 627.411 Grounds for disapproval.--

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

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

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

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

23 (d) Is printed or otherwise reproduced in such manner
24 as to render any material provision of the form substantially
25 illegible.

26 (e) Contains provisions that are unfair or inequitable
27 or contrary to the public policy of this state or that
28 encourage misrepresentation.

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

30 1. Provides benefits that are unreasonable in relation
31 to the premium charged; or

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1 ~~2. Contains provisions that are unfair or inequitable~~
 2 ~~or contrary to the public policy of this state or that~~
 3 ~~encourage misrepresentation,~~

4 ~~2.3.~~ Contains provisions that apply rating practices
 5 that result in unfair discrimination pursuant to s.
 6 626.9541(1)(g)2.

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

14 Section 10. Effective January 1, 2006, subsection
 15 627.4143, Florida Statutes, is amended to read:

16 627.4143 Outline of coverage.--

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

22 (2) The outline of coverage for a private passenger
 23 motor vehicle insurance policy shall contain all of the
 24 following:

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

29 (b) A summary statement of the principal exclusions
 30 and limitations or reductions contained in the policy by class
 31 or type, including, but not limited to, deductibles,

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1 coinsurance, and any other limitations or reductions.

2 (c) A summary statement of any renewal or cancellation
3 provisions.

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

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

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

22 (3) A basic homeowners', mobile homeowners', dwelling,
23 or condominium unit owners' policy may not be delivered or
24 issued for delivery in this state unless a checklist of
25 coverage and an appropriate outline of coverage have been
26 delivered prior to issuance of the policy or accompanies the
27 policy when issued. Insurers must use the checklists developed
28 pursuant to s. 627.40951.

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

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1 particular policy being issued, in a format that allows the
2 insurer to place a check mark next to the provisions elements
3 that are included so that the consumer can see both what is
4 included and what is not included in the policy. Limits of
5 liability shall be listed for each item. The checklist must
6 include, but is not limited to, the following:

7 1. Covered real property. Items for this category
8 shall be broader than simply listing "dwelling." It shall
9 include references to specific property in the category of
10 attached and unattached structures that may be covered in a
11 typical policy. It shall include references to whether
12 coverage for damaged property is based on replacement cost
13 coverage or actual cash value coverage.

14 2. Primary exclusions from real property coverage
15 shall be listed after the real property coverage items.

16 3. Personal property coverage.

17 4. Primary exclusions from personal property coverage
18 items shall be listed after the personal property coverage.

19 5. Personal liability coverage.

20 6. Primary exclusions from personal liability coverage
21 shall be listed after the personal liability coverage items.

22 7. Medical payments coverage.

23 8. Primary discounts that are available.

24 9. Hurricane deductibles that are available. The
25 notice to consumers set forth in s. 627.701(3)(c) shall be set
26 forth immediately following the list of deductibles.

27 10. References to specific additional property
28 coverage that may be provided through any rider or
29 endorsement. This shall include building ordinance or law
30 coverage, personal injury endorsements, motor vehicle
31 endorsements, jewelry, furs, and communication property

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1 endorsements, home business endorsements, and replacement cost
2 endorsement for contents.

3 11. Covered perils.

4 12. Excluded perils.

5 (b) The outline of coverage must contain:

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

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

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

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

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

24 (4)(3) The outline of coverage for a private passenger
25 motor vehicle policy is required only on the initial policy
26 issued by an insurer. The outline of coverage and the
27 checklist for a basic homeowners', mobile homeowners',
28 dwelling, or condominium unit owners' policy is required on
29 the initial policy and each renewal thereof issued by an
30 insurer.

31 (5)(4) An insurer must insert the following language

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1 on the outline of coverage:

2

3 "The following outline of coverage or checklist is for
4 informational purposes only. Florida law prohibits this
5 outline or checklist from changing any of the provisions of
6 the insurance contract which is the subject of this outline.
7 Any endorsement regarding changes in types of coverage,
8 exclusions, limitations, reductions, deductibles, coinsurance,
9 renewal provisions, cancellation provisions, surcharges, or
10 credits will be sent separately."

11

12 (6)(5) Neither this section nor the outline of
13 coverage or checklist mandated by this section alters or
14 modifies the terms of the insurance contract, creates a cause
15 of action, or is admissible in any civil action.

16 Section 11. Effective January 1, 2006, subsections
17 (3), (8), and (9) of section 627.701, Florida Statutes, as
18 amended by section 4 of chapter 2004-480, Laws of Florida, are
19 amended to read:

20 627.701 Liability of insureds; coinsurance;
21 deductibles.--

22 (3)(a) A policy of residential property insurance
23 shall include a deductible amount applicable to hurricane ~~or~~
24 ~~wind~~ losses no lower than \$500 and no higher than 2 percent of
25 the policy dwelling limits with respect to personal lines
26 residential risks, and no higher than 3 percent of the policy
27 limits with respect to commercial lines residential risks;
28 however, if a risk was covered on August 24, 1992, under a
29 policy having a higher deductible than the deductibles allowed
30 by this paragraph, a policy covering such risk may include a
31 deductible no higher than the deductible in effect on August

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

20 (b)1. Except as otherwise provided in this paragraph,
21 prior to issuing a personal lines residential property
22 insurance policy on or after January 1, 2006 ~~April 1, 1996~~, or
23 prior to the first renewal of a residential property insurance
24 policy on or after January 1, 2006 ~~April 1, 1996~~, the insurer
25 must offer alternative deductible amounts applicable to
26 hurricane ~~or wind~~ losses equal to \$500, 1 percent, and 2
27 percent, 5 percent, and 10 percent of the policy dwelling
28 limits, unless the specific percentage ~~2 percent~~ deductible is
29 less than \$500. ~~The written notice of the offer shall specify~~
30 ~~the hurricane or wind deductible to be applied in the event~~
31 ~~that the applicant or policyholder fails to affirmatively~~

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1 ~~choose a hurricane deductible. The insurer must provide such~~
2 ~~policyholder with notice of the availability of the deductible~~
3 ~~amounts specified in this paragraph in a form approved by the~~
4 ~~office in conjunction with each renewal of the policy. The~~
5 ~~failure to provide such notice constitutes a violation of this~~
6 ~~code but does not affect the coverage provided under the~~
7 ~~policy.~~

8 ~~2. This paragraph does not apply with respect to a~~
9 ~~deductible program lawfully in effect on June 14, 1995, or to~~
10 ~~any similar deductible program, if the deductible program~~
11 ~~requires a minimum deductible amount of no less than 2 percent~~
12 ~~of the policy limits.~~

13 ~~2.3.~~ With respect to a policy covering a risk with
14 dwelling limits of at least \$100,000, but less than \$250,000,
15 the insurer may, in lieu of offering a policy with a \$500
16 hurricane or wind deductible as required by subparagraph 1.,
17 offer a policy that the insurer guarantees it will not
18 nonrenew for reasons of reducing hurricane loss for one
19 renewal period and that contains up to a 2 percent hurricane
20 or wind deductible as required by subparagraph 1.

21 ~~3.4.~~ With respect to a policy covering a risk with
22 dwelling limits of \$250,000 or more, the insurer need not
23 offer the \$500 hurricane ~~or wind~~ deductible as required by
24 subparagraph 1., but must, except as otherwise provided in
25 this subsection, offer the other ~~2 percent~~ hurricane
26 deductibles ~~or wind deductible~~ as required by subparagraph 1.

27 (c) Before issuing a personal lines residential
28 property insurance policy and before each renewal thereof, an
29 insurer must provide each policyholder and applicant with a
30 notice of the availability of the deductible amounts that
31 insurers are required to offer and any other deductible that

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1 the insurer chooses to offer which is not prohibited by this
2 section. The notice shall be on a form approved by the office.
3 The form shall fully advise the policyholder or applicant of
4 the nature of the deductible, including the fact that higher
5 deductibles result in lower premiums but will also result in
6 higher out-of-pocket expenses to the policyholder in the event
7 of a hurricane damage claim. For each percentage deductible
8 available to the policyholder or applicant, the form shall
9 include the dollar amount of the deduction which will result
10 from application of the percentage deductible. The heading of
11 the form shall be in 12-point bold type and shall state: "You
12 are required by Florida law to choose a deductible that will
13 apply to any claims that you may have with your insurer as a
14 result of damage to your residence by a hurricane. This form
15 explains the deductible options that your insurer is required
16 or permitted to offer to you. Please read carefully." If this
17 form is signed by the named insured, it will be conclusively
18 presumed that there was an informed, knowing selection of the
19 amount of the deductible. Such notice shall provide for a
20 means to allow the policyholder or applicant to select the
21 deductible. The failure to provide such notice constitutes a
22 violation of this code but does not affect the coverage
23 provided under the policy.

24 ~~(c) In order to provide for the transition from wind~~
25 ~~deductibles to hurricane deductibles as required by this~~
26 ~~subsection, an insurer is required to provide wind deductibles~~
27 ~~meeting the requirements of this subsection until the~~
28 ~~effective date of the insurer's first rate filing made after~~
29 ~~January 1, 1997, and is thereafter required to provide~~
30 ~~hurricane deductibles meeting the requirements of this~~
31 ~~subsection.~~

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1 ~~(8) (a) The Legislature finds that property insurance~~
2 ~~coverage has become unaffordable for a significant number of~~
3 ~~mobile home owners, as evidenced by reports that up to 100,000~~
4 ~~mobile home owners have terminated their insurance coverage~~
5 ~~because they cannot afford to pay approved rates charged in~~
6 ~~the voluntary or residual markets. The Legislature further~~
7 ~~finds that additional flexibility in available coverages will~~
8 ~~enable mobile home owners to obtain affordable insurance and~~
9 ~~increase capacity.~~

10 ~~(b) Notwithstanding the provisions of subsection (3),~~
11 ~~with respect to mobile home policies.~~

12 ~~1. The deductible for hurricane coverage may not~~
13 ~~exceed 10 percent of the property value if the property is not~~
14 ~~subject to any liens and may not exceed 5 percent of the~~
15 ~~property value if the property is subject to any liens.~~

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

18 ~~(8) (9)~~ Notwithstanding the other provisions of this
19 section or of other law, but only as to hurricane coverage as
20 defined in s. 627.4025 for commercial lines residential
21 coverages, an insurer may offer a deductible in an amount not
22 exceeding 5 percent of the insured value with respect to a
23 condominium association or cooperative association policy, or
24 in an amount not exceeding 10 percent of the insured value
25 with respect to any other commercial lines residential policy,
26 if, at the time of such offer and at each renewal, the insurer
27 also offers to the policyholder a deductible in the amount of
28 3 percent of the insured value. Nothing in this subsection
29 prohibits any deductible otherwise authorized by this section.
30 All forms by which the offers authorized in this subsection
31 are made or required to be made shall be on forms that are

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1 adopted or approved by the commission or office.

2 Section 12. Effective October 1, 2006, section
3 627.7011, Florida Statutes, is amended to read:

4 627.7011 Homeowners' policies; offer of replacement
5 cost coverage and law and ordinance coverage.--

6 (1) ~~An~~ ~~Prior to issuing a homeowner's insurance policy~~
7 ~~on or after June 1, 1994, or prior to the first renewal of a~~
8 ~~homeowner's insurance policy on or after June 1, 1994, the~~
9 insurer must offer each of the following:

10 (a) A policy or endorsement providing that any loss
11 which is repaired or replaced will be adjusted on the basis of
12 replacement costs not exceeding policy limits as to the
13 dwelling, rather than actual cash value, but not including
14 costs necessary to meet applicable laws regulating the
15 construction, use, or repair of any property or requiring the
16 tearing down of any property, including the costs of removing
17 debris.

18 (b) A policy or endorsement providing that, subject to
19 other policy provisions, any loss which is repaired or
20 replaced at any location will be adjusted on the basis of
21 replacement costs not exceeding policy limits as to the
22 dwelling, rather than actual cash value, and also including
23 costs necessary to meet applicable laws regulating the
24 construction, use, or repair of any property or requiring the
25 tearing down of any property, including the costs of removing
26 debris; however, such additional costs necessary to meet
27 applicable laws may be limited to 25 percent of the dwelling
28 limit, and such coverage shall apply only to repairs of the
29 damaged portion of the structure unless the total damage to
30 the structure exceeds 50 percent of the replacement cost of
31 the structure.

1

2 An insurer is not required to make the offers required by this
3 subsection with respect to the issuance or renewal of a
4 homeowner's policy that contains the provisions specified in
5 paragraph (b). This subsection does not prohibit the offer of
6 a guaranteed replacement cost policy.

7 (2) Unless the insurer obtains the policyholder's
8 written refusal of the policies or endorsements specified in
9 subsection (1), any policy covering the dwelling is deemed to
10 include the coverage specified in paragraph (1)(b). The
11 rejection or selection of alternative coverage shall be made
12 on a form approved by the office. The form shall fully advise
13 the applicant of the nature of the coverage being rejected. If
14 this form is signed by a named insured, it will be
15 conclusively presumed that there was an informed, knowing
16 rejection of the coverage or election of the alternative
17 coverage on behalf of all insureds. Unless the policyholder
18 requests in writing the coverage specified in this section, it
19 need not be provided in or supplemental to any other policy
20 that renews, insures, extends, changes, supersedes, or
21 replaces an existing policy when the policyholder has rejected
22 the coverage specified in this section or has selected
23 alternative coverage. The insurer must provide such
24 policyholder with notice of the availability of such coverage
25 in a form approved by the office at least once every 3 years.
26 The failure to provide such notice constitutes a violation of
27 this code, but does not affect the coverage provided under the
28 policy.

29 (3) In the event of a loss for which a dwelling or
30 personal property is insured on the basis of replacement
31 costs, the insurer shall pay the replacement cost without

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1 reservation or holdback of any depreciation in value, whether
2 or not the insured replaces or repairs the dwelling or
3 property.

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

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

16 627.7015 Alternative procedure for resolution of
17 disputed property insurance claims.--

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

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1 | procedures, insureds and insurers are encouraged to resolve
2 | claims as quickly and fairly as possible. This section is
3 | available with respect to claims under personal lines and
4 | commercial policies for all claimants and insurers prior to
5 | commencing the appraisal process, or commencing litigation. If
6 | requested by the insured, participation by legal counsel shall
7 | be permitted. Mediation under this section is also available
8 | to litigants referred to the department by a county court or
9 | circuit court. This section does not apply to ~~commercial~~
10 | ~~coverages~~, to private passenger motor vehicle insurance
11 | coverages, or to disputes relating to liability coverages in
12 | policies of property insurance.

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

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

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

31 | 627.702 Valued policy law.--

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1 (1)(a) In the event of the total loss of any building,
2 structure, mobile home as defined in s. 320.01(2), or
3 manufactured building as defined in s. 553.36(12), located in
4 this state and insured by any insurer as to a covered peril,
5 in the absence of any change increasing the risk without the
6 insurer's consent and in the absence of fraudulent or criminal
7 fault on the part of the insured or one acting in her or his
8 behalf, the insurer's liability, if any, under the policy for
9 such total loss shall be in the amount of money for which such
10 property was so insured as specified in the policy and for
11 which a premium has been charged and paid.

12 (b) The legislative intent of this subsection is not
13 to require an insurer to pay for a loss caused by a peril
14 other than the covered peril. In furtherance of such
15 legislative intent, when a loss was caused in part by a
16 covered peril and in part by a noncovered peril, the insurer's
17 liability under this section is limited to the amount of the
18 loss caused by the covered peril.

19 Section 15. Effective October 1, 2005, and applicable
20 to policies issued or renewed on or after that date, section
21 627.711, Florida Statutes, is created to read:

22 627.711 Notice of premium discounts for hurricane loss
23 mitigation.--Before issuing a personal lines residential
24 property insurance policy and as part of each premium renewal
25 notice, the insurer shall provide written notice to the
26 applicant or policyholder, on a form approved by the office,
27 of the availability and amount of the premium discounts and
28 credits for fixtures and construction techniques that reduce
29 the amount of loss in a windstorm, as required by s.
30 627.0629(1). The notice must clearly inform the applicant or
31 policyholder as to what the policyholder must do to qualify

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1 for such credits or discounts. The commission may adopt rules
2 to administer this section.

3 Section 16. Section 627.712, Florida Statutes, is
4 created to read:

5 627.712 Timely payment of claims.--

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

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

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

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

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

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

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

27 Section 17. By January 15, 2006, the Office of the
28 Auditor General shall conduct an operational audit of Citizens
29 Property Insurance Corporation regarding its customer service,
30 claims handling, accessibility of policyholder information to
31 the agent of record, take-out programs, and financing

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1 arrangements, including recommendations for legislative
2 changes related to the findings of the audit.

3 Section 18. Section 627.3511, Florida Statutes, is
4 repealed.

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

8 Section 20. For the 2005-2006 fiscal year, there is
9 appropriated \$350,000 in recurring funds from the Insurance
10 Regulatory Trust Fund and four positions are authorized to the
11 Office of the Consumer Advocate within the Department of
12 Financial Services for the purposes provided in section
13 627.0613, Florida Statutes.

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

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