

By the Committees on General Government Appropriations;
Banking and Insurance; and Senators Garcia and Klein

601-2244-05

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

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

2 lowering the percentage amount of a rate filing

3 based on a computer model which requires a

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

5 requiring residential property insurance and

6 rating and advisory organizations to report

7 hurricane loss data for development of a public

8 hurricane model for hurricane loss projections;

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

10 appointments to the board and the approval of

11 officers and employees of the corporation;

12 creating a Market Accountability Advisory

13 Committee to assist the corporation in

14 developing awareness of its rates and service

15 levels; providing for membership of the

16 committee; providing terms of office; requiring

17 the committee to report to the corporation at

18 each board meeting; revising the criteria and

19 standards for establishing the rates charged

20 for coverage by the corporation; providing that

21 rates may not be increased by more than a

22 specified percentage; creating s. 627.40951,

23 F.S.; providing legislative findings and

24 intent; providing for an advisory committee;

25 providing for membership; providing for

26 recommendations to be submitted to the

27 Legislature regarding standard residential

28 property insurance policies; amending s.

29 627.411, F.S.; adding grounds for which the

30 Office of Insurance Regulation must disapprove

31 a form filed by an insurer; amending s.

1 627.4133, F.S.; prohibiting insurers from
2 canceling or nonrenewing residential property
3 insurance policies under certain emergency
4 circumstances; providing exceptions; providing
5 notice requirements; providing application to
6 personal residential and commercial residential
7 policies covering certain damaged property;
8 amending s. 627.4143, F.S.; requiring insurers
9 to provide personal lines property insurance
10 policyholders with a checklist of items
11 contained in policies; authorizing the
12 Financial Services Commission to adopt rules;
13 prescribing elements to be contained in the
14 checklist; requiring the checklist and outline
15 of insurance coverage to be sent with each
16 renewal; clarifying that homeowners' insurance
17 includes mobile homeowners', dwelling, and
18 condominium unit owners' insurance for purposes
19 of the outline of coverage; amending s.
20 627.701, F.S.; increasing the maximum allowable
21 hurricane deductible for personal lines and
22 certain commercial lines residential policies;
23 requiring insurers to offer specified hurricane
24 deductibles for such policies; requiring
25 insurers to provide written notice explaining
26 hurricane deductible options for such policies;
27 amending s. 627.7011, F.S.; requiring insurers
28 to offer coverage for additional costs of
29 repair due to laws and ordinances; requiring
30 insurers to pay the replacement cost for a loss
31 insured on that basis, whether or not the

1 insured replaces or repairs the dwelling or
2 property; amending s. 627.7015, F.S.; providing
3 a penalty for an insurer that fails to notify a
4 claimant of the availability of mediation
5 procedures for resolving a disputed property
6 insurance claim; amending s. 627.702, F.S.;
7 providing legislative intent regarding the
8 requirement that an insurer pay policy limits
9 if there is a total loss of a building;
10 amending s. 627.706, F.S., relating to sinkhole
11 insurance; providing definitions; amending s.
12 627.707, F.S.; revising requirements for
13 insurers in investigating sinkhole claims;
14 requiring that the insurer provide certain
15 notification to the policyholder; requiring
16 that the insurer engage an engineer and
17 professional geologist; providing requirements
18 for the insurer if a claim is denied; providing
19 requirements if a sinkhole loss is verified;
20 creating s. 627.7072, F.S.; providing testing
21 standards for sinkholes; creating s. 627.7073,
22 F.S.; providing requirements for reports issued
23 by engineers and professional geologists;
24 requiring certain reports and certifications to
25 be issued to the policyholder and the insurer;
26 requiring that the insurer file a copy of the
27 report and certification with the county
28 property appraiser to be recorded with the
29 parcel number for the property; providing that
30 there is no cause of action or liability
31 against an insurer for filing such report and

1 certification; creating s. 627.711, F.S.;
2 requiring insurers to provide written notice to
3 applicants and policyholders of the amount of
4 the premium discounts and credits for fixtures
5 and construction techniques that reduce the
6 amount of windstorm loss; authorizing the
7 Financial Services Commission to adopt rules;
8 creating s. 627.712, F.S.; requiring property
9 insurers to pay or deny claims within certain
10 time periods; providing that overdue payments
11 bear interest; requiring the Office of the
12 Auditor General to conduct an operational audit
13 of Citizens Property Insurance Corporation;
14 providing an appropriation and authorizing
15 positions; providing effective dates.

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

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

22 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

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

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

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

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

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

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

9 215.559 Hurricane Loss Mitigation Program.--

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

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

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

1 shelter deficits and to projects that maximize use of state
2 funds.

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

1 (4)~~(3)~~ Forty percent of the total appropriation in
2 paragraph (2)(a) shall be used to inspect and improve
3 tie-downs for mobile homes. Within 30 days after the effective
4 date of that appropriation, the department shall contract with
5 a public higher educational institution in this state which
6 has previous experience in administering the programs set
7 forth in this subsection to serve as the administrative entity
8 and fiscal agent pursuant to s. 216.346 for the purpose of
9 administering the programs set forth in this subsection in
10 accordance with established policy and procedures. The
11 administrative entity working with the advisory council set up
12 under subsection(6)~~(5)~~ shall develop a list of mobile home
13 parks and counties that may be eligible to participate in the
14 tie-down program.

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

29 (6)~~(5)~~ ~~Except for the program set forth in subsection~~
30 ~~(3)~~, The Department of Community Affairs shall develop the
31 programs set forth in this section in consultation with an

1 advisory council consisting of a representative designated by
2 the Chief Financial Officer, a representative designated by
3 the Florida Home Builders Association, a representative
4 designated by the Florida Insurance Council, a representative
5 designated by the Federation of Manufactured Home Owners, a
6 representative designated by the Florida Association of
7 Counties, and a representative designated by the Florida
8 Manufactured Housing Association.

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

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

20 ~~(9)(8)~~ This section is repealed June 30, 2011.

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

25 627.062 Rate standards.--

26 (4) The establishment of any rate, rating
27 classification, rating plan or schedule, or variation thereof
28 in violation of part IX of chapter 626 is also in violation of
29 this section. In order to enhance the ability of consumers to
30 compare premiums and to increase the accuracy and usefulness
31 of rate-comparison information provided by the office to the

1 public, the office shall develop a proposed standard rating
2 territory plan to be used by all authorized property and
3 casualty insurers for residential property insurance. In
4 adopting the proposed plan, the office may consider
5 geographical characteristics relevant to risk, county lines,
6 major roadways, existing rating territories used by a
7 significant segment of the market, and other relevant factors.
8 Such plan shall be submitted to the President of the Senate
9 and the Speaker of the House of Representatives by January 15,
10 2006. The plan may not be implemented unless authorized by
11 further act of the Legislature.

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

25 ~~(6)(a) After any action with respect to a rate filing~~
26 ~~that constitutes agency action for purposes of the~~
27 ~~Administrative Procedure Act, except for a rate filing for~~
28 ~~medical malpractice, an insurer may, in lieu of demanding a~~
29 ~~hearing under s. 120.57, require arbitration of the rate~~
30 ~~filing. Arbitration shall be conducted by a board of~~
31 ~~arbitrators consisting of an arbitrator selected by the~~

1 ~~office, an arbitrator selected by the insurer, and an~~
2 ~~arbitrator selected jointly by the other two arbitrators. Each~~
3 ~~arbitrator must be certified by the American Arbitration~~
4 ~~Association. A decision is valid only upon the affirmative~~
5 ~~vote of at least two of the arbitrators. No arbitrator may be~~
6 ~~an employee of any insurance regulator or regulatory body or~~
7 ~~of any insurer, regardless of whether or not the employing~~
8 ~~insurer does business in this state. The office and the~~
9 ~~insurer must treat the decision of the arbitrators as the~~
10 ~~final approval of a rate filing. Costs of arbitration shall be~~
11 ~~paid by the insurer.~~

12 ~~(b) Arbitration under this subsection shall be~~
13 ~~conducted pursuant to the procedures specified in ss.~~
14 ~~682.06-682.10. Either party may apply to the circuit court to~~
15 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~
16 ~~682.14. The commission shall adopt rules for arbitration under~~
17 ~~this subsection, which rules may not be inconsistent with the~~
18 ~~arbitration rules of the American Arbitration Association as~~
19 ~~of January 1, 1996.~~

20 ~~(c) Upon initiation of the arbitration process, the~~
21 ~~insurer waives all rights to challenge the action of the~~
22 ~~office under the Administrative Procedure Act or any other~~
23 ~~provision of law; however, such rights are restored to the~~
24 ~~insurer if the arbitrators fail to render a decision within 90~~
25 ~~days after initiation of the arbitration process.~~

26 (6)(7)(a) The provisions of this subsection apply only
27 with respect to rates for medical malpractice insurance and
28 shall control to the extent of any conflict with other
29 provisions of this section.

30 (b) Any portion of a judgment entered or settlement
31 paid as a result of a statutory or common-law bad faith action

1 and any portion of a judgment entered which awards punitive
2 damages against an insurer may not be included in the
3 insurer's rate base, and shall not be used to justify a rate
4 or rate change. Any common-law bad faith action identified as
5 such, any portion of a settlement entered as a result of a
6 statutory or common-law action, or any portion of a settlement
7 wherein an insurer agrees to pay specific punitive damages may
8 not be used to justify a rate or rate change. The portion of
9 the taxable costs and attorney's fees which is identified as
10 being related to the bad faith and punitive damages in these
11 judgments and settlements may not be included in the insurer's
12 rate base and may not be utilized to justify a rate or rate
13 change.

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

22 (d) Rates shall be deemed excessive if, among other
23 standards established by this section, the rate structure
24 provides for replenishment of reserves or surpluses from
25 premiums when the replenishment is attributable to investment
26 losses.

27 (e) The insurer must apply a discount or surcharge
28 based on the health care provider's loss experience or shall
29 establish an alternative method giving due consideration to
30 the provider's loss experience. The insurer must include in
31 the filing a copy of the surcharge or discount schedule or a

1 | description of the alternative method used, and must provide a
2 | copy of such schedule or description, as approved by the
3 | office, to policyholders at the time of renewal and to
4 | prospective policyholders at the time of application for
5 | coverage.

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

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

26 | 2. No later than 60 days after the office issues its
27 | notice of the presumed rate change factor under subparagraph
28 | 1., each insurer writing medical malpractice coverage in this
29 | state shall submit to the office a rate filing for medical
30 | malpractice insurance, which will take effect no later than
31 | January 1, 2004, and apply retroactively to policies issued or

1 renewed on or after the effective date of medical malpractice
2 legislation enacted during the 2003 Special Session D of the
3 Florida Legislature. Except as authorized under paragraph (b),
4 the filing shall reflect an overall rate reduction at least as
5 great as the presumed factor determined under subparagraph 1.
6 With respect to policies issued on or after the effective date
7 of such legislation and prior to the effective date of the
8 rate filing required by this subsection, the office shall
9 order the insurer to make a refund of the amount that was
10 charged in excess of the rate that is approved.

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

28 (c) If any provision of medical malpractice
29 legislation enacted during the 2003 Special Session D of the
30 Florida Legislature is held invalid by a court of competent
31 jurisdiction, the office shall permit an adjustment of all

1 | medical malpractice rates filed under this section to reflect
2 | the impact of such holding on such rates so as to ensure that
3 | the rates are not excessive, inadequate, or unfairly
4 | discriminatory.

5 | (d) Rates approved on or before July 1, 2003, for
6 | medical malpractice insurance shall remain in effect until the
7 | effective date of a new rate filing approved under this
8 | subsection.

9 | (e) The calculation and notice by the office of the
10 | presumed factor pursuant to paragraph (a) is not an order or
11 | rule that is subject to chapter 120. If the office enters into
12 | a contract with an independent consultant to assist the office
13 | in calculating the presumed factor, such contract shall not be
14 | subject to the competitive solicitation requirements of s.
15 | 287.057.

16 | Section 4. Paragraph (c) of subsection (1) and
17 | paragraph (c) of subsection (3) of section 627.0628, Florida
18 | Statutes, are amended to read:

19 | 627.0628 Florida Commission on Hurricane Loss
20 | Projection Methodology.--

21 | (1) LEGISLATIVE FINDINGS AND INTENT.--

22 | (c) It is the intent of the Legislature to create the
23 | Florida Commission on Hurricane Loss Projection Methodology as
24 | a panel of experts to provide the most actuarially
25 | sophisticated guidelines and standards for projection of
26 | hurricane losses possible, given the current state of
27 | actuarial science. It is the further intent of the Legislature
28 | that such standards and guidelines must be used by the State
29 | Board of Administration in developing reimbursement premium
30 | rates for the Florida Hurricane Catastrophe Fund, and, subject
31 | to paragraph (3)(c), may be used by insurers in rate filings

1 | under s. 627.062 unless the way in which such standards and
2 | guidelines were applied by the insurer was erroneous, as shown
3 | by a preponderance of the evidence.

4 | (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

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

18 | Section 5. Subsection (7) of section 627.0629, Florida
19 | Statutes, is amended to read:

20 | 627.0629 Residential property insurance; rate
21 | filings.--

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

25 | Section 6. Section 627.06291, Florida Statutes, is
26 | created to read:

27 | 627.06291 Reports of hurricane loss data for the
28 | public hurricane model.--Residential property insurers and
29 | licensed rating and advisory organizations that compile loss
30 | data concerning residential property insurance shall report
31 | residential hurricane loss data and associated exposure data,

1 within such time and in such manner as specified by the
2 office, to the office or to a type I center at a state
3 university under contract with the office, for the purpose of
4 developing, maintaining, and updating a public hurricane model
5 for hurricane loss projections.

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

9 627.351 Insurance risk apportionment plans.--

10 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

12 1. Must provide for adoption of residential property
13 and casualty insurance policy forms and commercial residential
14 and nonresidential property insurance forms, which forms must
15 be approved by the office prior to use. The corporation shall
16 adopt the following policy forms:

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

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

27 c. Commercial lines residential policy forms that are
28 generally similar to the basic perils of full coverage
29 obtainable for commercial residential structures in the
30 admitted voluntary market.

31

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

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

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

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

1 provided hurricane coverage through a quota share primary
2 insurance arrangement must be provided policy forms that set
3 forth the obligations of the corporation and authorized
4 insurer under the arrangement, clearly specify the percentages
5 of quota share primary insurance provided by the corporation
6 and authorized insurer, and conspicuously and clearly state
7 that neither the authorized insurer nor the corporation may be
8 held responsible beyond its specified percentage of coverage
9 of hurricane losses.

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

15 b. The corporation may enter into quota share primary
16 insurance agreements with authorized insurers at corporation
17 coverage levels of 90 percent and 50 percent.

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

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

31

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

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

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

25 h. The quota share primary insurance agreement between
26 the corporation and an authorized insurer must set forth the
27 specific terms under which coverage is provided, including,
28 but not limited to, the sale and servicing of policies issued
29 under the agreement by the insurance agent of the authorized
30 insurer producing the business, the reporting of information
31 concerning eligible risks, the payment of premium to the

1 corporation, and arrangements for the adjustment and payment
2 of hurricane claims incurred on eligible risks by the claims
3 adjuster and personnel of the authorized insurer. Entering
4 into a quota sharing insurance agreement between the
5 corporation and an authorized insurer shall be voluntary and
6 at the discretion of the authorized insurer.

7 3. May provide that the corporation may employ or
8 otherwise contract with individuals or other entities to
9 provide administrative or professional services that may be
10 appropriate to effectuate the plan. The corporation shall have
11 the power to borrow funds, by issuing bonds or by incurring
12 other indebtedness, and shall have other powers reasonably
13 necessary to effectuate the requirements of this subsection.
14 The corporation may, but is not required to, seek judicial
15 validation of its bonds or other indebtedness under chapter
16 75. The corporation may issue bonds or incur other
17 indebtedness, or have bonds issued on its behalf by a unit of
18 local government pursuant to subparagraph (g)2., in the
19 absence of a hurricane or other weather-related event, upon a
20 determination by the corporation, subject to approval by the
21 office, that such action would enable it to efficiently meet
22 the financial obligations of the corporation and that such
23 financings are reasonably necessary to effectuate the
24 requirements of this subsection. The corporation is authorized
25 to take all actions needed to facilitate tax-free status for
26 any such bonds or indebtedness, including formation of trusts
27 or other affiliated entities. The corporation shall have the
28 authority to pledge assessments, projected recoveries from the
29 Florida Hurricane Catastrophe Fund, other reinsurance
30 recoverables, market equalization and other surcharges, and
31 other funds available to the corporation as security for bonds

1 or other indebtedness. In recognition of s. 10, Art. I of the
2 State Constitution, prohibiting the impairment of obligations
3 of contracts, it is the intent of the Legislature that no
4 action be taken whose purpose is to impair any bond indenture
5 or financing agreement or any revenue source committed by
6 contract to such bond or other indebtedness.

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

1 and concurrence by the board and ~~office~~ of the Chief Financial
2 Officer.

3 b. A Market Accountability Advisory Committee shall be
4 created to assist the corporation in developing awareness of
5 its customer and agent service levels in relationship to the
6 voluntary market insurers that are writing similar coverage.
7 The members of the advisory committee shall consist of the
8 following 10 persons, one of whom must be elected chair by the
9 members of the committee: one representative appointed by each
10 of the three largest property and casualty insurance agents
11 associations in this state; one representative appointed by
12 each of the insurers having the three highest voluntary market
13 share of residential property insurance business in the state;
14 one representative from the Office of Insurance Regulation;
15 one consumer appointed by the board who is insured by the
16 corporation at the time of appointment to the committee; one
17 representative appointed by the Florida Association of
18 Realtors; and one representative appointed by the Florida
19 Bankers Association. All members shall be appointed to 3-year
20 terms and may serve consecutive terms. The Market
21 Accountability Advisory Committee shall report to the
22 corporation at each board meeting on insurance market issues,
23 which may include service levels, policy issuance, claims
24 processing and general responsiveness to policyholders,
25 applicants, and agents, and matters relating to depopulation.

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

28 a. Subject to the provisions of s. 627.3517, with
29 respect to personal lines residential risks, if the risk is
30 offered coverage from an authorized insurer at the insurer's
31 approved rate under either a standard policy including wind

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

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

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

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

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.

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

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

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

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

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

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

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

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

31

1 The acceptance or rejection of a risk by the corporation shall
2 be construed as the private placement of insurance, and the
3 provisions of chapter 120 shall not apply.

4 9. Must provide that the corporation shall make its
5 best efforts to procure catastrophe reinsurance at reasonable
6 rates, 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

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

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

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

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.

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

8 ~~6.4.~~ Rates for commercial lines coverage shall not be
9 subject to the requirements of subparagraph 2., but shall be
10 subject to all other requirements of this paragraph and s.
11 627.062.

12 ~~7.5.~~ Nothing in this paragraph shall require or allow
13 the corporation to adopt a rate that is inadequate under s.
14 627.062.

15 ~~8.6.~~ The corporation shall certify to the office at
16 least twice annually that its personal lines rates comply with
17 the requirements of this paragraph ~~subparagraphs 1. and 2.~~ If
18 any adjustment in the rates or rating factors of the
19 corporation is necessary to ensure such compliance, the
20 corporation shall make and implement such adjustments and file
21 its revised rates and rating factors with the office. If the
22 office thereafter determines that the revised rates and rating
23 factors fail to comply with the provisions of this paragraph
24 ~~subparagraphs 1. and 2.~~, it shall notify the corporation and
25 require the corporation to amend its rates or rating factors
26 in conjunction with its next rate filing. The office must
27 notify the corporation by electronic means of any rate filing
28 it approves for any insurer among the insurers referred to in
29 subparagraph 2.

30 ~~9.7.~~ In addition to the rates otherwise determined
31 pursuant to this paragraph, the corporation shall impose and

1 collect an amount equal to the premium tax provided for in s.
2 624.509 to augment the financial resources of the corporation.

3 ~~10.8.a.~~ To assist the corporation in developing
4 additional ratemaking methods to assure compliance with this
5 paragraph ~~subparagraphs 1. and 4.~~, the corporation shall
6 appoint a rate methodology panel consisting of one person
7 recommended by the Florida Association of Insurance Agents,
8 one person recommended by the Professional Insurance Agents of
9 Florida, one person recommended by the Florida Association of
10 Insurance and Financial Advisors, one person recommended by
11 the insurer with the highest voluntary market share of
12 residential property insurance business in the state, one
13 person recommended by the insurer with the second-highest
14 voluntary market share of residential property insurance
15 business in the state, one person recommended by an insurer
16 writing commercial residential property insurance in this
17 state, one person recommended by the Office of Insurance
18 Regulation, and one board member designated by the board
19 chairman, who shall serve as chairman of the panel.

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

27 ~~c. Within 30 days after such report, the corporation~~
28 ~~shall present to the President of the Senate, the Speaker of~~
29 ~~the House of Representatives, the minority party leaders of~~
30 ~~each house of the Legislature, and the chairs of the standing~~
31 ~~committees of each house of the Legislature having~~

1 ~~jurisdiction of insurance issues, a plan for implementing the~~
2 ~~additional ratemaking methods and an outline of any~~
3 ~~legislation needed to facilitate use of the new methods.~~

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

12 11.9. ~~By January 1, 2004,~~ The corporation shall
13 develop a notice to policyholders or applicants that the rates
14 of Citizens Property Insurance Corporation are intended to be
15 higher than the rates of any admitted carrier and providing
16 other information the corporation deems necessary to assist
17 consumers in finding other voluntary admitted insurers willing
18 to insure their property.

19 (g)1. The corporation shall certify to the office its
20 needs for annual assessments as to a particular calendar year,
21 and for any interim assessments that it deems to be necessary
22 to sustain operations as to a particular year pending the
23 receipt of annual assessments. Upon verification, the office
24 shall approve such certification, and the corporation shall
25 levy such annual or interim assessments. Such assessments
26 shall be prorated as provided in paragraph (b). The
27 corporation shall take all reasonable and prudent steps
28 necessary to collect the amount of assessment due from each
29 assessable insurer, including, if prudent, filing suit to
30 collect such assessment. If the corporation is unable to
31 collect an assessment from any assessable insurer, the

1 uncollected assessments shall be levied as an additional
2 assessment against the assessable insurers and any assessable
3 insurer required to pay an additional assessment as a result
4 of such failure to pay shall have a cause of action against
5 such nonpaying assessable insurer. Assessments shall be
6 included as an appropriate factor in the making of rates. The
7 failure of a surplus lines agent to collect and remit any
8 regular or emergency assessment levied by the corporation is
9 considered to be a violation of s. 626.936 and subjects the
10 surplus lines agent to the penalties provided in that section.

11 2. The governing body of any unit of local government,
12 any residents of which are insured by the corporation, may
13 issue bonds as defined in s. 125.013 or s. 166.101 from time
14 to time to fund an assistance program, in conjunction with the
15 corporation, for the purpose of defraying deficits of the
16 corporation. In order to avoid needless and indiscriminate
17 proliferation, duplication, and fragmentation of such
18 assistance programs, any unit of local government, any
19 residents of which are insured by the corporation, may provide
20 for the payment of losses, regardless of whether or not the
21 losses occurred within or outside of the territorial
22 jurisdiction of the local government. Revenue bonds under this
23 subparagraph may not be issued until validated pursuant to
24 chapter 75, unless a state of emergency is declared by
25 executive order or proclamation of the Governor pursuant to s.
26 252.36 making such findings as are necessary to determine that
27 it is in the best interests of, and necessary for, the
28 protection of the public health, safety, and general welfare
29 of residents of this state and declaring it an essential
30 public purpose to permit certain municipalities or counties to
31 issue such bonds as will permit relief to claimants and

1 | policyholders of the corporation. Any such unit of local
2 | government may enter into such contracts with the corporation
3 | and with any other entity created pursuant to this subsection
4 | as are necessary to carry out this paragraph. Any bonds issued
5 | under this subparagraph shall be payable from and secured by
6 | moneys received by the corporation from emergency assessments
7 | under sub-subparagraph (b)3.d., and assigned and pledged to or
8 | on behalf of the unit of local government for the benefit of
9 | the holders of such bonds. The funds, credit, property, and
10 | taxing power of the state or of the unit of local government
11 | shall not be pledged for the payment of such bonds. If any of
12 | the bonds remain unsold 60 days after issuance, the office
13 | shall require all insurers subject to assessment to purchase
14 | the bonds, which shall be treated as admitted assets; each
15 | insurer shall be required to purchase that percentage of the
16 | unsold portion of the bond issue that equals the insurer's
17 | relative share of assessment liability under this subsection.
18 | An insurer shall not be required to purchase the bonds to the
19 | extent that the office determines that the purchase would
20 | endanger or impair the solvency of the insurer.

21 | 3.a. The corporation shall adopt one or more programs
22 | subject to approval by the office for the reduction of both
23 | new and renewal writings in the corporation. The corporation
24 | may consider any prudent and not unfairly discriminatory
25 | approach to reducing corporation writings, and may adopt a
26 | credit against assessment liability or other liability that
27 | provides an incentive for insurers to take risks out of the
28 | corporation and to keep risks out of the corporation by
29 | maintaining or increasing voluntary writings in counties or
30 | areas in which corporation risks are highly concentrated and a
31 | program to provide a formula under which an insurer

1 voluntarily taking risks out of the corporation by maintaining
2 or increasing voluntary writings will be relieved wholly or
3 partially from assessments under sub-subparagraphs (b)3.a. and
4 b. When the corporation enters into a contractual agreement
5 for a take-out plan, the producing agent of record of the
6 corporation policy is entitled to retain any unearned
7 commission on such policy, and the insurer shall either:

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

13 (II) 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 insurer's
16 usual and customary commission for the type of policy written.
17 If the producing agent is unwilling or unable to accept
18 appointment by the new insurer, the new insurer shall pay the
19 agent in accordance with sub-sub-subparagraph (I).

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

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

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

11 Section 8. Section 627.40951, Florida Statutes, is
12 created to read:

13 627.40951 Standard personal lines residential
14 insurance policy.--

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

31

1 provided through any rider or endorsement that accompanies the
2 policy and renewal or cancellation provisions.

3 (2) The Chief Financial Officer shall appoint an
4 advisory committee composed of two representatives of insurers
5 currently selling personal lines residential property
6 insurance coverage, two representatives of property and
7 casualty agents, two representatives of consumers, two
8 representatives of the Commissioner of Insurance Regulation,
9 and the Insurance Consumer Advocate or her or his designee.

10 The Chief Financial Officer or her or his designee shall serve
11 as chair of the committee. The committee shall develop policy
12 language for coverage that represents general industry
13 standards in the market for comprehensive coverage under
14 personal lines residential insurance policies and shall
15 develop a checklist to be used with each type of personal
16 lines residential property insurance policy. The committee
17 shall review policies and related forms written by Insurance
18 Services Office, Inc. The committee shall file a report
19 containing its recommendations to the President of the Senate
20 and the Speaker of the House of Representatives by January 15,
21 2006. No insurer shall be required to offer the standard
22 policy unless required by further act of the Legislature.

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

25 627.411 Grounds for disapproval.--

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

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

31

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

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

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

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

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

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

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

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

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

30 Section 10. Paragraph (d) is added to subsection (2)
31 of section 627.4133, Florida Statutes, to read:

1 627.4133 Notice of cancellation, nonrenewal, or
2 renewal premium.--

3 (2) With respect to any personal lines or commercial
4 residential property insurance policy, including, but not
5 limited to, any homeowner's, mobile home owner's, farmowner's,
6 condominium association, condominium unit owner's, apartment
7 building, or other policy covering a residential structure or
8 its contents:

9 (d)1. Upon a declaration of an emergency pursuant to
10 s. 252.36 and the filing of an order by the Commissioner of
11 Insurance Regulation, an insurer may not cancel or nonrenew a
12 personal residential or commercial residential property
13 insurance policy covering a dwelling or residential property
14 located in this state which has been damaged as a result of a
15 hurricane or wind loss that is the subject of the declaration
16 of emergency for a period of 60 days after the dwelling or
17 residential property has been repaired. A structure is deemed
18 to be repaired when substantially completed and restored to
19 the extent that it is insurable by another authorized insurer
20 that is writing policies in this state.

21 2. However, an insurer or agent may cancel or nonrenew
22 such a policy prior to the repair of the dwelling or
23 residential property:

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

25 b. Upon 45 days' notice:

26 (I) For a material misstatement or fraud related to
27 the claim;

28 (II) If the insurer can demonstrate that the insured
29 has unreasonably caused a delay in the repair of the dwelling;

30 or

31

1 (III) If the insurer has paid policy limits, provided
2 the insurer has offered the insured a builder's risk or
3 similar policy that would cover the property until completion
4 of repairs.

5 3. If the insurer elects to nonrenew a policy covering
6 a property that has been damaged, the insurer shall provide at
7 least 60 days' notice to the insured that the insurer intends
8 to nonrenew the policy 60 days after the dwelling or
9 residential property has been repaired. This paragraph does
10 not prevent the insurer from canceling or nonrenewing the
11 policy 60 days after the repairs are complete for the same
12 reasons the insurer would otherwise have canceled or
13 nonrenewed the policy but for the limitations of subparagraph
14 1. The Financial Services Commission may adopt rules, and the
15 Commissioner of Insurance Regulation may issue orders,
16 necessary to administer this paragraph.

17 4. This paragraph also applies to personal residential
18 and commercial residential policies covering property that was
19 damaged as the result of Tropical Storm Bonnie, Hurricane
20 Charley, Hurricane Frances, Hurricane Ivan, or Hurricane
21 Jeanne.

22 Section 11. Effective January 1, 2006, section
23 627.4143, Florida Statutes, is amended to read:

24 627.4143 Outline of coverage.--

25 (1) No private passenger automobile or basic
26 homeowner's policy shall be delivered or issued for delivery
27 in this state unless an appropriate outline of coverage has
28 been delivered prior to issuance of the policy or accompanies
29 the policy when issued.

30
31

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

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

8 (b) A summary statement of the principal exclusions
9 and limitations or reductions contained in the policy by class
10 or type, including, but not limited to, deductibles,
11 coinsurance, and any other limitations or reductions.

12 (c) A summary statement of any renewal or cancellation
13 provisions.

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

20 (e) A list of any additional coverage provided through
21 any rider or endorsement which accompanies the policy. The
22 list shall contain a descriptive reference to each additional
23 coverage, rather than solely a reference to a form or code
24 number.

25 (f) ~~For a private passenger motor vehicle insurance~~
26 ~~policy,~~ The extent of coverage provided to the insured in the
27 event of collision damage to a rental vehicle rented by the
28 insured. The proof-of-insurance card required by s. 316.646
29 must also specify whether rental car coverage is provided, and
30 may refer to the outline of coverage as to the details or
31 extent of coverage.

1 (3) A basic homeowners', mobile homeowners', dwelling,
2 or condominium unit owners' policy may not be delivered or
3 issued for delivery in this state unless a comprehensive
4 checklist of coverage on a form adopted by the commission and
5 an appropriate outline of coverage have been delivered prior
6 to issuance of the policy or accompanies the policy when
7 issued. The commission shall, by rule, adopt a form for the
8 checklist for each type of policy to which this subsection
9 applies. Each form shall indicate that it was adopted by the
10 commission.

11 (a) The checklist must contain a list of the standard
12 provisions and elements that may typically be included in
13 these policies, whether or not they are included in the
14 particular policy being issued, in a format that allows the
15 insurer to place a check mark next to the provisions elements
16 that are included so that the consumer can see both what is
17 included and what is not included in the policy. As an
18 alternative to checking the boxes on the checklist, an insurer
19 may delete the check boxes from the form and replace them with
20 text indicating whether the provision's elements are included
21 or not. Limits of liability shall be listed for each item. The
22 checklist must include, but is not limited to, the following:

23 1. Property coverage for the principal premises shown
24 in the declarations.

25 2. Property coverage for other structures on the
26 residence premises.

27 3. Whether the principal premises and other structures
28 are insured against the following perils:

29 a. Fire.

30 b. Lightning.

31 c. Explosion.

- 1 d. Hurricane loss.
2 e. Nonhurricane wind loss.
3 f. Collapse.
4 g. Mold.
5 h. Sinkhole loss.
6 i. Vandalism.
7 4. Personal property coverage.
8 5. Whether personal property is insured against the
9 following perils:
10 a. Fire.
11 b. Lightning.
12 c. Hurricane loss.
13 d. Nonhurricane wind loss.
14 e. Collapse.
15 f. Mold.
16 g. Sinkhole loss.
17 h. Theft.
18 6. The following additional coverages:
19 a. Debris removal.
20 b. Loss assessment.
21 c. Additional living expenses.
22 7. Personal liability coverage.
23 8. Medical payments coverage.
24 9. Discounts applied to the premium.
25 10. Deductibles for loss due to hurricane and loss to
26 other perils.
27 11. Building ordinance or law coverage.
28 12. Replacement cost coverage.
29 13. Actual cash value coverage.
30
31

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

4 (c) The outline of coverage must contain:

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

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

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

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

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

23 ~~(4)(3)~~ The outline of coverage for a private passenger
24 motor vehicle policy is required only on the initial policy
25 issued by an insurer. The outline of coverage and the
26 checklist for a basic homeowners', mobile homeowners',
27 dwelling, or condominium unit owners' policy is required on
28 the initial policy and each renewal thereof issued by an
29 insurer.

30 ~~(5)(4)~~ An insurer must insert the following language
31 on the outline of coverage:

1
2 "The following outline of coverage or checklist is for
3 informational purposes only. Florida law prohibits this
4 outline or checklist from changing any of the provisions of
5 the insurance contract which is the subject of this outline.
6 Any endorsement regarding changes in types of coverage,
7 exclusions, limitations, reductions, deductibles, coinsurance,
8 renewal provisions, cancellation provisions, surcharges, or
9 credits will be sent separately."

10
11 ~~(6)(5)~~ Neither this section nor the outline of
12 coverage or checklist mandated by this section alters or
13 modifies the terms of the insurance contract, creates a cause
14 of action, or is admissible in any civil action.

15 Section 12. Effective January 1, 2006, subsections
16 (3), (8), and (9) of section 627.701, Florida Statutes, as
17 amended by section 4 of chapter 2004-480, Laws of Florida, are
18 amended to read:

19 627.701 Liability of insureds; coinsurance;
20 deductibles.--

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

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

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

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

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

12 ~~2.3.~~ With respect to a policy covering a risk with
13 dwelling limits of at least \$100,000, but less than \$250,000,
14 the insurer may, in lieu of offering a policy with a \$500
15 hurricane or wind deductible as required by subparagraph 1.,
16 offer a policy that the insurer guarantees it will not
17 nonrenew for reasons of reducing hurricane loss for one
18 renewal period and that contains up to a 2 percent hurricane
19 or wind deductible as required by subparagraph 1.

20 ~~3.4.~~ With respect to a policy covering a risk with
21 dwelling limits of \$250,000 or more, the insurer need not
22 offer the \$500 hurricane ~~or wind~~ deductible as required by
23 subparagraph 1., but must, except as otherwise provided in
24 this subsection, offer the other 2 percent hurricane
25 deductibles ~~or wind deductible~~ as required by subparagraph 1.

26 (c) Before issuing a personal lines residential
27 property insurance policy and before each renewal thereof, an
28 insurer must provide each policyholder and applicant with a
29 notice of the availability of the deductible amounts that
30 insurers are required to offer and any other deductible that
31 the insurer chooses to offer which is not prohibited by this

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

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

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

1 are made or required to be made shall be on forms that are
2 adopted or approved by the commission or office.

3 Section 13. Effective October 1, 2005, section
4 627.7011, Florida Statutes, is amended to read:

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

7 (1) Prior to issuing a homeowner's insurance policy on
8 or after October 1, 2005 ~~June 1, 1994~~, or prior to the first
9 renewal of a homeowner's insurance policy on or after October
10 1, 2005 ~~June 1, 1994~~, the insurer must offer each of the
11 following:

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

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

1 shall apply only to repairs of the damaged portion of the
2 structure unless the total damage to the structure exceeds 50
3 percent of the replacement cost of the structure.

4
5 An insurer is not required to make the offers required by this
6 subsection with respect to the issuance or renewal of a
7 homeowner's policy that contains the provisions specified in
8 paragraph (b) for law and ordinance coverage limited to 25
9 percent of the dwelling limit, except that the insurer must
10 offer the law and ordinance coverage limited to 50 percent of
11 the dwelling limit. This subsection does not prohibit the
12 offer of a guaranteed replacement cost policy.

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

1 The failure to provide such notice constitutes a violation of
2 this code, but does not affect the coverage provided under the
3 policy.

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

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

19 Section 14. Effective July 1, 2005, subsection (7) of
20 section 627.7015, Florida Statutes, is amended, and subsection
21 (2) of that section is republished, to read:

22 627.7015 Alternative procedure for resolution of
23 disputed property insurance claims.--

24 (2) At the time a first-party claim within the scope
25 of this section is filed, the insurer shall notify all
26 first-party claimants of their right to participate in the
27 mediation program under this section. The department shall
28 prepare a consumer information pamphlet for distribution to
29 persons participating in mediation under this section.

30 (7) If the insurer fails to comply with the
31 requirements of subsection (2) by failing to notify a

1 first-party claimant of his or her right to participate in the
2 mediation program under this section, or if the insurer
3 requests the mediation, and the mediation results are rejected
4 by either party, the insured shall not be required to submit
5 to or participate in any contractual loss appraisal process of
6 the property loss damage as a precondition to legal action for
7 breach of contract against the insurer for its failure to pay
8 the policyholder's claims covered by the policy.

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

11 627.702 Valued policy law.--

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

23 (b) The legislative intent of this subsection is not
24 to require an insurer to pay for a loss caused by a peril
25 other than the covered peril. In furtherance of such
26 legislative intent, when a loss was caused in part by a
27 covered peril and in part by a noncovered peril, the insurer's
28 liability under this section is limited to the percentage of
29 the loss caused by the covered peril.

30 Section 16. Section 627.706, Florida Statutes, is
31 amended to read:

1 627.706 Sinkhole insurance; definitions.--

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

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

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

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

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

27 (d) "Engineer" means a person, as defined in s.
28 471.005, who has a bachelor degree or higher in engineering
29 with a specialty in the geotechnical engineering field. An
30 engineer must have geotechnical experience and expertise in
31

1 the identification of sinkhole activity as well as other
2 potential causes of damage to the structure.

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

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

15 Section 17. Section 627.707, Florida Statutes, is
16 amended to read:

17 627.707 ~~Minimum~~ Standards for investigation of
18 sinkhole claims by insurers; nonrenewals.--

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

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

26 ~~(b) If, upon the investigation pursuant to paragraph~~
27 ~~(a), the insurer discovers damage to a structure which is~~
28 ~~consistent with sinkhole activity or if the structure is~~
29 ~~located in close proximity to a structure in which sinkhole~~
30 ~~damage has been verified, then prior to denying a claim, the~~
31 ~~insurer must obtain a written certification from an individual~~

1 ~~qualified to determine the existence of sinkhole activity,~~
2 ~~stating that the cause of the claim is not sinkhole activity,~~
3 ~~and that the analysis conducted was of sufficient scope to~~
4 ~~eliminate sinkhole activity as the cause of damage within a~~
5 ~~reasonable professional probability. The written~~
6 ~~certification must also specify the professional discipline~~
7 ~~and professional licensure or registration under which the~~
8 ~~analysis was conducted.~~

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

14 (a) The insurer is unable to identify a valid cause of
15 the damage or discovers damage to the structure which is
16 consistent with sinkhole loss; or

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

19 (3) Following the initial inspection of the insured
20 premises, the insurer shall provide written notice to the
21 policyholder containing the following disclosure:

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

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

29 (c) A statement regarding the right of the
30 policyholder to request testing by an engineer and a
31

1 professional geologist and the circumstances under which the
2 policyholder may demand certain testing.

3 (4) If the insurer determines that there is no
4 sinkhole loss, the insurer may deny the claim. If the insurer
5 denies the claim, the policyholder may demand testing under s.
6 627.7072. The policyholder's demand for testing must be
7 communicated to the insurer in writing after the
8 policyholder's receipt of insurer's denial of the claim.

9 (5)(a) If a sinkhole loss is verified, the insurer
10 shall pay to stabilize the land and building, and repair the
11 foundation in accordance with the recommendations of the
12 engineer and the professional geologist as provided under s.
13 627.7073, and in consultation with the policyholder, subject
14 to the coverage and terms of the policy. The insurer shall pay
15 for other repairs to the structure and contents in accordance
16 with the terms of the policy.

17 (b) For a personal lines residential policy, the
18 insurer may limit its payment to the actual cash value of the
19 sinkhole loss until such time as expenses related to land and
20 building stabilization and foundation repairs are incurred.
21 The insurer has no liability for the work performed unless it
22 agrees to such liability in writing.

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

26 (7)(c) If the insurer obtains, pursuant to s. 627.7073
27 ~~paragraph (b)~~, written certification that there is no sinkhole
28 loss or that the cause of the ~~damage claim~~ was not sinkhole
29 activity, and if the policyholder has submitted the sinkhole
30 claim without good faith grounds for submitting such claim,
31 the policyholder shall reimburse the insurer for 50 percent of

1 | the actual costs ~~cost~~ of the analyses and services provided
2 | under ss. 627.7072 and 627.7073 ~~analysis under paragraph (b)~~;
3 | however, a policyholder is not required to reimburse an
4 | insurer more than \$2,500 with respect to any claim. A
5 | policyholder is required to pay reimbursement under this
6 | subsection ~~paragraph~~ only if the insurer, prior to ordering
7 | the analysis under s. 627.7072 ~~paragraph (b)~~, informs the
8 | policyholder in writing of the policyholder's potential
9 | liability for reimbursement and gives the policyholder the
10 | opportunity to withdraw the claim.

11 | ~~(8)(2)~~ No insurer shall nonrenew any policy of
12 | property insurance on the basis of filing of claims for
13 | partial loss caused by sinkhole damage or clay shrinkage as
14 | long as the total of such payments does not exceed the current
15 | policy limits of coverage for property damage, and provided
16 | the insured has repaired the structure in accordance with the
17 | engineering recommendations upon which any payment or policy
18 | proceeds were based.

19 | (9) The insurer may engage a structural engineer to
20 | make recommendations as to repair of the structure.

21 | Section 18. Section 627.7072, Florida Statutes, is
22 | created to read:

23 | 627.7072 Testing standards for sinkholes.--

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

30 | (2) Testing shall be conducted in compliance with the
31 | Florida Geological Survey Special Publication No. 57 (2005).

1 Section 19. Section 627.7073, Florida Statutes, is
2 created to read:

3 627.7073 Sinkhole reports.--

4 (1) Upon completion of testing as provided in s.
5 627.7072, the engineer or professional geologist shall issue a
6 report and certification to the insurer and the policyholder
7 as provided in this section.

8 (a) Sinkhole loss is verified if, based upon tests
9 performed in accordance with s. 627.7072, an engineer or a
10 professional geologist issues a written report and
11 certification stating:

12 1. That the cause of the actual physical and
13 structural damage is sinkhole activity within a reasonable
14 professional probability.

15 2. That the analyses conducted were of sufficient
16 scope to identify sinkhole activity as the cause of damage
17 within a reasonable professional probability.

18 3. A description of the tests performed.

19 4. A recommendation of methods for stabilizing the
20 land and building, and for making repairs to the foundation.

21 (b) If sinkhole activity is eliminated as the cause of
22 damage to the structure, the engineer or professional
23 geologist shall issue a written report and certification to
24 the policyholder and the insurer stating:

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

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

30 3. A statement of the cause of the damage within a
31 reasonable professional probability.

1 4. A description of the tests performed.

2 (c) The respective findings, opinions and
3 recommendations of the engineer or professional geologist as
4 to the verification of a sinkhole loss, land and building
5 stabilization, foundation repair, and elimination of sinkhole
6 loss shall be presumed correct.

7 (2) Any insurer that has paid a claim for a sinkhole
8 loss shall file a copy of the report and certification
9 prepared pursuant to subsection (1), with the county property
10 appraiser, who shall record the report and certification with
11 the parcel number. The insurer shall bear the cost of filing
12 and recording the report and certification. There shall be no
13 cause of action or liability against an insurer for compliance
14 with this section.

15 Section 20. Effective October 1, 2005, and applicable
16 to policies issued or renewed on or after that date, section
17 627.711, Florida Statutes, is created to read:

18 627.711 Notice of premium discounts for hurricane loss
19 mitigation.--Before issuing a personal lines residential
20 property insurance policy and as part of each premium renewal
21 notice, the insurer shall provide written notice to the
22 applicant or policyholder, on a form approved by the office,
23 of the availability and amount of the premium discounts and
24 credits for fixtures and construction techniques that reduce
25 the amount of loss in a windstorm, as required by s.
26 627.0629(1). The notice must clearly inform the applicant or
27 policyholder as to what the policyholder must do to qualify
28 for such credits or discounts. The commission may adopt rules
29 to administer this section.

30 Section 21. Section 627.712, Florida Statutes, is
31 created to read:

1 627.712 Timely payment of claims.--
2 (1) An insurer shall, within 30 days after receipt of
3 a claim under a property insurance policy:
4 (a) Pay that portion of the claim for which the
5 policyholder has submitted all information that is required
6 for payment under the terms of the policy;
7 (b) Provide a written denial to the policyholder for
8 that portion of a claim which the insurer determines is not
9 covered under the policy, including the specific reasons; and
10 (c) Specify, in writing, the additional information
11 that the policyholder must submit to the insurer in order for
12 any remaining amount of the claim to be paid.
13 (2) Within 30 days after receipt of the additional
14 information specified in paragraph (1)(c), the insurer shall
15 either pay or deny the claim as specified in paragraph (1)(a)
16 or paragraph (1)(b).
17 (3) Payment shall be considered made on the date a
18 check or other valid payment instrument is placed in the
19 United States mail in a properly addressed, postpaid envelope,
20 or if not so posted, on the date of delivery.
21 (4) All overdue payments shall bear simple interest at
22 the rate of 10 percent per year.
23 (5) Following a hurricane or natural disaster, the
24 requirements of this section are subject to such exceptions or
25 alternative requirements as may be provided by rule of the
26 commission or order of the office.
27 Section 22. 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

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

3 Section 23. For the 2005-2006 fiscal year, there is
4 appropriated \$350,000 in recurring funds from the Insurance
5 Regulatory Trust Fund and four positions are authorized to the
6 Office of the Consumer Advocate within the Department of
7 Financial Services for the purposes provided in section
8 627.0613, Florida Statutes.

9 Section 24. Except as otherwise expressly provided in
10 this act, this act shall take effect upon becoming a law.

11
12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 CS/SB 1488

15 This committee substitute makes the following changes.

- 16 o Deletes the provision of the bill that prohibits Citizens
17 Property Insurance Corporation from insuring any
residential structure valued in excess of \$1 million.
- 18 o Deletes the provision of the bill that requires insurers
19 to offer hurricane deductibles of 1 percent of policy
limits.
- 20 o Revises provisions related to claims for sinkhole losses.
- 21 o Deletes the provision of the bill providing that the
22 amendments to the valued policy law are remedial in
23 nature and intending to clarify the intent of that
24 section.
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