

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

1 based on a computer model which requires a
2 public hearing; creating s. 627.06281, F.S.;
3 requiring residential property insurers and
4 rating and advisory organizations to report
5 hurricane loss data for development of a public
6 hurricane model for hurricane loss projections;
7 amending s. 627.351, F.S.; revising the
8 appointments to the board and the approval of
9 officers and employees of the corporation;
10 providing additional legislative intent
11 relating to the Citizens Property Insurance
12 Corporation; authorizing the corporation to
13 issue bonds and incur indebtedness for certain
14 purposes; requiring creation of a Market
15 Accountability Advisory Committee to assist the
16 corporation for certain purposes; providing for
17 appointment of committee members; providing for
18 terms; requiring reports to the corporation;
19 revising requirements for the plan of operation
20 of the corporation; requiring the corporation
21 to require the securing of flood insurance as a
22 condition of coverage under certain
23 circumstances; providing requirements and
24 limitations; creating s. 627.40951, F.S.;
25 providing legislative findings and intent;
26 providing for an advisory committee; providing
27 for membership; providing for recommendations
28 to be submitted to the Legislature regarding
29 standard residential property insurance
30 policies; amending s. 627.411, F.S.; adding
31 grounds for which the Office of Insurance

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

1 hurricane deductible options for such policies;
2 providing for computation and display of the
3 dollar value of hurricane deductibles;
4 requiring insurers to compute and display
5 actual dollar values of certain riders for
6 certain policies; amending s. 627.701, F.S.;
7 providing that the requirement for a hurricane
8 deductible to apply on an annual basis applies
9 to personal lines residential property
10 insurance policies; requiring insurers that
11 provide commercial residential property
12 insurance to offer alternative hurricane
13 deductibles that apply on an annual basis or to
14 each hurricane; amending s. 627.7011, F.S.;
15 requiring insurers to offer coverage for
16 additional costs of repair due to laws and
17 ordinances; requiring insurers to pay the
18 replacement cost for a loss insured on that
19 basis, whether or not the insured replaces or
20 repairs the dwelling or property; requiring
21 certain homeowner's insurance policies to
22 contain a specified statement; providing
23 intent; amending s. 627.7015, F.S.; revising
24 purpose and scope provisions relating to an
25 alternative procedure for resolution of
26 disputed property insurance claims; providing
27 that failure of an insurer to notify a claimant
28 of the availability of mediation excuses an
29 insured from being required to submit to
30 certain loss appraisal processes; amending s.
31 627.702, F.S.; providing legislative intent

1 regarding the requirement that an insurer pay
2 policy limits if there is a total loss of a
3 building; providing nonapplication of certain
4 insurer liability requirements under certain
5 circumstances; limiting an insurer's liability
6 to certain loss covered by a covered peril;
7 amending s. 627.706, F.S., relating to sinkhole
8 insurance; providing definitions; creating s.
9 627.7065, F.S.; providing legislative findings;
10 requiring the Department of Financial Services
11 and the Office of the Insurance Consumer
12 Advocate to consult with the Florida Geological
13 Survey and the Department of Environmental
14 Protection to implement a statewide automated
15 database of sinkholes and related activity;
16 providing requirements for the form and content
17 of the database; authorizing the Department of
18 Financial Services to require insurers to
19 provide certain information; providing for
20 management of the database; requiring the
21 department to investigate sinkhole activity
22 reports and include findings and investigations
23 in the database; requiring the Department of
24 Environmental Protection to report on the
25 database to the Governor, Legislature, and
26 Chief Financial Officer; authorizing the
27 Department of Financial Services to adopt
28 implementing rules; amending s. 627.707, F.S.;
29 revising standards for investigations of
30 sinkhole claims by insurers; requiring an
31 insurer to engage an engineer or professional

1 geologist for certain purposes; requiring a
2 report under certain circumstances; requiring
3 an insurer to provide written notice to a
4 policyholder disclosing certain information;
5 authorizing an insurer to deny a claim under
6 certain circumstances; authorizing a
7 policyholder to demand certain testing;
8 providing requirements; specifying required
9 activities for insurers if a sinkhole loss is
10 verified; specifying payment requirements for
11 insurers; providing limitations; requiring the
12 insurer to pay fees of the engineer and
13 geologist; authorizing an insurer to engage a
14 structural engineer for certain purposes;
15 creating s. 627.7072, F.S.; specifying
16 requirements for sinkhole testing by engineers
17 and geologists; creating s. 627.7073, F.S.;
18 providing reporting requirements for engineers
19 and geologists after testing for sinkholes;
20 specifying a presumption of correctness of
21 certain findings; requiring an insurer paying a
22 sinkhole loss claim to file a report and
23 certification with the county property
24 appraiser; requiring the property appraiser to
25 record the report and certification; requiring
26 the insurer to bear the cost of filing and
27 recording; requiring a seller of certain
28 property to make certain disclosures to
29 property buyers under certain circumstances;
30 creating s. 627.711, F.S.; requiring insurers
31 to notify applicants or policyholders of the

1 | availability and amounts of certain discounts,
2 | credits, rate differentials, or reductions in
3 | deductibles for properties on which certain
4 | fixtures have been installed or construction
5 | techniques have been implemented; requiring
6 | insurers to provide qualifying information;
7 | authorizing the Financial Services Commission
8 | to adopt rules; creating s. 627.712, F.S.;
9 | requiring property insurers to pay or deny
10 | claims within certain time periods; providing
11 | that overdue payments bear interest; requiring
12 | the Office of Insurance Regulation to submit a
13 | report to the Legislature relating to
14 | residential property insurance; providing
15 | report requirements; requiring the Office of
16 | the Auditor General to conduct an operational
17 | audit of Citizens Property Insurance
18 | Corporation; specifying audit requirements;
19 | requiring a report; requiring the board of
20 | governors of the Citizens Property Insurance
21 | Corporation to submit a report to the
22 | Legislature relating to property and casualty
23 | insurance; specifying report requirements;
24 | providing an appropriation and authorizing
25 | positions; providing a contingent effective
26 | date; providing effective dates.

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28 | Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Effective June 1, 2005, paragraph (e) of
2 subsection (2) of section 215.555, Florida Statutes, is
3 amended to read:

4 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

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

3 3. An insurer shall determine its provisional
4 retention by multiplying its provisional reimbursement premium
5 by the applicable adjusted retention multiple and shall
6 determine its actual retention by multiplying its actual
7 reimbursement premium by the applicable adjusted retention
8 multiple.

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

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

23 215.559 Hurricane Loss Mitigation Program.--

24 (1) There is created a Hurricane Loss Mitigation
25 Program. The Legislature shall annually appropriate \$10
26 million of the moneys authorized for appropriation under s.
27 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to
28 the Department of Community Affairs for the purposes set forth
29 in this section.

30 (2)(a) Seven million dollars in funds provided in
31 subsection (1) shall be used for programs to improve the wind

1 resistance of residences and mobile homes, including loans,
2 subsidies, grants, demonstration projects, and direct
3 assistance; cooperative programs with local governments and
4 the Federal Government; and other efforts to prevent or reduce
5 losses or reduce the cost of rebuilding after a disaster.

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

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

1 For the 2005-2006 fiscal year, the Department of Community
2 Affairs may use up to \$1 million of the funds appropriated
3 pursuant to paragraph (2)(a) to begin the low-interest loan
4 program as a pilot project in one or more counties. The
5 Department of Financial Services, the Office of Financial
6 Regulation, the Florida Housing Finance Corporation, and the
7 Office of Tourism, Trade, and Economic Development shall
8 assist the Department of Community Affairs in establishing the
9 program and pilot project. The department may use up to 2.5
10 percent of the funds appropriated in any given fiscal year for
11 administering the loan program. The department may adopt rules
12 to implement the program.

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

27 ~~(5)(4)~~ Of moneys provided to the Department of
28 Community Affairs in paragraph (2)(a), 10 percent shall be
29 allocated to a Type I Center within the State University
30 System dedicated to hurricane research. The Type I Center
31 shall develop a preliminary work plan approved by the advisory

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

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

21 (7)~~(6)~~ Moneys provided to the Department of Community
22 Affairs under this section are intended to supplement other
23 funding sources of the Department of Community Affairs and may
24 not supplant other funding sources of the Department of
25 Community Affairs.

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

1 ~~(9)(8)~~ This section is repealed June 30, 2011.

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

4 627.062 Rate standards.--

5 (4) The establishment of any rate, rating
6 classification, rating plan or schedule, or variation thereof
7 in violation of part IX of chapter 626 is also in violation of
8 this section. In order to enhance the ability of consumers to
9 compare premiums and to increase the accuracy and usefulness
10 of rate-comparison information provided by the office to the
11 public, the office shall develop a proposed standard rating
12 territory plan to be used by all authorized property and
13 casualty insurers for residential property insurance. In
14 adopting the proposed plan, the office may consider
15 geographical characteristics relevant to risk, county lines,
16 major roadways, existing rating territories used by a
17 significant segment of the market, and other relevant factors.
18 Such plan shall be submitted to the President of the Senate
19 and the Speaker of the House of Representatives by January 15,
20 2006. The plan may not be implemented unless authorized by
21 further act of the Legislature.

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

1 the prior year may be added to the following year's
2 reimbursement premium and any over-recoupment shall be
3 subtracted from the following year's reimbursement premium.

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

7 627.0628 Florida Commission on Hurricane Loss
8 Projection Methodology.--

9 (1) LEGISLATIVE FINDINGS AND INTENT.--

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

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

24 (c) With respect to a rate filing under s. 627.062, an
25 insurer may employ actuarial methods, principles, standards,
26 models, or output ranges found by the commission to be
27 accurate or reliable to determine hurricane loss factors for
28 use in a rate filing under s. 627.062. Such, which findings
29 and factors are admissible and relevant in consideration of a
30 rate filing by the office or in any arbitration or
31 administrative or judicial review only if the office and the

1 consumer advocate appointed pursuant to s. 627.0613 have
2 access to all of the assumptions and factors that were used in
3 developing the actuarial methods, principles, standards,
4 models, or output ranges, and are not precluded from
5 disclosing such information in a rate proceeding.

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

8 627.0629 Residential property insurance; rate
9 filings.--

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

13 Section 6. Section 627.06281, Florida Statutes, is
14 created to read:

15 627.06281 Public hurricane loss projection model;
16 reporting of data by insurers.--Within 30 days after a written
17 request for loss data and associated exposure data by the
18 office or a type I center within the State University System
19 established to study mitigation, residential property insurers
20 and licensed rating and advisory organizations that compile
21 residential property insurance loss data shall provide loss
22 data and associated exposure data for residential property
23 insurance policies to the office or to a type I center within
24 the State University System established to study mitigation,
25 as directed by the office, for the purposes of developing,
26 maintaining, and updating a public model for hurricane loss
27 projections. The loss data and associated exposure data
28 provided shall be in writing.

29 Section 7. Paragraphs (a), (c), and (q) of subsection
30 (6) of section 627.351, Florida Statutes, are amended to read:

31 627.351 Insurance risk apportionment plans.--

1 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--
2 (a)1. The Legislature finds that actual and threatened
3 catastrophic losses to property in this state from hurricanes
4 have caused insurers to be unwilling or unable to provide
5 property insurance coverage to the extent sought and needed.
6 It is in the public interest and a public purpose to assist in
7 assuring that property in the state is insured so as to
8 facilitate the remediation, reconstruction, and replacement of
9 damaged or destroyed property in order to reduce or avoid the
10 negative effects otherwise resulting to the public health,
11 safety, and welfare; to the economy of the state; and to the
12 revenues of the state and local governments needed to provide
13 for the public welfare. It is necessary, therefore, to provide
14 property insurance to applicants who are in good faith
15 entitled to procure insurance through the voluntary market but
16 are unable to do so. The Legislature intends by this
17 subsection that property insurance be provided and that it
18 continues, as long as necessary, through an entity organized
19 to achieve efficiencies and economies, while providing service
20 to policyholders, applicants, and agents that is no less than
21 the quality generally provided in the voluntary market, all
22 toward the achievement of the foregoing public purposes.
23 Because it is essential for the corporation to have the
24 maximum financial resources to pay claims following a
25 catastrophic hurricane, it is the intent of the Legislature
26 that the income of the corporation be exempt from federal
27 income taxation and that interest on the debt obligations
28 issued by the corporation be exempt from federal income
29 taxation.
30 2. The Residential Property and Casualty Joint
31 Underwriting Association originally created by this statute

1 shall be known, as of July 1, 2002, as the Citizens Property
2 Insurance Corporation. The corporation shall provide insurance
3 for residential and commercial property, for applicants who
4 are in good faith entitled, but are unable, to procure
5 insurance through the voluntary market. The corporation shall
6 operate pursuant to a plan of operation approved by order of
7 the office. The plan is subject to continuous review by the
8 office. The office may, by order, withdraw approval of all or
9 part of a plan if the office determines that conditions have
10 changed since approval was granted and that the purposes of
11 the plan require changes in the plan. For the purposes of this
12 subsection, residential coverage includes both personal lines
13 residential coverage, which consists of the type of coverage
14 provided by homeowner's, mobile home owner's, dwelling,
15 tenant's, condominium unit owner's, and similar policies, and
16 commercial lines residential coverage, which consists of the
17 type of coverage provided by condominium association,
18 apartment building, and similar policies.

19 3. It is the intent of the Legislature that
20 policyholders, applicants, and agents of the corporation
21 receive service and treatment of the highest possible level
22 but never less than that generally provided in the voluntary
23 market. It also is intended that the corporation be held to
24 service standards no less than those applied to insurers in
25 the voluntary market by the office with respect to
26 responsiveness, timeliness, customer courtesy, and overall
27 dealings with policyholders, applicants, or agents of the
28 corporation.

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

30 1. Must provide for adoption of residential property
31 and casualty insurance policy forms and commercial residential

1 and nonresidential property insurance forms, which forms must
2 be approved by the office prior to use. The corporation shall
3 adopt the following policy forms:

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

9 b. Basic personal lines policy forms that are policies
10 similar to an HO-8 policy or a dwelling fire policy that
11 provide coverage meeting the requirements of the secondary
12 mortgage market, but which coverage is more limited than the
13 coverage under a standard policy.

14 c. Commercial lines residential policy forms that are
15 generally similar to the basic perils of full coverage
16 obtainable for commercial residential structures in the
17 admitted voluntary market.

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

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

28 2.a. Must provide that the corporation adopt a program
29 in which the corporation and authorized insurers enter into
30 quota share primary insurance agreements for hurricane
31 coverage, as defined in s. 627.4025(2)(a), for eligible risks,

1 and adopt property insurance forms for eligible risks which
2 cover the peril of wind only. As used in this subsection, the
3 term:

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

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

1 b. The corporation may enter into quota share primary
2 insurance agreements with authorized insurers at corporation
3 coverage levels of 90 percent and 50 percent.

4 c. If the corporation determines that additional
5 coverage levels are necessary to maximize participation in
6 quota share primary insurance agreements by authorized
7 insurers, the corporation may establish additional coverage
8 levels. However, the corporation's quota share primary
9 insurance coverage level may not exceed 90 percent.

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

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

23 f. For all eligible risks covered under quota share
24 primary insurance agreements, the exposure and coverage levels
25 for both the corporation and authorized insurers shall be
26 reported by the corporation to the Florida Hurricane
27 Catastrophe Fund. For all policies of eligible risks covered
28 under quota share primary insurance agreements, the
29 corporation and the authorized insurer shall maintain complete
30 and accurate records for the purpose of exposure and loss
31 reimbursement audits as required by Florida Hurricane

1 Catastrophe Fund rules. The corporation and the authorized
2 insurer shall each maintain duplicate copies of policy
3 declaration pages and supporting claims documents.

4 g. The corporation board shall establish in its plan
5 of operation standards for quota share agreements which ensure
6 that there is no discriminatory application among insurers as
7 to the terms of quota share agreements, pricing of quota share
8 agreements, incentive provisions if any, and consideration
9 paid for servicing policies or adjusting claims.

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

23 3. May provide that the corporation may employ or
24 otherwise contract with individuals or other entities to
25 provide administrative or professional services that may be
26 appropriate to effectuate the plan. The corporation shall have
27 the power to borrow funds, by issuing bonds or by incurring
28 other indebtedness, and shall have other powers reasonably
29 necessary to effectuate the requirements of this subsection,
30 including without limitation, the power to issue bonds and
31 incur other indebtedness in order to refinance outstanding

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

26 4.a. Must require that the corporation operate subject
27 to the supervision and approval of a board of governors
28 consisting of 8 ~~7~~ individuals who are residents of this state,
29 from different geographical areas of this state, ~~appointed by~~
30 ~~the Chief Financial Officer~~. The Governor, the Chief Financial
31 Officer, the President of the Senate, and the Speaker of the

1 House of Representatives shall each appoint two members of the
2 board, effective August 1, 2005. At least one of the two
3 members appointed by each appointing officer must have
4 demonstrated expertise in insurance. The Chief Financial
5 Officer shall designate one of the appointees as chair. All
6 board members serve at the pleasure of the appointing officer
7 ~~Chief Financial Officer~~. All board members, including the
8 chair, must be appointed to serve for 3-year terms beginning
9 annually on a date designated by the plan. Any board vacancy
10 shall be filled for the unexpired term by the appointing
11 officer ~~Chief Financial Officer~~. The Chief Financial Officer
12 shall appoint a technical advisory group to provide
13 information and advice to the board of governors in connection
14 with the board's duties under this subsection. The executive
15 director and senior managers of the corporation shall be
16 engaged by the board, as recommended by the Chief Financial
17 Officer and serve at the pleasure of the board ~~Chief Financial~~
18 ~~Officer~~. The executive director is responsible for employing
19 other staff as the corporation may require, subject to review
20 and concurrence by the board and ~~office of~~ the Chief Financial
21 Officer.

22 b. The board shall create a Market Accountability
23 Advisory Committee to assist the corporation in developing
24 awareness of its rates and its customer and agent service
25 levels in relationship to the voluntary market insurers
26 writing similar coverage. The members of the advisory
27 committee shall consist of the following 11 persons, one of
28 whom must be elected chair by the members of the committee:
29 four representatives, one appointed by the Florida Association
30 of Insurance Agents, one by the Florida Association of
31 Insurance and Financial Advisors, one by the Professional

1 Insurance Agents of Florida, and one by the Latin American
2 Association of Insurance Agencies; three representatives
3 appointed by the insurers with the three highest voluntary
4 market share of residential property insurance business in the
5 state; one representative from the Office of Insurance
6 Regulation; one consumer appointed by the board who is insured
7 by the corporation at the time of appointment to the
8 committee; one representative appointed by the Florida
9 Association of Realtors; and one representative appointed by
10 the Florida Bankers Association. All members must serve for
11 3-year terms and may serve for consecutive terms. The
12 committee shall report to the corporation at each board
13 meeting on insurance market issues which may include rates and
14 rate competition with the voluntary market; service, including
15 policy issuance, claims processing, and general responsiveness
16 to policyholders, applicants, and agents; and matters relating
17 to depopulation.

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

20 a. Subject to the provisions of s. 627.3517, with
21 respect to personal lines residential risks, if the risk is
22 offered coverage from an authorized insurer at the insurer's
23 approved rate under either a standard policy including wind
24 coverage or, if consistent with the insurer's underwriting
25 rules as filed with the office, a basic policy including wind
26 coverage, the risk is not eligible for any policy issued by
27 the corporation. If the risk is not able to obtain any such
28 offer, the risk is eligible for either a standard policy
29 including wind coverage or a basic policy including wind
30 coverage issued by the corporation; however, if the risk could
31 not be insured under a standard policy including wind coverage

1 regardless of market conditions, the risk shall be eligible
2 for a basic policy including wind coverage unless rejected
3 under subparagraph 8. The corporation shall determine the type
4 of policy to be provided on the basis of objective standards
5 specified in the underwriting manual and based on generally
6 accepted underwriting practices.

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

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

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

25
26 If the producing agent is unwilling or unable to accept
27 appointment, the new insurer shall pay the agent in accordance
28 with sub-sub-sub-subparagraph (A).

29 (II) When the corporation enters into a contractual
30 agreement for a take-out plan, the producing agent of record
31

1 of the corporation policy is entitled to retain any unearned
2 commission on the policy, and the insurer shall:

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

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

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

17 b. With respect to commercial lines residential risks,
18 if the risk is offered coverage under a policy including wind
19 coverage from an authorized insurer at its approved rate, the
20 risk is not eligible for any policy issued by the corporation.
21 If the risk is not able to obtain any such offer, the risk is
22 eligible for a policy including wind coverage issued by the
23 corporation.

24 (I) If the risk accepts an offer of coverage through
25 the market assistance plan or an offer of coverage through a
26 mechanism established by the corporation before a policy is
27 issued to the risk by the corporation or during the first 30
28 days of coverage by the corporation, and the producing agent
29 who submitted the application to the plan or the corporation
30 is not currently appointed by the insurer, the insurer shall:

31

1 (A) Pay to the producing agent of record of the
2 policy, for the first year, an amount that is the greater of
3 the insurer's usual and customary commission for the type of
4 policy written or a fee equal to the usual and customary
5 commission of the corporation; or
6 (B) Offer to allow the producing agent of record of
7 the policy to continue servicing the policy for a period of
8 not less than 1 year and offer to pay the agent the greater of
9 the insurer's or the corporation's usual and customary
10 commission for the type of policy written.
11
12 If the producing agent is unwilling or unable to accept
13 appointment, the new insurer shall pay the agent in accordance
14 with sub-sub-sub-subparagraph (A).
15 (II) When the corporation enters into a contractual
16 agreement for a take-out plan, the producing agent of record
17 of the corporation policy is entitled to retain any unearned
18 commission on the policy, and the insurer shall:
19 (A) Pay to the producing agent of record of the
20 corporation policy, for the first year, an amount that is the
21 greater of the insurer's usual and customary commission for
22 the type of policy written or a fee equal to the usual and
23 customary commission of the corporation; or
24 (B) Offer to allow the producing agent of record of
25 the corporation policy to continue servicing the policy for a
26 period of not less than 1 year and offer to pay the agent the
27 greater of the insurer's or the corporation's usual and
28 customary commission for the type of policy written.
29
30
31

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

4 6. Must include rules for classifications of risks and
5 rates therefor.

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

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

19 a. Whether the likelihood of a loss for the individual
20 risk is substantially higher than for other risks of the same
21 class; and

22 b. Whether the uncertainty associated with the
23 individual risk is such that an appropriate premium cannot be
24 determined.

25
26 The acceptance or rejection of a risk by the corporation shall
27 be construed as the private placement of insurance, and the
28 provisions of chapter 120 shall not apply.

29 9. Must provide that the corporation shall make its
30 best efforts to procure catastrophe reinsurance at reasonable
31

1 rates, to cover its projected 100-year probable maximum loss
2 as determined by the board of governors.

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

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

23 12. Corporation policies and applications must include
24 a notice that the corporation policy could, under this
25 section, be replaced with a policy issued by an authorized
26 insurer that does not provide coverage identical to the
27 coverage provided by the corporation. The notice shall also
28 specify that acceptance of corporation coverage creates a
29 conclusive presumption that the applicant or policyholder is
30 aware of this potential.

31

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

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

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

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

15 (q) The corporation shall ~~not~~ require the securing of
16 flood insurance as a condition of coverage if the property
17 risk of the insured or applicant is located in a Special Flood
18 Hazard Area as defined by the Federal Emergency Management
19 Agency for the National Flood Insurance Program. ~~executes a~~
20 ~~form approved by the office affirming that~~ Flood insurance is
21 not provided by the corporation and ~~that if flood insurance is~~
22 ~~not secured by the applicant or insured in addition to~~
23 ~~coverage by the corporation,~~ the risk will not be covered for
24 flood damage. A corporation policyholder that does electing
25 not ~~to~~ secure flood insurance and makes a claim ~~executing a~~
26 ~~form as provided herein making a claim~~ for water damage
27 against the corporation shall have the burden of proving the
28 damage was not caused by flooding. Notwithstanding other
29 provisions of this subsection, the corporation may deny
30 coverage or refuse to issue or renew a policy to an applicant
31

1 or insured who refuses to purchase flood insurance as required
2 by this subsection ~~to execute the form described herein.~~

3 Section 8. Section 627.40951, Florida Statutes, is
4 created to read:

5 627.40951 Standard personal lines residential
6 insurance policy.--

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

25 (2) The Chief Financial Officer shall appoint an
26 advisory committee composed of two representatives of insurers
27 currently selling personal lines residential property
28 insurance coverage, two representatives of property and
29 casualty agents, two representatives of consumers, two
30 representatives of the Commissioner of Insurance Regulation,
31 and the Insurance Consumer Advocate or her or his designee.

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

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

16 627.411 Grounds for disapproval.--

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

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

22 (b) Contains or incorporates by reference, where such
23 incorporation is otherwise permissible, any inconsistent,
24 ambiguous, or misleading clauses, or exceptions and conditions
25 which deceptively affect the risk purported to be assumed in
26 the general coverage of the contract.

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

29 (d) Is printed or otherwise reproduced in such manner
30 as to render any material provision of the form substantially
31 illegible.

1 (e) Is for residential property insurance and contains
 2 provisions that are unfair or inequitable or encourage
 3 misrepresentation.

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

5 1. Provides benefits that are unreasonable in relation
 6 to the premium charged.†

7 2. Contains provisions that are unfair or inequitable
 8 or contrary to the public policy of this state or that
 9 encourage misrepresentation.†

10 3. Contains provisions that apply rating practices
 11 that result in unfair discrimination pursuant to s.
 12 626.9541(1)(g)2.

13 ~~(g)(f)~~ Excludes coverage for human immunodeficiency
 14 virus infection or acquired immune deficiency syndrome or
 15 contains limitations in the benefits payable, or in the terms
 16 or conditions of such contract, for human immunodeficiency
 17 virus infection or acquired immune deficiency syndrome which
 18 are different than those which apply to any other sickness or
 19 medical condition.

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

22 627.4133 Notice of cancellation, nonrenewal, or
 23 renewal premium.--

24 (2) With respect to any personal lines or commercial
 25 residential property insurance policy, including, but not
 26 limited to, any homeowner's, mobile home owner's, farmowner's,
 27 condominium association, condominium unit owner's, apartment
 28 building, or other policy covering a residential structure or
 29 its contents:

30 (d)1. Upon a declaration of an emergency pursuant to
 31 s. 252.36 and the filing of an order by the Commissioner of

1 Insurance Regulation, an insurer may not cancel or nonrenew a
2 personal residential or commercial residential property
3 insurance policy covering a dwelling or residential property
4 located in this state which has been damaged as a result of a
5 hurricane or wind loss that is the subject of the declaration
6 of emergency for a period of 90 days after the dwelling or
7 residential property has been repaired. A structure is deemed
8 to be repaired when substantially completed and restored to
9 the extent that it is insurable by another authorized insurer
10 that is writing policies in this state.

11 2. However, an insurer or agent may cancel or nonrenew
12 such a policy prior to the repair of the dwelling or
13 residential property:

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

15 b. Upon 45 days' notice:

16 (I) For a material misstatement or fraud related to
17 the claim;

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

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

21 3. If the insurer elects to nonrenew a policy covering
22 a property that has been damaged, the insurer shall provide at
23 least 90 days' notice to the insured that the insurer intends
24 to nonrenew the policy 90 days after the dwelling or
25 residential property has been repaired. Nothing in this
26 paragraph shall prevent the insurer from canceling or
27 nonrenewing the policy 90 days after the repairs are complete
28 for the same reasons the insurer would otherwise have canceled
29 or nonrenewed the policy but for the limitations of
30 subparagraph 1. The Financial Services Commission may adopt
31

1 rules, and the Commissioner of Insurance Regulation may issue
2 orders, necessary to implement this paragraph.

3 4. This paragraph shall also apply to personal
4 residential and commercial residential policies covering
5 property that was damaged as the result of Tropical Storm
6 Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan,
7 or Hurricane Jeanne.

8 (e) If any cancellation or nonrenewal of a policy
9 subject to this subsection is to take effect during the
10 duration of a hurricane as defined in s. 627.4025(2)(c), the
11 effective date of such cancellation or nonrenewal is extended
12 until the end of the duration of such hurricane. The insurer
13 may collect premium at the prior rates or the rates then in
14 effect for the period of time for which coverage is extended.
15 This paragraph does not apply to any property with respect to
16 which replacement coverage has been obtained and which is in
17 effect for a claim occurring during the duration of the
18 hurricane.

19 Section 11. Effective January 1, 2006, section
20 627.4143, Florida Statutes, is amended to read:

21 627.4143 Outline of coverage.--

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

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

30 (a) A brief description of the principal benefits and
31 coverage provided in the policy, broken down by each class or

1 type of coverage provided under the policy for which a premium
2 is charged, and itemization of the applicable premium.

3 (b) A summary statement of the principal exclusions
4 and limitations or reductions contained in the policy by class
5 or type, including, but not limited to, deductibles,
6 coinsurance, and any other limitations or reductions.

7 (c) A summary statement of any renewal or cancellation
8 provisions.

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

15 (e) A list of any additional coverage provided through
16 any rider or endorsement which accompanies the policy. The
17 list shall contain a descriptive reference to each additional
18 coverage, rather than solely a reference to a form or code
19 number.

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

27 (3) A basic homeowners', mobile homeowners', dwelling,
28 or condominium unit owners' policy may not be delivered or
29 issued for delivery in this state unless a comprehensive
30 checklist of coverage on a form adopted by the commission and
31 an appropriate outline of coverage have been delivered prior

1 to issuance of the policy or accompanies the policy when
2 issued. The commission shall, by rule, adopt a form for the
3 checklist for each type of policy to which this subsection
4 applies. Each form shall indicate that it was adopted by the
5 commission.

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

18 1. Property coverage for the principal premises shown
19 in the declarations.

20 2. Property coverage for other structures on the
21 residence premises.

22 3. Whether the principal premises and other structures
23 are insured against the following perils:

24 a. Fire.

25 b. Lightning.

26 c. Explosion.

27 d. Hurricane loss.

28 e. Nonhurricane wind loss.

29 f. Collapse.

30 g. Mold.

31 h. Sinkhole loss.

- 1 i. Vandalism.
2 4. Personal property coverage.
3 5. Whether personal property is insured against the
4 following perils:
5 a. Fire.
6 b. Lightning.
7 c. Hurricane loss.
8 d. Nonhurricane wind loss.
9 e. Collapse.
10 f. Mold.
11 g. Sinkhole loss.
12 h. Theft.
13 6. The following additional coverages:
14 a. Debris removal.
15 b. Loss assessment.
16 c. Additional living expenses.
17 7. Personal liability coverage.
18 8. Medical payments coverage.
19 9. Discounts applied to the premium.
20 10. Deductibles for loss due to hurricane and loss to
21 other perils.
22 11. Building ordinance or law coverage.
23 12. Replacement cost coverage.
24 13. Actual cash value coverage.
25 (b) The forms shall allow insurers to place other
26 coverages on the checklists which may or may not be included
27 in the insurer's policies.
28 (c) The outline of coverage must contain:
29 1. A brief description of the principal benefits and
30 coverage provided in the policy, broken down by each class or
31

1 type of coverage provided under the policy for which a premium
2 is charged, and itemization of the applicable premium.

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

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

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

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

17 ~~(4)(3)~~ The outline of coverage for a private passenger
18 motor vehicle policy is required only on the initial policy
19 issued by an insurer. The outline of coverage and the
20 checklist for a basic homeowners', mobile homeowners',
21 dwelling, or condominium unit owners' policy is required on
22 the initial policy and each renewal thereof issued by an
23 insurer.

24 ~~(5)(4)~~ An insurer must insert the following language
25 on the outline of coverage:

26
27 "The following outline of coverage or checklist is for
28 informational purposes only. Florida law prohibits this
29 outline or checklist from changing any of the provisions of
30 the insurance contract which is the subject of this outline.
31 Any endorsement regarding changes in types of coverage,

1 | exclusions, limitations, reductions, deductibles, coinsurance,
 2 | renewal provisions, cancellation provisions, surcharges, or
 3 | credits will be sent separately."
 4 |

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

9 | Section 12. Effective October 1, 2005, subsections
 10 | (3), (4), (8), and (9) of section 627.701, Florida Statutes,
 11 | as amended by section 4 of chapter 2004-480, Laws of Florida,
 12 | are amended to read:

13 | 627.701 Liability of insureds; coinsurance;
 14 | deductibles.--

15 | (3)(a) A policy of residential property insurance
 16 | shall include a deductible amount applicable to hurricane ~~or~~
 17 | ~~wind~~ losses no lower than \$500 and no higher than 2 percent of
 18 | the policy dwelling limits with respect to personal lines
 19 | residential risks, and no higher than 3 percent of the policy
 20 | limits with respect to commercial lines residential risks;
 21 | however, if a risk was covered on August 24, 1992, under a
 22 | policy having a higher deductible than the deductibles allowed
 23 | by this paragraph, a policy covering such risk may include a
 24 | deductible no higher than the deductible in effect on August
 25 | 24, 1992. Notwithstanding the other provisions of this
 26 | paragraph, a personal lines residential policy covering a risk
 27 | valued at \$50,000 or less may include a deductible amount
 28 | attributable to hurricane ~~or wind~~ losses no lower than \$250,
 29 | and a personal lines residential policy covering a risk valued
 30 | at \$100,000 or more may include a deductible amount
 31 | attributable to hurricane ~~or wind~~ losses no higher than 10 ~~5~~

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

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

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

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

14 4. With respect to a policy covering a risk with
15 dwelling limits of \$250,000 or more, the insurer need not
16 offer the \$500 hurricane ~~or wind~~ deductible as required by
17 subparagraph 1., but must, except as otherwise provided in
18 this subsection, offer the other 2 percent hurricane
19 deductibles ~~or wind deductible~~ as required by subparagraph 1.

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

28 (4)(a) Any policy that contains a separate hurricane
29 deductible must on its face include in boldfaced type no
30 smaller than 18 points the following statement: "THIS POLICY
31 CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY

1 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy
2 containing a coinsurance provision applicable to hurricane
3 losses must on its face include in boldfaced type no smaller
4 than 18 points the following statement: "THIS POLICY CONTAINS
5 A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET
6 EXPENSES TO YOU."

7 (b) Beginning October 1, 2005, for any personal lines
8 residential property insurance policy containing a separate
9 hurricane deductible, the insurer shall compute and
10 prominently display the actual dollar value of the hurricane
11 deductible on the declarations page of the policy at issuance
12 and, for renewal, on the renewal declarations page of the
13 policy or on the premium renewal notice.

14 (c) Beginning October 1, 2005, for any personal lines
15 residential property insurance policy containing an inflation
16 guard rider, the insurer shall compute and prominently display
17 the actual dollar value of the hurricane deductible on the
18 declarations page of the policy at issuance and, for renewal,
19 on the renewal declarations page of the policy or on the
20 premium renewal notice. In addition, beginning October 1,
21 2005, for any personal lines residential property insurance
22 policy containing an inflation guard rider, the insurer shall
23 notify the policyholder of the possibility that the hurricane
24 deductible may be higher than indicated when loss occurs due
25 to application of the inflation guard rider. Such notification
26 shall be made on the declarations page of the policy at
27 issuance and, for renewal, on the renewal declarations page of
28 the policy or on the premium renewal notice.

29 ~~(8)(a) The Legislature finds that property insurance~~
30 ~~coverage has become unaffordable for a significant number of~~
31 ~~mobile home owners, as evidenced by reports that up to 100,000~~

1 ~~mobile home owners have terminated their insurance coverage~~
2 ~~because they cannot afford to pay approved rates charged in~~
3 ~~the voluntary or residual markets. The Legislature further~~
4 ~~finds that additional flexibility in available coverages will~~
5 ~~enable mobile home owners to obtain affordable insurance and~~
6 ~~increase capacity.~~

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

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

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

15 ~~(8)(9)~~ Notwithstanding the other provisions of this
16 section or of other law, but only as to hurricane coverage as
17 defined in s. 627.4025 for commercial lines residential
18 coverages, an insurer may offer a deductible in an amount not
19 exceeding ~~5 percent of the insured value with respect to a~~
20 ~~condominium association or cooperative association policy, or~~
21 ~~in an amount not exceeding~~ 10 percent of the insured value
22 ~~with respect to any other commercial lines residential policy,~~
23 if, at the time of such offer and at each renewal, the insurer
24 also offers to the policyholder a deductible in the amount of
25 3 percent of the insured value. Nothing in this subsection
26 prohibits any deductible otherwise authorized by this section.
27 All forms by which the offers authorized in this subsection
28 are made or required to be made shall be on forms that are
29 adopted or approved by the commission or office.

30
31

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

4 627.701 Liability of Insureds; coinsurance;
5 deductibles.--

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

9 1.(a) The hurricane deductible shall apply on an
10 annual basis to all covered hurricane losses that occur during
11 the calendar year for losses that are covered under one or
12 more policies issued by the same insurer or an insurer in the
13 same insurer group.

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

18 3.(c) If there was a hurricane loss for a prior
19 hurricane or hurricanes during the calendar year, the insurer
20 may apply a deductible to a subsequent hurricane which ~~that~~ is
21 the greater of the remaining amount of the hurricane
22 deductible or the amount of the deductible that applies to
23 perils other than a hurricane. Insurers may require
24 policyholders to report hurricane losses that are below the
25 hurricane deductible or to maintain receipts or other records
26 of such hurricane losses in order to apply such losses to
27 subsequent hurricane claims.

28 4.(d) If there are hurricane losses in a calendar year
29 on more than one policy issued by the same insurer or an
30 insurer in the same insurer group, the hurricane deductible
31 shall be the highest amount stated in any one of the policies.

1 If a policyholder who had a hurricane loss under the prior
2 policy is provided or offered a lower hurricane deductible
3 under the new or renewal policy, the insurer must notify the
4 policyholder, in writing, at the time the lower hurricane
5 deductible is provided or offered, that the lower hurricane
6 deductible will not apply until January 1 of the following
7 calendar year.

8 (b) For commercial residential property insurance
9 policies issued or renewed on or after January 1, 2006, the
10 insurer must offer the policyholder the following alternative
11 hurricane deductibles:

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

14 2. A hurricane deductible that applies to each
15 hurricane.

16 Section 14. Effective October 1, 2005, section
17 627.7011, Florida Statutes, is amended to read:

18 627.7011 Homeowners' policies; offer of replacement
19 cost coverage and law and ordinance coverage.--

20 (1) Prior to issuing a homeowner's insurance policy on
21 or after October 1, 2005 ~~June 1, 1994~~, or prior to the first
22 renewal of a homeowner's insurance policy on or after October
23 1, 2005 ~~June 1, 1994~~, the insurer must offer each of the
24 following:

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

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

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

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

27 (2) Unless the insurer obtains the policyholder's
28 written refusal of the policies or endorsements specified in
29 subsection (1), any policy covering the dwelling is deemed to
30 include the coverage specified in paragraph (1)(b). The
31 rejection or selection of alternative coverage shall be made

1 on a form approved by the office. The form shall fully advise
2 the applicant of the nature of the coverage being rejected. If
3 this form is signed by a named insured, it will be
4 conclusively presumed that there was an informed, knowing
5 rejection of the coverage or election of the alternative
6 coverage on behalf of all insureds. Unless the policyholder
7 requests in writing the coverage specified in this section, it
8 need not be provided in or supplemental to any other policy
9 that renews, insures, extends, changes, supersedes, or
10 replaces an existing policy when the policyholder has rejected
11 the coverage specified in this section or has selected
12 alternative coverage. The insurer must provide such
13 policyholder with notice of the availability of such coverage
14 in a form approved by the office at least once every 3 years.
15 The failure to provide such notice constitutes a violation of
16 this code, but does not affect the coverage provided under the
17 policy.

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

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

27 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT
28 COVERAGE THAT YOU MAY WISH TO PURCHASE. YOU MAY
29 ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD
30 INSURANCE FROM THE NATIONAL FLOOD INSURANCE
31 PROGRAM. WITHOUT THIS COVERAGE, YOU MAY HAVE

1 UNCOVERED LOSSES. PLEASE DISCUSS THESE
 2 COVERAGES WITH YOUR INSURANCE AGENT."

3 The intent of this subsection is to encourage
 4 policyholders to purchase sufficient coverage to protect them
 5 in case events excluded from the standard homeowners policy,
 6 such as law and ordinance enforcement and flood, combine with
 7 covered events to produce damage or loss to the insured
 8 property. The intent is also to encourage policyholders to
 9 discuss these issues with their insurance agent.

10 ~~(5)(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 15. Effective July 1, 2005, subsections (1)
 20 and (7) of section 627.7015, Florida Statutes, are amended,
 21 and subsection (2) of that section is reenacted, to read:

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

24 (1) PURPOSE AND SCOPE.--This section sets forth a
 25 nonadversarial alternative dispute resolution procedure for a
 26 mediated claim resolution conference prompted by the need for
 27 effective, fair, and timely handling of property insurance
 28 claims. There is a particular need for an informal,
 29 nonthreatening forum for helping parties who elect this
 30 procedure to resolve their claims disputes because most
 31 homeowner's and commercial residential insurance policies

1 obligate insureds to participate in a potentially expensive
2 and time-consuming adversarial appraisal process prior to
3 litigation. The procedure set forth in this section is
4 designed to bring the parties together for a mediated claims
5 settlement conference without any of the trappings or
6 drawbacks of an adversarial process. Before resorting to these
7 procedures, insureds and insurers are encouraged to resolve
8 claims as quickly and fairly as possible. This section is
9 available with respect to claims under personal lines and
10 commercial residential policies for all claimants and insurers
11 prior to commencing the appraisal process, or commencing
12 litigation. If requested by the insured, participation by
13 legal counsel shall be permitted. Mediation under this section
14 is also available to litigants referred to the department by a
15 county court or circuit court. This section does not apply to
16 commercial coverages, to private passenger motor vehicle
17 insurance coverages, or to disputes relating to liability
18 coverages in policies of property insurance.

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

25 (7) If the insurer fails to comply with subsection (2)
26 by failing to notify a first-party claimant of its right to
27 participate in the mediation program under this section or if
28 the insurer requests the mediation, and the mediation results
29 are rejected by either party, the insured shall not be
30 required to submit to or participate in any contractual loss
31 appraisal process of the property loss damage as a

1 precondition to legal action for breach of contract against
2 the insurer for its failure to pay the policyholder's claims
3 covered by the policy.

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

6 627.702 Valued policy law.--

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

19 (b) The intent of this subsection is not to deprive an
20 insurer of any proper defense under the policy, to create new
21 or additional coverage under the policy, or to require an
22 insurer to pay for a loss caused by a peril other than the
23 covered peril. In furtherance of such legislative intent, when
24 a loss was caused in part by a covered peril and in part by a
25 noncovered peril, paragraph (a) does not apply. In such
26 circumstances, the insurer's liability under this section
27 shall be limited to the amount of the loss caused by the
28 covered peril. However, if the covered perils alone would have
29 caused the total loss, paragraph (a) shall apply. The insurer
30 is never liable for more than the amount necessary to repair,
31 rebuild, or replace the structure following the total loss,

1 after considering all other benefits actually paid for the
 2 total loss.

3 (c) It is the intent of the Legislature that the
 4 amendment to this section shall not be applied retroactively
 5 and shall apply only to claims filed after effective date of
 6 such amendment.

7 Section 17. Section 627.706, Florida Statutes, is
 8 amended to read:

9 627.706 Sinkhole insurance; definitions.--

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

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

18 (a) "Sinkhole" means a landform created by subsidence
 19 of soil, sediment, or rock as underlying strata are dissolved
 20 by ground water. A sinkhole may form by collapse into
 21 subterranean voids created by dissolution of limestone or
 22 dolostone or by subsidence as these strata are dissolved.

23 (b)(2) "Sinkhole loss" means structural damage to the
 24 building, including the foundation, caused by sinkhole
 25 activity. Contents coverage shall apply only if there is
 26 structural damage to the building caused by sinkhole activity.

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

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

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

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

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

22 Section 18. Section 627.7065, Florida Statutes, is
23 created to read:

24 627.7065 Database of information relating to
25 sinkholes; the Department of Financial Services and the
26 Department of Environmental Protection.--

27 (1) The Legislature finds that there has been a
28 dramatic increase in the number of sinkholes and insurance
29 claims for sinkhole damage in the state during the past 10
30 years. Accordingly, the Legislature recognizes the need to
31 track current and past sinkhole activity and to make the

1 information available for prevention and remediation
2 activities. The Legislature further finds that the Florida
3 Geological Survey of the Department of Environmental
4 Protection has created a partial database of some sinkholes
5 identified in Florida, although the database is not reflective
6 of all sinkholes or insurance claims for sinkhole damage. The
7 Legislature determines that creating a complete electronic
8 database of sinkhole activity serves an important purpose in
9 protecting the public and in studying property claims
10 activities in the insurance industry.

11 (2) The Department of Financial Services, including
12 the employee of the Division of Consumer Services designated
13 as the primary contact for consumers on issues relating to
14 sinkholes, and the Office of the Insurance Consumer Advocate
15 shall consult with the Florida Geological Survey and the
16 Department of Environmental Protection to implement a
17 statewide automated database of sinkholes and related activity
18 identified in the state.

19 (3) Representatives of the Department of Financial
20 Services, with the agreement of the Department of
21 Environmental Protection, shall determine the form and content
22 of the database. The content may include standards for
23 reporting and investigating sinkholes for inclusion in the
24 database and requirements for insurers to report to the
25 departments the receipt of claims involving sinkhole loss and
26 other similar activities. The Department of Financial Services
27 may require insurers to report present and past data of
28 sinkhole claims. The database also may include information of
29 damage due to ground settling and other subsidence activity.

30 (4) The Department of Financial Services may manage
31 the database or may contract for its management and

1 maintenance. The Department of Environmental Protection shall
 2 investigate reports of sinkhole activity and include its
 3 findings and investigations in the database.

4 (5) The Department of Environmental Protection, in
 5 consultation with the Department of Financial Services, shall
 6 present a report of activities relating to the sinkhole
 7 database, including recommendations regarding the database and
 8 similar matters, to the Governor, the Speaker of the House of
 9 Representatives, the President of the Senate, and the Chief
 10 Financial Officer by December 31, 2005. The report may
 11 consider the need for the Legislature to create an entity to
 12 study the increase in sinkhole activity in the state and other
 13 similar issues relating to sinkhole damage, including
 14 recommendations and costs for staffing the entity. The report
 15 may include other information, as appropriate.

16 (6) The Department of Financial Services, in
 17 consultation with the Department of Environmental Protection,
 18 may adopt rules to implement this section.

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

21 627.707 ~~Minimum~~ Standards for investigation of
 22 sinkhole claims by insurers; nonrenewals.--

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

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

30 ~~(b) If, upon the investigation pursuant to paragraph~~
 31 ~~(a), the insurer discovers damage to a structure which is~~

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

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

18 (a) The insurer is unable to identify a valid cause of
19 the damage or discovers damage to the structure which is
20 consistent with sinkhole loss; or

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

23 (3) Following the initial inspection of the insured
24 premises, the insurer shall provide written notice to the
25 policyholder disclosing the following information:

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

28 (b) A statement of the circumstances under which the
29 insurer is required to engage an engineer or a professional
30 geologist to verify or eliminate sinkhole loss and to engage
31

1 an engineer to make recommendations regarding land and
2 building stabilization and foundation repair.

3 (c) A statement regarding the right of the
4 policyholder to request testing by an engineer or a
5 professional geologist and the circumstances under which the
6 policyholder may demand certain testing.

7 (4) If the insurer determines that there is no
8 sinkhole loss, the insurer may deny the claim. If the insurer
9 denies the claim, without performing testing under s.
10 627.7072, the policyholder may demand testing by the insurer
11 under s. 627.7072. The policyholder's demand for testing must
12 be communicated to the insurer in writing after the
13 policyholder's receipt of the insurer's denial of the claim.

14 (5)(a) Subject to paragraph (b), if a sinkhole loss is
15 verified, the insurer shall pay to stabilize the land and
16 building and repair the foundation in accordance with the
17 recommendations of the engineer as provided under s. 627.7073,
18 and in consultation with the policyholder, subject to the
19 coverage and terms of the policy. The insurer shall pay for
20 other repairs to the structure and contents in accordance with
21 the terms of the policy.

22 (b) The insurer may limit its payment to the actual
23 cash value of the sinkhole loss, not including underpinning or
24 grouting or any other repair technique performed below the
25 existing foundation of the building, until the policyholder
26 enters into a contract for the performance of building
27 stabilization or foundation repairs. After the policyholder
28 enters into the contract, the insurer shall pay the amounts
29 necessary to begin and perform such repairs as the work is
30 performed and the expenses are incurred. The insurer may not
31 require the policyholder to advance payment for such repairs.

1 If repair has begun and the engineer selected or approved by
2 the insurer determines that the repair cannot be completed
3 within the policy limits, the insurer must either complete the
4 engineer's recommended repair or tender the policy limits to
5 the policyholder without a reduction for the repair expenses
6 incurred.

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

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

26 (8)(2) No insurer shall nonrenew any policy of
27 property insurance on the basis of filing of claims for
28 partial loss caused by sinkhole damage or clay shrinkage as
29 long as the total of such payments does not exceed the current
30 policy limits of coverage for property damage, and provided
31 the insured has repaired the structure in accordance with the

1 engineering recommendations upon which any payment or policy
2 proceeds were based.

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

5 Section 20. Section 627.7072, Florida Statutes, is
6 created to read:

7 627.7072 Testing standards for sinkholes.--

8 (1) The engineer and professional geologist shall
9 perform such tests as sufficient, in their professional
10 opinion, to determine the presence or absence of sinkhole loss
11 or other cause of damage within reasonable professional
12 probability and for the engineer to make recommendations
13 regarding necessary building stabilization, and foundation
14 repair.

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

18 Section 21. Section 627.7073, Florida Statutes, is
19 created to read:

20 627.7073 Sinkhole reports.--

21 (1) Upon completion of testing as provided in s.
22 627.7072, the engineer and professional geologist shall issue
23 a report and certification to the insurer and the policyholder
24 as provided in this section.

25 (a) Sinkhole loss is verified if, based upon tests
26 performed in accordance with s. 627.7072, an engineer and a
27 professional geologist issue a written report and
28 certification stating:

29 1. That the cause of the actual physical and
30 structural damage is sinkhole activity within a reasonable
31 professional probability.

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

4 3. A description of the tests performed.

5 4. A recommendation by the engineer of methods for
6 stabilizing the land and building and for making repairs to
7 the foundation.

8 (b) If sinkhole activity is eliminated as the cause of
9 damage to the structure, the engineer and professional
10 geologist shall issue a written report and certification to
11 the policyholder and the insurer stating:

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

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

17 3. A statement of the cause of the damage within a
18 reasonable professional probability.

19 4. A description of the tests performed.

20 (c) The respective findings, opinions, and
21 recommendations of the engineer and professional geologist as
22 to the verification or elimination of a sinkhole loss and the
23 findings, opinions, and recommendations of the engineer as to
24 land and building stabilization and foundation repair shall be
25 presumed correct.

26 (2) Any insurer that has paid a claim for a sinkhole
27 loss shall file a copy of the report and certification,
28 prepared pursuant to subsection (1), with the county property
29 appraiser who shall record the report and certification with
30 the parcel number. The insurer shall bear the cost of filing
31 and recording the report and certification. There shall be no

1 cause of action or liability against an insurer for compliance
2 with this section. The seller of real property upon which a
3 sinkhole claim has been made shall disclose to the buyer of
4 such property that a claim has been paid and whether or not
5 the full amount of the proceeds were used to repair the
6 sinkhole damage.

7 Section 22. Effective October 1, 2005, and applicable
8 to policies issued or renewed on or after that date, section
9 627.711, Florida Statutes, is created to read:

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

31

1 Section 23. Section 627.712, Florida Statutes, is
2 created to read:

3 627.712 Timely payment of claims.--

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

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

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

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

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

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

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

25 (5) Following a hurricane or natural disaster, the
26 requirements of this section are subject to such exceptions or
27 alternative requirements as may be provided by rule of the
28 commission or order of the office.

29 Section 24. The Office of Insurance Regulation shall,
30 by January 1, 2006, submit a report to the President of the
31 Senate, the Speaker of the House of Representatives, the

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

12 Section 25. Notwithstanding that revenues of Citizens
13 Property Insurance Corporation are not state revenues, the
14 Auditor General shall perform an operational audit, as defined
15 in section 11.45(1), Florida Statutes, of the Citizens
16 Property Insurance Corporation created under section
17 627.351(6), Florida Statutes. The scope of the audit shall
18 also include:

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

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

28
29 The audit shall contain policy alternatives for the
30 Legislature to consider. The Auditor General shall submit a
31 report to the Governor, the President of the Senate, and the

1 Speaker of the House of Representatives no later than February
2 1, 2006.

3 Section 26. The board of governors of the Citizens
4 Property Insurance Corporation created under section
5 627.351(6), Florida Statutes, shall, by February 1, 2006,
6 submit a report to the President of the Senate, the Speaker of
7 the House of Representatives, the minority party leaders of
8 the Senate and the House of Representatives, and the chairs of
9 the standing committees of the Senate and the House of
10 Representatives having jurisdiction over matters relating to
11 property and casualty insurance. The report shall include the
12 board's findings and recommendations on the following issues:

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

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

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

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

28 (5) Actions that the board has taken to restructure
29 the corporation and recommendations for legislative action to
30 restructure the corporation, including, but not limited to,
31 actions relating to claims handling and customer service.

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

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

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

10 Section 27. For the 2005-2006 fiscal year, there is
11 appropriated \$350,000 in recurring funds from the Insurance
12 Regulatory Trust Fund and four positions are authorized to the
13 Office of the Consumer Advocate within the Department of
14 Financial Services for the purposes provided in section
15 627.0613, Florida Statutes.

16 Section 28. The amendment to section 627.0628, Florida
17 Statutes, and the creation of section 627.06281, Florida
18 Statutes, as provided in this act shall take effect on the
19 same date that House Bill 1939, Senate Bill 1478, or similar
20 legislation takes effect, if such legislation is adopted in
21 the same legislative session or an extension thereof and
22 becomes a law.

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