

1                   A bill to be entitled  
2           An act relating to property insurance; creating s.  
3           489.1285, F.S.; specifying certain consumer protection  
4           measures relating to roofing construction to be in effect  
5           following certain executive orders; specifying certain  
6           requirements to be complied with relating to roof repair  
7           or reroofing; amending s. 627.062, F.S.; limiting an  
8           insurer's recoupment of reimbursement premium; providing  
9           limitations; amending s. 627.0628, F.S.; limiting use of  
10          certain methodologies in determining hurricane loss  
11          factors for reimbursement premium rates in certain rate  
12          filings; creating s. 627.06281, F.S.; requiring certain  
13          insurers and organizations to develop, maintain, and  
14          update a public hurricane loss projection model; providing  
15          reporting requirements for insurers; protecting trade  
16          secret information; amending s. 627.0629, F.S.; tightening  
17          a limitation on rate filings based on computer models  
18          under certain circumstances; amending s. 627.351, F.S.;  
19          providing additional legislative intent relating to the  
20          Citizens Property Insurance Corporation; specifying a  
21          limitation on dwelling limits for personal lines policies;  
22          requiring the corporation to offer wind-only policies in  
23          certain areas for new personal residential risks;  
24          providing requirements and limitations; authorizes the  
25          corporation to issue bonds and incur indebtedness for  
26          certain purposes; requiring creation of a Market  
27          Accountability Advisory Committee to assist the  
28          corporation for certain purposes; providing for

29 | appointment of committee members; providing for terms;  
30 | requiring reports to the corporation; revising  
31 | requirements for the plan of operation of the corporation;  
32 | requiring a plan for removing personal lines policies from  
33 | coverage by the corporation which includes the development  
34 | and implementation of a take-out bonus strategy; deleting  
35 | limitations on certain personal lines residential wind-  
36 | only policies; deleting an obsolete reporting requirement;  
37 | specifying nonapplication of certain policy requirements  
38 | in counties lacking reasonable degrees of competition for  
39 | certain policies under certain circumstances; requiring  
40 | the commission to adopt rules; deleting an obsolete rate  
41 | methodology panel reporting requirement provision;  
42 | requiring the corporation to require the securing of flood  
43 | insurance as a condition of coverage under certain  
44 | circumstances; providing requirements and limitations;  
45 | amending s. 627.411, F.S.; revising grounds for office  
46 | disapproval of certain forms; amending s. 627.7011, F.S.;  
47 | specifying payment requirements for insurers for covered  
48 | losses to a dwelling; limiting payment to actual cost to  
49 | repair or replace the dwelling; amending s. 627.7011,  
50 | F.S.; requiring insurers to offer coverage for additional  
51 | costs of repair due to laws and ordinances; requiring  
52 | certain homeowner's insurance policies to contain a  
53 | specified statement; providing intent; amending s.  
54 | 627.7015, F.S.; revising purpose and scope provisions  
55 | relating to an alternative procedure for resolution of  
56 | disputed property insurance claims; providing an

57 | additional criterion for excusing an insured from being  
58 | required to submit to certain loss appraisal processes;  
59 | amending s. 627.702, F.S.; specifying intent; providing  
60 | nonapplication of certain insurer liability requirements  
61 | under certain circumstances; limiting an insurer's  
62 | liability to certain loss covered by a covered peril;  
63 | providing legislative intent relating to application;  
64 | amending s. 627.706, F.S.; revising definitions relating  
65 | to sinkholes; providing additional definitions; creating  
66 | s. 627.7065, F.S.; providing legislative findings;  
67 | requiring the Department of Financial Services and the  
68 | Office of the Insurance Consumer Advocate to consult with  
69 | the Florida Geological Survey and the Department of  
70 | Environmental Protection to implement a statewide  
71 | automated database of sinkholes and related activity;  
72 | providing requirements for the form and content of the  
73 | database; authorizing the Department of Financial Services  
74 | to require insurers to provide certain information;  
75 | providing for management of the database; requiring the  
76 | department to investigate sinkhole activity reports and  
77 | include findings and investigations in the database;  
78 | requiring the Department of Environmental Protection to  
79 | report on the database to the Governor, Legislature, and  
80 | Chief Financial Officer; authorizing the Department of  
81 | Financial Services to adopt implementing rules; amending  
82 | s. 627.707, F.S.; revising standards for investigations of  
83 | sinkhole claims by insurers; requiring an insurer to  
84 | engage an engineer and professional geologist for certain

85 | purposes; requiring a report under certain circumstances;  
86 | requiring an insurer to provide written notice to a  
87 | policyholder disclosing certain information; authorizing  
88 | an insurer to deny a claim under certain circumstances;  
89 | authorizing a policyholder to demand certain testing;  
90 | providing requirements; specifying required activities for  
91 | insurers if a sinkhole loss is verified; specifying  
92 | payment requirements for insurers; providing limitations;  
93 | requiring the insurer to pay fees of the engineer and  
94 | geologist; authorizing an insurer to engage a structural  
95 | engineer for certain purposes; creating s. 627.7072, F.S.;  
96 | specifying requirements for sinkhole testing by engineers  
97 | and geologists; creating s. 627.7073, F.S.; providing  
98 | reporting requirements for engineers and geologists after  
99 | testing for sinkholes; specifying a presumption of  
100 | correctness of certain findings; requiring an insurer  
101 | paying a sinkhole loss claim to file a report and  
102 | certification with the county property appraiser;  
103 | requiring the property appraiser to record the report and  
104 | certification; requiring the insurer to bear the cost of  
105 | filing and recording; requiring a seller of certain  
106 | property to make certain disclosures to property buyers  
107 | under certain circumstances; requiring the Auditor General  
108 | to perform an operational audit of the Citizens Property  
109 | Insurance Corporation; specifying audit requirements;  
110 | requiring a report; requiring the board of governors of  
111 | the Citizens Property Insurance Corporation to submit a  
112 | report to the Legislature relating to property and

113 | casualty insurance; specifying report requirements;  
 114 | requiring insurers to review and acknowledge receipt of  
 115 | certain communications relating to claims; providing an  
 116 | exception; providing a definition; providing for  
 117 | nonapplication to certain claimants; providing procedures  
 118 | and requirements relating to such acknowledgements;  
 119 | requiring an insurer to conduct certain investigations  
 120 | under certain circumstances; providing for contingent  
 121 | effect; providing effective dates.

122 |

123 | Be It Enacted by the Legislature of the State of Florida:

124 |

125 | Section 1. Section 489.1285, Florida Statutes, is created  
 126 | to read:

127 | 489.1285 Consumer protections; contract limitations.--  
 128 | Subsequent to the issuance of an executive order by the Office  
 129 | of the Governor declaring the existence of a state of emergency  
 130 | as a result and consequence of a serious threat posed to the  
 131 | public health, safety, and property in this state, in which  
 132 | damage to property has occurred and for which property insurance  
 133 | claims have been filed, the following consumer protection  
 134 | measures shall be in effect:

135 | (1) A contract for the repair or reroofing of a  
 136 | residential structure that has been agreed to in writing by the  
 137 | parties to the contract shall be a valid and binding agreement.  
 138 | A roofing contractor licensed pursuant to this chapter who is a  
 139 | party to a contract for the repair or reroofing of a residential  
 140 | structure shall be bound by the qualifications for licensure and

141 the job scope specified in this chapter for a roofing contractor  
142 to provide timely and professional services.

143 (2) If a contract is agreed to for the repair of a roof or  
144 reroofing of a residential structure, which repair is necessary  
145 as a result of damage caused by an emergency situation  
146 designated by executive order, the damages must be confirmed by  
147 a third party who is independent from the parties to the  
148 contract that the damages are a direct result of a designated  
149 emergency situation. Third-party confirmation must be attested  
150 to by an insurance adjuster, emergency management personnel,  
151 local building official, or other similar authority.

152 (3) (a) A contract for services shall not be valid after 60  
153 calendar days after the date the contract agreement was signed  
154 by the parties to the contract. The contract may not provide for  
155 an automatic extension of time for the provisions of the  
156 contract. After the 60 days have expired, the contract shall be  
157 null and void by operation of law.

158 (b) Within 10 calendar days after the period of time for  
159 expiration of the contract, the parties to the contract may  
160 agree in writing, as a separate contract to the original  
161 contract, to an additional period of 60 calendar days beyond the  
162 time period specified in the original contract to complete the  
163 roofing services. If the performance of services under the  
164 contract by the roofing contractor have not been completed, the  
165 contract shall be null and void with no further responsibilities  
166 or duties on the part of the parties to the contract except as  
167 provided in this paragraph and subsection (4).

168        (c) The subsequent contract may be extended beyond the  
169 additional 60 days pursuant to a written agreement between the  
170 parties and signed as an addendum or supplement to the contract.  
171 The delay or extension of services may only be agreed to if the  
172 delay in providing the contractual services is due to the  
173 unavailability, beyond the control of the roofing contractor, of  
174 roofing materials necessary for the completion of the repair or  
175 reroofing of the residence. The contracted price of the services  
176 may not be changed from the agreed to cost specified in the  
177 subsequent contract.

178        (4) Subsequent to the expiration of the contract or  
179 contracts specified in subsection (3), the contractor shall  
180 refund and pay in full, upon demand, any and all remuneration  
181 received in the form of a prepayment, up-front fee, deposit, or  
182 other consideration already paid to the contractor.

183        (5) The provisions of this section apply to registered, as  
184 well as certified, roofing contractors.

185        Section 2. Subsection (5) of section 627.062, Florida  
186 Statutes, is amended to read:

187        627.062 Rate standards.--

188        (5) With respect to a rate filing involving coverage of  
189 the type for which the insurer is required to pay a  
190 reimbursement premium to the Florida Hurricane Catastrophe Fund,  
191 the insurer may fully recoup in its property insurance premiums  
192 any reimbursement premiums paid to the Florida Hurricane  
193 Catastrophe Fund, together with reasonable costs of other  
194 reinsurance, but may not recoup reinsurance costs that duplicate  
195 coverage provided by the Florida Hurricane Catastrophe Fund. An

196 insurer may not recoup more than one year of reimbursement  
 197 premium at a time. Any under-recoupment from the prior year may  
 198 be added to the following year's reimbursement premium and any  
 199 over-recoupment shall be subtracted from the following year's  
 200 reimbursement premium.

201 Section 3. Paragraph (c) of subsection (1) and paragraph  
 202 (c) of subsection (3) of section 627.0628, Florida Statutes, are  
 203 amended to read:

204 627.0628 Florida Commission on Hurricane Loss Projection  
 205 Methodology.--

206 (1) LEGISLATIVE FINDINGS AND INTENT.--

207 (c) It is the intent of the Legislature to create the  
 208 Florida Commission on Hurricane Loss Projection Methodology as a  
 209 panel of experts to provide the most actuarially sophisticated  
 210 guidelines and standards for projection of hurricane losses  
 211 possible, given the current state of actuarial science. It is  
 212 the further intent of the Legislature that such standards and  
 213 guidelines must be used by the State Board of Administration in  
 214 developing reimbursement premium rates for the Florida Hurricane  
 215 Catastrophe Fund, and, subject to paragraph (3)(c), may be used  
 216 by insurers in rate filings under s. 627.062 unless the way in  
 217 which such standards and guidelines were applied by the insurer  
 218 was erroneous, as shown by a preponderance of the evidence.

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

220 (c) With respect to a rate filing under s. 627.062, an  
 221 insurer may employ actuarial methods, principles, standards,  
 222 models, or output ranges found by the commission to be accurate  
 223 or reliable to determine hurricane loss factors for use in a



224 rate filing under s. 627.062. Such, ~~which~~ findings and factors  
225 are admissible and relevant in consideration of a rate filing by  
226 the office or in any arbitration or administrative or judicial  
227 review only if the office and the consumer advocate appointed  
228 pursuant to s. 627.0613 have access to all of the assumptions  
229 and factors that were used in developing the actuarial methods,  
230 principles, standards, models, or output ranges and are not  
231 precluded from disclosing such information in a rate proceeding.

232 Section 4. Section 627.06281, Florida Statutes, is created  
233 to read:

234 627.06281 Public hurricane loss projection model;  
235 reporting of data by insurers.--Within 30 days after a written  
236 request for loss data and associated exposure data by the office  
237 or a type I center within the State University System  
238 established to study mitigation, residential property insurers  
239 and licensed rating and advisory organizations that compile  
240 residential property insurance loss data shall provide loss data  
241 and associated exposure data for residential property insurance  
242 policies to the office or to a type I center within the State  
243 University System established to study mitigation, as directed  
244 by the office, for the purposes of developing, maintaining, and  
245 updating a public model for hurricane loss projections. The loss  
246 data and associated exposure data provided shall be in writing.  
247 Any loss data and associated exposure data provided pursuant to  
248 this section that constitutes a trade secret as defined in s.  
249 812.081, and as provided in s. 815.04(3), shall be subject to  
250 the provisions of s. 815.045.

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

253 627.0629 Residential property insurance; rate filings.--

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

257 Section 6. Paragraphs (a), (c), (d), and (q) of subsection  
 258 (6) of section 627.351, Florida Statutes, are amended to read:

259 627.351 Insurance risk apportionment plans.--

260 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

261 (a)1. The Legislature finds that actual and threatened  
 262 catastrophic losses to property in this state from hurricanes  
 263 have caused insurers to be unwilling or unable to provide  
 264 property insurance coverage to the extent sought and needed. It  
 265 is in the public interest and a public purpose to assist in  
 266 assuring that property in the state is insured so as to  
 267 facilitate the remediation, reconstruction, and replacement of  
 268 damaged or destroyed property in order to reduce or avoid the  
 269 negative effects otherwise resulting to the public health,  
 270 safety, and welfare; to the economy of the state; and to the  
 271 revenues of the state and local governments needed to provide  
 272 for the public welfare. It is necessary, therefore, to provide  
 273 property insurance to applicants who are in good faith entitled  
 274 to procure insurance through the voluntary market but are unable  
 275 to do so. The Legislature intends by this subsection that  
 276 property insurance be provided and that it continues, as long as  
 277 necessary, through an entity organized to achieve efficiencies  
 278 and economies, while providing service to policyholders,

279 applicants, and agents that is no less than the quality  
280 generally provided in the voluntary market, all toward the  
281 achievement of the foregoing public purposes. Because it is  
282 essential for the corporation to have the maximum financial  
283 resources to pay claims following a catastrophic hurricane, it  
284 is the intent of the Legislature that the income of the  
285 corporation be exempt from federal income taxation and that  
286 interest on the debt obligations issued by the corporation be  
287 exempt from federal income taxation.

288         2. The Residential Property and Casualty Joint  
289 Underwriting Association originally created by this statute  
290 shall be known, as of July 1, 2002, as the Citizens Property  
291 Insurance Corporation. The corporation shall provide insurance  
292 for residential and commercial property, for applicants who are  
293 in good faith entitled, but are unable, to procure insurance  
294 through the voluntary market. The corporation shall operate  
295 pursuant to a plan of operation approved by order of the office.  
296 The plan is subject to continuous review by the office. The  
297 office may, by order, withdraw approval of all or part of a plan  
298 if the office determines that conditions have changed since  
299 approval was granted and that the purposes of the plan require  
300 changes in the plan. For the purposes of this subsection,  
301 residential coverage includes both personal lines residential  
302 coverage, which consists of the type of coverage provided by  
303 homeowner's, mobile home owner's, dwelling, tenant's,  
304 condominium unit owner's, and similar policies, and commercial  
305 lines residential coverage, which consists of the type of

306 coverage provided by condominium association, apartment  
307 building, and similar policies.

308 3. It is the intent of the Legislature that policyholders,  
309 applicants, and agents of the corporation receive service and  
310 treatment of the highest possible level but never less than that  
311 generally provided in the voluntary market. It also is intended  
312 that the corporation be held to service standards no less than  
313 those applied to insurers in the voluntary market by the office  
314 with respect to responsiveness, timeliness, customer courtesy,  
315 and overall dealings with policyholders, applicants, or agents  
316 of the corporation.

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

318 1. Must provide for adoption of residential property and  
319 casualty insurance policy forms and commercial residential and  
320 nonresidential property insurance forms, which forms must be  
321 approved by the office prior to use. The corporation shall adopt  
322 the following policy forms:

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

327 b. Basic personal lines policy forms that are policies  
328 similar to an HO-8 policy or a dwelling fire policy that provide  
329 coverage meeting the requirements of the secondary mortgage  
330 market, but which coverage is more limited than the coverage  
331 under a standard policy.

332 c. Commercial lines residential policy forms that are  
333 generally similar to the basic perils of full coverage

334 obtainable for commercial residential structures in the admitted  
335 voluntary market.

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

341 e. Commercial lines nonresidential property insurance  
342 forms that cover the peril of wind only. The forms are  
343 applicable only to nonresidential properties located in areas  
344 eligible for coverage under the high-risk account referred to in  
345 sub-subparagraph (b)2.a.

346  
347 For new personal residential risks written by the corporation on  
348 or after May 7, 2005, in areas eligible for coverage in the  
349 high-risk account, the corporation shall offer, subject to  
350 reasonable underwriting guidelines, a wind only policy with  
351 building coverage valued at up to \$1 million. For such new  
352 personal residential risks covering properties valued at more  
353 than \$1 million, the corporation shall offer a wind-only policy  
354 of up to \$1 million of building coverage without any penalty or  
355 reduction in coverage for underinsurance or the purchase of  
356 other insurance, provided the insured property owner maintains  
357 insurance coverage for the value of the building in excess of \$1  
358 million. Coverage for property other than the building and any  
359 attached structures shall be offered by the corporation in  
360 addition to the \$1 million limit of building coverage. For all  
361 existing high-risk account policies in effect on May 7, 2005,

362 the corporation shall continue to offer coverage for the full  
363 value of the building and property without limitation.

364 2.a. Must provide that the corporation adopt a program in  
365 which the corporation and authorized insurers enter into quota  
366 share primary insurance agreements for hurricane coverage, as  
367 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
368 property insurance forms for eligible risks which cover the  
369 peril of wind only. As used in this subsection, the term:

370 (I) "Quota share primary insurance" means an arrangement  
371 in which the primary hurricane coverage of an eligible risk is  
372 provided in specified percentages by the corporation and an  
373 authorized insurer. The corporation and authorized insurer are  
374 each solely responsible for a specified percentage of hurricane  
375 coverage of an eligible risk as set forth in a quota share  
376 primary insurance agreement between the corporation and an  
377 authorized insurer and the insurance contract. The  
378 responsibility of the corporation or authorized insurer to pay  
379 its specified percentage of hurricane losses of an eligible  
380 risk, as set forth in the quota share primary insurance  
381 agreement, may not be altered by the inability of the other  
382 party to the agreement to pay its specified percentage of  
383 hurricane losses. Eligible risks that are provided hurricane  
384 coverage through a quota share primary insurance arrangement  
385 must be provided policy forms that set forth the obligations of  
386 the corporation and authorized insurer under the arrangement,  
387 clearly specify the percentages of quota share primary insurance  
388 provided by the corporation and authorized insurer, and  
389 conspicuously and clearly state that neither the authorized

390 insurer nor the corporation may be held responsible beyond its  
391 specified percentage of coverage of hurricane losses.

392 (II) "Eligible risks" means personal lines residential and  
393 commercial lines residential risks that meet the underwriting  
394 criteria of the corporation and are located in areas that were  
395 eligible for coverage by the Florida Windstorm Underwriting  
396 Association on January 1, 2002.

397 b. The corporation may enter into quota share primary  
398 insurance agreements with authorized insurers at corporation  
399 coverage levels of 90 percent and 50 percent.

400 c. If the corporation determines that additional coverage  
401 levels are necessary to maximize participation in quota share  
402 primary insurance agreements by authorized insurers, the  
403 corporation may establish additional coverage levels. However,  
404 the corporation's quota share primary insurance coverage level  
405 may not exceed 90 percent.

406 d. Any quota share primary insurance agreement entered  
407 into between an authorized insurer and the corporation must  
408 provide for a uniform specified percentage of coverage of  
409 hurricane losses, by county or territory as set forth by the  
410 corporation board, for all eligible risks of the authorized  
411 insurer covered under the quota share primary insurance  
412 agreement.

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

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

419 f. For all eligible risks covered under quota share  
420 primary insurance agreements, the exposure and coverage levels  
421 for both the corporation and authorized insurers shall be  
422 reported by the corporation to the Florida Hurricane Catastrophe  
423 Fund. For all policies of eligible risks covered under quota  
424 share primary insurance agreements, the corporation and the  
425 authorized insurer shall maintain complete and accurate records  
426 for the purpose of exposure and loss reimbursement audits as  
427 required by Florida Hurricane Catastrophe Fund rules. The  
428 corporation and the authorized insurer shall each maintain  
429 duplicate copies of policy declaration pages and supporting  
430 claims documents.

431 g. The corporation board shall establish in its plan of  
432 operation standards for quota share agreements which ensure that  
433 there is no discriminatory application among insurers as to the  
434 terms of quota share agreements, pricing of quota share  
435 agreements, incentive provisions if any, and consideration paid  
436 for servicing policies or adjusting claims.

437 h. The quota share primary insurance agreement between the  
438 corporation and an authorized insurer must set forth the  
439 specific terms under which coverage is provided, including, but  
440 not limited to, the sale and servicing of policies issued under  
441 the agreement by the insurance agent of the authorized insurer  
442 producing the business, the reporting of information concerning  
443 eligible risks, the payment of premium to the corporation, and  
444 arrangements for the adjustment and payment of hurricane claims



445 incurred on eligible risks by the claims adjuster and personnel  
446 of the authorized insurer. Entering into a quota sharing  
447 insurance agreement between the corporation and an authorized  
448 insurer shall be voluntary and at the discretion of the  
449 authorized insurer.

450 3. May provide that the corporation may employ or  
451 otherwise contract with individuals or other entities to provide  
452 administrative or professional services that may be appropriate  
453 to effectuate the plan. The corporation shall have the power to  
454 borrow funds, by issuing bonds or by incurring other  
455 indebtedness, and shall have other powers reasonably necessary  
456 to effectuate the requirements of this subsection, including  
457 without limitation, the power to issue bonds and incur other  
458 indebtedness in order to refinance outstanding bonds or other  
459 indebtedness. The corporation may, but is not required to, seek  
460 judicial validation of its bonds or other indebtedness under  
461 chapter 75. The corporation may issue bonds or incur other  
462 indebtedness, or have bonds issued on its behalf by a unit of  
463 local government pursuant to subparagraph (g)2., in the absence  
464 of a hurricane or other weather-related event, upon a  
465 determination by the corporation, subject to approval by the  
466 office, that such action would enable it to efficiently meet the  
467 financial obligations of the corporation and that such  
468 financings are reasonably necessary to effectuate the  
469 requirements of this subsection. The corporation is authorized  
470 to take all actions needed to facilitate tax-free status for any  
471 such bonds or indebtedness, including formation of trusts or  
472 other affiliated entities. The corporation shall have the

473 authority to pledge assessments, projected recoveries from the  
474 Florida Hurricane Catastrophe Fund, other reinsurance  
475 recoverables, market equalization and other surcharges, and  
476 other funds available to the corporation as security for bonds  
477 or other indebtedness. In recognition of s. 10, Art. I of the  
478 State Constitution, prohibiting the impairment of obligations of  
479 contracts, it is the intent of the Legislature that no action be  
480 taken whose purpose is to impair any bond indenture or financing  
481 agreement or any revenue source committed by contract to such  
482 bond or other indebtedness.

483       4.a. Must require that the corporation operate subject to  
484 the supervision and approval of a board of governors consisting  
485 of 7 individuals who are residents of this state, from different  
486 geographical areas of this state, appointed by the Chief  
487 Financial Officer. The Chief Financial Officer shall designate  
488 one of the appointees as chair. All board members serve at the  
489 pleasure of the Chief Financial Officer. All board members,  
490 including the chair, must be appointed to serve for 3-year terms  
491 beginning annually on a date designated by the plan. Any board  
492 vacancy shall be filled for the unexpired term by the Chief  
493 Financial Officer. The Chief Financial Officer shall appoint a  
494 technical advisory group to provide information and advice to  
495 the board of governors in connection with the board's duties  
496 under this subsection. The executive director and senior  
497 managers of the corporation shall be engaged by the Chief  
498 Financial Officer and serve at the pleasure of the Chief  
499 Financial Officer. The executive director is responsible for  
500 employing other staff as the corporation may require, subject to

501 review and concurrence by the office of the Chief Financial  
502 Officer.

503 b. The board shall create a Market Accountability Advisory  
504 Committee to assist the corporation in developing awareness of  
505 its rates and its customer and agent service levels in  
506 relationship to the voluntary market insurers writing similar  
507 coverage. The members of the advisory committee shall consist of  
508 the following 11 persons, one of whom must be elected chair by  
509 the members of the committee: four representatives, one  
510 appointed by the Florida Association of Insurance Agents, one by  
511 the Florida Association of Insurance and Financial Advisors, one  
512 by the Professional Insurance Agents of Florida, and one by the  
513 Latin American Association of Insurance Agencies; three  
514 representatives appointed by the insurers with the three highest  
515 voluntary market share of residential property insurance  
516 business in the state; one representative from the Office of  
517 Insurance Regulation; one consumer appointed by the board who is  
518 insured by the corporation at the time of appointment to the  
519 committee; one representative appointed by the Florida  
520 Association of Realtors; and one representative appointed by the  
521 Florida Bankers Association. All members must serve for 3-year  
522 terms and may serve for consecutive terms. The committee shall  
523 report to the corporation at each board meeting on insurance  
524 market issues which may include rates and rate competition with  
525 the voluntary market; service, including policy issuance, claims  
526 processing, and general responsiveness to policyholders,  
527 applicants, and agents; and matters relating to depopulation.

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

530           a. Subject to the provisions of s. 627.3517, with respect  
531 to personal lines residential risks, if the risk is offered  
532 coverage from an authorized insurer at the insurer's approved  
533 rate under either a standard policy including wind coverage or,  
534 if consistent with the insurer's underwriting rules as filed  
535 with the office, a basic policy including wind coverage, the  
536 risk is not eligible for any policy issued by the corporation.  
537 If the risk is not able to obtain any such offer, the risk is  
538 eligible for either a standard policy including wind coverage or  
539 a basic policy including wind coverage issued by the  
540 corporation; however, if the risk could not be insured under a  
541 standard policy including wind coverage regardless of market  
542 conditions, the risk shall be eligible for a basic policy  
543 including wind coverage unless rejected under subparagraph 8.  
544 The corporation shall determine the type of policy to be  
545 provided on the basis of objective standards specified in the  
546 underwriting manual and based on generally accepted underwriting  
547 practices.

548           (I) If the risk accepts an offer of coverage through the  
549 market assistance plan or an offer of coverage through a  
550 mechanism established by the corporation before a policy is  
551 issued to the risk by the corporation or during the first 30  
552 days of coverage by the corporation, and the producing agent who  
553 submitted the application to the plan or to the corporation is  
554 not currently appointed by the insurer, the insurer shall:

555 (A) Pay to the producing agent of record of the policy,  
556 for the first year, an amount that is the greater of the  
557 insurer's usual and customary commission for the type of policy  
558 written or a fee equal to the usual and customary commission of  
559 the corporation; or

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

565

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

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

573 (A) Pay to the producing agent of record of the  
574 corporation policy, for the first year, an amount that is the  
575 greater of the insurer's usual and customary commission for the  
576 type of policy written or a fee equal to the usual and customary  
577 commission of the corporation; or

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

583  
584 If the producing agent is unwilling or unable to accept  
585 appointment, the new insurer shall pay the agent in accordance  
586 with sub-sub-sub-subparagraph (A).

587       b. With respect to commercial lines residential risks, if  
588 the risk is offered coverage under a policy including wind  
589 coverage from an authorized insurer at its approved rate, the  
590 risk is not eligible for any policy issued by the corporation.  
591 If the risk is not able to obtain any such offer, the risk is  
592 eligible for a policy including wind coverage issued by the  
593 corporation.

594       (I) If the risk accepts an offer of coverage through the  
595 market assistance plan or an offer of coverage through a  
596 mechanism established by the corporation before a policy is  
597 issued to the risk by the corporation or during the first 30  
598 days of coverage by the corporation, and the producing agent who  
599 submitted the application to the plan or the corporation is not  
600 currently appointed by the insurer, the insurer shall:

601       (A) Pay to the producing agent of record of the policy,  
602 for the first year, an amount that is the greater of the  
603 insurer's usual and customary commission for the type of policy  
604 written or a fee equal to the usual and customary commission of  
605 the corporation; or

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

611  
 612 If the producing agent is unwilling or unable to accept  
 613 appointment, the new insurer shall pay the agent in accordance  
 614 with sub-sub-sub-subparagraph (A).

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

619 (A) Pay to the producing agent of record of the  
 620 corporation policy, for the first year, an amount that is the  
 621 greater of the insurer's usual and customary commission for the  
 622 type of policy written or a fee equal to the usual and customary  
 623 commission of the corporation; or

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

629  
 630 If the producing agent is unwilling or unable to accept  
 631 appointment, the new insurer shall pay the agent in accordance  
 632 with sub-sub-sub-subparagraph (A).

633 6. Must include rules for classifications of risks and  
 634 rates therefor.

635 7. Must provide that if premium and investment income for  
 636 an account attributable to a particular calendar year are in  
 637 excess of projected losses and expenses for the account  
 638 attributable to that year, such excess shall be held in surplus

639 | in the account. Such surplus shall be available to defray  
640 | deficits in that account as to future years and shall be used  
641 | for that purpose prior to assessing assessable insurers and  
642 | assessable insureds as to any calendar year.

643 |       8. Must provide objective criteria and procedures to be  
644 | uniformly applied for all applicants in determining whether an  
645 | individual risk is so hazardous as to be uninsurable. In making  
646 | this determination and in establishing the criteria and  
647 | procedures, the following shall be considered:

648 |       a. Whether the likelihood of a loss for the individual  
649 | risk is substantially higher than for other risks of the same  
650 | class; and

651 |       b. Whether the uncertainty associated with the individual  
652 | risk is such that an appropriate premium cannot be determined.

653 |  
654 | The acceptance or rejection of a risk by the corporation shall  
655 | be construed as the private placement of insurance, and the  
656 | provisions of chapter 120 shall not apply.

657 |       9. Must provide that the corporation shall make its best  
658 | efforts to procure catastrophe reinsurance at reasonable rates,  
659 | to cover its projected 100-year probable maximum loss as  
660 | determined by the board of governors.

661 |       10. Must provide that in the event of regular deficit  
662 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
663 | (b)3.b., in the personal lines account, the commercial lines  
664 | residential account, or the high-risk account, the corporation  
665 | shall levy upon corporation policyholders in its next rate  
666 | filing, or by a separate rate filing solely for this purpose, a



667 market equalization surcharge arising from a regular assessment  
668 in such account in a percentage equal to the total amount of  
669 such regular assessments divided by the aggregate statewide  
670 direct written premium for subject lines of business for the  
671 prior calendar year. Market equalization surcharges under this  
672 subparagraph are not considered premium and are not subject to  
673 commissions, fees, or premium taxes; however, failure to pay a  
674 market equalization surcharge shall be treated as failure to pay  
675 premium.

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

681 12. Corporation policies and applications must include a  
682 notice that the corporation policy could, under this section, be  
683 replaced with a policy issued by an authorized insurer that does  
684 not provide coverage identical to the coverage provided by the  
685 corporation. The notice shall also specify that acceptance of  
686 corporation coverage creates a conclusive presumption that the  
687 applicant or policyholder is aware of this potential.

688 13. May establish, subject to approval by the office,  
689 different eligibility requirements and operational procedures  
690 for any line or type of coverage for any specified county or  
691 area if the board determines that such changes to the  
692 eligibility requirements and operational procedures are  
693 justified due to the voluntary market being sufficiently stable  
694 and competitive in such area or for such line or type of

695 coverage and that consumers who, in good faith, are unable to  
696 obtain insurance through the voluntary market through ordinary  
697 methods would continue to have access to coverage from the  
698 corporation. When coverage is sought in connection with a real  
699 property transfer, such requirements and procedures shall not  
700 provide for an effective date of coverage later than the date of  
701 the closing of the transfer as established by the transferor,  
702 the transferee, and, if applicable, the lender.

703 14. Must provide that, with respect to the high-risk  
704 account, any assessable insurer with a surplus as to  
705 policyholders of \$25 million or less writing 25 percent or more  
706 of its total countrywide property insurance premiums in this  
707 state may petition the office, within the first 90 days of each  
708 calendar year, to qualify as a limited apportionment company. In  
709 no event shall a limited apportionment company be required to  
710 participate in the portion of any assessment, within the high-  
711 risk account, pursuant to sub-subparagraph (b)3.a. or sub-  
712 subparagraph (b)3.b. in the aggregate which exceeds \$50 million  
713 after payment of available high-risk account funds in any  
714 calendar year. However, a limited apportionment company shall  
715 collect from its policyholders any emergency assessment imposed  
716 under sub-subparagraph (b)3.d. The plan shall provide that, if  
717 the office determines that any regular assessment will result in  
718 an impairment of the surplus of a limited apportionment company,  
719 the office may direct that all or part of such assessment be  
720 deferred as provided in subparagraph (g)4. However, there shall  
721 be no limitation or deferment of an emergency assessment to be  
722 collected from policyholders under sub-subparagraph (b)3.d.

723           15. Must provide that the corporation appoint as its  
724 licensed agents only those agents who also hold an appointment  
725 as defined in s. 626.015(3) with an insurer who at the time of  
726 the agent's initial appointment by the corporation is authorized  
727 to write and is actually writing personal lines residential  
728 property coverage, commercial residential property coverage, or  
729 commercial nonresidential property coverage within the state.

730           16. Must provide a plan for removing personal lines  
731 policies from coverage by the corporation which includes the  
732 development and implementation of a take-out bonus strategy  
733 determining, at a minimum, the necessity and application of  
734 financial and regulatory incentives.

735           (d)1. It is the intent of the Legislature that the rates  
736 for coverage provided by the corporation be actuarially sound  
737 and not competitive with approved rates charged in the admitted  
738 voluntary market, so that the corporation functions as a  
739 residual market mechanism to provide insurance only when the  
740 insurance cannot be procured in the voluntary market. Rates  
741 shall include an appropriate catastrophe loading factor that  
742 reflects the actual catastrophic exposure of the corporation.

743           2. For each county, the average rates of the corporation  
744 for each line of business for personal lines residential  
745 policies excluding rates for wind-only policies shall be no  
746 lower than the average rates charged by the insurer that had the  
747 highest average rate in that county among the 20 insurers with  
748 the greatest total direct written premium in the state for that  
749 line of business in the preceding year, except that with respect  
750 to mobile home coverages, the average rates of the corporation

751 shall be no lower than the average rates charged by the insurer  
752 that had the highest average rate in that county among the 5  
753 insurers with the greatest total written premium for mobile home  
754 owner's policies in the state in the preceding year.

755 3. Rates for personal lines residential wind-only policies  
756 must be actuarially sound and not competitive with approved  
757 rates charged by authorized insurers. ~~However, for personal~~  
758 ~~lines residential wind-only policies issued or renewed between~~  
759 ~~July 1, 2002, and June 30, 2003, the maximum premium increase~~  
760 ~~must be no greater than 10 percent of the Florida Windstorm~~  
761 ~~Underwriting Association premium for that policy in effect on~~  
762 ~~June 30, 2002, as adjusted for coverage changes and seasonal~~  
763 ~~occupancy surcharges. For personal lines residential wind only~~  
764 ~~policies issued or renewed between July 1, 2003, and June 30,~~  
765 ~~2004, the corporation shall use its existing filed and approved~~  
766 ~~wind-only rating and classification plans, provided, however,~~  
767 ~~that the maximum premium increase must be no greater than 20~~  
768 ~~percent of the premium for that policy in effect on June 30,~~  
769 ~~2003, as adjusted for coverage changes and seasonal occupancy~~  
770 ~~surcharges.~~ Corporation rate manuals shall include a rate  
771 surcharge for seasonal occupancy. To ensure that personal lines  
772 residential wind-only rates effective ~~on or after July 1, 2004,~~  
773 are not competitive with approved rates charged by authorized  
774 insurers, the corporation, in conjunction with the office, shall  
775 develop a wind-only ratemaking methodology, which methodology  
776 shall be contained in each a rate filing made by the corporation  
777 with the office ~~by January 1, 2004.~~ If the office ~~thereafter~~  
778 determines that the wind-only rates or rating factors filed by

779 | the corporation fail to comply with the wind-only ratemaking  
780 | methodology provided for in this subsection, it shall so notify  
781 | the corporation and require the corporation to amend its rates  
782 | or rating factors to come into compliance within 90 days of  
783 | notice from the office. ~~The office shall report to the Speaker~~  
784 | ~~of the House of Representatives and the President of the Senate~~  
785 | ~~on the provisions of the wind only ratemaking methodology by~~  
786 | ~~January 31, 2004.~~

787 |       4. The provisions of subparagraph 2. do not apply to  
788 | coverage provided by the corporation in any county for which the  
789 | office determines that a reasonable degree of competition does  
790 | not exist for personal lines residential policies. The  
791 | provisions of subparagraph 3. do not apply to coverage provided  
792 | by the corporation in any county for which the office determines  
793 | that a reasonable degree of competition does not exist for  
794 | personal lines residential policies in the area of that county  
795 | which is eligible for wind-only coverage. In such counties, the  
796 | rates for personal lines residential coverage shall be  
797 | actuarially sound and not excessive, inadequate, or unfairly  
798 | discriminatory and are subject to the other provisions of the  
799 | paragraph and s. 627.062. The commission shall adopt rules  
800 | establishing the criteria for determining whether a reasonable  
801 | degree of competition exists for personal lines residential  
802 | policies. Beginning October 1, 2005, and each 6 months  
803 | thereafter, the office shall determine and identify those  
804 | counties for which a reasonable degree of competition does not  
805 | exist for purposes of subparagraphs 2. and 3., respectively.

806        ~~5.4.~~ Rates for commercial lines coverage shall not be  
807 subject to the requirements of subparagraph 2., but shall be  
808 subject to all other requirements of this paragraph and s.  
809 627.062.

810        ~~6.5.~~ Nothing in this paragraph shall require or allow the  
811 corporation to adopt a rate that is inadequate under s. 627.062.

812        ~~7.6.~~ The corporation shall certify to the office at least  
813 twice annually that its personal lines rates comply with the  
814 requirements of this paragraph ~~subparagraphs 1. and 2.~~ If any  
815 adjustment in the rates or rating factors of the corporation is  
816 necessary to ensure such compliance, the corporation shall make  
817 and implement such adjustments and file its revised rates and  
818 rating factors with the office. If the office thereafter  
819 determines that the revised rates and rating factors fail to  
820 comply with the provisions of this paragraph ~~subparagraphs 1.~~  
821 ~~and 2.~~, it shall notify the corporation and require the  
822 corporation to amend its rates or rating factors in conjunction  
823 with its next rate filing. The office must notify the  
824 corporation by electronic means of any rate filing it approves  
825 for any insurer among the insurers referred to in subparagraph  
826 2.

827        ~~8.7.~~ In addition to the rates otherwise determined  
828 pursuant to this paragraph, the corporation shall impose and  
829 collect an amount equal to the premium tax provided for in s.  
830 624.509 to augment the financial resources of the corporation.

831        ~~9.8.a.~~ To assist the corporation in developing additional  
832 ratemaking methods to assure compliance with this paragraph  
833 ~~subparagraphs 1. and 4.~~, the corporation shall appoint a rate

834 methodology panel consisting of one person recommended by the  
 835 Florida Association of Insurance Agents, one person recommended  
 836 by the Professional Insurance Agents of Florida, one person  
 837 recommended by the Florida Association of Insurance and  
 838 Financial Advisors, one person recommended by the insurer with  
 839 the highest voluntary market share of residential property  
 840 insurance business in the state, one person recommended by the  
 841 insurer with the second-highest voluntary market share of  
 842 residential property insurance business in the state, one person  
 843 recommended by an insurer writing commercial residential  
 844 property insurance in this state, one person recommended by the  
 845 Office of Insurance Regulation, and one board member designated  
 846 by the board chairman, who shall serve as chairman of the panel.

847 ~~b. By January 1, 2004, the rate methodology panel shall~~  
 848 ~~provide a report to the corporation of its findings and~~  
 849 ~~recommendations for the use of additional ratemaking methods and~~  
 850 ~~procedures, including the use of a rate equalization surcharge~~  
 851 ~~in an amount sufficient to assure that the total cost of~~  
 852 ~~coverage for policyholders or applicants to the corporation is~~  
 853 ~~sufficient to comply with subparagraph 1.~~

854 ~~e. Within 30 days after such report, the corporation shall~~  
 855 ~~present to the President of the Senate, the Speaker of the House~~  
 856 ~~of Representatives, the minority party leaders of each house of~~  
 857 ~~the Legislature, and the chairs of the standing committees of~~  
 858 ~~each house of the Legislature having jurisdiction of insurance~~  
 859 ~~issues, a plan for implementing the additional ratemaking~~  
 860 ~~methods and an outline of any legislation needed to facilitate~~  
 861 ~~use of the new methods.~~

862           ~~d. The plan must include a provision that producer~~  
863 ~~commissions paid by the corporation shall not be calculated in~~  
864 ~~such a manner as to include any rate equalization surcharge.~~  
865 ~~However, without regard to the plan to be developed or its~~  
866 ~~implementation, producer commissions paid by the corporation for~~  
867 ~~each account, other than the quota share primary program, shall~~  
868 ~~remain fixed as to percentage, effective rate, calculation, and~~  
869 ~~payment method until January 1, 2004.~~

870           10.9. ~~By January 1, 2004,~~ The corporation shall develop a  
871 notice to policyholders or applicants that the rates of Citizens  
872 Property Insurance Corporation are intended to be higher than  
873 the rates of any admitted carrier except when the provisions of  
874 subparagraph 4. apply and providing other information the  
875 corporation deems necessary to assist consumers in finding other  
876 voluntary admitted insurers willing to insure their property.

877           (q) The corporation shall ~~not~~ require the securing of  
878 flood insurance as a condition of coverage if the property risk  
879 of the insured or applicant is located in a Special Flood Hazard  
880 Area as defined by the Federal Emergency Management Agency for  
881 the National Flood Insurance Program. ~~executes a form approved~~  
882 ~~by the office affirming that~~ Flood insurance is not provided by  
883 the corporation and ~~that if flood insurance is not secured by~~  
884 ~~the applicant or insured in addition to coverage by the~~  
885 ~~corporation,~~ the risk will not be covered for flood damage. A  
886 corporation policyholder that does ~~electing~~ not to secure flood  
887 insurance and makes a claim ~~executing a form as provided herein~~  
888 ~~making a claim~~ for water damage against the corporation shall  
889 have the burden of proving the damage was not caused by



890 flooding. Notwithstanding other provisions of this subsection,  
 891 the corporation may deny coverage or refuse to issue or renew a  
 892 policy to an applicant or insured who refuses to purchase flood  
 893 insurance as required by this subsection ~~to execute the form~~  
 894 ~~described herein.~~

895 Section 7. Subsection (1) of section 627.411, Florida  
 896 Statutes, is amended to read:

897 627.411 Grounds for disapproval.--

898 (1) The office shall disapprove any form filed under s.  
 899 627.410, or withdraw any previous approval thereof, only if the  
 900 form:

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

903 (b) Contains or incorporates by reference, where such  
 904 incorporation is otherwise permissible, any inconsistent,  
 905 ambiguous, or misleading clauses, or exceptions and conditions  
 906 which deceptively affect the risk purported to be assumed in the  
 907 general coverage of the contract.

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

910 (d) Is printed or otherwise reproduced in such manner as  
 911 to render any material provision of the form substantially  
 912 illegible.

913 (e) Is for residential property insurance and contains  
 914 provisions that are unfair or inequitable or encourage  
 915 misrepresentation.

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

917 1. Provides benefits that are unreasonable in relation to  
918 the premium charged.†

919 2. Contains provisions that are unfair or inequitable or  
920 contrary to the public policy of this state or that encourage  
921 misrepresentation.†

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

924 (g)~~(f)~~ Excludes coverage for human immunodeficiency virus  
925 infection or acquired immune deficiency syndrome or contains  
926 limitations in the benefits payable, or in the terms or  
927 conditions of such contract, for human immunodeficiency virus  
928 infection or acquired immune deficiency syndrome which are  
929 different than those which apply to any other sickness or  
930 medical condition.

931 Section 8. Subsection (3) of section 627.7011, Florida  
932 Statutes, is renumbered as subsection (4), and a new subsection  
933 (3) is added to said section, to read:

934 627.7011 Homeowners' policies; offer of replacement cost  
935 coverage and law and ordinance coverage.--

936 (3) In the event of a covered loss to the dwelling, the  
937 insurer shall pay no less than the actual cash value of the  
938 damaged part of the dwelling at the time of the loss, subject to  
939 the limits of coverage and terms contained in the policy. Once  
940 the dwelling is repaired or replaced, the insurer shall pay the  
941 remainder of the repair or replacement costs, subject to limits  
942 of coverage and terms contained in the policy. The insurer is  
943 not required to pay more than the actual cost to repair or  
944 replace the dwelling.

945        ~~(4)(3)~~ Nothing in this section shall be construed to apply  
 946 to policies not considered to be "homeowners' policies," as that  
 947 term is commonly understood in the insurance industry. This  
 948 section specifically does not apply to mobile home policies.  
 949 Nothing in this section shall be construed as limiting the  
 950 ability of any insurer to reject or nonrenew any insured or  
 951 applicant on the grounds that the structure does not meet  
 952 underwriting criteria applicable to replacement cost or law and  
 953 ordinance policies or for other lawful reasons.

954        Section 9. Effective October 1, 2005, subsection (1) of  
 955 section 627.7011, Florida Statutes, is amended, and subsection  
 956 (4) is added to said section, to read:

957        627.7011 Homeowners' policies; offer of replacement cost  
 958 coverage and law and ordinance coverage.--

959        (1) Prior to issuing a homeowner's insurance policy on or  
 960 after October 1, 2005 ~~June 1, 1994~~, or prior to the first  
 961 renewal of a homeowner's insurance policy on or after October 1,  
 962 2005 ~~June 1, 1994~~, the insurer must offer each of the following:

963        (a) A policy or endorsement providing that any loss which  
 964 is repaired or replaced will be adjusted on the basis of  
 965 replacement costs not exceeding policy limits as to the  
 966 dwelling, rather than actual cash value, but not including costs  
 967 necessary to meet applicable laws and ordinances regulating the  
 968 construction, use, or repair of any property or requiring the  
 969 tearing down of any property, including the costs of removing  
 970 debris.

971        (b) A policy or endorsement providing that, subject to  
 972 other policy provisions, any loss which is repaired or replaced

973 | at any location will be adjusted on the basis of replacement  
 974 | costs not exceeding policy limits as to the dwelling, rather  
 975 | than actual cash value, and also including costs necessary to  
 976 | meet applicable laws and ordinances regulating the construction,  
 977 | use, or repair of any property or requiring the tearing down of  
 978 | any property, including the costs of removing debris; however,  
 979 | such additional costs necessary to meet applicable laws and  
 980 | ordinances may be limited to either 25 percent or 50 percent of  
 981 | the dwelling limit, as selected by the policyholder, and such  
 982 | coverage shall apply only to repairs of the damaged portion of  
 983 | the structure unless the total damage to the structure exceeds  
 984 | 50 percent of the replacement cost of the structure.

985 |  
 986 | An insurer is not required to make the offers required by this  
 987 | subsection with respect to the issuance or renewal of a  
 988 | homeowner's policy that contains the provisions specified in  
 989 | paragraph (b) for law and ordinance coverage limited to 25  
 990 | percent of the dwelling limit, except that the insurer must  
 991 | offer the law and ordinance coverage limited to 50 percent of  
 992 | the dwelling limit. This subsection does not prohibit the offer  
 993 | of a guaranteed replacement cost policy.

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

997 | "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT  
 998 | YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO CONSIDER  
 999 | THE PURCHASE OF FLOOD INSURANCE FROM THE NATIONAL FLOOD  
 1000 | INSURANCE PROGRAM. WITHOUT THIS COVERAGE, YOU MAY HAVE

1001 | UNCOVERED LOSSES. PLEASE DISCUSS THESE COVERAGES WITH  
 1002 | YOUR INSURANCE AGENT."

1003 | The intent of this subsection is to encourage policyholders to  
 1004 | purchase sufficient coverage to protect them in case events  
 1005 | excluded from the standard homeowners policy, such as law and  
 1006 | ordinance enforcement and flood, combine with covered events to  
 1007 | produce damage or loss to the insured property. The intent is  
 1008 | also to encourage policyholders to discuss these issues with  
 1009 | their insurance agent.

1010 | Section 10. Subsections (1) and (7) of section 627.7015,  
 1011 | Florida Statutes, are amended to read:

1012 | 627.7015 Alternative procedure for resolution of disputed  
 1013 | property insurance claims.--

1014 | (1) PURPOSE AND SCOPE.--This section sets forth a  
 1015 | nonadversarial alternative dispute resolution procedure for a  
 1016 | mediated claim resolution conference prompted by the need for  
 1017 | effective, fair, and timely handling of property insurance  
 1018 | claims. There is a particular need for an informal,  
 1019 | nonthreatening forum for helping parties who elect this  
 1020 | procedure to resolve their claims disputes because most  
 1021 | homeowner's and commercial residential insurance policies  
 1022 | obligate insureds to participate in a potentially expensive and  
 1023 | time-consuming adversarial appraisal process prior to  
 1024 | litigation. The procedure set forth in this section is designed  
 1025 | to bring the parties together for a mediated claims settlement  
 1026 | conference without any of the trappings or drawbacks of an  
 1027 | adversarial process. Before resorting to these procedures,  
 1028 | insureds and insurers are encouraged to resolve claims as

1029 quickly and fairly as possible. This section is available with  
 1030 respect to claims under personal lines and commercial  
 1031 residential policies for all claimants and insurers prior to  
 1032 commencing the appraisal process, or commencing litigation. If  
 1033 requested by the insured, participation by legal counsel shall  
 1034 be permitted. Mediation under this section is also available to  
 1035 litigants referred to the department by a county court or  
 1036 circuit court. This section does not apply to commercial  
 1037 coverages, to private passenger motor vehicle insurance  
 1038 coverages, or to disputes relating to liability coverages in  
 1039 policies of property insurance.

1040 (7) If the insurer fails to comply with subsection (2) by  
 1041 failing to notify a first-party claimant of its right to  
 1042 participate in the mediation program under this section or if  
 1043 the insurer requests the mediation, and the mediation results  
 1044 are rejected by either party, the insured shall not be required  
 1045 to submit to or participate in any contractual loss appraisal  
 1046 process of the property loss damage as a precondition to legal  
 1047 action for breach of contract against the insurer for its  
 1048 failure to pay the policyholder's claims covered by the policy.

1049 Section 11. Effective upon this act becoming a law,  
 1050 subsection (1) of section 627.702, Florida Statutes, is amended  
 1051 to read:

1052 627.702 Valued policy law.--

1053 (1) (a) In the event of the total loss of any building,  
 1054 structure, mobile home as defined in s. 320.01(2), or  
 1055 manufactured building as defined in s. 553.36(12), located in  
 1056 this state and insured by any insurer as to a covered peril, in

1057 | the absence of any change increasing the risk without the  
1058 | insurer's consent and in the absence of fraudulent or criminal  
1059 | fault on the part of the insured or one acting in her or his  
1060 | behalf, the insurer's liability, ~~if any,~~ under the policy for  
1061 | such total loss, if caused by a covered peril, shall be in the  
1062 | amount of money for which such property was so insured as  
1063 | specified in the policy and for which a premium has been charged  
1064 | and paid.

1065 | (b) The intent of this subsection is not to deprive an  
1066 | insurer of any proper defense under the policy, to create new or  
1067 | additional coverage under the policy, or to require an insurer  
1068 | to pay for a loss caused by a peril other than the covered  
1069 | peril. In furtherance of such legislative intent, when a loss  
1070 | was caused in part by a covered peril and in part by a  
1071 | noncovered peril, paragraph (a) does not apply. In such  
1072 | circumstances, the insurer's liability under this section shall  
1073 | be limited to the amount of the loss caused by the covered  
1074 | peril.

1075 | (c) It is the intent of the Legislature that the amendment  
1076 | to this section shall not be applied retroactively and shall  
1077 | apply only to claims filed after effective date of such  
1078 | amendment.

1079 | Section 12. Section 627.706, Florida Statutes, is amended  
1080 | to read:

1081 | 627.706 Sinkhole insurance; definitions.--

1082 | (1) Every insurer authorized to transact property  
1083 | insurance in this state shall make available coverage for  
1084 | insurable sinkhole losses on any structure, including contents

1085 of personal property contained therein, to the extent provided  
 1086 in the form to which the sinkhole coverage attaches.

1087 (2) As used in ss. 627.706-627.7074, and as used in  
 1088 connection with any policy providing coverage for sinkhole  
 1089 losses:

1090 (a) "Sinkhole" means a landform created by subsidence of  
 1091 soil, sediment, or rock as underlying strata are dissolved by  
 1092 ground water. A sinkhole may form by collapse into subterranean  
 1093 voids created by dissolution of limestone or dolostone or by  
 1094 subsidence as these strata are dissolved.

1095 (b) "Sinkhole loss" means structural damage to a the  
 1096 building caused by sinkhole activity. Contents coverage shall  
 1097 apply only if there is structural damage to the building caused  
 1098 by sinkhole activity.

1099 (c) ~~(3)~~ "Sinkhole activity loss" means actual physical  
 1100 damage to the property covered arising out of or caused by  
 1101 sudden settlement or systematic weakening collapse of the earth  
 1102 supporting such property only when such settlement or systematic  
 1103 weakening collapse results from movement or raveling of soils,  
 1104 sediments, or rock materials into subterranean voids created by  
 1105 the effect action of water on a limestone or similar rock  
 1106 formation.

1107 (d) "Engineer" means a person, as defined in s. 471.005,  
 1108 who has a bachelor's degree or higher in engineering with a  
 1109 specialty in the geotechnical engineering field. An engineer  
 1110 must have geotechnical experience and expertise in the  
 1111 identification of sinkhole activity as well as other potential  
 1112 causes of damage to the structure.



1113 (e) "Professional geologist" means a person, as defined by  
1114 s. 492.102, who has a bachelor's degree or higher in geology or  
1115 a related earth science with expertise in the geology of this  
1116 state. A professional geologist must have geological experience  
1117 and expertise in the identification of sinkhole activity as well  
1118 as other potential causes of damage to the structure.

1119 (3)~~(4)~~ Every insurer authorized to transact property  
1120 insurance in this state shall make a proper filing with the  
1121 office for the purpose of extending the appropriate forms of  
1122 property insurance to include coverage for ~~insurable~~ sinkhole  
1123 losses.

1124 Section 13. Section 627.7065, Florida Statutes, is created  
1125 to read:

1126 627.7065 Database of information relating to sinkholes;  
1127 the Department of Financial Services and the Department of  
1128 Environmental Protection.--

1129 (1) The Legislature finds that there has been a dramatic  
1130 increase in the number of sinkholes and insurance claims for  
1131 sinkhole damage in the state during the past 10 years.  
1132 Accordingly, the Legislature recognizes the need to track  
1133 current and past sinkhole activity and to make the information  
1134 available for prevention and remediation activities. The  
1135 Legislature further finds that the Florida Geological Survey of  
1136 the Department of Environmental Protection has created a partial  
1137 database of some sinkholes identified in Florida, although the  
1138 database is not reflective of all sinkholes or insurance claims  
1139 for sinkhole damage. The Legislature determines that creating a  
1140 complete electronic database of sinkhole activity serves an

1141 important purpose in protecting the public and in studying  
1142 property claims activities in the insurance industry.

1143 (2) The Department of Financial Services, including the  
1144 employee of the Division of Consumer Services designated as the  
1145 primary contact for consumers on issues relating to sinkholes,  
1146 and the Office of the Insurance Consumer Advocate shall consult  
1147 with the Florida Geological Survey and the Department of  
1148 Environmental Protection to implement a statewide automated  
1149 database of sinkholes and related activity identified in the  
1150 state.

1151 (3) Representatives of the Department of Financial  
1152 Services, with the agreement of the Department of Environmental  
1153 Protection, shall determine the form and content of the  
1154 database. The content may include standards for reporting and  
1155 investigating sinkholes for inclusion in the database and  
1156 requirements for insurers to report to the departments the  
1157 receipt of claims involving sinkhole loss and other similar  
1158 activities. The Department of Financial Services may require  
1159 insurers to report present and past data of sinkhole claims. The  
1160 database also may include information of damage due to ground  
1161 settling and other subsidence activity.

1162 (4) The Department of Financial Services may manage the  
1163 database or may contract for its management and maintenance. The  
1164 Department of Environmental Protection shall investigate reports  
1165 of sinkhole activity and include its findings and investigations  
1166 in the database.

1167 (5) The Department of Environmental Protection, in  
1168 consultation with the Department of Financial Services, shall

1169 present a report of activities relating to the sinkhole  
 1170 database, including recommendations regarding the database and  
 1171 similar matters, to the Governor, the Speaker of the House of  
 1172 Representatives, the President of the Senate, and the Chief  
 1173 Financial Officer by December 31, 2005. The report may consider  
 1174 the need for the Legislature to create an entity to study the  
 1175 increase in sinkhole activity in the state and other similar  
 1176 issues relating to sinkhole damage, including recommendations  
 1177 and costs for staffing the entity. The report may include other  
 1178 information, as appropriate.

1179 (6) The Department of Financial Services, in consultation  
 1180 with the Department of Environmental Protection, may adopt rules  
 1181 to implement the provisions of this section.

1182 Section 14. Section 627.707, Florida Statutes, is amended  
 1183 to read:

1184 627.707 ~~Minimum~~ Standards for investigation of sinkhole  
 1185 claims by insurers; nonrenewals.--

1186 ~~(1)~~ Upon receipt of a claim for a sinkhole loss, an  
 1187 insurer must meet the following ~~minimum~~ standards in  
 1188 investigating a claim:

1189 (1)(a) ~~Upon receipt of a claim for a sinkhole loss,~~ The  
 1190 insurer must make an inspection of the insured's premises to  
 1191 determine if there has been physical damage to the structure  
 1192 which may ~~might~~ be the result of sinkhole activity.

1193 ~~(b) If, upon the investigation pursuant to paragraph (a),~~  
 1194 ~~the insurer discovers damage to a structure which is consistent~~  
 1195 ~~with sinkhole activity or if the structure is located in close~~  
 1196 ~~proximity to a structure in which sinkhole damage has been~~

1197 ~~verified, then prior to denying a claim, the insurer must obtain~~  
1198 ~~a written certification from an individual qualified to~~  
1199 ~~determine the existence of sinkhole activity, stating that the~~  
1200 ~~cause of the claim is not sinkhole activity, and that the~~  
1201 ~~analysis conducted was of sufficient scope to eliminate sinkhole~~  
1202 ~~activity as the cause of damage within a reasonable professional~~  
1203 ~~probability. The written certification must also specify the~~  
1204 ~~professional discipline and professional licensure or~~  
1205 ~~registration under which the analysis was conducted.~~

1206 (2) Following the insurer's initial inspection, the  
1207 insurer shall engage an engineer and a professional geologist to  
1208 conduct testing as provided in s. 627.7072 to determine the  
1209 cause of the loss within a reasonable professional probability  
1210 and issue a report as provided in s. 627.7073, if:

1211 (a) The insurer is unable to identify a valid cause of the  
1212 damage or discovers damage to the structure which is consistent  
1213 with sinkhole loss; or

1214 (b) The policyholder demands testing in accordance with  
1215 this section or s. 627.7072.

1216 (3) Following the initial inspection of the insured  
1217 premises, the insurer shall provide written notice to the  
1218 policyholder disclosing the following information:

1219 (a) What the insurer has determined to be the cause of  
1220 damage, if the insurer has made such a determination.

1221 (b) A statement of the circumstances under which the  
1222 insurer is required to engage an engineer and a professional  
1223 geologist to verify or eliminate sinkhole loss and to make

1224 recommendations regarding land and building stabilization and  
1225 foundation repair.

1226 (c) A statement regarding the right of the policyholder to  
1227 request testing by an engineer and a professional geologist and  
1228 the circumstances under which the policyholder may demand  
1229 certain testing.

1230 (4) If the insurer determines that there is no sinkhole  
1231 loss, the insurer may deny the claim. If the insurer denies the  
1232 claim, without performing testing under s. 627.7072, the  
1233 policyholder may demand testing by the insured under s.  
1234 627.7072. The policyholder's demand for testing must be  
1235 communicated to the insurer in writing after the policyholder's  
1236 receipt of the insurer's denial of the claim.

1237 (5) (a) Subject to paragraph (b), if a sinkhole loss is  
1238 verified, the insurer shall pay to stabilize the land and  
1239 building and repair the foundation in accordance with the  
1240 recommendations of the engineer and the professional geologist  
1241 as provided under s. 627.7073, and in consultation with the  
1242 policyholder, subject to the coverage and terms of the policy.  
1243 The insurer shall pay for other repairs to the structure and  
1244 contents in accordance with the terms of the policy.

1245 (b) The insurer may limit its payment to the actual cash  
1246 value of the sinkhole loss until such time as expenses related  
1247 to land and building stabilization and foundation repairs are  
1248 incurred.

1249 (6) Except as provided in subsection (7), the fees and  
1250 costs of the engineer or the professional geologist shall be  
1251 paid by the insurer.

1252        (7)(e) If the insurer obtains, pursuant to s. 627.7073  
 1253 ~~paragraph (b)~~, written certification that there is no sinkhole  
 1254 loss or that the cause of the damage claim was not sinkhole  
 1255 activity, and if the policyholder has submitted the sinkhole  
 1256 claim without good faith grounds for submitting such claim, the  
 1257 policyholder shall reimburse the insurer for 50 percent of the  
 1258 actual costs cost of the analyses and services provided analysis  
 1259 under ss. 627.7072 and 627.7073 ~~paragraph (b)~~; however, a  
 1260 policyholder is not required to reimburse an insurer more than  
 1261 \$2,500 with respect to any claim. A policyholder is required to  
 1262 pay reimbursement under this subsection ~~paragraph~~ only if the  
 1263 insurer, prior to ordering the analysis under s. 627.7072  
 1264 ~~paragraph (b)~~, informs the policyholder in writing of the  
 1265 policyholder's potential liability for reimbursement and gives  
 1266 the policyholder the opportunity to withdraw the claim.

1267        (8)(2) No insurer shall nonrenew any policy of property  
 1268 insurance on the basis of filing of claims for partial loss  
 1269 caused by sinkhole damage or clay shrinkage as long as the total  
 1270 of such payments does not exceed the current policy limits of  
 1271 coverage for property damage, and provided the insured has  
 1272 repaired the structure in accordance with the engineering  
 1273 recommendations upon which any payment or policy proceeds were  
 1274 based.

1275        (9) The insurer may engage a structural engineer to make  
 1276 recommendations as to the repair of the structure.

1277        Section 15. Section 627.7072, Florida Statutes, is created  
 1278 to read:

1279        627.7072 Testing standards for sinkholes.--

1280       (1) The engineer and professional geologist shall perform  
 1281 such tests as sufficient, in their professional opinion, to  
 1282 determine the presence or absence of sinkhole loss or other  
 1283 cause of damage within reasonable professional probability and  
 1284 to make recommendations regarding necessary building  
 1285 stabilization and foundation repair.

1286       (2) Testing shall be conducted in compliance with the  
 1287 Florida Geological Survey Special Publication No. 57 (2005).

1288       Section 16. Section 627.7073, Florida Statutes, is created  
 1289 to read:

1290       627.7073 Sinkhole reports.--

1291       (1) Upon completion of testing as provided in s. 627.7072,  
 1292 the engineer and professional geologist shall issue a report and  
 1293 certification to the insurer and the policyholder as provided in  
 1294 this section.

1295       (a) Sinkhole loss is verified if, based upon tests  
 1296 performed in accordance with s. 627.7072, an engineer and a  
 1297 professional geologist issue a written report and certification  
 1298 stating:

1299       1. That the cause of the actual physical and structural  
 1300 damage is sinkhole activity within a reasonable professional  
 1301 probability.

1302       2. That the analyses conducted were of sufficient scope to  
 1303 identify sinkhole activity as the cause of damage within a  
 1304 reasonable professional probability.

1305       3. A description of the tests performed.

1306       4. A recommendation of methods for stabilizing the land  
 1307 and building and for making repairs to the foundation.

1308        (b) If sinkhole activity is eliminated as the cause of  
 1309 damage to the structure, the engineer and professional geologist  
 1310 shall issue a written report and certification to the  
 1311 policyholder and the insurer stating:

1312            1. That the cause of the damage is not sinkhole activity  
 1313 within a reasonable professional probability.

1314            2. That the analyses and tests conducted were of  
 1315 sufficient scope to eliminate sinkhole activity as the cause of  
 1316 damage within a reasonable professional probability.

1317            3. A statement of the cause of the damage within a  
 1318 reasonable professional probability.

1319            4. A description of the tests performed.

1320        (c) The respective findings, opinions, and recommendations  
 1321 of the engineer and professional geologist as to the  
 1322 verification of a sinkhole loss, land and building  
 1323 stabilization, foundation repair, and elimination of sinkhole  
 1324 loss shall be presumed correct.

1325        (2) Any insurer that has paid a claim for a sinkhole loss  
 1326 shall file a copy of the report and certification, prepared  
 1327 pursuant to subsection (1), with the county property appraiser  
 1328 who shall record the report and certification with the parcel  
 1329 number. The insurer shall bear the cost of filing and recording  
 1330 the report and certification. There shall be no cause of action  
 1331 or liability against an insurer for compliance with this  
 1332 section. The seller of real property upon which a sinkhole claim  
 1333 has been made shall disclose to the buyer of such property that  
 1334 a claim has been paid and whether or not the full amount of the  
 1335 proceeds were used to repair the sinkhole damage.



1336           Section 17. Notwithstanding that revenues of Citizens  
 1337 Property Insurance Corporation are not state revenues, the  
 1338 Auditor General shall perform an operational audit, as defined  
 1339 in s. 11.45(1), Florida Statutes, of the Citizens Property  
 1340 Insurance Corporation created under s. 627.351(6), Florida  
 1341 Statutes. The scope of the audit shall also include:

1342           (1) An analysis of the corporation's infrastructure,  
 1343 customer service, claims handling, accessibility of policyholder  
 1344 information to the agent of record, take-out programs, take-out  
 1345 bonuses, and financing arrangements.

1346           (2) An evaluation of costs associated with the  
 1347 administration and servicing of the policies issued by the  
 1348 corporation to determine alternatives by which costs can be  
 1349 reduced, customer service improved, and claims handling  
 1350 improved.

1351  
 1352 The audit shall contain policy alternatives for the Legislature  
 1353 to consider. The Auditor General shall submit a report to the  
 1354 Governor, the President of the Senate, and the Speaker of the  
 1355 House of Representatives no later than February 1, 2006.

1356           Section 18. The board of governors of the Citizens  
 1357 Property Insurance Corporation created under section 627.351(6),  
 1358 Florida Statutes, shall, by February 1, 2006, submit a report to  
 1359 the President of the Senate, the Speaker of the House of  
 1360 Representatives, the minority party leaders of the Senate and  
 1361 the House of Representatives, and the chairs of the standing  
 1362 committees of the Senate and the House of Representatives having  
 1363 jurisdiction over matters relating to property and casualty

1364 insurance. The report shall include the board's findings and  
 1365 recommendations on the following issues:

1366 (1) The number of policies and the aggregate premium of  
 1367 the Citizens Property Insurance Corporation, before and after  
 1368 enactment of this act, and projections for future policy and  
 1369 premium growth.

1370 (2) Increases or decreases in availability of residential  
 1371 property coverage in the voluntary market and the effectiveness  
 1372 of this act in improving the availability of residential  
 1373 property coverage in the voluntary market in the state.

1374 (3) The board's efforts to depopulate the corporation and  
 1375 the willingness of insurers in the voluntary market to avail  
 1376 themselves of depopulation incentives.

1377 (4) Further actions that could be taken by the Legislature  
 1378 to improve availability of residential property coverage in the  
 1379 voluntary and residual markets.

1380 (5) Actions that the board has taken to restructure the  
 1381 corporation and recommendations for legislative action to  
 1382 restructure the corporation, including, but not limited to,  
 1383 actions relating to claims handling and customer service.

1384 (6) Projected surpluses or deficits and possible means of  
 1385 providing funding to ensure the continued solvency of the  
 1386 corporation.

1387 (7) The corporation's efforts to procure catastrophe  
 1388 reinsurance to cover its projected 100-year probable maximum  
 1389 loss with specification as to what best efforts were made by the  
 1390 corporation to procure such reinsurance.

1391        (8) Such other issues as the board determines are worthy  
 1392 of the Legislature's consideration.

1393        Section 19. (1) Upon an insurer's receiving a  
 1394 communication with respect to a claim, the insurer shall, within  
 1395 14 calendar days, review and acknowledge receipt of such  
 1396 communication unless payment is made within that period of time  
 1397 or unless the failure to acknowledge is caused by factors beyond  
 1398 the control of the insurer which reasonably prevent such  
 1399 acknowledgement. If the acknowledgement is not in writing, a  
 1400 notification indicating acknowledgement shall be made in the  
 1401 insurer's claim file and dated. A communication made to or by an  
 1402 agent of an insurer with respect to a claim shall constitute  
 1403 communication to or by the insurer. As used in this subsection,  
 1404 the term "agent" means any person to whom an insurer has granted  
 1405 authority or responsibility to receive or make such  
 1406 communications with respect to claims on behalf of the insurer.  
 1407 This subsection shall not apply to claimants represented by  
 1408 counsel beyond those communications necessary to provide forms  
 1409 and instructions.

1410        (2) Such acknowledgement shall be responsive to the  
 1411 communication. If the communication constitutes a notification  
 1412 of a claim, unless the acknowledgement reasonably advises the  
 1413 claimant that the claim appears not to be covered by the  
 1414 insurer, the acknowledgement shall provide necessary claim  
 1415 forms, and instructions, including an appropriate telephone  
 1416 number.

1417        (3) Unless otherwise provided by the policy of insurance  
 1418 or by law, within 10 working days after an insurer receives

1419 proof of loss statements the insurer shall begin such  
1420 investigation as is reasonably necessary unless the failure to  
1421 begin such investigation is caused by factors beyond the control  
1422 of the insurer which reasonably prevent the commencement of such  
1423 investigation.

1424 Section 20. Sections 3 and 4 of this act shall take effect  
1425 on the same date that House Bill 1939 or similar legislation  
1426 takes effect, if such legislation is adopted in the same  
1427 legislative session or an extension thereof and becomes a law.

1428 Section 21. Except as otherwise provided herein, this act  
1429 shall take effect July 1, 2005.