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1 A bill to be entitled

2 An act relating to the Florida Hurricane Catastrophe Fund;
3 amending s. 215.555, F.S.; revising findings and purposes;
4 revising definitions; changing the name of the fund to the
5 Florida Hurricane Insurance Fund; revising requirements
6 for reimbursement contracts; providing requirements,
7 procedures, and methodologies for policyholders to pay
8 premiums to insurers, insurers to remit premiums to the
9 fund, insurers to reimburse policyholders for hurricane
10 losses, and the state to reimburse insurers from the fund
11 for payments to policyholders; deleting a required annual
12 appropriation from the investment income of the Florida
13 Hurricane Catastrophe Fund for certain purposes; providing
14 coverage limitations; providing exceptions; providing for
15 discounted premiums to certain insurers under certain
16 circumstances; deleting conflicting provisions; revising
17 reimbursement premium provisions to conform; renaming the
18 Florida Hurricane Catastrophe Fund Finance Corporation as
19 the Florida Hurricane Insurance Fund Finance Corporation;
20 making conforming changes; amending ss. 215.556, 215.559,
21 624.424, 624.5091, 627.062, 627.0628, 627.0629, 627.351,
22 627.701, and 627.7077, F.S., to conform; amending s.
23 109(3), ch. 2000-141, Laws of Florida; deleting a
24 limitation subjecting certain portions of coastal counties
25 to certain debris requirements adopted by the Florida
26 Building Commission; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 Section 1. Section 215.555, Florida Statutes, is amended
31 to read:

32 215.555 Florida Hurricane Insurance ~~Catastrophe~~ Fund.--

33 (1) FINDINGS AND PURPOSE.--The Legislature finds and
34 declares as follows:

35 (a) There is a compelling state interest in maintaining a
36 viable and orderly private sector market for property insurance
37 in this state. To the extent that the private sector is unable
38 to maintain a viable and orderly market for property insurance
39 in this state, state actions to maintain such a viable and
40 orderly market are valid and necessary exercises of the police
41 power.

42 (b) As a result of unprecedented levels of catastrophic
43 insured losses in recent years, and especially as a result of
44 Hurricane Andrew and the 2004 and 2005 hurricane seasons,
45 numerous insurers have determined that in order to protect their
46 solvency, it is necessary for them to reduce their exposure to
47 hurricane losses. Also as a result of these events, world
48 reinsurance capacity has significantly contracted, increasing
49 the pressure on insurers to reduce their catastrophic exposures.

50 (c) Mortgages require reliable property insurance, and the
51 unavailability of reliable property insurance would therefore
52 make most real estate transactions impossible. In addition, the
53 public health, safety, and welfare demand that structures
54 damaged or destroyed in a catastrophe be repaired or
55 reconstructed as soon as possible. Therefore, the inability of
56 the private sector insurance and reinsurance markets to maintain

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57 sufficient capacity to enable residents of this state to obtain
58 property insurance coverage in the private sector endangers the
59 economy of the state and endangers the public health, safety,
60 and welfare. Accordingly, state action to correct for this
61 inability of the private sector constitutes a valid and
62 necessary public and governmental purpose.

63 (d) The insolvencies and financial impairments resulting
64 from Hurricane Andrew and the 2004 and 2005 hurricane seasons
65 demonstrate that many property insurers are unable or unwilling
66 to maintain reserves, surplus, and reinsurance sufficient to
67 enable the insurers to pay all claims in full in the event of a
68 catastrophe. State action is therefore necessary to protect the
69 public from an insurer's unwillingness or inability to maintain
70 sufficient reserves, surplus, and reinsurance.

71 (e) A state program to provide a stable and ongoing source
72 of coverage reimbursement to insurers for a substantial portion
73 of ~~their catastrophic~~ hurricane losses for citizens of this
74 state will create additional insurance capacity sufficient to
75 ameliorate the current dangers to the state's economy and to the
76 public health, safety, and welfare.

77 (f) It is essential to the functioning of a state program
78 to increase insurance capacity that revenues received be exempt
79 from federal taxation. It is therefore the intent of the
80 Legislature that this program be structured as a state trust
81 fund under the direction and control of the State Board of
82 Administration and operate exclusively for the purpose of
83 protecting and advancing the state's interest in maintaining
84 insurance capacity in this state.

85 (g) Hurricane Andrew, which caused insured and uninsured
 86 losses in excess of \$20 billion, and the 2004 hurricane season,
 87 which caused insured losses in excess of \$42 billion, will
 88 likely not be the last major windstorm to strike Florida.
 89 Recognizing that a future wind catastrophe could cause damages
 90 in excess of \$60 billion, especially if a major urban area or
 91 series of urban areas were hit, it is the intent of the
 92 Legislature to balance equitably its concerns about mitigation
 93 of hurricane impact, insurance affordability and availability,
 94 and the risk of insurer and joint underwriting association
 95 insolvency, as well as assessment and bonding limitations.

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

97 (a)~~(m)~~ "Actual claims-paying capacity" means the sum of
 98 the balance of the fund as of December 31 of a contract year,
 99 plus any reinsurance purchased by the fund, plus the amount the
 100 board is able to raise through the issuance of revenue bonds
 101 under subsection (6).

102 (b)~~(a)~~ "Actuarially indicated" means, with respect to
 103 premiums paid to ~~by~~ insurers for reimbursement provided by the
 104 fund, an amount determined according to principles of actuarial
 105 science to be adequate, but not excessive, in the aggregate, to
 106 pay current and future obligations and expenses of the fund,
 107 including additional amounts if needed to pay debt service on
 108 revenue bonds issued under this section and to provide required
 109 debt service coverage in excess of the amounts required to pay
 110 actual debt service on revenue bonds issued under subsection
 111 (6), and determined according to principles of actuarial science
 112 to reflect each insurer's relative exposure to hurricane losses.

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113 (c)~~(g)~~ "Bond" means any bond, debenture, note, or other
114 evidence of financial indebtedness issued under this section.

115 (d)~~(n)~~ "Corporation" means the Florida Hurricane Insurance
116 ~~Catastrophe~~ Fund Finance Corporation created in paragraph
117 (6) (d).

118 (e)~~(b)~~ "Covered event" means any one storm declared to be
119 a hurricane by the National Hurricane Center, which storm causes
120 insured losses in this state.

121 (f)~~(e)~~ "Covered policy" means any hurricane insurance
122 policy covering residential property in this state, including,
123 but not limited to, any homeowner's, mobile home owner's, farm
124 owner's, condominium association, condominium unit owner's,
125 tenant's, or apartment building policy, or any other policy
126 covering a residential structure or its contents issued by any
127 authorized insurer, including the Citizens Property Insurance
128 Corporation and any joint underwriting association or similar
129 entity created pursuant to law. The term "covered policy"
130 includes any collateral protection insurance policy covering
131 personal residences which protects both the borrower's and the
132 lender's financial interests, in an amount at least equal to the
133 coverage for the dwelling in place under the lapsed homeowner's
134 policy, if such policy can be accurately reported as required in
135 subsection (5). Additionally, covered policies include policies
136 covering the peril of wind removed from the Florida Residential
137 Property and Casualty Joint Underwriting Association or from the
138 Citizens Property Insurance Corporation, created pursuant to s.
139 627.351(6), or from the Florida Windstorm Underwriting
140 Association, created pursuant to s. 627.351(2), by an authorized

141 insurer under the terms and conditions of an executed assumption
 142 agreement between the authorized insurer and such association or
 143 Citizens Property Insurance Corporation. Each assumption
 144 agreement between the association and such authorized insurer or
 145 Citizens Property Insurance Corporation must be approved by the
 146 Office of Insurance Regulation prior to the effective date of
 147 the assumption, and the Office of Insurance Regulation must
 148 provide written notification to the board within 15 working days
 149 after such approval. "Covered policy" does not include any
 150 policy that excludes wind coverage or hurricane coverage or any
 151 reinsurance agreement and does not include any policy otherwise
 152 meeting this definition which is issued by a surplus lines
 153 insurer or a reinsurer. All commercial residential excess
 154 policies and all deductible buy-back policies that, based on
 155 sound actuarial principles, require individual ratemaking shall
 156 be excluded by rule if the actuarial soundness of the fund is
 157 not jeopardized. For this purpose, the term "excess policy"
 158 means a policy that provides insurance protection for large
 159 commercial property risks and that provides a layer of coverage
 160 above a primary layer insured by another insurer.

161 (g) ~~(h)~~ "Debt service" means the amount required in any
 162 fiscal year to pay the principal of, redemption premium, if any,
 163 and interest on revenue bonds and any amounts required by the
 164 terms of documents authorizing, securing, or providing liquidity
 165 for revenue bonds necessary to maintain in effect any such
 166 liquidity or security arrangements.

167 (h) ~~(i)~~ "Debt service coverage" means the amount, if any,
 168 required by the documents under which revenue bonds are issued,

169 which amount is to be received in any fiscal year in excess of
 170 the amount required to pay debt service for such fiscal year.

171 (i)~~(l)~~ "Estimated claims-paying capacity" means the sum of
 172 the projected year-end balance of the fund as of December 31 of
 173 a contract year, plus any reinsurance purchased by the fund,
 174 plus the board's estimate of the board's borrowing capacity.

175 (j) "Local government" means a unit of general purpose
 176 local government as defined in s. 218.31(2).

177 (k)~~(d)~~ "Losses" means direct incurred losses under covered
 178 policies, which shall include losses for additional living
 179 expenses not to exceed 40 percent of the insured value of a
 180 residential structure or its contents and shall exclude loss
 181 adjustment expenses. "Losses" does not include losses for fair
 182 rental value, loss of use, or business interruption losses.

183 (l)~~(k)~~ "Pledged revenues" means all or any portion of
 184 revenues to be derived from reimbursement premiums under
 185 subsection (5) or from emergency assessments under paragraph
 186 (6)(b), as determined by the board.

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

190 ~~1. The board shall calculate and report to each insurer
 191 the retention multiples for that year. For the contract year
 192 beginning June 1, 2005, the retention multiple shall be equal to
 193 \$4.5 billion divided by the total estimated reimbursement
 194 premium for the contract year; for subsequent years, the
 195 retention multiple shall be equal to \$4.5 billion, adjusted
 196 based upon the reported exposure from the prior contract year to~~

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197 ~~reflect the percentage growth in exposure to the fund for~~
198 ~~covered policies since 2004, divided by the total estimated~~
199 ~~reimbursement premium for the contract year. Total reimbursement~~
200 ~~premium for purposes of the calculation under this subparagraph~~
201 ~~shall be estimated using the assumption that all insurers have~~
202 ~~selected the 90 percent coverage level.~~

203 ~~2. The retention multiple as determined under subparagraph~~
204 ~~1. shall be adjusted to reflect the coverage level elected by~~
205 ~~the insurer. For insurers electing the 90 percent coverage~~
206 ~~level, the adjusted retention multiple is 100 percent of the~~
207 ~~amount determined under subparagraph 1. For insurers electing~~
208 ~~the 75 percent coverage level, the retention multiple is 120~~
209 ~~percent of the amount determined under subparagraph 1. For~~
210 ~~insurers electing the 45 percent coverage level, the adjusted~~
211 ~~retention multiple is 200 percent of the amount determined under~~
212 ~~subparagraph 1.~~

213 ~~3. An insurer shall determine its provisional retention by~~
214 ~~multiplying its provisional reimbursement premium by the~~
215 ~~applicable adjusted retention multiple and shall determine its~~
216 ~~actual retention by multiplying its actual reimbursement premium~~
217 ~~by the applicable adjusted retention multiple.~~

218 ~~4. For insurers who experience multiple covered events~~
219 ~~causing loss during the contract year, beginning June 1, 2005,~~
220 ~~each insurer's full retention shall be applied to each of the~~
221 ~~covered events causing the two largest losses for that insurer.~~
222 ~~For each other covered event resulting in losses, the insurer's~~
223 ~~retention shall be reduced to one third of the full retention.~~
224 ~~The reimbursement contract shall provide for the reimbursement~~

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

229 (m)~~(f)~~ "Workers' compensation" includes both workers'
230 compensation and excess workers' compensation insurance.

231 (3) FLORIDA HURRICANE INSURANCE ~~CATASTROPHE~~ FUND
232 CREATED.--There is created the Florida Hurricane Insurance
233 ~~Catastrophe~~ Fund to be administered by the State Board of
234 Administration. Moneys in the fund may not be expended, loaned,
235 or appropriated except to pay obligations of the fund arising
236 out of reimbursement contracts entered into under subsection
237 (4), payment of debt service on revenue bonds issued under
238 subsection (6), costs of the mitigation program under subsection
239 (7), costs of procuring reinsurance, and costs of administration
240 of the fund. The board shall invest the moneys in the fund
241 pursuant to ss. 215.44-215.52. Except as otherwise provided in
242 this section, earnings from all investments shall be retained in
243 the fund. The board may employ or contract with such staff and
244 professionals as the board deems necessary for the
245 administration of the fund. The board may adopt such rules as
246 are reasonable and necessary to implement this section and shall
247 specify interest due on any delinquent remittances, which
248 interest may not exceed the fund's rate of return plus 5
249 percent. Such rules must conform to the Legislature's specific
250 intent in establishing the fund as expressed in subsection (1),
251 must enhance the fund's potential ability to respond to claims
252 for covered events, must contain general provisions so that the

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253 rules can be applied with reasonable flexibility so as to
254 accommodate insurers in situations of an unusual nature or where
255 undue hardship may result, except that such flexibility may not
256 in any way impair, override, supersede, or constrain the public
257 purpose of the fund, and must be consistent with sound insurance
258 practices. The board may, by rule, provide for the exemption
259 from subsections (4) and (5) of insurers writing covered
260 policies with less than \$10 million in aggregate exposure for
261 covered policies if the exemption does not affect the actuarial
262 soundness of the fund.

263 (4) REIMBURSEMENT CONTRACTS.--

264 (a) The board shall enter into a contract with each
265 insurer writing hurricane-covered ~~covered~~ policies in this state
266 to provide to the insurer the reimbursement described in
267 paragraphs (b) and (d), in exchange for the reimbursement
268 premium paid into the fund under subsection (5). As a condition
269 of doing business in this state, each such insurer shall enter
270 into such a contract.

271 (b)1. The contract shall contain a promise by the board to
272 reimburse the insurer for losses as provided in this paragraph
273 as a result of a covered event ~~45 percent, 75 percent, or 90~~
274 ~~percent of its losses from each covered event in excess of the~~
275 ~~insurer's retention, plus 5 percent of the reimbursed losses to~~
276 ~~cover loss adjustment expenses.~~

277 2. The insurer shall provide hurricane coverage for any
278 policyholder selecting this coverage. The insurer shall collect
279 premiums from policyholders as determined by the state and remit
280 premium collections to the state to be deposited in the Florida

281 Hurricane Insurance Fund ~~must elect one of the percentage~~
 282 ~~coverage levels specified in this paragraph and may, upon~~
 283 ~~renewal of a reimbursement contract, elect a lower percentage~~
 284 ~~coverage level if no revenue bonds issued under subsection (6)~~
 285 ~~after a covered event are outstanding, or elect a higher~~
 286 ~~percentage coverage level, regardless of whether or not revenue~~
 287 ~~bonds are outstanding. All members of an insurer group must~~
 288 ~~elect the same percentage coverage level. Any joint underwriting~~
 289 ~~association, risk apportionment plan, or other entity created~~
 290 ~~under s. 627.351 must elect the 90 percent coverage level.~~

291 3. The contract shall provide that reimbursement coverage
 292 for any hurricane loss must be paid to the insurer. A
 293 policyholder shall submit all claims to the insurer for payment
 294 for all related losses.

295 4. A policyholder shall pay hurricane peril premiums to
 296 the insurer, and the insurer shall remit collected premiums to
 297 the state.

298 5. An insurer shall contract with the state to provide
 299 hurricane peril coverage to policyholders and provide coverage
 300 directly to policyholders for losses as a result of a covered
 301 event. The state shall reimburse the insurer from the Florida
 302 Hurricane Insurance Fund for all reimbursements made by the
 303 insurer to policyholders as a result of a covered event.

304 6. Premiums paid by a policyholder must provide, through
 305 the fund, a maximum coverage of \$500,000.

306 7. A policyholder may select hurricane deductibles of 1,
 307 2, 5, or 10 percent.

308 8. An insurer may choose to provide additional coverage

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309 beyond the fund's coverage of \$500,000 for its policyholders.

310 9. An insurer shall provide claims adjustment and
311 reimbursement for losses directly to its policyholders. Once
312 reimbursement amounts have been determined for policyholders, an
313 insurer shall submit a request for reimbursement through the
314 fund for payments made to policyholders for hurricane loss.

315 10. The \$500,000 maximum coverage shall be adjusted every
316 5 years based on the home rate index.

317 11. Discounted premiums shall be provided by the fund for
318 an insurer who encourages its policyholders to engage in loss
319 mitigation following damage to or loss of property amounts shall
320 not be reduced by reinsurance paid or payable to the insurer
321 from other sources.

322 ~~(c)1. The contract shall also provide that the obligation~~
323 ~~of the board with respect to all contracts covering a particular~~
324 ~~contract year shall not exceed the actual claims paying capacity~~
325 ~~of the fund up to a limit of \$15 billion for that contract year~~
326 ~~adjusted based upon the reported exposure from the prior~~
327 ~~contract year to reflect the percentage growth in exposure to~~
328 ~~the fund for covered policies since 2003, provided the dollar~~
329 ~~growth in the limit may not increase in any year by an amount~~
330 ~~greater than the dollar growth of the cash balance which~~
331 ~~occurred over the prior calendar year.~~

332 ~~2.~~ In May before the start of the upcoming contract year
333 and in October during the contract year, the board shall publish
334 in the Florida Administrative Weekly a statement of the fund's
335 estimated borrowing capacity and the projected balance of the
336 fund as of December 31. After the end of each calendar year, the

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337 board shall notify insurers of the estimated borrowing capacity
338 and the balance of the fund as of December 31 to provide
339 insurers with data necessary to assist them in determining their
340 actuarially sound premiums ~~retention~~ and projected payout from
341 the fund for loss reimbursement purposes. ~~In conjunction with~~
342 ~~the development of the premium formula, as provided for in~~
343 ~~subsection (5), the board shall publish factors or multiples~~
344 ~~that assist insurers in determining their retention and~~
345 ~~projected payout for the next contract year. For all regulatory~~
346 ~~and reinsurance purposes, an insurer may calculate its projected~~
347 ~~payout from the fund as its share of the total fund premium for~~
348 ~~the current contract year multiplied by the sum of the projected~~
349 ~~balance of the fund as of December 31 and the estimated~~
350 ~~borrowing capacity for that contract year as reported under this~~
351 ~~subparagraph.~~

352 (d)1. For purposes of determining potential liability and
353 to aid in the sound administration of the fund, the contract
354 shall require each insurer to report such insurer's losses from
355 each covered event on an interim basis, as directed by the
356 board. The contract shall require the insurer to report to the
357 board no later than December 31 of each year, and quarterly
358 thereafter, its reimbursable losses from covered events for the
359 year. ~~The contract shall require the board to determine and pay,~~
360 ~~as soon as practicable after receiving these reports of~~
361 ~~reimbursable losses, the initial amount of reimbursement due and~~
362 ~~adjustments to this amount based on later loss information. The~~
363 ~~adjustments to reimbursement amounts shall require the board to~~

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364 ~~pay, or the insurer to return, amounts reflecting the most~~
365 ~~recent calculation of losses.~~

366 2. In determining reimbursements pursuant to this
367 subsection, the contract shall provide that the board shall-

368 a. ~~First~~ reimburse insurers within 90 days after reporting
369 policyholder-paid losses as a result of a covered event ~~writing~~
370 ~~covered policies, which insurers are in full compliance with~~
371 ~~this section and have petitioned the Office of Insurance~~
372 ~~Regulation and qualified as limited apportionment companies~~
373 ~~under s. 627.351(2)(b)3. The amount of such reimbursement shall~~
374 ~~be the lesser of \$10 million or an amount equal to 10 times the~~
375 ~~insurer's reimbursement premium for the current year. The amount~~
376 ~~of reimbursement paid under this sub-subparagraph may not exceed~~
377 ~~the full amount of reimbursement promised in the reimbursement~~
378 ~~contract. This sub-subparagraph does not apply with respect to~~
379 ~~any contract year in which the year-end projected cash balance~~
380 ~~of the fund, exclusive of any bonding capacity of the fund,~~
381 ~~exceeds \$2 billion. Only one member of any insurer group may~~
382 ~~receive reimbursement under this sub-subparagraph.~~

383 b. ~~Next pay to each insurer such insurer's projected~~
384 ~~payout, which is the amount of reimbursement it is owed, up to~~
385 ~~an amount equal to the insurer's share of the actual premium~~
386 ~~paid for that contract year, multiplied by the actual claims-~~
387 ~~paying capacity available for that contract year; provided,~~
388 ~~entities created pursuant to s. 627.351 shall be further~~
389 ~~reimbursed in accordance with sub-subparagraph c.~~

390 c. ~~Thereafter, establish the prorated reimbursement level~~
391 ~~at the highest level for which any remaining fund balance or~~

392 ~~bond proceeds are sufficient to reimburse entities created~~
393 ~~pursuant to s. 627.351 based on reimbursable losses exceeding~~
394 ~~the amounts payable pursuant to sub-subparagraph b. for the~~
395 ~~current contract year.~~

396 ~~(c)1. Except as provided in subparagraphs 2. and 3., the~~
397 ~~contract shall provide that if an insurer demonstrates to the~~
398 ~~board that it is likely to qualify for reimbursement under the~~
399 ~~contract, and demonstrates to the board that the immediate~~
400 ~~receipt of moneys from the board is likely to prevent the~~
401 ~~insurer from becoming insolvent, the board shall advance the~~
402 ~~insurer, at market interest rates, the amounts necessary to~~
403 ~~maintain the solvency of the insurer, up to 50 percent of the~~
404 ~~board's estimate of the reimbursement due the insurer. The~~
405 ~~insurer's reimbursement shall be reduced by an amount equal to~~
406 ~~the amount of the advance and interest thereon.~~

407 ~~2. With respect only to an entity created under s.~~
408 ~~627.351, the contract shall also provide that the board may,~~
409 ~~upon application by such entity, advance to such entity, at~~
410 ~~market interest rates, up to 90 percent of the lesser of:~~

411 ~~a. The board's estimate of the amount of reimbursement due~~
412 ~~to such entity; or~~

413 ~~b. The entity's share of the actual reimbursement premium~~
414 ~~paid for that contract year, multiplied by the currently~~
415 ~~available liquid assets of the fund. In order for the entity to~~
416 ~~qualify for an advance under this subparagraph, the entity must~~
417 ~~demonstrate to the board that the advance is essential to allow~~
418 ~~the entity to pay claims for a covered event and the board must~~
419 ~~determine that the fund's assets are sufficient and are~~

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420 ~~sufficiently liquid to allow the board to make an advance to the~~
421 ~~entity and still fulfill the board's reimbursement obligations~~
422 ~~to other insurers. The entity's final reimbursement for any~~
423 ~~contract year in which an advance has been made under this~~
424 ~~subparagraph must be reduced by an amount equal to the amount of~~
425 ~~the advance and any interest on such advance. In order to~~
426 ~~determine what amounts, if any, are due the entity, the board~~
427 ~~may require the entity to report its exposure and its losses at~~
428 ~~any time to determine retention levels and reimbursements~~
429 ~~payable.~~

430 ~~3. The contract shall also provide specifically and solely~~
431 ~~with respect to any limited apportionment company under s.~~
432 ~~627.351(2)(b)3. that the board may, upon application by such~~
433 ~~company, advance to such company the amount of the estimated~~
434 ~~reimbursement payable to such company as calculated pursuant to~~
435 ~~paragraph (d), at market interest rates, if the board determines~~
436 ~~that the fund's assets are sufficient and are sufficiently~~
437 ~~liquid to permit the board to make an advance to such company~~
438 ~~and at the same time fulfill its reimbursement obligations to~~
439 ~~the insurers that are participants in the fund. Such company's~~
440 ~~final reimbursement for any contract year in which an advance~~
441 ~~pursuant to this subparagraph has been made shall be reduced by~~
442 ~~an amount equal to the amount of the advance and interest~~
443 ~~thereon. In order to determine what amounts, if any, are due to~~
444 ~~such company, the board may require such company to report its~~
445 ~~exposure and its losses at such times as may be required to~~
446 ~~determine retention levels and loss reimbursements payable.~~

447 (e)~~(f)~~ In order to ensure that insurers have properly
448 reported the insured values on which the reimbursement premium
449 is based and to ensure that insurers have properly reported the
450 losses for which reimbursements have been made, the board shall
451 inspect, examine, and verify the records of each insurer's
452 covered policies at such times as the board deems appropriate
453 and according to standards established by rule for the specific
454 purpose of validating the accuracy of exposures and losses
455 required to be reported under the terms and conditions of the
456 reimbursement contract. The costs of the examinations shall be
457 borne by the board. However, in order to remove any incentive
458 for an insurer to delay preparations for an examination, the
459 board shall be reimbursed by the insurer for any examination
460 expenses incurred in addition to the usual and customary costs
461 of the examination, which additional expenses were incurred as a
462 result of an insurer's failure, despite proper notice, to be
463 prepared for the examination or as a result of an insurer's
464 failure to provide requested information while the examination
465 is in progress. If the board finds any insurer's records or
466 other necessary information to be inadequate or inadequately
467 posted, recorded, or maintained, the board may employ experts to
468 reconstruct, rewrite, record, post, or maintain such records or
469 information, at the expense of the insurer being examined, if
470 such insurer has failed to maintain, complete, or correct such
471 records or deficiencies after the board has given the insurer
472 notice and a reasonable opportunity to do so. Any information
473 contained in an examination report, which information is
474 described in s. 215.557, is confidential and exempt from the

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475 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 476 Constitution, as provided in s. 215.557. Nothing in this
 477 paragraph expands the exemption in s. 215.557.

478 (f)~~(g)~~ The contract shall provide that in the event of the
 479 insolvency of an insurer, the fund shall pay directly to the
 480 Florida Insurance Guaranty Association for the benefit of
 481 Florida policyholders of the insurer the net amount of all
 482 reimbursement moneys owed to the insurer. As used in this
 483 paragraph, the term "net amount of all reimbursement moneys"
 484 means that amount which remains after reimbursement for:

485 1. Preliminary or duplicate payments owed to private
 486 reinsurers or other inuring reinsurance payments to private
 487 reinsurers that satisfy statutory or contractual obligations of
 488 the insolvent insurer attributable to covered events to such
 489 reinsurers; or

490 2. Funds owed to a bank or other financial institution to
 491 cover obligations of the insolvent insurer under a credit
 492 agreement that assists the insolvent insurer in paying claims
 493 attributable to covered events.

494
 495 The private reinsurers, banks, or other financial institutions
 496 shall be reimbursed or otherwise paid prior to payment to the
 497 Florida Insurance Guaranty Association, notwithstanding any law
 498 to the contrary. The guaranty association shall pay all claims
 499 up to the maximum amount permitted by chapter 631; thereafter,
 500 any remaining moneys shall be paid pro rata to claims not fully
 501 satisfied. This paragraph does not apply to a joint underwriting

502 association, risk apportionment plan, or other entity created
 503 under s. 627.351.

504 (5) REIMBURSEMENT PREMIUMS.--

505 (a) Each reimbursement contract shall require the insurer
 506 to ~~annually~~ pay to the fund an actuarially indicated premium for
 507 the reimbursement of hurricane losses.

508 (b) The State Board of Administration shall select an
 509 independent consultant to develop a formula for determining the
 510 actuarially indicated premium to be paid to the fund. The
 511 formula shall specify, for each zip code or other limited
 512 geographical area, the amount of premium to be paid by an
 513 insurer ~~for each \$1,000 of insured value under covered policies~~
 514 ~~in that zip code or other area~~. In establishing premiums, the
 515 board shall consider ~~the coverage elected under paragraph (4)(b)~~
 516 ~~and~~ any factors that tend to enhance the actuarial
 517 sophistication of ratemaking for the fund, including
 518 deductibles, type of construction, type of coverage provided,
 519 relative concentration of risks, loss mitigation efforts, a
 520 factor providing for more rapid cash buildup in the fund until
 521 the fund capacity for a single hurricane season is fully funded,
 522 and other such factors deemed by the board to be appropriate.
 523 ~~The formula may provide for a procedure to determine the~~
 524 ~~premiums to be paid by new insurers that begin writing covered~~
 525 ~~policies after the beginning of a contract year, taking into~~
 526 ~~consideration when the insurer starts writing covered policies,~~
 527 ~~the potential exposure of the insurer, the potential exposure of~~
 528 ~~the fund, the administrative costs to the insurer and to the~~
 529 ~~fund, and any other factors deemed appropriate by the board. The~~

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530 ~~formula must be approved by unanimous vote of the board. The~~
531 ~~board may, at any time, revise the formula pursuant to the~~
532 ~~procedure provided in this paragraph.~~

533 (c) No later than September 1 of each year, each insurer
534 shall notify the board of its insured values under covered
535 policies by zip code, as of June 30 of that year. On the basis
536 of these reports, the board shall calculate the premium due from
537 the insurer, based on the formula adopted under paragraph (b).
538 ~~The insurer shall pay the required annual premium pursuant to a~~
539 ~~periodic payment plan specified in the contract. The board shall~~
540 ~~provide for payment of reimbursement premium in periodic~~
541 ~~installments and for the adjustment of provisional premium~~
542 ~~installments collected prior to submission of the exposure~~
543 ~~report to reflect data in the exposure report. The board shall~~
544 ~~collect interest on late reimbursement premium payments~~
545 ~~consistent with the assumptions made in developing the premium~~
546 ~~formula in accordance with paragraph (b).~~

547 ~~(d) All premiums paid to the fund under reimbursement~~
548 ~~contracts shall be treated as premium for approved reinsurance~~
549 ~~for all accounting and regulatory purposes.~~

550 (6) REVENUE BONDS.--

551 (a) General provisions.--

552 1. Upon the occurrence of a hurricane and a determination
553 that the moneys in the fund are or will be insufficient to pay
554 reimbursement at the levels promised in the reimbursement
555 contracts, the board may take the necessary steps under
556 paragraph (c) or paragraph (d) for the issuance of revenue bonds
557 for the benefit of the fund. The proceeds of such revenue bonds

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558 | may be used to make reimbursement payments under reimbursement
559 | contracts; to refinance or replace previously existing
560 | borrowings or financial arrangements; to pay interest on bonds;
561 | to fund reserves for the bonds; to pay expenses incident to the
562 | issuance or sale of any bond issued under this section,
563 | including costs of validating, printing, and delivering the
564 | bonds, costs of printing the official statement, costs of
565 | publishing notices of sale of the bonds, and related
566 | administrative expenses; or for such other purposes related to
567 | the financial obligations of the fund as the board may
568 | determine. The term of the bonds may not exceed 30 years. The
569 | board may pledge or authorize the corporation to pledge all or a
570 | portion of all revenues under subsection (5) and under paragraph
571 | (b) to secure such revenue bonds and the board may execute such
572 | agreements between the board and the issuer of any revenue bonds
573 | and providers of other financing arrangements under paragraph
574 | (7) (b) as the board deems necessary to evidence, secure,
575 | preserve, and protect such pledge. If reimbursement premiums
576 | received under subsection (5) or earnings on such premiums are
577 | used to pay debt service on revenue bonds, such premiums and
578 | earnings shall be used only after the use of the moneys derived
579 | from assessments under paragraph (b). The funds, credit,
580 | property, or taxing power of the state or political subdivisions
581 | of the state shall not be pledged for the payment of such bonds.
582 | The board may also enter into agreements under paragraph (c) or
583 | paragraph (d) for the purpose of issuing revenue bonds in the
584 | absence of a hurricane upon a determination that such action

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585 would maximize the ability of the fund to meet future
586 obligations.

587 2. The Legislature finds and declares that the issuance of
588 bonds under this subsection is for the public purpose of paying
589 the proceeds of the bonds to insurers, thereby enabling insurers
590 to pay the claims of policyholders to assure that policyholders
591 are able to pay the cost of construction, reconstruction,
592 repair, restoration, and other costs associated with damage to
593 property of policyholders of covered policies after the
594 occurrence of a hurricane. Revenue bonds may not be issued under
595 this subsection until validated under chapter 75. The validation
596 of at least the first obligations incurred pursuant to this
597 subsection shall be appealed to the Supreme Court, to be handled
598 on an expedited basis.

599 (b) Emergency assessments.--

600 1. If the board determines that the amount of revenue
601 produced under subsection (5) is insufficient to fund the
602 obligations, costs, and expenses of the fund and the
603 corporation, including repayment of revenue bonds and that
604 portion of the debt service coverage not met by reimbursement
605 premiums, the board shall direct the Office of Insurance
606 Regulation to levy, by order, an emergency assessment on direct
607 premiums for all property and casualty lines of business in this
608 state, including property and casualty business of surplus lines
609 insurers regulated under part VIII of chapter 626, but not
610 including any workers' compensation premiums or medical
611 malpractice premiums. As used in this subsection, the term
612 "property and casualty business" includes all lines of business

613 identified on Form 2, Exhibit of Premiums and Losses, in the
614 annual statement required of authorized insurers by s. 624.424
615 and any rule adopted under this section, except for those lines
616 identified as accident and health insurance and except for
617 policies written under the National Flood Insurance Program. The
618 assessment shall be specified as a percentage of future premium
619 collections and is subject to annual adjustments by the board to
620 reflect changes in premiums subject to assessments collected
621 under this subparagraph in order to meet debt obligations. The
622 same percentage shall apply to all policies in lines of business
623 subject to the assessment issued or renewed during the 12-month
624 period beginning on the effective date of the assessment.

625 2. A premium is not subject to an annual assessment under
626 this paragraph in excess of 6 percent of premium with respect to
627 obligations arising out of losses attributable to any one
628 contract year, and a premium is not subject to an aggregate
629 annual assessment under this paragraph in excess of 10 percent
630 of premium. An annual assessment under this paragraph shall
631 continue until the revenue bonds issued with respect to which
632 the assessment was imposed are outstanding, including any bonds
633 the proceeds of which were used to refund the revenue bonds,
634 unless adequate provision has been made for the payment of the
635 bonds under the documents authorizing issuance of the bonds.

636 3. With respect to each insurer collecting premiums that
637 are subject to the assessment, the insurer shall collect the
638 assessment at the same time as it collects the premium payment
639 for each policy and shall remit the assessment collected to the
640 fund or corporation as provided in the order issued by the

641 Office of Insurance Regulation. The office shall verify the
642 accurate and timely collection and remittance of emergency
643 assessments and shall report the information to the board in a
644 form and at a time specified by the board. Each insurer
645 collecting assessments shall provide the information with
646 respect to premiums and collections as may be required by the
647 office to enable the office to monitor and verify compliance
648 with this paragraph.

649 4. With respect to assessments of surplus lines premiums,
650 each surplus lines agent shall collect the assessment at the
651 same time as the agent collects the surplus lines tax required
652 by s. 626.932, and the surplus lines agent shall remit the
653 assessment to the Florida Surplus Lines Service Office created
654 by s. 626.921 at the same time as the agent remits the surplus
655 lines tax to the Florida Surplus Lines Service Office. The
656 emergency assessment on each insured procuring coverage and
657 filing under s. 626.938 shall be remitted by the insured to the
658 Florida Surplus Lines Service Office at the time the insured
659 pays the surplus lines tax to the Florida Surplus Lines Service
660 Office. The Florida Surplus Lines Service Office shall remit the
661 collected assessments to the fund or corporation as provided in
662 the order levied by the Office of Insurance Regulation. The
663 Florida Surplus Lines Service Office shall verify the proper
664 application of such emergency assessments and shall assist the
665 board in ensuring the accurate and timely collection and
666 remittance of assessments as required by the board. The Florida
667 Surplus Lines Service Office shall annually calculate the
668 aggregate written premium on property and casualty business,

669 other than workers' compensation and medical malpractice,
 670 procured through surplus lines agents and insureds procuring
 671 coverage and filing under s. 626.938 and shall report the
 672 information to the board in a form and at a time specified by
 673 the board.

674 5. Any assessment authority not used for a particular
 675 contract year may be used for a subsequent contract year. If,
 676 for a subsequent contract year, the board determines that the
 677 amount of revenue produced under subsection (5) is insufficient
 678 to fund the obligations, costs, and expenses of the fund and the
 679 corporation, including repayment of revenue bonds and that
 680 portion of the debt service coverage not met by reimbursement
 681 premiums, the board shall direct the Office of Insurance
 682 Regulation to levy an emergency assessment up to an amount not
 683 exceeding the amount of unused assessment authority from a
 684 previous contract year or years, plus an additional 4 percent
 685 provided that the assessments in the aggregate do not exceed the
 686 limits specified in subparagraph 2.

687 6. The assessments otherwise payable to the corporation
 688 under this paragraph shall be paid to the fund unless and until
 689 the Office of Insurance Regulation and the Florida Surplus Lines
 690 Service Office have received from the corporation and the fund a
 691 notice, which shall be conclusive and upon which they may rely
 692 without further inquiry, that the corporation has issued bonds
 693 and the fund has no agreements in effect with local governments
 694 under paragraph (c). On or after the date of the notice and
 695 until the date the corporation has no bonds outstanding, the
 696 fund shall have no right, title, or interest in or to the

697 assessments, except as provided in the fund's agreement with the
698 corporation.

699 7. Emergency assessments are not premium and are not
700 subject to the premium tax, to the surplus lines tax, to any
701 fees, or to any commissions. An insurer is liable for all
702 assessments that it collects and must treat the failure of an
703 insured to pay an assessment as a failure to pay the premium. An
704 insurer is not liable for uncollectible assessments.

705 8. When an insurer is required to return an unearned
706 premium, it shall also return any collected assessment
707 attributable to the unearned premium. A credit adjustment to the
708 collected assessment may be made by the insurer with regard to
709 future remittances that are payable to the fund or corporation,
710 but the insurer is not entitled to a refund.

711 9. When a surplus lines insured or an insured who has
712 procured coverage and filed under s. 626.938 is entitled to the
713 return of an unearned premium, the Florida Surplus Lines Service
714 Office shall provide a credit or refund to the agent or such
715 insured for the collected assessment attributable to the
716 unearned premium prior to remitting the emergency assessment
717 collected to the fund or corporation.

718 10. The exemption of medical malpractice insurance
719 premiums from emergency assessments under this paragraph is
720 repealed May 31, 2007, and medical malpractice insurance
721 premiums shall be subject to emergency assessments attributable
722 to loss events occurring in the contract years commencing on
723 June 1, 2007.

724 (c) Revenue bond issuance through counties or
 725 municipalities.--

726 1. If the board elects to enter into agreements with local
 727 governments for the issuance of revenue bonds for the benefit of
 728 the fund, the board shall enter into such contracts with one or
 729 more local governments, including agreements providing for the
 730 pledge of revenues, as are necessary to effect such issuance.
 731 The governing body of a county or municipality is authorized to
 732 issue bonds as defined in s. 125.013 or s. 166.101 from time to
 733 time to fund an assistance program, in conjunction with the
 734 Florida Hurricane Insurance ~~Catastrophe~~ Fund, for the purposes
 735 set forth in this section or for the purpose of paying the costs
 736 of construction, reconstruction, repair, restoration, and other
 737 costs associated with damage to properties of policyholders of
 738 covered policies due to the occurrence of a hurricane by
 739 assuring that policyholders located in this state are able to
 740 recover claims under property insurance policies after a covered
 741 event.

742 2. In order to avoid needless and indiscriminate
 743 proliferation, duplication, and fragmentation of such assistance
 744 programs, any local government may provide for the payment of
 745 fund reimbursements, regardless of whether or not the losses for
 746 which reimbursement is made occurred within or outside of the
 747 territorial jurisdiction of the local government.

748 3. The state hereby covenants with holders of bonds issued
 749 under this paragraph that the state will not repeal or abrogate
 750 the power of the board to direct the Office of Insurance
 751 Regulation to levy the assessments and to collect the proceeds

752 of the revenues pledged to the payment of such bonds as long as
 753 any such bonds remain outstanding unless adequate provision has
 754 been made for the payment of such bonds pursuant to the
 755 documents authorizing the issuance of such bonds.

756 4. There shall be no liability on the part of, and no
 757 cause of action shall arise against any members or employees of
 758 the governing body of a local government for any actions taken
 759 by them in the performance of their duties under this paragraph.

760 (d) Florida Hurricane Insurance ~~Catastrophe~~ Fund Finance
 761 Corporation.--

762 1. In addition to the findings and declarations in
 763 subsection (1), the Legislature also finds and declares that:

764 a. The public benefits corporation created under this
 765 paragraph will provide a mechanism necessary for the cost-
 766 effective and efficient issuance of bonds. This mechanism will
 767 eliminate unnecessary costs in the bond issuance process,
 768 thereby increasing the amounts available to pay reimbursement
 769 for losses to property sustained as a result of hurricane
 770 damage.

771 b. The purpose of such bonds is to fund reimbursements
 772 through the Florida Hurricane Insurance ~~Catastrophe~~ Fund to pay
 773 for the costs of construction, reconstruction, repair,
 774 restoration, and other costs associated with damage to
 775 properties of policyholders of covered policies due to the
 776 occurrence of a hurricane.

777 c. The efficacy of the financing mechanism will be
 778 enhanced by the corporation's ownership of the assessments, by
 779 the insulation of the assessments from possible bankruptcy

780 proceedings, and by covenants of the state with the
781 corporation's bondholders.

782 2.a. There is created a public benefits corporation, which
783 is an instrumentality of the state, to be known as the Florida
784 Hurricane Insurance ~~Catastrophe~~ Fund Finance Corporation.

785 b. The corporation shall operate under a five-member board
786 of directors consisting of the Governor or a designee, the Chief
787 Financial Officer or a designee, the Attorney General or a
788 designee, the director of the Division of Bond Finance of the
789 State Board of Administration, and the senior employee of the
790 State Board of Administration responsible for operations of the
791 Florida Hurricane Insurance ~~Catastrophe~~ Fund.

792 c. The corporation has all of the powers of corporations
793 under chapter 607 and under chapter 617, subject only to the
794 provisions of this subsection.

795 d. The corporation may issue bonds and engage in such
796 other financial transactions as are necessary to provide
797 sufficient funds to achieve the purposes of this section.

798 e. The corporation may invest in any of the investments
799 authorized under s. 215.47.

800 f. There shall be no liability on the part of, and no
801 cause of action shall arise against, any board members or
802 employees of the corporation for any actions taken by them in
803 the performance of their duties under this paragraph.

804 3.a. In actions under chapter 75 to validate any bonds
805 issued by the corporation, the notice required by s. 75.06 shall
806 be published only in Leon County and in two newspapers of
807 general circulation in the state, and the complaint and order of

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808 the court shall be served only on the State Attorney of the
 809 Second Judicial Circuit.

810 b. The state hereby covenants with holders of bonds of the
 811 corporation that the state will not repeal or abrogate the power
 812 of the board to direct the Office of Insurance Regulation to
 813 levy the assessments and to collect the proceeds of the revenues
 814 pledged to the payment of such bonds as long as any such bonds
 815 remain outstanding unless adequate provision has been made for
 816 the payment of such bonds pursuant to the documents authorizing
 817 the issuance of such bonds.

818 4. The bonds of the corporation are not a debt of the
 819 state or of any political subdivision, and neither the state nor
 820 any political subdivision is liable on such bonds. The
 821 corporation does not have the power to pledge the credit, the
 822 revenues, or the taxing power of the state or of any political
 823 subdivision. The credit, revenues, or taxing power of the state
 824 or of any political subdivision shall not be deemed to be
 825 pledged to the payment of any bonds of the corporation.

826 5.a. The property, revenues, and other assets of the
 827 corporation; the transactions and operations of the corporation
 828 and the income from such transactions and operations; and all
 829 bonds issued under this paragraph and interest on such bonds are
 830 exempt from taxation by the state and any political subdivision,
 831 including the intangibles tax under chapter 199 and the income
 832 tax under chapter 220. This exemption does not apply to any tax
 833 imposed by chapter 220 on interest, income, or profits on debt
 834 obligations owned by corporations other than the Florida
 835 Hurricane Insurance Catastrophe Fund Finance Corporation.

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836 b. All bonds of the corporation shall be and constitute
837 legal investments without limitation for all public bodies of
838 this state; for all banks, trust companies, savings banks,
839 savings associations, savings and loan associations, and
840 investment companies; for all administrators, executors,
841 trustees, and other fiduciaries; for all insurance companies and
842 associations and other persons carrying on an insurance
843 business; and for all other persons who are now or may hereafter
844 be authorized to invest in bonds or other obligations of the
845 state and shall be and constitute eligible securities to be
846 deposited as collateral for the security of any state, county,
847 municipal, or other public funds. This sub-subparagraph shall be
848 considered as additional and supplemental authority and shall
849 not be limited without specific reference to this sub-
850 subparagraph.

851 6. The corporation and its corporate existence shall
852 continue until terminated by law; however, no such law shall
853 take effect as long as the corporation has bonds outstanding
854 unless adequate provision has been made for the payment of such
855 bonds pursuant to the documents authorizing the issuance of such
856 bonds. Upon termination of the existence of the corporation, all
857 of its rights and properties in excess of its obligations shall
858 pass to and be vested in the state.

859 (e) Protection of bondholders.--

860 1. As long as the corporation has any bonds outstanding,
861 neither the fund nor the corporation shall have the authority to
862 file a voluntary petition under chapter 9 of the federal
863 Bankruptcy Code or such corresponding chapter or sections as may

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864 be in effect, from time to time, and neither any public officer
865 nor any organization, entity, or other person shall authorize
866 the fund or the corporation to be or become a debtor under
867 chapter 9 of the federal Bankruptcy Code or such corresponding
868 chapter or sections as may be in effect, from time to time,
869 during any such period.

870 2. The state hereby covenants with holders of bonds of the
871 corporation that the state will not limit or alter the denial of
872 authority under this paragraph or the rights under this section
873 vested in the fund or the corporation to fulfill the terms of
874 any agreements made with such bondholders or in any way impair
875 the rights and remedies of such bondholders as long as any such
876 bonds remain outstanding unless adequate provision has been made
877 for the payment of such bonds pursuant to the documents
878 authorizing the issuance of such bonds.

879 3. Notwithstanding any other provision of law, any pledge
880 of or other security interest in revenue, money, accounts,
881 contract rights, general intangibles, or other personal property
882 made or created by the fund or the corporation shall be valid,
883 binding, and perfected from the time such pledge is made or
884 other security interest attaches without any physical delivery
885 of the collateral or further act and the lien of any such pledge
886 or other security interest shall be valid, binding, and
887 perfected against all parties having claims of any kind in tort,
888 contract, or otherwise against the fund or the corporation
889 irrespective of whether or not such parties have notice of such
890 claims. No instrument by which such a pledge or security

891 interest is created nor any financing statement need be recorded
892 or filed.

893 (7) ADDITIONAL POWERS AND DUTIES.--

894 (a) The board may procure reinsurance from reinsurers
895 acceptable to the Office of Insurance Regulation for the purpose
896 of maximizing the capacity of the fund.

897 (b) In addition to borrowing under subsection (6), the
898 board may also borrow from, or enter into other financing
899 arrangements with, any market sources at prevailing interest
900 rates.

901 ~~(c) Each fiscal year, the Legislature shall appropriate~~
902 ~~from the investment income of the Florida Hurricane Catastrophe~~
903 ~~Fund an amount no less than \$10 million and no more than 35~~
904 ~~percent of the investment income based upon the most recent~~
905 ~~fiscal year end audited financial statements for the purpose of~~
906 ~~providing funding for local governments, state agencies, public~~
907 ~~and private educational institutions, and nonprofit~~
908 ~~organizations to support programs intended to improve hurricane~~
909 ~~preparedness, reduce potential losses in the event of a~~
910 ~~hurricane, provide research into means to reduce such losses,~~
911 ~~educate or inform the public as to means to reduce hurricane~~
912 ~~losses, assist the public in determining the appropriateness of~~
913 ~~particular upgrades to structures or in the financing of such~~
914 ~~upgrades, or protect local infrastructure from potential damage~~
915 ~~from a hurricane. Moneys shall first be available for~~
916 ~~appropriation under this paragraph in fiscal year 1997 1998.~~
917 ~~Moneys in excess of the \$10 million specified in this paragraph~~
918 ~~shall not be available for appropriation under this paragraph if~~

919 ~~the State Board of Administration finds that an appropriation of~~
 920 ~~investment income from the fund would jeopardize the actuarial~~
 921 ~~soundness of the fund.~~

922 (c) ~~(d)~~ The board may allow insurers to comply with
 923 reporting requirements and reporting format requirements by
 924 using alternative methods of reporting if the proper
 925 administration of the fund is not thereby impaired and if the
 926 alternative methods produce data which is consistent with the
 927 purposes of this section.

928 (d) ~~(e)~~ In order to assure the equitable operation of the
 929 fund, the board may impose a reasonable fee on an insurer to
 930 recover costs involved in reprocessing inaccurate, incomplete,
 931 or untimely exposure data submitted by the insurer.

932 (8) ADVISORY COUNCIL.--The State Board of Administration
 933 shall appoint a nine-member Florida Hurricane Insurance Fund
 934 Advisory Council that consists of an actuary, a meteorologist,
 935 an engineer, a representative of insurers, a representative of
 936 insurance agents, a representative of reinsurers, and three
 937 consumers who shall also be representatives of other affected
 938 professions and industries, to provide the board with
 939 information and advice in connection with its duties under this
 940 section. Members of the advisory council shall serve at the
 941 pleasure of the board and are eligible for per diem and travel
 942 expenses under s. 112.061.

943 (9) APPLICABILITY OF S. 19, ART. III OF THE STATE
 944 CONSTITUTION.--The Legislature finds that the Florida Hurricane
 945 Insurance ~~Catastrophe~~ Fund created by this section is a trust
 946 fund established for bond covenants, indentures, or resolutions

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947 within the meaning of s. 19(f)(3), Art. III of the State
948 Constitution.

949 (10) VIOLATIONS.--Any violation of this section or of
950 rules adopted under this section constitutes a violation of the
951 insurance code.

952 (11) LEGAL PROCEEDINGS.--The board is authorized to take
953 any action necessary to enforce the rules, and the provisions
954 and requirements of the reimbursement contract, required by and
955 adopted pursuant to this section.

956 (12) FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon the
957 creation of a federal or multistate catastrophic insurance or
958 reinsurance program intended to serve purposes similar to the
959 purposes of the fund created by this section, the State Board of
960 Administration shall promptly make recommendations to the
961 Legislature for coordination with the federal or multistate
962 program, for termination of the fund, or for such other actions
963 as the board finds appropriate in the circumstances.

964 (13) REVERSION OF FUND ASSETS UPON TERMINATION.--The fund
965 and the duties of the board under this section may be terminated
966 only by law. Upon termination of the fund, all assets of the
967 fund shall revert to the General Revenue Fund.

968 (14) SEVERABILITY.--If any provision of this section or
969 its application to any person or circumstance is held invalid,
970 the invalidity does not affect other provisions or applications
971 of the section which can be given effect without the invalid
972 provision or application, and to this end the provisions of this
973 section are declared severable.

974 (15) COLLATERAL PROTECTION INSURANCE.--As used in this
 975 section and ss. 627.311 and 627.351, the term "collateral
 976 protection insurance" means commercial property insurance of
 977 which a creditor is the primary beneficiary and policyholder and
 978 which protects or covers an interest of the creditor arising out
 979 of a credit transaction secured by real or personal property.
 980 Initiation of such coverage is triggered by the mortgagor's
 981 failure to maintain insurance coverage as required by the
 982 mortgage or other lending document. Collateral protection
 983 insurance is not residential coverage.

984 Section 2. Section 215.556, Florida Statutes, is amended
 985 to read:

986 215.556 Exemption.--The Florida Hurricane Insurance
 987 ~~Catastrophe~~ Fund created by s. 215.555 is exempt from the
 988 deduction required by s. 215.20(1).

989 Section 3. Subsection (1) of section 215.559, Florida
 990 Statutes, is amended to read:

991 215.559 Hurricane Loss Mitigation Program.--

992 (1) There is created a Hurricane Loss Mitigation Program.
 993 The Legislature shall annually appropriate \$10 million ~~of the~~
 994 ~~moneys authorized for appropriation under s. 215.555(7)(c)~~ from
 995 the Florida Hurricane Insurance ~~Catastrophe~~ Fund to the
 996 Department of Community Affairs for the purposes set forth in
 997 this section.

998 Section 4. Subsection (10) of section 624.424, Florida
 999 Statutes, is amended to read:

1000 624.424 Annual statement and other information.--

1001 (10) Each insurer or insurer group doing business in this
 1002 state shall file on a quarterly basis in conjunction with
 1003 financial reports required by paragraph (1) (a) a supplemental
 1004 report on an individual and group basis on a form prescribed by
 1005 the commission with information on personal lines and commercial
 1006 lines residential property insurance policies in this state. The
 1007 supplemental report shall include separate information for
 1008 personal lines property policies and for commercial lines
 1009 property policies and totals for each item specified, including
 1010 premiums written for each of the property lines of business as
 1011 described in ss. 215.555(2) (f) ~~(e)~~ and 627.351(6) (a). The report
 1012 shall include the following information for each county on a
 1013 monthly basis:

- 1014 (a) Total number of policies in force at the end of each
 1015 month.
- 1016 (b) Total number of policies canceled.
- 1017 (c) Total number of policies nonrenewed.
- 1018 (d) Number of policies canceled due to hurricane risk.
- 1019 (e) Number of policies nonrenewed due to hurricane risk.
- 1020 (f) Number of new policies written.
- 1021 (g) Total dollar value of structure exposure under
 1022 policies that include wind coverage.
- 1023 (h) Number of policies that exclude wind coverage.

1024 Section 5. Subsection (3) of section 624.5091, Florida
 1025 Statutes, is amended to read:

1026 624.5091 Retaliatory provision, insurers.--

1027 (3) This section does not apply as to personal income
 1028 taxes, nor as to sales or use taxes, nor as to ad valorem taxes

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1029 on real or personal property, nor as to reimbursement premiums
 1030 paid to the Florida Hurricane Insurance ~~Catastrophe~~ Fund, nor as
 1031 to emergency assessments paid to the Florida Hurricane Insurance
 1032 ~~Catastrophe~~ Fund, nor as to special purpose obligations or
 1033 assessments imposed in connection with particular kinds of
 1034 insurance other than property insurance, except that deductions,
 1035 from premium taxes or other taxes otherwise payable, allowed on
 1036 account of real estate or personal property taxes paid shall be
 1037 taken into consideration by the department in determining the
 1038 propriety and extent of retaliatory action under this section.

1039 Section 6. Subsection (5) of section 627.062, Florida
 1040 Statutes, is amended to read:

1041 627.062 Rate standards.--

1042 (5) With respect to a rate filing involving coverage of
 1043 the type for which the insurer is required to pay a
 1044 reimbursement premium to the Florida Hurricane Insurance
 1045 ~~Catastrophe~~ Fund, the insurer may fully recoup in its property
 1046 insurance premiums any reimbursement premiums paid to the
 1047 Florida Hurricane Insurance ~~Catastrophe~~ Fund, together with
 1048 reasonable costs of other reinsurance, but may not recoup
 1049 reinsurance costs that duplicate coverage provided by the
 1050 Florida Hurricane Insurance ~~Catastrophe~~ Fund. An insurer may not
 1051 recoup more than 1 year of reimbursement premium at a time. Any
 1052 under-recoupment from the prior year may be added to the
 1053 following year's reimbursement premium and any over-recoupment
 1054 shall be subtracted from the following year's reimbursement
 1055 premium.

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1056 Section 7. Paragraph (c) of subsection (1), paragraphs (b)
 1057 and (f) of subsection (2), and paragraph (b) of subsection (3)
 1058 of section 627.0628, Florida Statutes, are amended to read:

1059 627.0628 Florida Commission on Hurricane Loss Projection
 1060 Methodology; public records exemption; public meetings
 1061 exemption.--

1062 (1) LEGISLATIVE FINDINGS AND INTENT.--

1063 (c) It is the intent of the Legislature to create the
 1064 Florida Commission on Hurricane Loss Projection Methodology as a
 1065 panel of experts to provide the most actuarially sophisticated
 1066 guidelines and standards for projection of hurricane losses
 1067 possible, given the current state of actuarial science. It is
 1068 the further intent of the Legislature that such standards and
 1069 guidelines must be used by the State Board of Administration in
 1070 developing reimbursement premium rates for the Florida Hurricane
 1071 Insurance Catastrophe Fund, and, subject to paragraph (3)(c),
 1072 may be used by insurers in rate filings under s. 627.062 unless
 1073 the way in which such standards and guidelines were applied by
 1074 the insurer was erroneous, as shown by a preponderance of the
 1075 evidence.

1076 (2) COMMISSION CREATED.--

1077 (b) The commission shall consist of the following 11
 1078 members:

- 1079 1. The insurance consumer advocate.
- 1080 2. The senior employee of the State Board of
 1081 Administration responsible for operations of the Florida
 1082 Hurricane Insurance Catastrophe Fund.

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- 1083 3. The Executive Director of the Citizens Property
 1084 Insurance Corporation.
- 1085 4. The Director of the Division of Emergency Management of
 1086 the Department of Community Affairs.
- 1087 5. The actuary member of the Florida Hurricane Insurance
 1088 ~~Catastrophe~~ Fund Advisory Council.
- 1089 6. An employee of the office who is an actuary responsible
 1090 for property insurance rate filings and who is appointed by the
 1091 director of the office.
- 1092 7. Five members appointed by the Chief Financial Officer,
 1093 as follows:
- 1094 a. An actuary who is employed full time by a property and
 1095 casualty insurer which was responsible for at least 1 percent of
 1096 the aggregate statewide direct written premium for homeowner's
 1097 insurance in the calendar year preceding the member's
 1098 appointment to the commission.
- 1099 b. An expert in insurance finance who is a full-time
 1100 member of the faculty of the State University System and who has
 1101 a background in actuarial science.
- 1102 c. An expert in statistics who is a full-time member of
 1103 the faculty of the State University System and who has a
 1104 background in insurance.
- 1105 d. An expert in computer system design who is a full-time
 1106 member of the faculty of the State University System.
- 1107 e. An expert in meteorology who is a full-time member of
 1108 the faculty of the State University System and who specializes
 1109 in hurricanes.

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1110 (f) The State Board of Administration shall, as a cost of
 1111 administration of the Florida Hurricane Insurance ~~Catastrophe~~
 1112 Fund, provide for travel, expenses, and staff support for the
 1113 commission.

1114 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1115 (b) In establishing reimbursement premiums for the Florida
 1116 Hurricane Insurance ~~Catastrophe~~ Fund, the State Board of
 1117 Administration must, to the extent feasible, employ actuarial
 1118 methods, principles, standards, models, or output ranges found
 1119 by the commission to be accurate or reliable.

1120 Section 8. Subsection (10) of section 627.0629, Florida
 1121 Statutes, is amended to read:

1122 627.0629 Residential property insurance; rate filings.--

1123 (10) A property insurance rate filing that includes any
 1124 adjustments related to premiums paid to the Florida Hurricane
 1125 Insurance ~~Catastrophe~~ Fund must include a complete calculation
 1126 of the insurer's catastrophe load, and the information in the
 1127 filing may not be limited solely to recovery of moneys paid to
 1128 the fund.

1129 Section 9. Paragraph (b) of subsection (2) and paragraphs
 1130 (b), (c), (k), and (l) of subsection (6) of section 627.351,
 1131 Florida Statutes, are amended to read:

1132 627.351 Insurance risk apportionment plans.--

1133 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

1134 (b) The department shall require all insurers holding a
 1135 certificate of authority to transact property insurance on a
 1136 direct basis in this state, other than joint underwriting
 1137 associations and other entities formed pursuant to this section,

1138 to provide windstorm coverage to applicants from areas
 1139 determined to be eligible pursuant to paragraph (c) who in good
 1140 faith are entitled to, but are unable to procure, such coverage
 1141 through ordinary means; or it shall adopt a reasonable plan or
 1142 plans for the equitable apportionment or sharing among such
 1143 insurers of windstorm coverage, which may include formation of
 1144 an association for this purpose. As used in this subsection, the
 1145 term "property insurance" means insurance on real or personal
 1146 property, as defined in s. 624.604, including insurance for
 1147 fire, industrial fire, allied lines, farmowners multiperil,
 1148 homeowners' multiperil, commercial multiperil, and mobile homes,
 1149 and including liability coverages on all such insurance, but
 1150 excluding inland marine as defined in s. 624.607(3) and
 1151 excluding vehicle insurance as defined in s. 624.605(1)(a) other
 1152 than insurance on mobile homes used as permanent dwellings. The
 1153 department shall adopt rules that provide a formula for the
 1154 recovery and repayment of any deferred assessments.

1155 1. For the purpose of this section, properties eligible
 1156 for such windstorm coverage are defined as dwellings, buildings,
 1157 and other structures, including mobile homes which are used as
 1158 dwellings and which are tied down in compliance with mobile home
 1159 tie-down requirements prescribed by the Department of Highway
 1160 Safety and Motor Vehicles pursuant to s. 320.8325, and the
 1161 contents of all such properties. An applicant or policyholder is
 1162 eligible for coverage only if an offer of coverage cannot be
 1163 obtained by or for the applicant or policyholder from an
 1164 admitted insurer at approved rates.

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1165 2.a.(I) All insurers required to be members of such
1166 association shall participate in its writings, expenses, and
1167 losses. Surplus of the association shall be retained for the
1168 payment of claims and shall not be distributed to the member
1169 insurers. Such participation by member insurers shall be in the
1170 proportion that the net direct premiums of each member insurer
1171 written for property insurance in this state during the
1172 preceding calendar year bear to the aggregate net direct
1173 premiums for property insurance of all member insurers, as
1174 reduced by any credits for voluntary writings, in this state
1175 during the preceding calendar year. For the purposes of this
1176 subsection, the term "net direct premiums" means direct written
1177 premiums for property insurance, reduced by premium for
1178 liability coverage and for the following if included in allied
1179 lines: rain and hail on growing crops; livestock; association
1180 direct premiums booked; National Flood Insurance Program direct
1181 premiums; and similar deductions specifically authorized by the
1182 plan of operation and approved by the department. A member's
1183 participation shall begin on the first day of the calendar year
1184 following the year in which it is issued a certificate of
1185 authority to transact property insurance in the state and shall
1186 terminate 1 year after the end of the calendar year during which
1187 it no longer holds a certificate of authority to transact
1188 property insurance in the state. The commissioner, after review
1189 of annual statements, other reports, and any other statistics
1190 that the commissioner deems necessary, shall certify to the
1191 association the aggregate direct premiums written for property
1192 insurance in this state by all member insurers.

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1193 (II) Effective July 1, 2002, the association shall operate
1194 subject to the supervision and approval of a board of governors
1195 who are the same individuals that have been appointed by the
1196 Treasurer to serve on the board of governors of the Citizens
1197 Property Insurance Corporation.

1198 (III) The plan of operation shall provide a formula
1199 whereby a company voluntarily providing windstorm coverage in
1200 affected areas will be relieved wholly or partially from
1201 apportionment of a regular assessment pursuant to sub-sub-
1202 subparagraph d.(I) or sub-sub-subparagraph d.(II).

1203 (IV) A company which is a member of a group of companies
1204 under common management may elect to have its credits applied on
1205 a group basis, and any company or group may elect to have its
1206 credits applied to any other company or group.

1207 (V) There shall be no credits or relief from apportionment
1208 to a company for emergency assessments collected from its
1209 policyholders under sub-sub-subparagraph d.(III).

1210 (VI) The plan of operation may also provide for the award
1211 of credits, for a period not to exceed 3 years, from a regular
1212 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
1213 subparagraph d.(II) as an incentive for taking policies out of
1214 the Residential Property and Casualty Joint Underwriting
1215 Association. In order to qualify for the exemption under this
1216 sub-sub-subparagraph, the take-out plan must provide that at
1217 least 40 percent of the policies removed from the Residential
1218 Property and Casualty Joint Underwriting Association cover risks
1219 located in Dade, Broward, and Palm Beach Counties or at least 30
1220 percent of the policies so removed cover risks located in Dade,

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1221 Broward, and Palm Beach Counties and an additional 50 percent of
1222 the policies so removed cover risks located in other coastal
1223 counties, and must also provide that no more than 15 percent of
1224 the policies so removed may exclude windstorm coverage. With the
1225 approval of the department, the association may waive these
1226 geographic criteria for a take-out plan that removes at least
1227 the lesser of 100,000 Residential Property and Casualty Joint
1228 Underwriting Association policies or 15 percent of the total
1229 number of Residential Property and Casualty Joint Underwriting
1230 Association policies, provided the governing board of the
1231 Residential Property and Casualty Joint Underwriting Association
1232 certifies that the take-out plan will materially reduce the
1233 Residential Property and Casualty Joint Underwriting
1234 Association's 100-year probable maximum loss from hurricanes.
1235 With the approval of the department, the board may extend such
1236 credits for an additional year if the insurer guarantees an
1237 additional year of renewability for all policies removed from
1238 the Residential Property and Casualty Joint Underwriting
1239 Association, or for 2 additional years if the insurer guarantees
1240 2 additional years of renewability for all policies removed from
1241 the Residential Property and Casualty Joint Underwriting
1242 Association.

1243 b. Assessments to pay deficits in the association under
1244 this subparagraph shall be included as an appropriate factor in
1245 the making of rates as provided in s. 627.3512.

1246 c. The Legislature finds that the potential for unlimited
1247 deficit assessments under this subparagraph may induce insurers
1248 to attempt to reduce their writings in the voluntary market, and

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1249 that such actions would worsen the availability problems that
1250 the association was created to remedy. It is the intent of the
1251 Legislature that insurers remain fully responsible for paying
1252 regular assessments and collecting emergency assessments for any
1253 deficits of the association; however, it is also the intent of
1254 the Legislature to provide a means by which assessment
1255 liabilities may be amortized over a period of years.

1256 d.(I) When the deficit incurred in a particular calendar
1257 year is 10 percent or less of the aggregate statewide direct
1258 written premium for property insurance for the prior calendar
1259 year for all member insurers, the association shall levy an
1260 assessment on member insurers in an amount equal to the deficit.

1261 (II) When the deficit incurred in a particular calendar
1262 year exceeds 10 percent of the aggregate statewide direct
1263 written premium for property insurance for the prior calendar
1264 year for all member insurers, the association shall levy an
1265 assessment on member insurers in an amount equal to the greater
1266 of 10 percent of the deficit or 10 percent of the aggregate
1267 statewide direct written premium for property insurance for the
1268 prior calendar year for member insurers. Any remaining deficit
1269 shall be recovered through emergency assessments under sub-sub-
1270 subparagraph (III).

1271 (III) Upon a determination by the board of directors that
1272 a deficit exceeds the amount that will be recovered through
1273 regular assessments on member insurers, pursuant to sub-sub-
1274 subparagraph (I) or sub-sub-subparagraph (II), the board shall
1275 levy, after verification by the department, emergency
1276 assessments to be collected by member insurers and by

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1277 | underwriting associations created pursuant to this section which
1278 | write property insurance, upon issuance or renewal of property
1279 | insurance policies other than National Flood Insurance policies
1280 | in the year or years following levy of the regular assessments.
1281 | The amount of the emergency assessment collected in a particular
1282 | year shall be a uniform percentage of that year's direct written
1283 | premium for property insurance for all member insurers and
1284 | underwriting associations, excluding National Flood Insurance
1285 | policy premiums, as annually determined by the board and
1286 | verified by the department. The department shall verify the
1287 | arithmetic calculations involved in the board's determination
1288 | within 30 days after receipt of the information on which the
1289 | determination was based. Notwithstanding any other provision of
1290 | law, each member insurer and each underwriting association
1291 | created pursuant to this section shall collect emergency
1292 | assessments from its policyholders without such obligation being
1293 | affected by any credit, limitation, exemption, or deferment. The
1294 | emergency assessments so collected shall be transferred directly
1295 | to the association on a periodic basis as determined by the
1296 | association. The aggregate amount of emergency assessments
1297 | levied under this sub-sub-subparagraph in any calendar year may
1298 | not exceed the greater of 10 percent of the amount needed to
1299 | cover the original deficit, plus interest, fees, commissions,
1300 | required reserves, and other costs associated with financing of
1301 | the original deficit, or 10 percent of the aggregate statewide
1302 | direct written premium for property insurance written by member
1303 | insurers and underwriting associations for the prior year, plus
1304 | interest, fees, commissions, required reserves, and other costs

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1305 associated with financing the original deficit. The board may
 1306 pledge the proceeds of the emergency assessments under this sub-
 1307 sub-subparagraph as the source of revenue for bonds, to retire
 1308 any other debt incurred as a result of the deficit or events
 1309 giving rise to the deficit, or in any other way that the board
 1310 determines will efficiently recover the deficit. The emergency
 1311 assessments under this sub-sub-subparagraph shall continue as
 1312 long as any bonds issued or other indebtedness incurred with
 1313 respect to a deficit for which the assessment was imposed remain
 1314 outstanding, unless adequate provision has been made for the
 1315 payment of such bonds or other indebtedness pursuant to the
 1316 document governing such bonds or other indebtedness. Emergency
 1317 assessments collected under this sub-sub-subparagraph are not
 1318 part of an insurer's rates, are not premium, and are not subject
 1319 to premium tax, fees, or commissions; however, failure to pay
 1320 the emergency assessment shall be treated as failure to pay
 1321 premium.

1322 (IV) Each member insurer's share of the total regular
 1323 assessments under sub-sub-subparagraph (I) or sub-sub-
 1324 subparagraph (II) shall be in the proportion that the insurer's
 1325 net direct premium for property insurance in this state, for the
 1326 year preceding the assessment bears to the aggregate statewide
 1327 net direct premium for property insurance of all member
 1328 insurers, as reduced by any credits for voluntary writings for
 1329 that year.

1330 (V) If regular deficit assessments are made under sub-sub-
 1331 subparagraph (I) or sub-sub-subparagraph (II), or by the
 1332 Residential Property and Casualty Joint Underwriting Association

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1333 under sub-subparagraph (6)(b)3.a. or sub-subparagraph
1334 (6)(b)3.b., the association shall levy upon the association's
1335 policyholders, as part of its next rate filing, or by a separate
1336 rate filing solely for this purpose, a market equalization
1337 surcharge in a percentage equal to the total amount of such
1338 regular assessments divided by the aggregate statewide direct
1339 written premium for property insurance for member insurers for
1340 the prior calendar year. Market equalization surcharges under
1341 this sub-sub-subparagraph are not considered premium and are not
1342 subject to commissions, fees, or premium taxes; however, failure
1343 to pay a market equalization surcharge shall be treated as
1344 failure to pay premium.

1345 e. The governing body of any unit of local government, any
1346 residents of which are insured under the plan, may issue bonds
1347 as defined in s. 125.013 or s. 166.101 to fund an assistance
1348 program, in conjunction with the association, for the purpose of
1349 defraying deficits of the association. In order to avoid
1350 needless and indiscriminate proliferation, duplication, and
1351 fragmentation of such assistance programs, any unit of local
1352 government, any residents of which are insured by the
1353 association, may provide for the payment of losses, regardless
1354 of whether or not the losses occurred within or outside of the
1355 territorial jurisdiction of the local government. Revenue bonds
1356 may not be issued until validated pursuant to chapter 75, unless
1357 a state of emergency is declared by executive order or
1358 proclamation of the Governor pursuant to s. 252.36 making such
1359 findings as are necessary to determine that it is in the best
1360 interests of, and necessary for, the protection of the public

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1361 health, safety, and general welfare of residents of this state
1362 and the protection and preservation of the economic stability of
1363 insurers operating in this state, and declaring it an essential
1364 public purpose to permit certain municipalities or counties to
1365 issue bonds as will provide relief to claimants and
1366 policyholders of the association and insurers responsible for
1367 apportionment of plan losses. Any such unit of local government
1368 may enter into such contracts with the association and with any
1369 other entity created pursuant to this subsection as are
1370 necessary to carry out this paragraph. Any bonds issued under
1371 this sub-subparagraph shall be payable from and secured by
1372 moneys received by the association from assessments under this
1373 subparagraph, and assigned and pledged to or on behalf of the
1374 unit of local government for the benefit of the holders of such
1375 bonds. The funds, credit, property, and taxing power of the
1376 state or of the unit of local government shall not be pledged
1377 for the payment of such bonds. If any of the bonds remain unsold
1378 60 days after issuance, the department shall require all
1379 insurers subject to assessment to purchase the bonds, which
1380 shall be treated as admitted assets; each insurer shall be
1381 required to purchase that percentage of the unsold portion of
1382 the bond issue that equals the insurer's relative share of
1383 assessment liability under this subsection. An insurer shall not
1384 be required to purchase the bonds to the extent that the
1385 department determines that the purchase would endanger or impair
1386 the solvency of the insurer. The authority granted by this sub-
1387 subparagraph is additional to any bonding authority granted by
1388 subparagraph 6.

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1389 3. The plan shall also provide that any member with a
1390 surplus as to policyholders of \$20 million or less writing 25
1391 percent or more of its total countrywide property insurance
1392 premiums in this state may petition the department, within the
1393 first 90 days of each calendar year, to qualify as a limited
1394 apportionment company. The apportionment of such a member
1395 company in any calendar year for which it is qualified shall not
1396 exceed its gross participation, which shall not be affected by
1397 the formula for voluntary writings. In no event shall a limited
1398 apportionment company be required to participate in any
1399 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
1400 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
1401 \$50 million after payment of available plan funds in any
1402 calendar year. However, a limited apportionment company shall
1403 collect from its policyholders any emergency assessment imposed
1404 under sub-sub-subparagraph 2.d.(III). The plan shall provide
1405 that, if the department determines that any regular assessment
1406 will result in an impairment of the surplus of a limited
1407 apportionment company, the department may direct that all or
1408 part of such assessment be deferred. However, there shall be no
1409 limitation or deferment of an emergency assessment to be
1410 collected from policyholders under sub-sub-subparagraph
1411 2.d.(III).

1412 4. The plan shall provide for the deferment, in whole or
1413 in part, of a regular assessment of a member insurer under sub-
1414 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
1415 not for an emergency assessment collected from policyholders
1416 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the

1417 commissioner, payment of such regular assessment would endanger
1418 or impair the solvency of the member insurer. In the event a
1419 regular assessment against a member insurer is deferred in whole
1420 or in part, the amount by which such assessment is deferred may
1421 be assessed against the other member insurers in a manner
1422 consistent with the basis for assessments set forth in sub-sub-
1423 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

1424 5.a. The plan of operation may include deductibles and
1425 rules for classification of risks and rate modifications
1426 consistent with the objective of providing and maintaining funds
1427 sufficient to pay catastrophe losses.

1428 b. The association may require arbitration of a rate
1429 filing under s. 627.062(6). It is the intent of the Legislature
1430 that the rates for coverage provided by the association be
1431 actuarially sound and not competitive with approved rates
1432 charged in the admitted voluntary market such that the
1433 association functions as a residual market mechanism to provide
1434 insurance only when the insurance cannot be procured in the
1435 voluntary market. The plan of operation shall provide a
1436 mechanism to assure that, beginning no later than January 1,
1437 1999, the rates charged by the association for each line of
1438 business are reflective of approved rates in the voluntary
1439 market for hurricane coverage for each line of business in the
1440 various areas eligible for association coverage.

1441 c. The association shall provide for windstorm coverage on
1442 residential properties in limits up to \$10 million for
1443 commercial lines residential risks and up to \$1 million for
1444 personal lines residential risks. If coverage with the

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1445 association is sought for a residential risk valued in excess of
1446 these limits, coverage shall be available to the risk up to the
1447 replacement cost or actual cash value of the property, at the
1448 option of the insured, if coverage for the risk cannot be
1449 located in the authorized market. The association must accept a
1450 commercial lines residential risk with limits above \$10 million
1451 or a personal lines residential risk with limits above \$1
1452 million if coverage is not available in the authorized market.
1453 The association may write coverage above the limits specified in
1454 this subparagraph with or without facultative or other
1455 reinsurance coverage, as the association determines appropriate.

1456 d. The plan of operation must provide objective criteria
1457 and procedures, approved by the department, to be uniformly
1458 applied for all applicants in determining whether an individual
1459 risk is so hazardous as to be uninsurable. In making this
1460 determination and in establishing the criteria and procedures,
1461 the following shall be considered:

1462 (I) Whether the likelihood of a loss for the individual
1463 risk is substantially higher than for other risks of the same
1464 class; and

1465 (II) Whether the uncertainty associated with the
1466 individual risk is such that an appropriate premium cannot be
1467 determined.

1468
1469 The acceptance or rejection of a risk by the association
1470 pursuant to such criteria and procedures must be construed as
1471 the private placement of insurance, and the provisions of
1472 chapter 120 do not apply.

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1473 e. If the risk accepts an offer of coverage through the
1474 market assistance program or through a mechanism established by
1475 the association, either before the policy is issued by the
1476 association or during the first 30 days of coverage by the
1477 association, and the producing agent who submitted the
1478 application to the association is not currently appointed by the
1479 insurer, the insurer shall:

1480 (I) Pay to the producing agent of record of the policy,
1481 for the first year, an amount that is the greater of the
1482 insurer's usual and customary commission for the type of policy
1483 written or a fee equal to the usual and customary commission of
1484 the association; or

1485 (II) Offer to allow the producing agent of record of the
1486 policy to continue servicing the policy for a period of not less
1487 than 1 year and offer to pay the agent the greater of the
1488 insurer's or the association's usual and customary commission
1489 for the type of policy written.

1490
1491 If the producing agent is unwilling or unable to accept
1492 appointment, the new insurer shall pay the agent in accordance
1493 with sub-sub-subparagraph (I). Subject to the provisions of s.
1494 627.3517, the policies issued by the association must provide
1495 that if the association obtains an offer from an authorized
1496 insurer to cover the risk at its approved rates under either a
1497 standard policy including wind coverage or, if consistent with
1498 the insurer's underwriting rules as filed with the department, a
1499 basic policy including wind coverage, the risk is no longer
1500 eligible for coverage through the association. Upon termination

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1501 of eligibility, the association shall provide written notice to
1502 the policyholder and agent of record stating that the
1503 association policy must be canceled as of 60 days after the date
1504 of the notice because of the offer of coverage from an
1505 authorized insurer. Other provisions of the insurance code
1506 relating to cancellation and notice of cancellation do not apply
1507 to actions under this sub-subparagraph.

1508 f. When the association enters into a contractual
1509 agreement for a take-out plan, the producing agent of record of
1510 the association policy is entitled to retain any unearned
1511 commission on the policy, and the insurer shall:

1512 (I) Pay to the producing agent of record of the
1513 association policy, for the first year, an amount that is the
1514 greater of the insurer's usual and customary commission for the
1515 type of policy written or a fee equal to the usual and customary
1516 commission of the association; or

1517 (II) Offer to allow the producing agent of record of the
1518 association policy to continue servicing the policy for a period
1519 of not less than 1 year and offer to pay the agent the greater
1520 of the insurer's or the association's usual and customary
1521 commission for the type of policy written.

1522
1523 If the producing agent is unwilling or unable to accept
1524 appointment, the new insurer shall pay the agent in accordance
1525 with sub-sub-subparagraph (I).

1526 6.a. The plan of operation may authorize the formation of
1527 a private nonprofit corporation, a private nonprofit
1528 unincorporated association, a partnership, a trust, a limited

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1529 liability company, or a nonprofit mutual company which may be
1530 empowered, among other things, to borrow money by issuing bonds
1531 or by incurring other indebtedness and to accumulate reserves or
1532 funds to be used for the payment of insured catastrophe losses.
1533 The plan may authorize all actions necessary to facilitate the
1534 issuance of bonds, including the pledging of assessments or
1535 other revenues.

1536 b. Any entity created under this subsection, or any entity
1537 formed for the purposes of this subsection, may sue and be sued,
1538 may borrow money; issue bonds, notes, or debt instruments;
1539 pledge or sell assessments, market equalization surcharges and
1540 other surcharges, rights, premiums, contractual rights,
1541 projected recoveries from the Florida Hurricane Insurance
1542 ~~Catastrophe~~ Fund, other reinsurance recoverables, and other
1543 assets as security for such bonds, notes, or debt instruments;
1544 enter into any contracts or agreements necessary or proper to
1545 accomplish such borrowings; and take other actions necessary to
1546 carry out the purposes of this subsection. The association may
1547 issue bonds or incur other indebtedness, or have bonds issued on
1548 its behalf by a unit of local government pursuant to
1549 subparagraph (6)(g)2., in the absence of a hurricane or other
1550 weather-related event, upon a determination by the association
1551 subject to approval by the department that such action would
1552 enable it to efficiently meet the financial obligations of the
1553 association and that such financings are reasonably necessary to
1554 effectuate the requirements of this subsection. Any such entity
1555 may accumulate reserves and retain surpluses as of the end of
1556 any association year to provide for the payment of losses

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1557 incurred by the association during that year or any future year.
1558 The association shall incorporate and continue the plan of
1559 operation and articles of agreement in effect on the effective
1560 date of chapter 76-96, Laws of Florida, to the extent that it is
1561 not inconsistent with chapter 76-96, and as subsequently
1562 modified consistent with chapter 76-96. The board of directors
1563 and officers currently serving shall continue to serve until
1564 their successors are duly qualified as provided under the plan.
1565 The assets and obligations of the plan in effect immediately
1566 prior to the effective date of chapter 76-96 shall be construed
1567 to be the assets and obligations of the successor plan created
1568 herein.

1569 c. In recognition of s. 10, Art. I of the State
1570 Constitution, prohibiting the impairment of obligations of
1571 contracts, it is the intent of the Legislature that no action be
1572 taken whose purpose is to impair any bond indenture or financing
1573 agreement or any revenue source committed by contract to such
1574 bond or other indebtedness issued or incurred by the association
1575 or any other entity created under this subsection.

1576 7. On such coverage, an agent's remuneration shall be that
1577 amount of money payable to the agent by the terms of his or her
1578 contract with the company with which the business is placed.
1579 However, no commission will be paid on that portion of the
1580 premium which is in excess of the standard premium of that
1581 company.

1582 8. Subject to approval by the department, the association
1583 may establish different eligibility requirements and operational
1584 procedures for any line or type of coverage for any specified

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1585 eligible area or portion of an eligible area if the board
1586 determines that such changes to the eligibility requirements and
1587 operational procedures are justified due to the voluntary market
1588 being sufficiently stable and competitive in such area or for
1589 such line or type of coverage and that consumers who, in good
1590 faith, are unable to obtain insurance through the voluntary
1591 market through ordinary methods would continue to have access to
1592 coverage from the association. When coverage is sought in
1593 connection with a real property transfer, such requirements and
1594 procedures shall not provide for an effective date of coverage
1595 later than the date of the closing of the transfer as
1596 established by the transferor, the transferee, and, if
1597 applicable, the lender.

1598 9. Notwithstanding any other provision of law:

1599 a. The pledge or sale of, the lien upon, and the security
1600 interest in any rights, revenues, or other assets of the
1601 association created or purported to be created pursuant to any
1602 financing documents to secure any bonds or other indebtedness of
1603 the association shall be and remain valid and enforceable,
1604 notwithstanding the commencement of and during the continuation
1605 of, and after, any rehabilitation, insolvency, liquidation,
1606 bankruptcy, receivership, conservatorship, reorganization, or
1607 similar proceeding against the association under the laws of
1608 this state or any other applicable laws.

1609 b. No such proceeding shall relieve the association of its
1610 obligation, or otherwise affect its ability to perform its
1611 obligation, to continue to collect, or levy and collect,
1612 assessments, market equalization or other surcharges, projected

1613 recovers from the Florida Hurricane Insurance ~~Catastrophe~~
 1614 Fund, reinsurance recoverables, or any other rights, revenues,
 1615 or other assets of the association pledged.

1616 c. Each such pledge or sale of, lien upon, and security
 1617 interest in, including the priority of such pledge, lien, or
 1618 security interest, any such assessments, emergency assessments,
 1619 market equalization or renewal surcharges, projected recoveries
 1620 from the Florida Hurricane Insurance ~~Catastrophe~~ Fund,
 1621 reinsurance recoverables, or other rights, revenues, or other
 1622 assets which are collected, or levied and collected, after the
 1623 commencement of and during the pendency of or after any such
 1624 proceeding shall continue unaffected by such proceeding.

1625 d. As used in this subsection, the term "financing
 1626 documents" means any agreement, instrument, or other document
 1627 now existing or hereafter created evidencing any bonds or other
 1628 indebtedness of the association or pursuant to which any such
 1629 bonds or other indebtedness has been or may be issued and
 1630 pursuant to which any rights, revenues, or other assets of the
 1631 association are pledged or sold to secure the repayment of such
 1632 bonds or indebtedness, together with the payment of interest on
 1633 such bonds or such indebtedness, or the payment of any other
 1634 obligation of the association related to such bonds or
 1635 indebtedness.

1636 e. Any such pledge or sale of assessments, revenues,
 1637 contract rights or other rights or assets of the association
 1638 shall constitute a lien and security interest, or sale, as the
 1639 case may be, that is immediately effective and attaches to such
 1640 assessments, revenues, contract, or other rights or assets,

1641 whether or not imposed or collected at the time the pledge or
 1642 sale is made. Any such pledge or sale is effective, valid,
 1643 binding, and enforceable against the association or other entity
 1644 making such pledge or sale, and valid and binding against and
 1645 superior to any competing claims or obligations owed to any
 1646 other person or entity, including policyholders in this state,
 1647 asserting rights in any such assessments, revenues, contract, or
 1648 other rights or assets to the extent set forth in and in
 1649 accordance with the terms of the pledge or sale contained in the
 1650 applicable financing documents, whether or not any such person
 1651 or entity has notice of such pledge or sale and without the need
 1652 for any physical delivery, recordation, filing, or other action.

1653 f. There shall be no liability on the part of, and no
 1654 cause of action of any nature shall arise against, any member
 1655 insurer or its agents or employees, agents or employees of the
 1656 association, members of the board of directors of the
 1657 association, or the department or its representatives, for any
 1658 action taken by them in the performance of their duties or
 1659 responsibilities under this subsection. Such immunity does not
 1660 apply to actions for breach of any contract or agreement
 1661 pertaining to insurance, or any willful tort.

1662 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1663 (b)1. All insurers authorized to write one or more subject
 1664 lines of business in this state are subject to assessment by the
 1665 corporation and, for the purposes of this subsection, are
 1666 referred to collectively as "assessable insurers." Insurers
 1667 writing one or more subject lines of business in this state
 1668 pursuant to part VIII of chapter 626 are not assessable

1669 insurers, but insureds who procure one or more subject lines of
 1670 business in this state pursuant to part VIII of chapter 626 are
 1671 subject to assessment by the corporation and are referred to
 1672 collectively as "assessable insureds." An authorized insurer's
 1673 assessment liability shall begin on the first day of the
 1674 calendar year following the year in which the insurer was issued
 1675 a certificate of authority to transact insurance for subject
 1676 lines of business in this state and shall terminate 1 year after
 1677 the end of the first calendar year during which the insurer no
 1678 longer holds a certificate of authority to transact insurance
 1679 for subject lines of business in this state.

1680 2.a. All revenues, assets, liabilities, losses, and
 1681 expenses of the corporation shall be divided into three separate
 1682 accounts as follows:

1683 (I) A personal lines account for personal residential
 1684 policies issued by the corporation or issued by the Residential
 1685 Property and Casualty Joint Underwriting Association and renewed
 1686 by the corporation that provide comprehensive, multiperil
 1687 coverage on risks that are not located in areas eligible for
 1688 coverage in the Florida Windstorm Underwriting Association as
 1689 those areas were defined on January 1, 2002, and for such
 1690 policies that do not provide coverage for the peril of wind on
 1691 risks that are located in such areas;

1692 (II) A commercial lines account for commercial residential
 1693 policies issued by the corporation or issued by the Residential
 1694 Property and Casualty Joint Underwriting Association and renewed
 1695 by the corporation that provide coverage for basic property
 1696 perils on risks that are not located in areas eligible for

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1697 coverage in the Florida Windstorm Underwriting Association as
1698 those areas were defined on January 1, 2002, and for such
1699 policies that do not provide coverage for the peril of wind on
1700 risks that are located in such areas; and

1701 (III) A high-risk account for personal residential
1702 policies and commercial residential and commercial
1703 nonresidential property policies issued by the corporation or
1704 transferred to the corporation that provide coverage for the
1705 peril of wind on risks that are located in areas eligible for
1706 coverage in the Florida Windstorm Underwriting Association as
1707 those areas were defined on January 1, 2002. The high-risk
1708 account must also include quota share primary insurance under
1709 subparagraph (c)2. The area eligible for coverage under the
1710 high-risk account also includes the area within Port Canaveral,
1711 which is bordered on the south by the City of Cape Canaveral,
1712 bordered on the west by the Banana River, and bordered on the
1713 north by Federal Government property. The office may remove
1714 territory from the area eligible for wind-only and quota share
1715 coverage if, after a public hearing, the office finds that
1716 authorized insurers in the voluntary market are willing and able
1717 to write sufficient amounts of personal and commercial
1718 residential coverage for all perils in the territory, including
1719 coverage for the peril of wind, such that risks covered by wind-
1720 only policies in the removed territory could be issued a policy
1721 by the corporation in either the personal lines or commercial
1722 lines account without a significant increase in the
1723 corporation's probable maximum loss in such account. Removal of
1724 territory from the area eligible for wind-only or quota share

1725 coverage does not alter the assignment of wind coverage written
 1726 in such areas to the high-risk account.

1727 b. The three separate accounts must be maintained as long
 1728 as financing obligations entered into by the Florida Windstorm
 1729 Underwriting Association or Residential Property and Casualty
 1730 Joint Underwriting Association are outstanding, in accordance
 1731 with the terms of the corresponding financing documents. When
 1732 the financing obligations are no longer outstanding, in
 1733 accordance with the terms of the corresponding financing
 1734 documents, the corporation may use a single account for all
 1735 revenues, assets, liabilities, losses, and expenses of the
 1736 corporation.

1737 c. Creditors of the Residential Property and Casualty
 1738 Joint Underwriting Association shall have a claim against, and
 1739 recourse to, the accounts referred to in sub-sub-subparagraphs
 1740 a.(I) and (II) and shall have no claim against, or recourse to,
 1741 the account referred to in sub-sub-subparagraph a.(III).
 1742 Creditors of the Florida Windstorm Underwriting Association
 1743 shall have a claim against, and recourse to, the account
 1744 referred to in sub-sub-subparagraph a.(III) and shall have no
 1745 claim against, or recourse to, the accounts referred to in sub-
 1746 sub-subparagraphs a.(I) and (II).

1747 d. Revenues, assets, liabilities, losses, and expenses not
 1748 attributable to particular accounts shall be prorated among the
 1749 accounts.

1750 e. The Legislature finds that the revenues of the
 1751 corporation are revenues that are necessary to meet the

1752 requirements set forth in documents authorizing the issuance of
1753 bonds under this subsection.

1754 f. No part of the income of the corporation may inure to
1755 the benefit of any private person.

1756 3. With respect to a deficit in an account:

1757 a. When the deficit incurred in a particular calendar year
1758 is not greater than 10 percent of the aggregate statewide direct
1759 written premium for the subject lines of business for the prior
1760 calendar year, the entire deficit shall be recovered through
1761 regular assessments of assessable insurers under paragraph (g)
1762 and assessable insureds.

1763 b. When the deficit incurred in a particular calendar year
1764 exceeds 10 percent of the aggregate statewide direct written
1765 premium for the subject lines of business for the prior calendar
1766 year, the corporation shall levy regular assessments on
1767 assessable insurers under paragraph (g) and on assessable
1768 insureds in an amount equal to the greater of 10 percent of the
1769 deficit or 10 percent of the aggregate statewide direct written
1770 premium for the subject lines of business for the prior calendar
1771 year. Any remaining deficit shall be recovered through emergency
1772 assessments under sub-subparagraph d.

1773 c. Each assessable insurer's share of the amount being
1774 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1775 be in the proportion that the assessable insurer's direct
1776 written premium for the subject lines of business for the year
1777 preceding the assessment bears to the aggregate statewide direct
1778 written premium for the subject lines of business for that year.
1779 The assessment percentage applicable to each assessable insured

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1780 is the ratio of the amount being assessed under sub-subparagraph
1781 a. or sub-subparagraph b. to the aggregate statewide direct
1782 written premium for the subject lines of business for the prior
1783 year. Assessments levied by the corporation on assessable
1784 insurers under sub-subparagraphs a. and b. shall be paid as
1785 required by the corporation's plan of operation and paragraph
1786 (g). Assessments levied by the corporation on assessable
1787 insureds under sub-subparagraphs a. and b. shall be collected by
1788 the surplus lines agent at the time the surplus lines agent
1789 collects the surplus lines tax required by s. 626.932 and shall
1790 be paid to the Florida Surplus Lines Service Office at the time
1791 the surplus lines agent pays the surplus lines tax to the
1792 Florida Surplus Lines Service Office. Upon receipt of regular
1793 assessments from surplus lines agents, the Florida Surplus Lines
1794 Service Office shall transfer the assessments directly to the
1795 corporation as determined by the corporation.

1796 d. Upon a determination by the board of governors that a
1797 deficit in an account exceeds the amount that will be recovered
1798 through regular assessments under sub-subparagraph a. or sub-
1799 subparagraph b., the board shall levy, after verification by the
1800 office, emergency assessments, for as many years as necessary to
1801 cover the deficits, to be collected by assessable insurers and
1802 the corporation and collected from assessable insureds upon
1803 issuance or renewal of policies for subject lines of business,
1804 excluding National Flood Insurance policies. The amount of the
1805 emergency assessment collected in a particular year shall be a
1806 uniform percentage of that year's direct written premium for
1807 subject lines of business and all accounts of the corporation,

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1808 | excluding National Flood Insurance Program policy premiums, as
1809 | annually determined by the board and verified by the office. The
1810 | office shall verify the arithmetic calculations involved in the
1811 | board's determination within 30 days after receipt of the
1812 | information on which the determination was based.
1813 | Notwithstanding any other provision of law, the corporation and
1814 | each assessable insurer that writes subject lines of business
1815 | shall collect emergency assessments from its policyholders
1816 | without such obligation being affected by any credit,
1817 | limitation, exemption, or deferment. Emergency assessments
1818 | levied by the corporation on assessable insureds shall be
1819 | collected by the surplus lines agent at the time the surplus
1820 | lines agent collects the surplus lines tax required by s.
1821 | 626.932 and shall be paid to the Florida Surplus Lines Service
1822 | Office at the time the surplus lines agent pays the surplus
1823 | lines tax to the Florida Surplus Lines Service Office. The
1824 | emergency assessments so collected shall be transferred directly
1825 | to the corporation on a periodic basis as determined by the
1826 | corporation and shall be held by the corporation solely in the
1827 | applicable account. The aggregate amount of emergency
1828 | assessments levied for an account under this sub-subparagraph in
1829 | any calendar year may not exceed the greater of 10 percent of
1830 | the amount needed to cover the original deficit, plus interest,
1831 | fees, commissions, required reserves, and other costs associated
1832 | with financing of the original deficit, or 10 percent of the
1833 | aggregate statewide direct written premium for subject lines of
1834 | business and for all accounts of the corporation for the prior

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1835 year, plus interest, fees, commissions, required reserves, and
1836 other costs associated with financing the original deficit.

1837 e. The corporation may pledge the proceeds of assessments,
1838 projected recoveries from the Florida Hurricane Insurance
1839 ~~Catastrophe~~ Fund, other insurance and reinsurance recoverables,
1840 market equalization surcharges and other surcharges, and other
1841 funds available to the corporation as the source of revenue for
1842 and to secure bonds issued under paragraph (g), bonds or other
1843 indebtedness issued under subparagraph (c)3., or lines of credit
1844 or other financing mechanisms issued or created under this
1845 subsection, or to retire any other debt incurred as a result of
1846 deficits or events giving rise to deficits, or in any other way
1847 that the board determines will efficiently recover such
1848 deficits. The purpose of the lines of credit or other financing
1849 mechanisms is to provide additional resources to assist the
1850 corporation in covering claims and expenses attributable to a
1851 catastrophe. As used in this subsection, the term "assessments"
1852 includes regular assessments under sub-subparagraph a., sub-
1853 subparagraph b., or subparagraph (g)1. and emergency assessments
1854 under sub-subparagraph d. Emergency assessments collected under
1855 sub-subparagraph d. are not part of an insurer's rates, are not
1856 premium, and are not subject to premium tax, fees, or
1857 commissions; however, failure to pay the emergency assessment
1858 shall be treated as failure to pay premium. The emergency
1859 assessments under sub-subparagraph d. shall continue as long as
1860 any bonds issued or other indebtedness incurred with respect to
1861 a deficit for which the assessment was imposed remain
1862 outstanding, unless adequate provision has been made for the

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1863 payment of such bonds or other indebtedness pursuant to the
1864 documents governing such bonds or other indebtedness.

1865 f. As used in this subsection, the term "subject lines of
1866 business" means insurance written by assessable insurers or
1867 procured by assessable insureds on real or personal property, as
1868 defined in s. 624.604, including insurance for fire, industrial
1869 fire, allied lines, farmowners multiperil, homeowners
1870 multiperil, commercial multiperil, and mobile homes, and
1871 including liability coverage on all such insurance, but
1872 excluding inland marine as defined in s. 624.607(3) and
1873 excluding vehicle insurance as defined in s. 624.605(1) other
1874 than insurance on mobile homes used as permanent dwellings.

1875 g. The Florida Surplus Lines Service Office shall
1876 determine annually the aggregate statewide written premium in
1877 subject lines of business procured by assessable insureds and
1878 shall report that information to the corporation in a form and
1879 at a time the corporation specifies to ensure that the
1880 corporation can meet the requirements of this subsection and the
1881 corporation's financing obligations.

1882 h. The Florida Surplus Lines Service Office shall verify
1883 the proper application by surplus lines agents of assessment
1884 percentages for regular assessments and emergency assessments
1885 levied under this subparagraph on assessable insureds and shall
1886 assist the corporation in ensuring the accurate, timely
1887 collection and payment of assessments by surplus lines agents as
1888 required by the corporation.

1889 (c) The plan of operation of the corporation:

1890 1. Must provide for adoption of residential property and
 1891 casualty insurance policy forms and commercial residential and
 1892 nonresidential property insurance forms, which forms must be
 1893 approved by the office prior to use. The corporation shall adopt
 1894 the following policy forms:

1895 a. Standard personal lines policy forms that are
 1896 comprehensive multiperil policies providing full coverage of a
 1897 residential property equivalent to the coverage provided in the
 1898 private insurance market under an HO-3, HO-4, or HO-6 policy.

1899 b. Basic personal lines policy forms that are policies
 1900 similar to an HO-8 policy or a dwelling fire policy that provide
 1901 coverage meeting the requirements of the secondary mortgage
 1902 market, but which coverage is more limited than the coverage
 1903 under a standard policy.

1904 c. Commercial lines residential policy forms that are
 1905 generally similar to the basic perils of full coverage
 1906 obtainable for commercial residential structures in the admitted
 1907 voluntary market.

1908 d. Personal lines and commercial lines residential
 1909 property insurance forms that cover the peril of wind only. The
 1910 forms are applicable only to residential properties located in
 1911 areas eligible for coverage under the high-risk account referred
 1912 to in sub-subparagraph (b)2.a.

1913 e. Commercial lines nonresidential property insurance
 1914 forms that cover the peril of wind only. The forms are
 1915 applicable only to nonresidential properties located in areas
 1916 eligible for coverage under the high-risk account referred to in
 1917 sub-subparagraph (b)2.a.

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1918 2.a. Must provide that the corporation adopt a program in
1919 which the corporation and authorized insurers enter into quota
1920 share primary insurance agreements for hurricane coverage, as
1921 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1922 property insurance forms for eligible risks which cover the
1923 peril of wind only. As used in this subsection, the term:

1924 (I) "Quota share primary insurance" means an arrangement
1925 in which the primary hurricane coverage of an eligible risk is
1926 provided in specified percentages by the corporation and an
1927 authorized insurer. The corporation and authorized insurer are
1928 each solely responsible for a specified percentage of hurricane
1929 coverage of an eligible risk as set forth in a quota share
1930 primary insurance agreement between the corporation and an
1931 authorized insurer and the insurance contract. The
1932 responsibility of the corporation or authorized insurer to pay
1933 its specified percentage of hurricane losses of an eligible
1934 risk, as set forth in the quota share primary insurance
1935 agreement, may not be altered by the inability of the other
1936 party to the agreement to pay its specified percentage of
1937 hurricane losses. Eligible risks that are provided hurricane
1938 coverage through a quota share primary insurance arrangement
1939 must be provided policy forms that set forth the obligations of
1940 the corporation and authorized insurer under the arrangement,
1941 clearly specify the percentages of quota share primary insurance
1942 provided by the corporation and authorized insurer, and
1943 conspicuously and clearly state that neither the authorized
1944 insurer nor the corporation may be held responsible beyond its
1945 specified percentage of coverage of hurricane losses.

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1946 (II) "Eligible risks" means personal lines residential and
1947 commercial lines residential risks that meet the underwriting
1948 criteria of the corporation and are located in areas that were
1949 eligible for coverage by the Florida Windstorm Underwriting
1950 Association on January 1, 2002.

1951 b. The corporation may enter into quota share primary
1952 insurance agreements with authorized insurers at corporation
1953 coverage levels of 90 percent and 50 percent.

1954 c. If the corporation determines that additional coverage
1955 levels are necessary to maximize participation in quota share
1956 primary insurance agreements by authorized insurers, the
1957 corporation may establish additional coverage levels. However,
1958 the corporation's quota share primary insurance coverage level
1959 may not exceed 90 percent.

1960 d. Any quota share primary insurance agreement entered
1961 into between an authorized insurer and the corporation must
1962 provide for a uniform specified percentage of coverage of
1963 hurricane losses, by county or territory as set forth by the
1964 corporation board, for all eligible risks of the authorized
1965 insurer covered under the quota share primary insurance
1966 agreement.

1967 e. Any quota share primary insurance agreement entered
1968 into between an authorized insurer and the corporation is
1969 subject to review and approval by the office. However, such
1970 agreement shall be authorized only as to insurance contracts
1971 entered into between an authorized insurer and an insured who is
1972 already insured by the corporation for wind coverage.

1973 f. For all eligible risks covered under quota share
 1974 primary insurance agreements, the exposure and coverage levels
 1975 for both the corporation and authorized insurers shall be
 1976 reported by the corporation to the Florida Hurricane Insurance
 1977 ~~Catastrophe~~ Fund. For all policies of eligible risks covered
 1978 under quota share primary insurance agreements, the corporation
 1979 and the authorized insurer shall maintain complete and accurate
 1980 records for the purpose of exposure and loss reimbursement
 1981 audits as required by Florida Hurricane Insurance ~~Catastrophe~~
 1982 Fund rules. The corporation and the authorized insurer shall
 1983 each maintain duplicate copies of policy declaration pages and
 1984 supporting claims documents.

1985 g. The corporation board shall establish in its plan of
 1986 operation standards for quota share agreements which ensure that
 1987 there is no discriminatory application among insurers as to the
 1988 terms of quota share agreements, pricing of quota share
 1989 agreements, incentive provisions if any, and consideration paid
 1990 for servicing policies or adjusting claims.

1991 h. The quota share primary insurance agreement between the
 1992 corporation and an authorized insurer must set forth the
 1993 specific terms under which coverage is provided, including, but
 1994 not limited to, the sale and servicing of policies issued under
 1995 the agreement by the insurance agent of the authorized insurer
 1996 producing the business, the reporting of information concerning
 1997 eligible risks, the payment of premium to the corporation, and
 1998 arrangements for the adjustment and payment of hurricane claims
 1999 incurred on eligible risks by the claims adjuster and personnel
 2000 of the authorized insurer. Entering into a quota sharing

2001 insurance agreement between the corporation and an authorized
 2002 insurer shall be voluntary and at the discretion of the
 2003 authorized insurer.

2004 3. May provide that the corporation may employ or
 2005 otherwise contract with individuals or other entities to provide
 2006 administrative or professional services that may be appropriate
 2007 to effectuate the plan. The corporation shall have the power to
 2008 borrow funds, by issuing bonds or by incurring other
 2009 indebtedness, and shall have other powers reasonably necessary
 2010 to effectuate the requirements of this subsection, including,
 2011 without limitation, the power to issue bonds and incur other
 2012 indebtedness in order to refinance outstanding bonds or other
 2013 indebtedness. The corporation may, but is not required to, seek
 2014 judicial validation of its bonds or other indebtedness under
 2015 chapter 75. The corporation may issue bonds or incur other
 2016 indebtedness, or have bonds issued on its behalf by a unit of
 2017 local government pursuant to subparagraph (g)2., in the absence
 2018 of a hurricane or other weather-related event, upon a
 2019 determination by the corporation, subject to approval by the
 2020 office, that such action would enable it to efficiently meet the
 2021 financial obligations of the corporation and that such
 2022 financings are reasonably necessary to effectuate the
 2023 requirements of this subsection. The corporation is authorized
 2024 to take all actions needed to facilitate tax-free status for any
 2025 such bonds or indebtedness, including formation of trusts or
 2026 other affiliated entities. The corporation shall have the
 2027 authority to pledge assessments, projected recoveries from the
 2028 Florida Hurricane Insurance ~~Catastrophe~~ Fund, other reinsurance

2029 recoverables, market equalization and other surcharges, and
 2030 other funds available to the corporation as security for bonds
 2031 or other indebtedness. In recognition of s. 10, Art. I of the
 2032 State Constitution, prohibiting the impairment of obligations of
 2033 contracts, it is the intent of the Legislature that no action be
 2034 taken whose purpose is to impair any bond indenture or financing
 2035 agreement or any revenue source committed by contract to such
 2036 bond or other indebtedness.

2037 4.a. Must require that the corporation operate subject to
 2038 the supervision and approval of a board of governors consisting
 2039 of 8 individuals who are residents of this state, from different
 2040 geographical areas of this state. The Governor, the Chief
 2041 Financial Officer, the President of the Senate, and the Speaker
 2042 of the House of Representatives shall each appoint two members
 2043 of the board, effective August 1, 2005. At least one of the two
 2044 members appointed by each appointing officer must have
 2045 demonstrated expertise in insurance. The Chief Financial Officer
 2046 shall designate one of the appointees as chair. All board
 2047 members serve at the pleasure of the appointing officer. All
 2048 board members, including the chair, must be appointed to serve
 2049 for 3-year terms beginning annually on a date designated by the
 2050 plan. Any board vacancy shall be filled for the unexpired term
 2051 by the appointing officer. The Chief Financial Officer shall
 2052 appoint a technical advisory group to provide information and
 2053 advice to the board of governors in connection with the board's
 2054 duties under this subsection. The executive director and senior
 2055 managers of the corporation shall be engaged by the board, as
 2056 recommended by the Chief Financial Officer, and serve at the

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2057 | pleasure of the board. The executive director is responsible for
2058 | employing other staff as the corporation may require, subject to
2059 | review and concurrence by the board and the Chief Financial
2060 | Officer.

2061 | b. The board shall create a Market Accountability Advisory
2062 | Committee to assist the corporation in developing awareness of
2063 | its rates and its customer and agent service levels in
2064 | relationship to the voluntary market insurers writing similar
2065 | coverage. The members of the advisory committee shall consist of
2066 | the following 11 persons, one of whom must be elected chair by
2067 | the members of the committee: four representatives, one
2068 | appointed by the Florida Association of Insurance Agents, one by
2069 | the Florida Association of Insurance and Financial Advisors, one
2070 | by the Professional Insurance Agents of Florida, and one by the
2071 | Latin American Association of Insurance Agencies; three
2072 | representatives appointed by the insurers with the three highest
2073 | voluntary market share of residential property insurance
2074 | business in the state; one representative from the Office of
2075 | Insurance Regulation; one consumer appointed by the board who is
2076 | insured by the corporation at the time of appointment to the
2077 | committee; one representative appointed by the Florida
2078 | Association of Realtors; and one representative appointed by the
2079 | Florida Bankers Association. All members must serve for 3-year
2080 | terms and may serve for consecutive terms. The committee shall
2081 | report to the corporation at each board meeting on insurance
2082 | market issues which may include rates and rate competition with
2083 | the voluntary market; service, including policy issuance, claims

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2084 processing, and general responsiveness to policyholders,
2085 applicants, and agents; and matters relating to depopulation.

2086 5. Must provide a procedure for determining the
2087 eligibility of a risk for coverage, as follows:

2088 a. Subject to the provisions of s. 627.3517, with respect
2089 to personal lines residential risks, if the risk is offered
2090 coverage from an authorized insurer at the insurer's approved
2091 rate under either a standard policy including wind coverage or,
2092 if consistent with the insurer's underwriting rules as filed
2093 with the office, a basic policy including wind coverage, the
2094 risk is not eligible for any policy issued by the corporation.
2095 If the risk is not able to obtain any such offer, the risk is
2096 eligible for either a standard policy including wind coverage or
2097 a basic policy including wind coverage issued by the
2098 corporation; however, if the risk could not be insured under a
2099 standard policy including wind coverage regardless of market
2100 conditions, the risk shall be eligible for a basic policy
2101 including wind coverage unless rejected under subparagraph 8.
2102 The corporation shall determine the type of policy to be
2103 provided on the basis of objective standards specified in the
2104 underwriting manual and based on generally accepted underwriting
2105 practices.

2106 (I) If the risk accepts an offer of coverage through the
2107 market assistance plan or an offer of coverage through a
2108 mechanism established by the corporation before a policy is
2109 issued to the risk by the corporation or during the first 30
2110 days of coverage by the corporation, and the producing agent who

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2111 submitted the application to the plan or to the corporation is
 2112 not currently appointed by the insurer, the insurer shall:

2113 (A) Pay to the producing agent of record of the policy,
 2114 for the first year, an amount that is the greater of the
 2115 insurer's usual and customary commission for the type of policy
 2116 written or a fee equal to the usual and customary commission of
 2117 the corporation; or

2118 (B) Offer to allow the producing agent of record of the
 2119 policy to continue servicing the policy for a period of not less
 2120 than 1 year and offer to pay the agent the greater of the
 2121 insurer's or the corporation's usual and customary commission
 2122 for the type of policy written.

2123
 2124 If the producing agent is unwilling or unable to accept
 2125 appointment, the new insurer shall pay the agent in accordance
 2126 with sub-sub-sub-subparagraph (A).

2127 (II) When the corporation enters into a contractual
 2128 agreement for a take-out plan, the producing agent of record of
 2129 the corporation policy is entitled to retain any unearned
 2130 commission on the policy, and the insurer shall:

2131 (A) Pay to the producing agent of record of the
 2132 corporation policy, for the first year, an amount that is the
 2133 greater of the insurer's usual and customary commission for the
 2134 type of policy written or a fee equal to the usual and customary
 2135 commission of the corporation; or

2136 (B) Offer to allow the producing agent of record of the
 2137 corporation policy to continue servicing the policy for a period
 2138 of not less than 1 year and offer to pay the agent the greater

2139 of the insurer's or the corporation's usual and customary
 2140 commission for the type of policy written.

2141
 2142 If the producing agent is unwilling or unable to accept
 2143 appointment, the new insurer shall pay the agent in accordance
 2144 with sub-sub-sub-subparagraph (A).

2145 b. With respect to commercial lines residential risks, if
 2146 the risk is offered coverage under a policy including wind
 2147 coverage from an authorized insurer at its approved rate, the
 2148 risk is not eligible for any policy issued by the corporation.
 2149 If the risk is not able to obtain any such offer, the risk is
 2150 eligible for a policy including wind coverage issued by the
 2151 corporation.

2152 (I) If the risk accepts an offer of coverage through the
 2153 market assistance plan or an offer of coverage through a
 2154 mechanism established by the corporation before a policy is
 2155 issued to the risk by the corporation or during the first 30
 2156 days of coverage by the corporation, and the producing agent who
 2157 submitted the application to the plan or the corporation is not
 2158 currently appointed by the insurer, the insurer shall:

2159 (A) Pay to the producing agent of record of the policy,
 2160 for the first year, an amount that is the greater of the
 2161 insurer's usual and customary commission for the type of policy
 2162 written or a fee equal to the usual and customary commission of
 2163 the corporation; or

2164 (B) Offer to allow the producing agent of record of the
 2165 policy to continue servicing the policy for a period of not less
 2166 than 1 year and offer to pay the agent the greater of the

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2167 insurer's or the corporation's usual and customary commission
 2168 for the type of policy written.

2169
 2170 If the producing agent is unwilling or unable to accept
 2171 appointment, the new insurer shall pay the agent in accordance
 2172 with sub-sub-sub-subparagraph (A).

2173 (II) When the corporation enters into a contractual
 2174 agreement for a take-out plan, the producing agent of record of
 2175 the corporation policy is entitled to retain any unearned
 2176 commission on the policy, and the insurer shall:

2177 (A) Pay to the producing agent of record of the
 2178 corporation policy, for the first year, an amount that is the
 2179 greater of the insurer's usual and customary commission for the
 2180 type of policy written or a fee equal to the usual and customary
 2181 commission of the corporation; or

2182 (B) Offer to allow the producing agent of record of the
 2183 corporation policy to continue servicing the policy for a period
 2184 of not less than 1 year and offer to pay the agent the greater
 2185 of the insurer's or the corporation's usual and customary
 2186 commission for the type of policy written.

2187
 2188 If the producing agent is unwilling or unable to accept
 2189 appointment, the new insurer shall pay the agent in accordance
 2190 with sub-sub-sub-subparagraph (A).

2191 6. Must include rules for classifications of risks and
 2192 rates therefor.

2193 7. Must provide that if premium and investment income for
 2194 an account attributable to a particular calendar year are in

2195 excess of projected losses and expenses for the account
 2196 attributable to that year, such excess shall be held in surplus
 2197 in the account. Such surplus shall be available to defray
 2198 deficits in that account as to future years and shall be used
 2199 for that purpose prior to assessing assessable insurers and
 2200 assessable insureds as to any calendar year.

2201 8. Must provide objective criteria and procedures to be
 2202 uniformly applied for all applicants in determining whether an
 2203 individual risk is so hazardous as to be uninsurable. In making
 2204 this determination and in establishing the criteria and
 2205 procedures, the following shall be considered:

2206 a. Whether the likelihood of a loss for the individual
 2207 risk is substantially higher than for other risks of the same
 2208 class; and

2209 b. Whether the uncertainty associated with the individual
 2210 risk is such that an appropriate premium cannot be determined.

2211
 2212 The acceptance or rejection of a risk by the corporation shall
 2213 be construed as the private placement of insurance, and the
 2214 provisions of chapter 120 shall not apply.

2215 9. Must provide that the corporation shall make its best
 2216 efforts to procure catastrophe reinsurance at reasonable rates,
 2217 to cover its projected 100-year probable maximum loss as
 2218 determined by the board of governors.

2219 10. Must provide that in the event of regular deficit
 2220 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
 2221 (b)3.b., in the personal lines account, the commercial lines
 2222 residential account, or the high-risk account, the corporation

2223 shall levy upon corporation policyholders in its next rate
 2224 filing, or by a separate rate filing solely for this purpose, a
 2225 market equalization surcharge arising from a regular assessment
 2226 in such account in a percentage equal to the total amount of
 2227 such regular assessments divided by the aggregate statewide
 2228 direct written premium for subject lines of business for the
 2229 prior calendar year. Market equalization surcharges under this
 2230 subparagraph are not considered premium and are not subject to
 2231 commissions, fees, or premium taxes; however, failure to pay a
 2232 market equalization surcharge shall be treated as failure to pay
 2233 premium.

2234 11. The policies issued by the corporation must provide
 2235 that, if the corporation or the market assistance plan obtains
 2236 an offer from an authorized insurer to cover the risk at its
 2237 approved rates, the risk is no longer eligible for renewal
 2238 through the corporation.

2239 12. Corporation policies and applications must include a
 2240 notice that the corporation policy could, under this section, be
 2241 replaced with a policy issued by an authorized insurer that does
 2242 not provide coverage identical to the coverage provided by the
 2243 corporation. The notice shall also specify that acceptance of
 2244 corporation coverage creates a conclusive presumption that the
 2245 applicant or policyholder is aware of this potential.

2246 13. May establish, subject to approval by the office,
 2247 different eligibility requirements and operational procedures
 2248 for any line or type of coverage for any specified county or
 2249 area if the board determines that such changes to the
 2250 eligibility requirements and operational procedures are

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2251 justified due to the voluntary market being sufficiently stable
2252 and competitive in such area or for such line or type of
2253 coverage and that consumers who, in good faith, are unable to
2254 obtain insurance through the voluntary market through ordinary
2255 methods would continue to have access to coverage from the
2256 corporation. When coverage is sought in connection with a real
2257 property transfer, such requirements and procedures shall not
2258 provide for an effective date of coverage later than the date of
2259 the closing of the transfer as established by the transferor,
2260 the transferee, and, if applicable, the lender.

2261 14. Must provide that, with respect to the high-risk
2262 account, any assessable insurer with a surplus as to
2263 policyholders of \$25 million or less writing 25 percent or more
2264 of its total countrywide property insurance premiums in this
2265 state may petition the office, within the first 90 days of each
2266 calendar year, to qualify as a limited apportionment company. In
2267 no event shall a limited apportionment company be required to
2268 participate in the portion of any assessment, within the high-
2269 risk account, pursuant to sub-subparagraph (b)3.a. or sub-
2270 subparagraph (b)3.b. in the aggregate which exceeds \$50 million
2271 after payment of available high-risk account funds in any
2272 calendar year. However, a limited apportionment company shall
2273 collect from its policyholders any emergency assessment imposed
2274 under sub-subparagraph (b)3.d. The plan shall provide that, if
2275 the office determines that any regular assessment will result in
2276 an impairment of the surplus of a limited apportionment company,
2277 the office may direct that all or part of such assessment be
2278 deferred as provided in subparagraph (g)4. However, there shall

2279 | be no limitation or deferment of an emergency assessment to be
 2280 | collected from policyholders under sub-subparagraph (b)3.d.

2281 | 15. Must provide that the corporation appoint as its
 2282 | licensed agents only those agents who also hold an appointment
 2283 | as defined in s. 626.015(3) with an insurer who at the time of
 2284 | the agent's initial appointment by the corporation is authorized
 2285 | to write and is actually writing personal lines residential
 2286 | property coverage, commercial residential property coverage, or
 2287 | commercial nonresidential property coverage within the state.

2288 | (k) Upon a determination by the office that the conditions
 2289 | giving rise to the establishment and activation of the
 2290 | corporation no longer exist, the corporation is dissolved. Upon
 2291 | dissolution, the assets of the corporation shall be applied
 2292 | first to pay all debts, liabilities, and obligations of the
 2293 | corporation, including the establishment of reasonable reserves
 2294 | for any contingent liabilities or obligations, and all remaining
 2295 | assets of the corporation shall become property of the state and
 2296 | shall be deposited in the Florida Hurricane Insurance
 2297 | ~~Catastrophe~~ Fund. However, no dissolution shall take effect as
 2298 | long as the corporation has bonds or other financial obligations
 2299 | outstanding unless adequate provision has been made for the
 2300 | payment of the bonds or other financial obligations pursuant to
 2301 | the documents authorizing the issuance of the bonds or other
 2302 | financial obligations.

2303 | (1)1. Effective July 1, 2002, policies of the Residential
 2304 | Property and Casualty Joint Underwriting Association shall
 2305 | become policies of the corporation. All obligations, rights,
 2306 | assets and liabilities of the Residential Property and Casualty

2307 Joint Underwriting Association, including bonds, note and debt
 2308 obligations, and the financing documents pertaining to them
 2309 become those of the corporation as of July 1, 2002. The
 2310 corporation is not required to issue endorsements or
 2311 certificates of assumption to insureds during the remaining term
 2312 of in-force transferred policies.

2313 2. Effective July 1, 2002, policies of the Florida
 2314 Windstorm Underwriting Association are transferred to the
 2315 corporation and shall become policies of the corporation. All
 2316 obligations, rights, assets, and liabilities of the Florida
 2317 Windstorm Underwriting Association, including bonds, note and
 2318 debt obligations, and the financing documents pertaining to them
 2319 are transferred to and assumed by the corporation on July 1,
 2320 2002. The corporation is not required to issue endorsement or
 2321 certificates of assumption to insureds during the remaining term
 2322 of in-force transferred policies.

2323 3. The Florida Windstorm Underwriting Association and the
 2324 Residential Property and Casualty Joint Underwriting Association
 2325 shall take all actions as may be proper to further evidence the
 2326 transfers and shall provide the documents and instruments of
 2327 further assurance as may reasonably be requested by the
 2328 corporation for that purpose. The corporation shall execute
 2329 assumptions and instruments as the trustees or other parties to
 2330 the financing documents of the Florida Windstorm Underwriting
 2331 Association or the Residential Property and Casualty Joint
 2332 Underwriting Association may reasonably request to further
 2333 evidence the transfers and assumptions, which transfers and
 2334 assumptions, however, are effective on the date provided under

2335 | this paragraph whether or not, and regardless of the date on
 2336 | which, the assumptions or instruments are executed by the
 2337 | corporation. Subject to the relevant financing documents
 2338 | pertaining to their outstanding bonds, notes, indebtedness, or
 2339 | other financing obligations, the moneys, investments,
 2340 | receivables, choses in action, and other intangibles of the
 2341 | Florida Windstorm Underwriting Association shall be credited to
 2342 | the high-risk account of the corporation, and those of the
 2343 | personal lines residential coverage account and the commercial
 2344 | lines residential coverage account of the Residential Property
 2345 | and Casualty Joint Underwriting Association shall be credited to
 2346 | the personal lines account and the commercial lines account,
 2347 | respectively, of the corporation.

2348 | 4. Effective July 1, 2002, a new applicant for property
 2349 | insurance coverage who would otherwise have been eligible for
 2350 | coverage in the Florida Windstorm Underwriting Association is
 2351 | eligible for coverage from the corporation as provided in this
 2352 | subsection.

2353 | 5. The transfer of all policies, obligations, rights,
 2354 | assets, and liabilities from the Florida Windstorm Underwriting
 2355 | Association to the corporation and the renaming of the
 2356 | Residential Property and Casualty Joint Underwriting Association
 2357 | as the corporation shall in no way affect the coverage with
 2358 | respect to covered policies as defined in s. 215.555(2) ~~(e)~~
 2359 | provided to these entities by the Florida Hurricane Insurance
 2360 | ~~Catastrophe~~ Fund. The coverage provided by the Florida Hurricane
 2361 | Insurance ~~Catastrophe~~ Fund to the Florida Windstorm Underwriting
 2362 | Association based on its exposures as of June 30, 2002, and each

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2363 June 30 thereafter shall be redesignated as coverage for the
 2364 high-risk account of the corporation. Notwithstanding any other
 2365 provision of law, the coverage provided by the Florida Hurricane
 2366 Insurance ~~Catastrophe~~ Fund to the Residential Property and
 2367 Casualty Joint Underwriting Association based on its exposures
 2368 as of June 30, 2002, and each June 30 thereafter shall be
 2369 transferred to the personal lines account and the commercial
 2370 lines account of the corporation. Notwithstanding any other
 2371 provision of law, the high-risk account shall be treated, for
 2372 all Florida Hurricane Insurance ~~Catastrophe~~ Fund purposes, as if
 2373 it were a separate participating insurer with its own exposures,
 2374 reimbursement premium, and loss reimbursement. Likewise, the
 2375 personal lines and commercial lines accounts shall be viewed
 2376 together, for all Florida Hurricane Insurance ~~Catastrophe~~ Fund
 2377 purposes, as if the two accounts were one and represent a
 2378 single, separate participating insurer with its own exposures,
 2379 reimbursement premium, and loss reimbursement. The coverage
 2380 provided by the Florida Hurricane Insurance ~~Catastrophe~~ Fund to
 2381 the corporation shall constitute and operate as a full transfer
 2382 of coverage from the Florida Windstorm Underwriting Association
 2383 and Residential Property and Casualty Joint Underwriting to the
 2384 corporation.

2385 Section 10. Paragraph (d) of subsection (6) of section
 2386 627.701, Florida Statutes, is amended to read:

2387 627.701 Liability of insureds; coinsurance; deductibles.--

2388 (6)

2389 (d) The office shall draft and formally propose as a rule
 2390 the form for the certificate of security. The certificate of
 2391 security may be issued in any of the following circumstances:

2392 1. A mortgage lender or other financial institution may
 2393 issue a certificate of security after granting the applicant a
 2394 line of credit, secured by equity in real property or other
 2395 reasonable security, which line of credit may be drawn on only
 2396 to pay for the deductible portion of insured construction or
 2397 reconstruction after a hurricane loss. In the sole discretion of
 2398 the mortgage lender or other financial institution, the line of
 2399 credit may be issued to an applicant on an unsecured basis.

2400 2. A licensed insurance agent may issue a certificate of
 2401 security after obtaining for an applicant a line of credit,
 2402 secured by equity in real property or other reasonable security,
 2403 which line of credit may be drawn on only to pay for the
 2404 deductible portion of insured construction or reconstruction
 2405 after a hurricane loss. The Florida Hurricane Insurance
 2406 ~~Catastrophe~~ Fund shall negotiate agreements creating a financing
 2407 consortium to serve as an additional source of lines of credit
 2408 to secure deductibles. Any licensed insurance agent may act as
 2409 the agent of such consortium.

2410 3. Any person qualified to act as a trustee for any
 2411 purpose may issue a certificate of security secured by a pledge
 2412 of assets, with the restriction that the assets may be drawn on
 2413 only to pay for the deductible portion of insured construction
 2414 or reconstruction after a hurricane loss.

2415 4. Any insurer, including any admitted insurer or any
 2416 surplus lines insurer, may issue a certificate of security after

2417 | issuing the applicant a policy of supplemental insurance that
 2418 | will pay for 100 percent of the deductible portion of insured
 2419 | construction or reconstruction after a hurricane loss.

2420 | 5. Any other method approved by the office upon finding
 2421 | that such other method provides a similar level of security as
 2422 | the methods specified in this paragraph and that such other
 2423 | method has no negative impact on residential property insurance
 2424 | catastrophic capacity. The legislative intent of this
 2425 | subparagraph is to provide the flexibility needed to achieve the
 2426 | public policy of expanding property insurance capacity while
 2427 | improving the affordability of property insurance.

2428 | Section 11. Paragraph (a) of subsection (3) of section
 2429 | 627.7077, Florida Statutes, is amended to read:

2430 | 627.7077 Florida Sinkhole Insurance Facility and other
 2431 | matters related to affordability and availability of sinkhole
 2432 | insurance; feasibility study.--

2433 | (3) The feasibility study shall, at a minimum, address the
 2434 | following issues:

2435 | (a) Where the facility should be housed, including, but
 2436 | not limited to, the options of creating a separate facility or
 2437 | using the Citizens Property Insurance Corporation or the Florida
 2438 | Hurricane Insurance ~~Catastrophe~~ Fund.

2439 | Section 12. Subsection (3) of section 109 of chapter 2000-
 2440 | 141, Laws of Florida, is amended to read:

2441 | Section 109. The Legislature has reviewed the Florida
 2442 | Building Code that was adopted by action of the Florida Building
 2443 | Commission on February 15, 2000, and that was noticed for rule
 2444 | adoption by reference in Rule 9B-3.047, F.A.C., on February 18,

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2445 2000, in the Florida Administrative Weekly on page 731. The
 2446 Florida Building Commission is directed to continue the process
 2447 to adopt the code, pursuant to section 120.54(3), Florida
 2448 Statutes, and to incorporate the following provisions or
 2449 standards for the State of Florida:

2450 (3) For areas of the state not within the high velocity
 2451 hurricane zone, the commission shall adopt, pursuant to s.
 2452 553.73, Florida Statutes, the wind protection requirements of
 2453 the American Society of Civil Engineers, Standard 7, 1998
 2454 edition as implemented by the International Building Code, 2000
 2455 edition, and as modified by the commission in its February 15,
 2456 2000, adoption of the Florida Building Code for rule adoption by
 2457 reference in Rule 9B-3.047, Florida Administrative Code.

2458 ~~However, from the eastern border of Franklin County to the~~
 2459 ~~Florida Alabama line, only land within 1 mile of the coast shall~~
 2460 ~~be subject to the windborne debris requirements adopted by the~~
 2461 ~~commission.~~ The exact location of wind speed lines shall be
 2462 established by local ordinance, using recognized physical
 2463 landmarks such as major roads, canals, rivers, and lake shores,
 2464 wherever possible. Buildings constructed in the windborne debris
 2465 region must be either designed for internal pressures that may
 2466 result inside a building when a window or door is broken or a
 2467 hole is created in its walls or roof by large debris, or be
 2468 designed with protected openings. Except in the high velocity
 2469 hurricane zone, local governments may not prohibit the option of
 2470 designing buildings to resist internal pressures.

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2472 The Legislature declares that changes made to the proposed Rule
2473 9B-3.047, Florida Administrative Code, to implement the
2474 requirements of this act prior to October 1, 2000, are not
2475 subject to rule challenges under section 120.56, Florida
2476 Statutes. However, the entire rule, adopted pursuant to s.
2477 120.54(3), Florida Statutes, as amended after October 1, 2000,
2478 is subject to rule challenges under s. 120.56, Florida Statutes.
2479 Section 13. This act shall take effect July 1, 2006.