



597-2109B-06

1 publish such orders and an explanatory  
2 statement; prescribing additional duties of the  
3 commissioner with respect to mitigation of  
4 consequences of emergencies; amending s.  
5 626.918, F.S.; authorizing certain letters of  
6 credit to fund an insurer's required  
7 policyholder protection trust fund; defining  
8 the term "qualified United States financial  
9 institution; amending s. 627.062, F.S.;

10 revising factors to be used in reviewing rate  
11 filings; providing that, in considering a rate  
12 filing, the burden is on the Office of  
13 Insurance Regulation to establish that costs of  
14 reinsurance are excessive; providing that  
15 certain rates are not subject to disapproval as  
16 being excessive; amending s. 627.351, F.S.;

17 providing that certain responsibilities of the  
18 Office of Insurance Regulation with respect to  
19 the plan of operation of Citizens Property  
20 Insurance Corporation be assumed by the  
21 Financial Services Commission; defining the  
22 terms "homestead property" and "nonhomestead  
23 property" for use with respect to Citizens  
24 Property Insurance Corporation; limiting  
25 eligibility for personal lines coverage by the  
26 corporation; directing the corporation board to  
27 reduce or, with approval by necessary parties,  
28 restructure existing debt; requiring a report  
29 with respect thereto; providing for a reduction  
30 in aggregate amount of a regular assessment in  
31 certain circumstances; revising formula for

597-2109B-06

1 calculating emergency assessment; requiring the  
2 executive director of the corporation to be  
3 confirmed by the Senate; deleting authority of  
4 the Chief Financial Officer to review corporate  
5 employees; prescribing a 10-day waiting period  
6 for applications for coverage for a new policy;  
7 authorizing exceptions; redesignating the  
8 market equalization surcharge as a Citizens  
9 policyholder surcharge and providing for its  
10 calculation; prescribing an additional  
11 surcharge on deficit assessments for certain  
12 nonhomestead property; providing for optional  
13 payment plans; providing for claims adjusting  
14 services for certain wind coverage in certain  
15 circumstances; requiring prospective senior  
16 management employees of the corporation to  
17 successfully pass a background check; requiring  
18 employees of the corporation to sign annually a  
19 statement that they have no conflict of  
20 interest; providing that senior managers and  
21 members of the board of governors are subject  
22 to the code of ethics and must file financial  
23 disclosure; prohibiting employees and members  
24 of the board of governors from accepting gifts  
25 or expenditures from a persons or entity, or  
26 employee thereof, which has or is under  
27 consideration for a contract with the  
28 corporation; providing penalties; providing a  
29 limitation on senior managers' representation  
30 of persons before the corporation after  
31 retirement or termination of employment and on

597-2109B-06

1 employment with an insurer that has received a  
2 take-out bonus; prescribing guidelines for  
3 purchases of goods and services; providing  
4 guidelines on use of outside counsel;  
5 prohibiting the corporation from retaining a  
6 lobbyist; authorizing full-time employees to  
7 register and engage in lobbying; creating the  
8 Office of Internal Auditor and prescribing its  
9 duties; providing record-retention  
10 requirements; requiring establishment of a unit  
11 or division to investigate claims involving  
12 possible fraud against the corporation and  
13 another to receive and respond to consumer  
14 complaints; requiring a periodic comprehensive  
15 market conduct examination of the corporation;  
16 requiring periodic operational audits of the  
17 corporation by the Auditor General; prescribing  
18 elements to be included in such audits;  
19 providing a rate surcharge for certain  
20 nonhomestead property; deleting provisions  
21 relating to appointment of a rate methodology  
22 panel; prescribing requirements for paying  
23 takeout bonuses or payments to insurers;  
24 requiring records of takeout bonuses or other  
25 payments for certain purposes; postponing the  
26 dates by which the boundaries of high-risk  
27 areas must be reduced; providing applicability  
28 of specified provisions relating to assessments  
29 and surcharges; amending s. 627.3511, F.S.;

30 extending the period for which an insurer that  
31 assumes Citizens Property Insurance

597-2109B-06

1 Corporation's obligations under a policy must  
2 renew the replacement policy; revising  
3 circumstances under which replacement is not  
4 required; amending s. 627.3517, F.S.; providing  
5 that an insurance risk apportionment plan  
6 policyholder's right to retain his or her  
7 current agent does not apply during the first  
8 10 days after a new application for coverage  
9 has been submitted to Citizens Property  
10 Insurance Corporation; amending s. 627.4035,  
11 F.S.; providing for a waiver of a written  
12 authorization requirement to pay claims by  
13 debit card or other electronic transfer;  
14 creating s. 627.6121, F.S.; prescribing  
15 circumstances under which an insurer must pay  
16 benefits to a primary policyholder of dual  
17 interest property; requiring mortgageholders  
18 and lienholders be given notice of such  
19 payment; amending s. 627.7011, F.S.; limiting  
20 certain law and ordinance coverage; creating s.  
21 627.7019, F.S.; requiring the Financial  
22 Services Commission to adopt rules imposing  
23 standardized requirements applicable to  
24 insurers after certain natural events;  
25 providing criteria; providing requirements of  
26 the Office of Insurance Regulation; amending s.  
27 627.707, F.S.; revising guidelines for  
28 inspection of and payment for sinkhole claims;  
29 authorizing direct payment to contractors  
30 performing sinkhole damage repairs; providing  
31 limits on applicability of provisions relating

597-2109B-06

1 to inspection and repair and payment therefor;  
2 amending s. 627.7072, F.S.; deleting a standard  
3 applicable to sinkhole testing by professional  
4 geologists; amending s. 627.7073, F.S.;

5 revising requirements for sinkhole reports;  
6 creating s. 627.7074, F.S.; prescribing an  
7 alternative method for resolving disputed  
8 sinkhole insurance claims; providing  
9 definitions; prescribing procedures for  
10 invoking the alternative method; providing that  
11 a recommendation by a neutral evaluator is not  
12 binding on any party; providing for payments of  
13 costs; providing for judicial review; amending  
14 s. 627.727, F.S.; conforming a cross-reference;  
15 amending s. 631.181, F.S.; providing an  
16 exception to certain requirements for a signed  
17 statement for certain claims; providing  
18 requirements; amending s. 631.54, F.S.;

19 redefining the term "covered claim" and  
20 defining the term "homeowner's insurance";  
21 amending s. 631.55, F.S.; conforming a  
22 cross-reference; amending s. 631.57, F.S.;

23 revising requirements and limitations for  
24 obligations of the Florida Insurance Guaranty  
25 Association for covered claims; authorizing the  
26 association to contract with counties,  
27 municipalities, and legal entities to issue  
28 revenue bonds for certain purposes; authorizing  
29 the Office of Insurance Regulation to levy  
30 assessments and emergency assessments on  
31 insurers under certain circumstances for

597-2109B-06

1 certain bond repayment purposes; providing  
2 requirements for and limitations on such  
3 assessments; providing for payment, collection,  
4 and distribution of such assessments; requiring  
5 insurers to include an analysis of revenues  
6 from such assessments in a required report;  
7 providing rate filing requirements for insurers  
8 relating to such assessments; providing for  
9 continuing annual assessments under certain  
10 circumstances; specifying emergency assessments  
11 as not premium and not subject to certain  
12 taxes, fees, or commissions; specifying insurer  
13 liability for emergency assessments; providing  
14 an exception; creating s. 631.695, F.S.;

15 providing legislative findings and purposes;  
16 providing for issuance of revenue bonds through  
17 counties and municipalities to fund assistance  
18 programs for paying covered claims for  
19 hurricane damage; providing procedures,  
20 requirements, and limitations for counties,  
21 municipalities, and the Florida Insurance  
22 Guaranty Association, Inc., relating to  
23 issuance and validation of such bonds;  
24 prohibiting pledging the funds, credit,  
25 property, and taxing power of the state,  
26 counties, and municipalities for payment of  
27 bonds; specifying authorized uses of bond  
28 proceeds; limiting the term of bonds;  
29 specifying a state covenant to protect  
30 bondholders from adverse actions relating to  
31 such bonds; specifying exemptions for bonds,

597-2109B-06

1 notes, and other obligations of counties and  
 2 municipalities from certain taxes or  
 3 assessments on property and revenues;  
 4 authorizing counties and municipalities to  
 5 create a legal entity to exercise certain  
 6 powers; requiring the association to issue an  
 7 annual report on the status of certain uses of  
 8 bond proceeds; providing report requirements;  
 9 requiring the association to provide a copy of  
 10 the report to the Legislature and Chief  
 11 Financial Officer; prohibiting repeal of  
 12 certain provisions relating to certain bonds  
 13 under certain circumstances; providing  
 14 appropriations; providing effective dates.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. Effective June 1, 2006, paragraph (d) of  
 19 subsection (2), paragraphs (c) and (d) of subsection (4),  
 20 paragraph (b) of subsection (5), and paragraph (b) of  
 21 subsection (6) of section 215.555, Florida Statutes, are  
 22 amended to read:

23 215.555 Florida Hurricane Catastrophe Fund.--

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

25 (d) "Losses" means direct incurred losses under  
 26 covered policies, which shall include losses for additional  
 27 living expenses not to exceed 40 percent of the insured value  
 28 of a residential structure or its contents and shall exclude  
 29 loss adjustment expenses. "Losses" does not include losses for  
 30 fair rental value, loss of rent or rental income ~~use~~, or  
 31 business interruption losses.



597-2109B-06

1 (4) REIMBURSEMENT CONTRACTS.--

2 (c)1. The contract shall also provide that the  
3 obligation of the board with respect to all contracts covering  
4 a particular contract year shall not exceed the actual  
5 claims-paying capacity of the fund up to a limit of \$15  
6 billion for that contract year adjusted based upon the  
7 reported exposure from the prior contract year to reflect the  
8 percentage growth in exposure to the fund for covered policies  
9 since 2003, provided the dollar growth in the limit may not  
10 increase in any year by an amount greater than the dollar  
11 growth of the ~~cash~~ balance of the fund as of December 31 as  
12 defined by rule which occurred over the prior calendar year.

13 2. In May before the start of the upcoming contract  
14 year and in October during the contract year, the board shall  
15 publish in the Florida Administrative Weekly a statement of  
16 the fund's estimated borrowing capacity and the projected  
17 balance of the fund as of December 31. After the end of each  
18 calendar year, the board shall notify insurers of the  
19 estimated borrowing capacity and the balance of the fund as of  
20 December 31 to provide insurers with data necessary to assist  
21 them in determining their retention and projected payout from  
22 the fund for loss reimbursement purposes. In conjunction with  
23 the development of the premium formula, as provided for in  
24 subsection (5), the board shall publish factors or multiples  
25 that assist insurers in determining their retention and  
26 projected payout for the next contract year. For all  
27 regulatory and reinsurance purposes, an insurer may calculate  
28 its projected payout from the fund as its share of the total  
29 fund premium for the current contract year multiplied by the  
30 sum of the projected balance of the fund as of December 31 and  
31 the estimated borrowing capacity for that contract year as

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 reported under this subparagraph.

2 (d)1. For purposes of determining potential liability  
3 and to aid in the sound administration of the fund, the  
4 contract shall require each insurer to report such insurer's  
5 losses from each covered event on an interim basis, as  
6 directed by the board. The contract shall require the insurer  
7 to report to the board no later than December 31 of each year,  
8 and quarterly thereafter, its reimbursable losses from covered  
9 events for the year. The contract shall require the board to  
10 determine and pay, as soon as practicable after receiving  
11 these reports of reimbursable losses, the initial amount of  
12 reimbursement due and adjustments to this amount based on  
13 later loss information. The adjustments to reimbursement  
14 amounts shall require the board to pay, or the insurer to  
15 return, amounts reflecting the most recent calculation of  
16 losses.

17 2. In determining reimbursements pursuant to this  
18 subsection, the contract shall provide that the board shall:

19 ~~a. First reimburse insurers writing covered policies,~~  
20 ~~which insurers are in full compliance with this section and~~  
21 ~~have petitioned the Office of Insurance Regulation and~~  
22 ~~qualified as limited apportionment companies under s.~~  
23 ~~627.351(2)(b)3. The amount of such reimbursement shall be the~~  
24 ~~lesser of \$10 million or an amount equal to 10 times the~~  
25 ~~insurer's reimbursement premium for the current year. The~~  
26 ~~amount of reimbursement paid under this sub-subparagraph may~~  
27 ~~not exceed the full amount of reimbursement promised in the~~  
28 ~~reimbursement contract. This sub-subparagraph does not apply~~  
29 ~~with respect to any contract year in which the year-end~~  
30 ~~projected cash balance of the fund, exclusive of any bonding~~  
31 ~~capacity of the fund, exceeds \$2 billion. Only one member of~~

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 ~~any insurer group may receive reimbursement under this~~  
2 ~~sub-subparagraph.~~

3 ~~a.b.~~ Next pay to each insurer such insurer's projected  
4 payout, which is the amount of reimbursement it is owed, up to  
5 an amount equal to the insurer's share of the actual premium  
6 paid for that contract year, multiplied by the actual  
7 claims-paying capacity available for that contract year;  
8 provided, entities created pursuant to s. 627.351 shall be  
9 further reimbursed in accordance with sub-subparagraph b. ~~e.~~

10 b.e. Thereafter, establish the prorated reimbursement  
11 level at the highest level for which any remaining fund  
12 balance or bond proceeds are sufficient to reimburse entities  
13 created pursuant to s. 627.351 based on reimbursable losses  
14 exceeding the amounts payable pursuant to sub-subparagraph a.  
15 ~~b.~~ for the current contract year.

16 (5) REIMBURSEMENT PREMIUMS.--

17 (b) The State Board of Administration shall select an  
18 independent consultant to develop a formula for determining  
19 the actuarially indicated premium to be paid to the fund. The  
20 formula shall specify, for each zip code or other limited  
21 geographical area, the amount of premium to be paid by an  
22 insurer for each \$1,000 of insured value under covered  
23 policies in that zip code or other area. In establishing  
24 premiums, the board shall consider the coverage elected under  
25 paragraph (4)(b) and any factors that tend to enhance the  
26 actuarial sophistication of ratemaking for the fund, including  
27 deductibles, type of construction, type of coverage provided,  
28 relative concentration of risks, ~~a factor providing for more~~  
29 ~~rapid cash buildup in the fund until the fund capacity for a~~  
30 ~~single hurricane season is fully funded,~~ and other such  
31 factors deemed by the board to be appropriate. The formula may

597-2109B-06

1 provide for a procedure to determine the premiums to be paid  
 2 by new insurers that begin writing covered policies after the  
 3 beginning of a contract year, taking into consideration when  
 4 the insurer starts writing covered policies, the potential  
 5 exposure of the insurer, the potential exposure of the fund,  
 6 the administrative costs to the insurer and to the fund, and  
 7 any other factors deemed appropriate by the board. The formula  
 8 shall include a factor of 25 percent of the fund's actuarially  
 9 indicated premium in order to provide for more rapid cash  
 10 buildup in the fund. The formula must be approved by unanimous  
 11 vote of the board. The board may, at any time, revise the  
 12 formula pursuant to the procedure provided in this paragraph.

13 (6) REVENUE BONDS.--

14 (b) Emergency assessments.--

15 1. If the board determines that the amount of revenue  
 16 produced under subsection (5) is insufficient to fund the  
 17 obligations, costs, and expenses of the fund and the  
 18 corporation, including repayment of revenue bonds and that  
 19 portion of the debt service coverage not met by reimbursement  
 20 premiums, the board shall direct the Office of Insurance  
 21 Regulation to levy, by order, an emergency assessment on  
 22 direct premiums for all property and casualty lines of  
 23 business in this state, including property and casualty  
 24 business of surplus lines insurers regulated under part VIII  
 25 of chapter 626, but not including any workers' compensation  
 26 premiums or medical malpractice premiums. As used in this  
 27 subsection, the term "property and casualty business" includes  
 28 all lines of business identified on Form 2, Exhibit of  
 29 Premiums and Losses, in the annual statement required of  
 30 authorized insurers by s. 624.424 and any rule adopted under  
 31 this section, except for those lines identified as accident

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 and health insurance and except for policies written under the  
2 National Flood Insurance Program. The assessment shall be  
3 specified as a percentage of future premium collections and is  
4 subject to annual adjustments by the board to reflect changes  
5 in premiums subject to assessments collected under this  
6 subparagraph in order to meet debt obligations. The same  
7 percentage shall apply to all policies in lines of business  
8 subject to the assessment issued or renewed during the  
9 12-month period beginning on the effective date of the  
10 assessment.

11           2. A premium is not subject to an annual assessment  
12 under this paragraph in excess of 6 percent of premium with  
13 respect to obligations arising out of losses attributable to  
14 any one contract year, and a premium is not subject to an  
15 aggregate annual assessment under this paragraph in excess of  
16 10 percent of premium. An annual assessment under this  
17 paragraph shall continue for as long as ~~until~~ the revenue  
18 bonds issued with respect to which the assessment was imposed  
19 are outstanding, including any bonds the proceeds of which  
20 were used to refund the revenue bonds, unless adequate  
21 provision has been made for the payment of the bonds under the  
22 documents authorizing issuance of the bonds.

23           3. With respect to each insurer collecting premiums  
24 that are subject to the assessment, the insurer shall collect  
25 the assessment at the same time as it collects the premium  
26 payment for each policy and shall remit the assessment  
27 collected to the fund or corporation as provided in the order  
28 issued by the Office of Insurance Regulation. The office shall  
29 verify the accurate and timely collection and remittance of  
30 emergency assessments and shall report the information to the  
31 board in a form and at a time specified by the board. Each

597-2109B-06

1 insurer collecting assessments shall provide the information  
 2 with respect to premiums and collections as may be required by  
 3 the office to enable the office to monitor and verify  
 4 compliance with this paragraph.

5           4. With respect to assessments of surplus lines  
 6 premiums, each surplus lines agent shall collect the  
 7 assessment at the same time as the agent collects the surplus  
 8 lines tax required by s. 626.932, and the surplus lines agent  
 9 shall remit the assessment to the Florida Surplus Lines  
 10 Service Office created by s. 626.921 at the same time as the  
 11 agent remits the surplus lines tax to the Florida Surplus  
 12 Lines Service Office. The emergency assessment on each insured  
 13 procuring coverage and filing under s. 626.938 shall be  
 14 remitted by the insured to the Florida Surplus Lines Service  
 15 Office at the time the insured pays the surplus lines tax to  
 16 the Florida Surplus Lines Service Office. The Florida Surplus  
 17 Lines Service Office shall remit the collected assessments to  
 18 the fund or corporation as provided in the order levied by the  
 19 Office of Insurance Regulation. The Florida Surplus Lines  
 20 Service Office shall verify the proper application of such  
 21 emergency assessments and shall assist the board in ensuring  
 22 the accurate and timely collection and remittance of  
 23 assessments as required by the board. The Florida Surplus  
 24 Lines Service Office shall annually calculate the aggregate  
 25 written premium on property and casualty business, other than  
 26 workers' compensation and medical malpractice, procured  
 27 through surplus lines agents and insureds procuring coverage  
 28 and filing under s. 626.938 and shall report the information  
 29 to the board in a form and at a time specified by the board.

30           5. Any assessment authority not used for a particular  
 31 contract year may be used for a subsequent contract year. If,

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 for a subsequent contract year, the board determines that the  
2 amount of revenue produced under subsection (5) is  
3 insufficient to fund the obligations, costs, and expenses of  
4 the fund and the corporation, including repayment of revenue  
5 bonds and that portion of the debt service coverage not met by  
6 reimbursement premiums, the board shall direct the Office of  
7 Insurance Regulation to levy an emergency assessment up to an  
8 amount not exceeding the amount of unused assessment authority  
9 from a previous contract year or years, plus an additional 4  
10 percent provided that the assessments in the aggregate do not  
11 exceed the limits specified in subparagraph 2.

12           6. The assessments otherwise payable to the  
13 corporation under this paragraph shall be paid to the fund  
14 unless and until the Office of Insurance Regulation and the  
15 Florida Surplus Lines Service Office have received from the  
16 corporation and the fund a notice, which shall be conclusive  
17 and upon which they may rely without further inquiry, that the  
18 corporation has issued bonds and the fund has no agreements in  
19 effect with local governments under paragraph (c). On or after  
20 the date of the notice and until the date the corporation has  
21 no bonds outstanding, the fund shall have no right, title, or  
22 interest in or to the assessments, except as provided in the  
23 fund's agreement with the corporation.

24           7. Emergency assessments are not premium and are not  
25 subject to the premium tax, to the surplus lines tax, to any  
26 fees, or to any commissions. An insurer is liable for all  
27 assessments that it collects and must treat the failure of an  
28 insured to pay an assessment as a failure to pay the premium.  
29 An insurer is not liable for uncollectible assessments.

30           8. When an insurer is required to return an unearned  
31 premium, it shall also return any collected assessment

597-2109B-06

1 attributable to the unearned premium. A credit adjustment to  
2 the collected assessment may be made by the insurer with  
3 regard to future remittances that are payable to the fund or  
4 corporation, but the insurer is not entitled to a refund.

5         9. When a surplus lines insured or an insured who has  
6 procured coverage and filed under s. 626.938 is entitled to  
7 the return of an unearned premium, the Florida Surplus Lines  
8 Service Office shall provide a credit or refund to the agent  
9 or such insured for the collected assessment attributable to  
10 the unearned premium prior to remitting the emergency  
11 assessment collected to the fund or corporation.

12         10. The exemption of medical malpractice insurance  
13 premiums from emergency assessments under this paragraph is  
14 repealed May 31, 2007, and medical malpractice insurance  
15 premiums shall be subject to emergency assessments  
16 attributable to loss events occurring in the contract years  
17 commencing on June 1, 2007.

18         Section 2. Effective July 1, 2006, section 215.558,  
19 Florida Statutes, is created to read:

20         215.558 Home Retrofit Hardening Program.--The  
21 Department of Community Affairs shall establish the Home  
22 Retrofit Hardening Program. The program is a competitive grant  
23 program to fund improvements to homes constructed before the  
24 implementation of the current Florida Building Code to make  
25 them less vulnerable to hurricane damage and to decrease the  
26 cost of residential property insurance. Site-built and mobile  
27 homes are eligible for funding under this program. However,  
28 the highest priority shall be given to low-income homeowners,  
29 as defined in s. 420.004(9), who live in wind-borne debris  
30 regions as defined in the Florida Building Code, which shall  
31 be eligible for up to 100 percent of the cost of the



Bill No. SB 1980

Barcode 070118

597-2109B-06

1 improvements. The next highest priority shall be given to  
2 homestead dwellings insured at \$500,000 or less and, located  
3 in the areas designated as high-risk areas for purposes of  
4 coverage by the Citizens Property Insurance Corporation, which  
5 shall be eligible for up to 50 percent of the cost of the  
6 improvements, with priority within this category given to  
7 homes insured by Citizens. The next highest priority shall be  
8 given to all other homestead dwellings insured at \$500,000 or  
9 less, which shall be eligible for up to 25 percent of the cost  
10 of the improvements.

11 (1) The program shall be administered by local  
12 governments, regional planning councils, or private nonprofit  
13 agencies under the overall direction of the department. In  
14 order to qualify for funding, the program must include an  
15 inspection of the dwelling to determine what mitigation  
16 measures are needed, a means for verifying that the  
17 improvements to be paid by the program have been demonstrated  
18 to reduce a dwelling's vulnerability to hurricane damage, and  
19 a means for verifying that the proceeds were actually spent on  
20 such improvements. Funding for the program is contingent upon  
21 appropriations. When awarding program funds, the department  
22 shall be guided by:

23 (a) The number of homes in need of improvement.

24 (b) The number of homes located within the wind-borne  
25 debris region and within the high-risk area of Citizens  
26 Property Insurance Corporation.

27 (c) The number of persons who will benefit from the  
28 improvements.

29 (d) The number of low-income households and other  
30 dwellings meeting the priority criteria of this section which  
31 will benefit from the improvements.

597-2109B-06

1           (e) The costs per home to provide improvements.

2           (2) Funds may be used for the following improvements  
3 installed in compliance with Blueprint-for-Safety standards:

4           (a) Roof deck attachment;

5           (b) Secondary water barrier;

6           (c) Roof covering;

7           (d) Brace gable ends;

8           (e) Reinforce roof-to-wall connections;

9           (f) Opening protection; and

10          (g) Exterior doors, including garage doors.

11          (3) Each project grant for an individual home retrofit  
12 may not exceed \$10,000.

13          (4) Administrative costs shall be kept to a minimum  
14 and may not exceed 5 percent of the program funding.

15          (5) Grantees are encouraged to leverage grant funds  
16 available under this program with other available funds.

17 Matching funds for a project is not a requirement. However,  
18 matching funds from other available sources may be considered  
19 by the department in the competitive-review process.

20           Section 3. Effective July 1, 2006, section 215.5586,  
21 Florida Statutes, is created to read:

22           215.5586 Wind certification and hurricane mitigation  
23 inspections.--

24           (1) The purpose of this section is to provide wind  
25 certification and hurricane mitigation inspections to eligible  
26 homeowners in this state for assistance in retrofitting the  
27 properties of those homeowners to become less vulnerable to  
28 hurricane damage.

29           (2) The Department of Community Affairs shall  
30 establish a request for proposals to solicit proposals from  
31 wind certification entities to provide, at no cost to

597-2109B-06

1 homeowners, wind certification and hurricane mitigation

2 inspections. The inspections provided to homeowners, at a

3 minimum, must include the following:

4 (a) A home inspection and report that summarizes the  
5 results and identifies corrective actions a homeowner may take  
6 to mitigate hurricane damage.

7 (b) A range of cost estimates regarding the mitigation  
8 features.

9 (c) Insurer-specific information regarding premium  
10 discounts correlated to recommended mitigation features  
11 identified by the inspection.

12 (d) A hurricane resistance rating scale specifying the  
13 home's current, as well as projected, wind resistance  
14 capabilities.

15 (3) To qualify for selection by the department as a  
16 provider of wind certification and hurricane mitigation  
17 inspections, the entity, at a minimum, must:

18 (a) Use wind certification and hurricane mitigation  
19 inspectors who have:

20 1. Prior experience in residential construction or  
21 inspection and have received specialized training in hurricane  
22 mitigation procedures.

23 2. Undergone drug testing and background checks.

24 3. Been certified, in a manner satisfactory to the  
25 department, to conduct the inspections.

26 (b) Provide a quality assurance program including a  
27 reinspection component.

28 (4) The Department of Community Affairs shall adopt  
29 rules pursuant to ss. 120.536(1) and 120.54 governing the wind  
30 certification and wind mitigation inspection program.

31 Section 4. Paragraph (a) of subsection (4) of section

597-2109B-06

1 193.155, Florida Statutes, is amended to read:

2 193.155 Homestead assessments.--Homestead property  
3 shall be assessed at just value as of January 1, 1994.  
4 Property receiving the homestead exemption after January 1,  
5 1994, shall be assessed at just value as of January 1 of the  
6 year in which the property receives the exemption.

7 (4)(a) Changes, additions, or improvements to  
8 homestead property shall be assessed at just value as of the  
9 first January 1 after the changes, additions, or improvements  
10 are substantially completed. However, the addition of storm  
11 shutters, impact-resistant glazing, hurricane clips and  
12 straps, garage door bracing, or generators for purposes of  
13 mitigating hurricane damage and disaster preparedness shall  
14 not be included or otherwise increase the assessed value of  
15 homestead property.

16 Section 5. Section 252.63, Florida Statutes, is  
17 created to read:

18 252.63 Commissioner of Insurance Regulation; powers in  
19 a state of emergency.--

20 (1) It is the purpose and intent of this section to  
21 provide the Commissioner of Insurance Regulation the authority  
22 to temporarily modify or suspend provisions of the Florida  
23 Insurance Code in order to expedite the recovery of  
24 communities affected by a disaster or other emergency and  
25 encourage insurance companies, entities, and persons subject  
26 to the Florida Insurance Code and the jurisdiction of the  
27 office to meet the insurance needs of such communities.

28 (2)(a) When the Governor declares a state of emergency  
29 pursuant to s. 252.36, the commissioner may issue:

30 1. One or more general orders applicable to all  
31 insurance companies, entities, and persons, as defined in s.

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 624.04, which are subject to the Florida Insurance Code and  
2 serve any portion of the area of the state under the state of  
3 emergency; or

4 2. One or more specific orders to particular insurance  
5 companies, entities, and persons that are subject to the  
6 Florida Insurance Code, as defined in s. 624.01, which orders  
7 may modify or suspend, as to those companies, entities, and  
8 persons, all or any part of the Florida Insurance Code, or any  
9 applicable rule, consistent with the stated purposes of the  
10 Florida Insurance Code.

11 (b) An order issued by the commissioner under this  
12 section becomes effective upon issuance and continues for 120  
13 days unless terminated sooner by the commissioner. The  
14 commissioner may extend an order for one additional period of  
15 120 days if he or she determines that the emergency conditions  
16 that gave rise to the initial order still exist. By concurrent  
17 resolution, the Legislature may terminate any order issued  
18 under this section.

19 (3) The commissioner shall publish in the next  
20 available publication of the Florida Administrative Weekly a  
21 copy of the text of any order issued under this section,  
22 together with a statement describing the modification or  
23 suspension and explaining how the modification or suspension  
24 will facilitate recovery from the emergency.

25 (4) The commissioner shall consider on a continuing  
26 basis steps that could be taken to mitigate the harmful  
27 consequences of emergencies and from time to time make  
28 recommendations to the Legislature and other appropriate  
29 private entities regarding such mitigation.

30 Section 6. Subsections (1) and (2) of section 626.918,  
31 Florida Statutes, are amended to read:

Bill No. SB 1980

Barcode 070118

597-2109B-06

1           626.918 Eligible surplus lines insurers.--

2           (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any  
3 coverage with any unauthorized insurer which is not then an  
4 eligible surplus lines insurer, except as permitted under  
5 subsections (5) and (6).

6           (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or  
7 become an eligible surplus lines insurer unless made eligible  
8 by the office in accordance with the following conditions:

9           (a) Eligibility of the insurer must be requested in  
10 writing by the Florida Surplus Lines Service Office.†

11           (b) The insurer must be currently an authorized  
12 insurer in the state or country of its domicile as to the kind  
13 or kinds of insurance proposed to be so placed and must have  
14 been such an insurer for not less than the 3 years next  
15 preceding or must be the wholly owned subsidiary of such  
16 authorized insurer or must be the wholly owned subsidiary of  
17 an already eligible surplus lines insurer as to the kind or  
18 kinds of insurance proposed for a period of not less than the  
19 3 years next preceding. However, the office may waive the  
20 3-year requirement if the insurer provides a product or  
21 service not readily available to the consumers of this state  
22 or has operated successfully for a period of at least 1 year  
23 next preceding and has capital and surplus of not less than  
24 \$25 million.†

25           (c) Before granting eligibility, the requesting  
26 surplus lines agent or the insurer shall furnish the office  
27 with a duly authenticated copy of its current annual financial  
28 statement in the English language and with all monetary values  
29 therein expressed in United States dollars, at an exchange  
30 rate (in the case of statements originally made in the  
31 currencies of other countries) then-current and shown in the

597-2109B-06

1 statement, and with such additional information relative to  
 2 the insurer as the office may request.†

3 (d)1.a. The insurer must have and maintain surplus as  
 4 to policyholders of not less than \$15 million; in addition, an  
 5 alien insurer must also have and maintain in the United States  
 6 a trust fund for the protection of all its policyholders in  
 7 the United States under terms deemed by the office to be  
 8 reasonably adequate, in an amount not less than \$5.4 million.  
 9 Any such surplus as to policyholders or trust fund shall be  
 10 represented by investments consisting of eligible investments  
 11 for like funds of like domestic insurers under part II of  
 12 chapter 625 provided, however, that in the case of an alien  
 13 insurance company, any such surplus as to policyholders may be  
 14 represented by investments permitted by the domestic regulator  
 15 of such alien insurance company if such investments are  
 16 substantially similar in terms of quality, liquidity, and  
 17 security to eligible investments for like funds of like  
 18 domestic insurers under part II of chapter 625. Clean,  
 19 irrevocable, unconditional, and evergreen letters of credit  
 20 issued or confirmed by a qualified United States financial  
 21 institution, as defined in subparagraph 2., may be used to  
 22 fund the trust.†

23 ~~b.2.~~ For those surplus lines insurers that were  
 24 eligible on January 1, 1994, and that maintained their  
 25 eligibility thereafter, the required surplus as to  
 26 policyholders shall be:

27 ~~(I)a.~~ On December 31, 1994, and until December 30,  
 28 1995, \$2.5 million.

29 ~~(II)b.~~ On December 31, 1995, and until December 30,  
 30 1996, \$3.5 million.

31 ~~(III)c.~~ On December 31, 1996, and until December 30,

597-2109B-06

1 1997, \$4.5 million.

2 ~~(IV)d.~~ On December 31, 1997, and until December 30,  
3 1998, \$5.5 million.

4 ~~(V)e.~~ On December 31, 1998, and until December 30,  
5 1999, \$6.5 million.

6 ~~(VI)f.~~ On December 31, 1999, and until December 30,  
7 2000, \$8 million.

8 ~~(VII)g.~~ On December 31, 2000, and until December 30,  
9 2001, \$9.5 million.

10 ~~(VIII)h.~~ On December 31, 2001, and until December 30,  
11 2002, \$11 million.

12 ~~(IX)i.~~ On December 31, 2002, and until December 30,  
13 2003, \$13 million.

14 ~~(X)j.~~ On December 31, 2003, and thereafter, \$15  
15 million.

16 ~~c.3.~~ The capital and surplus requirements as set forth  
17 in sub-subparagraph b. ~~subparagraph 2.~~ do not apply in the  
18 case of an insurance exchange created by the laws of  
19 individual states, where the exchange maintains capital and  
20 surplus pursuant to the requirements of that state, or  
21 maintains capital and surplus in an amount not less than \$50  
22 million in the aggregate. For an insurance exchange which  
23 maintains funds in the amount of at least \$12 million for the  
24 protection of all insurance exchange policyholders, each  
25 individual syndicate shall maintain minimum capital and  
26 surplus in an amount not less than \$3 million. If the  
27 insurance exchange does not maintain funds in the amount of at  
28 least \$12 million for the protection of all insurance exchange  
29 policyholders, each individual syndicate shall meet the  
30 minimum capital and surplus requirements set forth in  
31 sub-subparagraph b. ~~subparagraph 2.~~



597-2109B-06

1           ~~d.4.~~ A surplus lines insurer which is a member of an  
 2 insurance holding company that includes a member which is a  
 3 Florida domestic insurer as set forth in its holding company  
 4 registration statement, as set forth in s. 628.801 and rules  
 5 adopted thereunder, may elect to maintain surplus as to  
 6 policyholders in an amount equal to the requirements of s.  
 7 624.408, subject to the requirement that the surplus lines  
 8 insurer shall at all times be in compliance with the  
 9 requirements of chapter 625.

10

11 The election shall be submitted to the office and shall be  
 12 effective upon the office's being satisfied that the  
 13 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been  
 14 met. The initial date of election shall be the date of office  
 15 approval. The election approval application shall be on a form  
 16 adopted by commission rule. The office may approve an election  
 17 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~  
 18 only if it was on file with the former Department of Insurance  
 19 before February 28, 1998.†

20

21           2. For purposes of letters of credit under  
 22 subparagraph 1., the term "qualified United States financial  
 23 institution" means an institution that:

23

24           a. Is organized or, in the case of a United States  
 25 office of a foreign banking organization, is licensed under  
 26 the laws of the United States or any state.

26

27           b. Is regulated, supervised, and examined by  
 28 authorities of the United States or any state having  
 29 regulatory authority over banks and trust companies.

29

30           c. Has been determined by the office or the Securities  
 31 Valuation Office of the National Association of Insurance  
Commissioners to meet such standards of financial condition

597-2109B-06

1 and standing as are considered necessary and appropriate to  
2 regulate the quality of financial institutions whose letters  
3 of credit are acceptable to the office.

4 (e) The insurer must be of good reputation as to the  
5 providing of service to its policyholders and the payment of  
6 losses and claims.

7 (f) The insurer must be eligible, as for authority to  
8 transact insurance in this state, under s. 624.404(3), ~~and~~

9 (g) This subsection does not apply as to unauthorized  
10 insurers made eligible under s. 626.917 as to wet marine and  
11 aviation risks.

12 Section 7. Effective July 1, 2006, paragraph (b) of  
13 subsection (2) and subsection (5) of section 627.062, Florida  
14 Statutes, are amended, and subsection (9) is added to that  
15 section, to read:

16 627.062 Rate standards.--

17 (2) As to all such classes of insurance:

18 (b) Upon receiving a rate filing, the office shall  
19 review the rate filing to determine if a rate is excessive,  
20 inadequate, or unfairly discriminatory. In making that  
21 determination, the office shall, in accordance with generally  
22 accepted and reasonable actuarial techniques, consider the  
23 following factors:

24 1. Past and prospective loss experience within and  
25 without this state.

26 2. Past and prospective expenses.

27 3. The degree of competition among insurers for the  
28 risk insured.

29 4. Investment income reasonably expected by the  
30 insurer, consistent with the insurer's investment practices,  
31 from investable premiums anticipated in the filing, plus any

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 other expected income from currently invested assets  
2 representing the amount expected on unearned premium reserves  
3 and loss reserves. The commission may adopt rules utilizing  
4 reasonable techniques of actuarial science and economics to  
5 specify the manner in which insurers shall calculate  
6 investment income attributable to such classes of insurance  
7 written in this state and the manner in which such investment  
8 income shall be used in the calculation of insurance rates.  
9 Such manner shall contemplate allowances for an underwriting  
10 profit factor and full consideration of investment income  
11 which produce a reasonable rate of return; however, investment  
12 income from invested surplus shall not be considered.

13 5. The reasonableness of the judgment reflected in the  
14 filing.

15 6. Dividends, savings, or unabsorbed premium deposits  
16 allowed or returned to Florida policyholders, members, or  
17 subscribers.

18 7. The adequacy of loss reserves.

19 8. The cost of reinsurance, as further specified in  
20 subsection (5).

21 9. Trend factors, including trends in actual losses  
22 per insured unit for the insurer making the filing.

23 10. Conflagration and catastrophe hazards, if  
24 applicable.

25 11. A reasonable margin for underwriting profit and  
26 contingencies. For that portion of the rate covering the risk  
27 of hurricanes and other catastrophic losses for which the  
28 insurer has not purchased reinsurance and has exposed its  
29 capital and surplus to such risk, the office must approve a  
30 rating factor that provides the insurer a reasonable rate of  
31 return that is commensurate with such risk.

597-2109B-06

1           12. The cost of medical services, if applicable.

2           13. Other relevant factors which impact upon the  
3 frequency or severity of claims or upon expenses.

4  
5 The provisions of this subsection shall not apply to workers'  
6 compensation and employer's liability insurance and to motor  
7 vehicle insurance.

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

25           (9) Rates for personal lines residential coverage with  
26 a dwelling replacement cost of \$1 million or more and for  
27 condominium units with a combined dwelling and contents  
28 replacement cost of \$1 million or more are not subject to  
29 disapproval by the office based on a determination that the  
30 rate is excessive.

31           Section 8. Effective July 1, 2006, subsection (6) of

597-2109B-06

1 section 627.351, Florida Statutes, is amended to read:

2 627.351 Insurance risk apportionment plans.--

3 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

4 (a)1. The Legislature finds that actual and threatened

5 catastrophic losses to property in this state from hurricanes

6 have caused insurers to be unwilling or unable to provide

7 property insurance coverage to the extent sought and needed.

8 It is in the public interest and a public purpose to assist in

9 assuring that property in the state is insured so as to

10 facilitate the remediation, reconstruction, and replacement of

11 damaged or destroyed property in order to reduce or avoid the

12 negative effects otherwise resulting to the public health,

13 safety, and welfare; to the economy of the state; and to the

14 revenues of the state and local governments needed to provide

15 for the public welfare. It is necessary, therefore, to provide

16 property insurance to applicants who are in good faith

17 entitled to procure insurance through the voluntary market but

18 are unable to do so. The Legislature intends by this

19 subsection that property insurance be provided and that it

20 continues, as long as necessary, through an entity organized

21 to achieve efficiencies and economies, while providing service

22 to policyholders, applicants, and agents that is no less than

23 the quality generally provided in the voluntary market, all

24 toward the achievement of the foregoing public purposes.

25 Because it is essential for the corporation to have the

26 maximum financial resources to pay claims following a

27 catastrophic hurricane, it is the intent of the Legislature

28 that the income of the corporation be exempt from federal

29 income taxation and that interest on the debt obligations

30 issued by the corporation be exempt from federal income

31 taxation.

597-2109B-06

1           2. The Residential Property and Casualty Joint  
 2 Underwriting Association originally created by this statute  
 3 shall be known, as of July 1, 2002, as the Citizens Property  
 4 Insurance Corporation. The corporation shall provide insurance  
 5 for residential and commercial property, for applicants who  
 6 are in good faith entitled, but are unable, to procure  
 7 insurance through the voluntary market. The corporation shall  
 8 operate pursuant to a plan of operation approved by order of  
 9 the Financial Services Commission ~~office~~. The plan is subject  
 10 to continuous review by the commission ~~office~~. The commission  
 11 ~~office~~ may, by order, withdraw approval of all or part of a  
 12 plan if the commission ~~office~~ determines that conditions have  
 13 changed since approval was granted and that the purposes of  
 14 the plan require changes in the plan. The corporation shall  
 15 continue to operate pursuant to the plan of operation approved  
 16 by the Office of Insurance Regulation until October 1, 2006.

17 For the purposes of this subsection, residential coverage  
 18 includes both personal lines residential coverage, which  
 19 consists of the type of coverage provided by homeowner's,  
 20 mobile home owner's, dwelling, tenant's, condominium unit  
 21 owner's, and similar policies, and commercial lines  
 22 residential coverage, which consists of the type of coverage  
 23 provided by condominium association, apartment building, and  
 24 similar policies.

25           3. For the purposes of this subsection, the term  
 26 "homestead property" means:

27           a. Property that has been granted a homestead  
 28 exemption under chapter 196;

29           b. Property for which the owner has a current, written  
 30 lease with a renter for a term of at least 6 months;

31           c. An owner-occupied mobile home or manufactured home

597-2109B-06

1 as defined in s. 320.01, permanently affixed to real property;

2 d. Tenants coverage; or

3 e. Commercial lines coverage, including both  
4 residential and nonresidential.

5 4. For the purposes of this subsection, the term  
6 "nonhomestead property" means property that is not homestead  
7 property.

8 5. Effective January 1, 2007, a personal lines  
9 residential structure with a dwelling replacement cost of \$1  
10 million or more, or condominium unit with combined dwelling  
11 and content replacement cost of \$1 million or more is not  
12 eligible for coverage by the corporation, except for:

13 a. Property insured by the corporation on December 31,  
14 2006, which may continue to be insured by the corporation  
15 until the end of the policy term for a renewal effective on or  
16 before December 31, 2007; and

17 b. Property for which a building permit has been  
18 issued on or before January 1, 2007, and for which a  
19 certificate of occupancy has been issued on or before December  
20 31, 2007, which may be insured by the corporation until the  
21 end of the policy term for a policy issued on or before  
22 December 31, 2007.

23 ~~6.3~~ It is the intent of the Legislature that  
24 policyholders, applicants, and agents of the corporation  
25 receive service and treatment of the highest possible level  
26 but never less than that generally provided in the voluntary  
27 market. It also is intended that the corporation be held to  
28 service standards no less than those applied to insurers in  
29 the voluntary market by the office with respect to  
30 responsiveness, timeliness, customer courtesy, and overall  
31 dealings with policyholders, applicants, or agents of the

597-2109B-06

1 corporation.

2 (b)1. All insurers authorized to write one or more  
3 subject lines of business in this state are subject to  
4 assessment by the corporation and, for the purposes of this  
5 subsection, are referred to collectively as "assessable  
6 insurers." Insurers writing one or more subject lines of  
7 business in this state pursuant to part VIII of chapter 626  
8 are not assessable insurers, but insureds who procure one or  
9 more subject lines of business in this state pursuant to part  
10 VIII of chapter 626 are subject to assessment by the  
11 corporation and are referred to collectively as "assessable  
12 insureds." An authorized insurer's assessment liability shall  
13 begin on the first day of the calendar year following the year  
14 in which the insurer was issued a certificate of authority to  
15 transact insurance for subject lines of business in this state  
16 and shall terminate 1 year after the end of the first calendar  
17 year during which the insurer no longer holds a certificate of  
18 authority to transact insurance for subject lines of business  
19 in this state.

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

23 (I) A personal lines account for personal residential  
24 policies issued by the corporation or issued by the  
25 Residential Property and Casualty Joint Underwriting  
26 Association and renewed by the corporation that provide  
27 comprehensive, multiperil coverage on risks that are not  
28 located in areas eligible for coverage in the Florida  
29 Windstorm Underwriting Association as those areas were defined  
30 on January 1, 2002, and for such policies that do not provide  
31 coverage for the peril of wind on risks that are located in



597-2109B-06

1 such areas;

2 (II) A commercial lines account for commercial  
3 residential policies issued by the corporation or issued by  
4 the Residential Property and Casualty Joint Underwriting  
5 Association and renewed by the corporation that provide  
6 coverage for basic property perils on risks that are not  
7 located in areas eligible for coverage in the Florida  
8 Windstorm Underwriting Association as those areas were defined  
9 on January 1, 2002, and for such policies that do not provide  
10 coverage for the peril of wind on risks that are located in  
11 such areas; and

12 (III) A high-risk account for personal residential  
13 policies and commercial residential and commercial  
14 nonresidential property policies issued by the corporation or  
15 transferred to the corporation that provide coverage for the  
16 peril of wind on risks that are located in areas eligible for  
17 coverage in the Florida Windstorm Underwriting Association as  
18 those areas were defined on January 1, 2002. The high-risk  
19 account must also include quota share primary insurance under  
20 subparagraph (c)2. The area eligible for coverage under the  
21 high-risk account also includes the area within Port  
22 Canaveral, which is bordered on the south by the City of Cape  
23 Canaveral, bordered on the west by the Banana River, and  
24 bordered on the north by Federal Government property. The  
25 office may remove territory from the area eligible for  
26 wind-only and quota share coverage if, after a public hearing,  
27 the office finds that authorized insurers in the voluntary  
28 market are willing and able to write sufficient amounts of  
29 personal and commercial residential coverage for all perils in  
30 the territory, including coverage for the peril of wind, such  
31 that risks covered by wind-only policies in the removed

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 territory could be issued a policy by the corporation in  
2 either the personal lines or commercial lines account without  
3 a significant increase in the corporation's probable maximum  
4 loss in such account. Removal of territory from the area  
5 eligible for wind-only or quota share coverage does not alter  
6 the assignment of wind coverage written in such areas to the  
7 high-risk account.

8           b. The three separate accounts must be maintained as  
9 long as financing obligations entered into by the Florida  
10 Windstorm Underwriting Association or Residential Property and  
11 Casualty Joint Underwriting Association are outstanding, in  
12 accordance with the terms of the corresponding financing  
13 documents. When the financing obligations are no longer  
14 outstanding, in accordance with the terms of the corresponding  
15 financing documents, the corporation may use a single account  
16 for all revenues, assets, liabilities, losses, and expenses of  
17 the corporation. Consistent with the requirement of this  
18 subparagraph and prudent investment policies that minimize the  
19 cost of carrying debt, the board shall exercise its best  
20 efforts to retire existing debt or to obtain approval of  
21 necessary parties to amend the terms of existing debt, so as  
22 to structure the most efficient plan to consolidate the three  
23 separate accounts into a single account. By February 1, 2007,  
24 the board shall submit a report to the Financial Services  
25 Commission, the President of the Senate, and the Speaker of  
26 the House of Representatives which includes an analysis of  
27 consolidating the accounts, the actions the board has taken to  
28 minimize the cost of carrying debt, and its recommendations  
29 for executing the most efficient plan.

30           c. Creditors of the Residential Property and Casualty  
31 Joint Underwriting Association shall have a claim against, and

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 recourse to, the accounts referred to in sub-sub-subparagraphs  
2 a.(I) and (II) and shall have no claim against, or recourse  
3 to, the account referred to in sub-sub-subparagraph a.(III).  
4 Creditors of the Florida Windstorm Underwriting Association  
5 shall have a claim against, and recourse to, the account  
6 referred to in sub-sub-subparagraph a.(III) and shall have no  
7 claim against, or recourse to, the accounts referred to in  
8 sub-sub-subparagraphs a.(I) and (II).

9 d. Revenues, assets, liabilities, losses, and expenses  
10 not attributable to particular accounts shall be prorated  
11 among the accounts.

12 e. The Legislature finds that the revenues of the  
13 corporation are revenues that are necessary to meet the  
14 requirements set forth in documents authorizing the issuance  
15 of bonds under this subsection.

16 f. No part of the income of the corporation may inure  
17 to the benefit of any private person.

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

19 a. When the deficit incurred in a particular calendar  
20 year is not greater than 10 percent of the aggregate statewide  
21 direct written premium for the subject lines of business for  
22 the prior calendar year, the entire deficit shall be recovered  
23 through regular assessments of assessable insurers under  
24 paragraph(p) ~~(g)~~ and assessable insureds.

25 b. When the deficit incurred in a particular calendar  
26 year exceeds 10 percent of the aggregate statewide direct  
27 written premium for the subject lines of business for the  
28 prior calendar year, the corporation shall levy regular  
29 assessments on assessable insurers under paragraph(p) ~~(g)~~ and  
30 on assessable insureds in an amount equal to the greater of 10  
31 percent of the deficit or 10 percent of the aggregate

597-2109B-06

1 statewide direct written premium for the subject lines of  
 2 business for the prior calendar year. Any remaining deficit  
 3 shall be recovered through emergency assessments under  
 4 sub-subparagraph d.

5           c. Each assessable insurer's share of the amount being  
 6 assessed under sub-subparagraph a. or sub-subparagraph b.  
 7 shall be in the proportion that the assessable insurer's  
 8 direct written premium for the subject lines of business for  
 9 the year preceding the assessment bears to the aggregate  
 10 statewide direct written premium for the subject lines of  
 11 business for that year. The assessment percentage applicable  
 12 to each assessable insured is the ratio of the amount being  
 13 assessed under sub-subparagraph a. or sub-subparagraph b. to  
 14 the aggregate statewide direct written premium for the subject  
 15 lines of business for the prior year. Assessments levied by  
 16 the corporation on assessable insurers under sub-subparagraphs  
 17 a. and b. shall be paid as required by the corporation's plan  
 18 of operation and paragraph(p) ~~(g)~~. Notwithstanding any other  
 19 provision of this subsection, the aggregate amount of a  
 20 regular assessment for a deficit incurred in a particular  
 21 calendar year shall be reduced by the estimated amount to be  
 22 received by the corporation from surcharges on corporation  
 23 policyholders under subparagraph (c)11. Assessments levied by  
 24 the corporation on assessable insureds under sub-subparagraphs  
 25 a. and b. shall be collected by the surplus lines agent at the  
 26 time the surplus lines agent collects the surplus lines tax  
 27 required by s. 626.932 and shall be paid to the Florida  
 28 Surplus Lines Service Office at the time the surplus lines  
 29 agent pays the surplus lines tax to the Florida Surplus Lines  
 30 Service Office. Upon receipt of regular assessments from  
 31 surplus lines agents, the Florida Surplus Lines Service Office

597-2109B-06

1 shall transfer the assessments directly to the corporation as  
2 determined by the corporation.

3           d. Upon a determination by the board of governors that  
4 a deficit in an account exceeds the amount that will be  
5 recovered through regular assessments under sub-subparagraph  
6 a. or sub-subparagraph b., the board shall levy, after  
7 verification by the office, emergency assessments, for as many  
8 years as necessary to cover the deficits, to be collected by  
9 assessable insurers and the corporation and collected from  
10 assessable insureds upon issuance or renewal of policies for  
11 subject lines of business, excluding National Flood Insurance  
12 policies. The amount of the emergency assessment collected in  
13 a particular year shall be a uniform percentage of that year's  
14 direct written premium for subject lines of business and all  
15 accounts of the corporation, excluding National Flood  
16 Insurance Program policy premiums, as annually determined by  
17 the board and verified by the office. The office shall verify  
18 the arithmetic calculations involved in the board's  
19 determination within 30 days after receipt of the information  
20 on which the determination was based. Notwithstanding any  
21 other provision of law, the corporation and each assessable  
22 insurer that writes subject lines of business shall collect  
23 emergency assessments from its policyholders without such  
24 obligation being affected by any credit, limitation,  
25 exemption, or deferment. Emergency assessments levied by the  
26 corporation on assessable insureds shall be collected by the  
27 surplus lines agent at the time the surplus lines agent  
28 collects the surplus lines tax required by s. 626.932 and  
29 shall be paid to the Florida Surplus Lines Service Office at  
30 the time the surplus lines agent pays the surplus lines tax to  
31 the Florida Surplus Lines Service Office. The emergency

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 assessments so collected shall be transferred directly to the  
2 corporation on a periodic basis as determined by the  
3 corporation and shall be held by the corporation solely in the  
4 applicable account. The aggregate amount of emergency  
5 assessments levied for an account under this sub-subparagraph  
6 in any calendar year may not exceed the greater of 10 percent  
7 of the amount needed to cover the original deficit, plus  
8 interest, fees, commissions, required reserves, and other  
9 costs associated with financing of the original deficit, or 10  
10 percent of the aggregate statewide direct written premium for  
11 subject lines of business and for all accounts of the  
12 corporation for the prior year, plus interest, fees,  
13 commissions, required reserves, and other costs associated  
14 with financing the original deficit.

15 e. The corporation may pledge the proceeds of  
16 assessments, projected recoveries from the Florida Hurricane  
17 Catastrophe Fund, other insurance and reinsurance  
18 recoverables, policyholder ~~market equalization~~ surcharges and  
19 other surcharges, and other funds available to the corporation  
20 as the source of revenue for and to secure bonds issued under  
21 paragraph (p) ~~(g)~~, bonds or other indebtedness issued under  
22 subparagraph (c)3., or lines of credit or other financing  
23 mechanisms issued or created under this subsection, or to  
24 retire any other debt incurred as a result of deficits or  
25 events giving rise to deficits, or in any other way that the  
26 board determines will efficiently recover such deficits. The  
27 purpose of the lines of credit or other financing mechanisms  
28 is to provide additional resources to assist the corporation  
29 in covering claims and expenses attributable to a catastrophe.  
30 As used in this subsection, the term "assessments" includes  
31 regular assessments under sub-subparagraph a.,

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 sub-subparagraph b., or subparagraph~~(g)~~(p)1. ~~(g)~~1. and emergency  
2 assessments under sub-subparagraph d. Emergency assessments  
3 collected under sub-subparagraph d. are not part of an  
4 insurer's rates, are not premium, and are not subject to  
5 premium tax, fees, or commissions; however, failure to pay the  
6 emergency assessment shall be treated as failure to pay  
7 premium. The emergency assessments under sub-subparagraph d.  
8 shall continue as long as any bonds issued or other  
9 indebtedness incurred with respect to a deficit for which the  
10 assessment was imposed remain outstanding, unless adequate  
11 provision has been made for the payment of such bonds or other  
12 indebtedness pursuant to the documents governing such bonds or  
13 other indebtedness.

14 f. As used in this subsection, the term "subject lines  
15 of business" means insurance written by assessable insurers or  
16 procured by assessable insureds on real or personal property,  
17 as defined in s. 624.604, including insurance for fire,  
18 industrial fire, allied lines, farmowners multiperil,  
19 homeowners multiperil, commercial multiperil, and mobile  
20 homes, and including liability coverage on all such insurance,  
21 but excluding inland marine as defined in s. 624.607(3) and  
22 excluding vehicle insurance as defined in s. 624.605(1) other  
23 than insurance on mobile homes used as permanent dwellings.

24 g. The Florida Surplus Lines Service Office shall  
25 determine annually the aggregate statewide written premium in  
26 subject lines of business procured by assessable insureds and  
27 shall report that information to the corporation in a form and  
28 at a time the corporation specifies to ensure that the  
29 corporation can meet the requirements of this subsection and  
30 the corporation's financing obligations.

31 h. The Florida Surplus Lines Service Office shall

597-2109B-06

1 verify the proper application by surplus lines agents of  
 2 assessment percentages for regular assessments and emergency  
 3 assessments levied under this subparagraph on assessable  
 4 insureds and shall assist the corporation in ensuring the  
 5 accurate, timely collection and payment of assessments by  
 6 surplus lines agents as required by the corporation.

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

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

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

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

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

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



597-2109B-06

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

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

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

597-2109B-06

1 and authorized insurer, and conspicuously and clearly state  
 2 that neither the authorized insurer nor the corporation may be  
 3 held responsible beyond its specified percentage of coverage  
 4 of hurricane losses.

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

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

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

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

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

597-2109B-06

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

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

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

1           3. May provide that the corporation may employ or  
2 otherwise contract with individuals or other entities to  
3 provide administrative or professional services that may be  
4 appropriate to effectuate the plan. The corporation shall have  
5 the power to borrow funds, by issuing bonds or by incurring  
6 other indebtedness, and shall have other powers reasonably  
7 necessary to effectuate the requirements of this subsection,  
8 including, without limitation, the power to issue bonds and  
9 incur other indebtedness in order to refinance outstanding  
10 bonds or other indebtedness. The corporation may, but is not  
11 required to, seek judicial validation of its bonds or other  
12 indebtedness under chapter 75. The corporation may issue bonds  
13 or incur other indebtedness, or have bonds issued on its  
14 behalf by a unit of local government pursuant to subparagraph  
15 (g)2., in the absence of a hurricane or other weather-related  
16 event, upon a determination by the corporation, subject to  
17 approval by the office, that such action would enable it to  
18 efficiently meet the financial obligations of the corporation  
19 and that such financings are reasonably necessary to  
20 effectuate the requirements of this subsection. The  
21 corporation is authorized to take all actions needed to  
22 facilitate tax-free status for any such bonds or indebtedness,  
23 including formation of trusts or other affiliated entities.  
24 The corporation shall have the authority to pledge  
25 assessments, projected recoveries from the Florida Hurricane  
26 Catastrophe Fund, other reinsurance recoverables, market  
27 equalization and other surcharges, and other funds available  
28 to the corporation as security for bonds or other  
29 indebtedness. In recognition of s. 10, Art. I of the State  
30 Constitution, prohibiting the impairment of obligations of  
31 contracts, it is the intent of the Legislature that no action

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 be taken whose purpose is to impair any bond indenture or  
2 financing agreement or any revenue source committed by  
3 contract to such bond or other indebtedness.

4           4.a. Must require that the corporation operate subject  
5 to the supervision and approval of a board of governors  
6 consisting of 8 individuals who are residents of this state,  
7 from different geographical areas of this state. The Governor,  
8 the Chief Financial Officer, the President of the Senate, and  
9 the Speaker of the House of Representatives shall each appoint  
10 two members of the board, ~~effective August 1, 2005~~. At least  
11 one of the two members appointed by each appointing officer  
12 must have demonstrated expertise in insurance. The Chief  
13 Financial Officer shall designate one of the appointees as  
14 chair. All board members serve at the pleasure of the  
15 appointing officer. All board members, including the chair,  
16 must be appointed to serve for 3-year terms beginning annually  
17 on a date designated by the plan. Any board vacancy shall be  
18 filled for the unexpired term by the appointing officer. The  
19 Chief Financial Officer shall appoint a technical advisory  
20 group to provide information and advice to the board of  
21 governors in connection with the board's duties under this  
22 subsection. The executive director and senior managers of the  
23 corporation shall be engaged by the board, ~~as recommended by~~  
24 ~~the Chief Financial Officer~~, and serve at the pleasure of the  
25 board. Any executive director appointed on or after July 1,  
26 2006, is subject to confirmation by the Senate. The executive  
27 director is responsible for employing other staff as the  
28 corporation may require, subject to review and concurrence by  
29 the board ~~and the Chief Financial Officer~~.

30           b. The board shall create a Market Accountability  
31 Advisory Committee to assist the corporation in developing

597-2109B-06

1 awareness of its rates and its customer and agent service  
 2 levels in relationship to the voluntary market insurers  
 3 writing similar coverage. The members of the advisory  
 4 committee shall consist of the following 11 persons, one of  
 5 whom must be elected chair by the members of the committee:  
 6 four representatives, one appointed by the Florida Association  
 7 of Insurance Agents, one by the Florida Association of  
 8 Insurance and Financial Advisors, one by the Professional  
 9 Insurance Agents of Florida, and one by the Latin American  
 10 Association of Insurance Agencies; three representatives  
 11 appointed by the insurers with the three highest voluntary  
 12 market share of residential property insurance business in the  
 13 state; one representative from the Office of Insurance  
 14 Regulation; one consumer appointed by the board who is insured  
 15 by the corporation at the time of appointment to the  
 16 committee; one representative appointed by the Florida  
 17 Association of Realtors; and one representative appointed by  
 18 the Florida Bankers Association. All members must serve for  
 19 3-year terms and may serve for consecutive terms. The  
 20 committee shall report to the corporation at each board  
 21 meeting on insurance market issues which may include rates and  
 22 rate competition with the voluntary market; service, including  
 23 policy issuance, claims processing, and general responsiveness  
 24 to policyholders, applicants, and agents; and matters relating  
 25 to depopulation.

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

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

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

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

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

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

597-2109B-06

1 commission for the type of policy written.

2

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

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

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

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

20

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

24 b. With respect to commercial lines residential risks,  
25 if the risk is offered coverage under a policy including wind  
26 coverage from an authorized insurer at its approved rate, the  
27 risk is not eligible for any policy issued by the corporation.  
28 If the risk is not able to obtain any such offer, the risk is  
29 eligible for a policy including wind coverage issued by the  
30 corporation.

31 (I) If the risk accepts an offer of coverage through



597-2109B-06

1 the market assistance plan or an offer of coverage through a  
 2 mechanism established by the corporation before a policy is  
 3 issued to the risk by the corporation or during the first 30  
 4 days of coverage by the corporation, and the producing agent  
 5 who submitted the application to the plan or the corporation  
 6 is not currently appointed by the insurer, the insurer shall:

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

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

17  
 18 If the producing agent is unwilling or unable to accept  
 19 appointment, the new insurer shall pay the agent in accordance  
 20 with sub-sub-sub-subparagraph (A).

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

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

30 (B) Offer to allow the producing agent of record of  
 31 the corporation policy to continue servicing the policy for a

597-2109B-06

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

4  
5 If the producing agent is unwilling or unable to accept  
6 appointment, the new insurer shall pay the agent in accordance  
7 with sub-sub-sub-subparagraph (A).

8 6. Must provide by July 1, 2007, that an application  
9 for coverage for a new policy is subject to a waiting period  
10 of 10 days before coverage is effective, during which time the  
11 corporation shall make such application available for review  
12 by general lines agents and authorized property and casualty  
13 insurers. The board may approve exceptions that allow for  
14 coverage to be effective before the end of the 10-day waiting  
15 period, for coverage issued in conjunction with a real estate  
16 closing, and for such other exceptions as the board determines  
17 are necessary to prevent lapses in coverage.

18 ~~7.6.~~ Must include rules for classifications of risks  
19 and rates therefor.

20 ~~8.7.~~ Must provide that if premium and investment  
21 income for an account attributable to a particular calendar  
22 year are in excess of projected losses and expenses for the  
23 account attributable to that year, such excess shall be held  
24 in surplus in the account. Such surplus shall be available to  
25 defray deficits in that account as to future years and shall  
26 be used for that purpose prior to assessing assessable  
27 insurers and assessable insureds as to any calendar year.

28 ~~9.8.~~ Must provide objective criteria and procedures to  
29 be uniformly applied for all applicants in determining whether  
30 an individual risk is so hazardous as to be uninsurable. In  
31 making this determination and in establishing the criteria and

597-2109B-06

1 procedures, the following shall be considered:

2 a. Whether the likelihood of a loss for the individual  
3 risk is substantially higher than for other risks of the same  
4 class; and

5 b. Whether the uncertainty associated with the  
6 individual risk is such that an appropriate premium cannot be  
7 determined.

8  
9 The acceptance or rejection of a risk by the corporation shall  
10 be construed as the private placement of insurance, and the  
11 provisions of chapter 120 shall not apply.

12 ~~10.9.~~ Must provide that the corporation shall make its  
13 best efforts to procure catastrophe reinsurance at reasonable  
14 rates, to cover its projected 100-year probable maximum loss  
15 as determined by the board of governors.

16 ~~11.10.~~ Must provide that in the event of regular  
17 deficit assessments under sub-subparagraph (b)3.a. or  
18 sub-subparagraph (b)3.b., in the personal lines account, the  
19 commercial lines residential account, or the high-risk  
20 account, the corporation shall levy upon corporation  
21 policyholders in its next rate filing, or by a separate rate  
22 filing solely for this purpose, the following surcharges:

23 a. A Citizens policyholder ~~market equalization~~  
24 surcharge arising from a regular assessment in such account in  
25 a percentage equal to the total amount of such regular  
26 assessments divided by the aggregate statewide direct written  
27 premium for subject lines of business for the prior calendar  
28 year. For purposes of calculating the Citizens policyholder  
29 surcharge to be levied under this subparagraph, the total  
30 amount of the regular assessment to which this surcharge is  
31 related shall be determined as set forth in subparagraph

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 (b)3., without deducting the estimated Citizens policyholder  
2 surcharges. Market equalization surcharges under this  
3 subparagraph are not considered premium and are not subject to  
4 commissions, fees, or premium taxes; however, failure to pay a  
5 market equalization surcharge shall be treated as failure to  
6 pay premium.

7 b. A deficit surcharge of 25 percent of the total  
8 premium on nonhomestead property owned by a nonresident of  
9 this state.

10

11 Surcharges under this subparagraph are not considered a  
12 premium and are not subject to commissions, fees, or premium  
13 taxes; however, failure to pay a surcharge shall be treated in  
14 the same manner as failure to pay premium.

15 12.11. The policies issued by the corporation must  
16 provide that, if the corporation or the market assistance plan  
17 obtains an offer from an authorized insurer to cover the risk  
18 at its approved rates, the risk is no longer eligible for  
19 renewal through the corporation.

20 13.12. Corporation policies and applications must  
21 include a notice that the corporation policy could, under this  
22 section, be replaced with a policy issued by an authorized  
23 insurer that does not provide coverage identical to the  
24 coverage provided by the corporation. The notice shall also  
25 specify that acceptance of corporation coverage creates a  
26 conclusive presumption that the applicant or policyholder is  
27 aware of this potential.

28 14.13. May establish, subject to approval by the  
29 office, different eligibility requirements and operational  
30 procedures for any line or type of coverage for any specified  
31 county or area if the board determines that such changes to

Bill No. SB 1980

Barcode 070118

597-2109B-06

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

13 ~~15.14.~~ Must provide that, with respect to the  
14 high-risk account, any assessable insurer with a surplus as to  
15 policyholders of \$25 million or less writing 25 percent or  
16 more of its total countrywide property insurance premiums in  
17 this state may petition the office, within the first 90 days  
18 of each calendar year, to qualify as a limited apportionment  
19 company. In no event shall a limited apportionment company be  
20 required to participate in the portion of any assessment,  
21 within the high-risk account, pursuant to sub-subparagraph  
22 (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which  
23 exceeds \$50 million after payment of available high-risk  
24 account funds in any calendar year. However, a limited  
25 apportionment company shall collect from its policyholders any  
26 emergency assessment imposed under sub-subparagraph (b)3.d.  
27 The plan shall provide that, if the office determines that any  
28 regular assessment will result in an impairment of the surplus  
29 of a limited apportionment company, the office may direct that  
30 all or part of such assessment be deferred as provided in  
31 subparagraph (g)4. However, there shall be no limitation or

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 deferment of an emergency assessment to be collected from  
2 policyholders under sub-subparagraph (b)3.d.

3 ~~16.15.~~ Must provide that the corporation appoint as  
4 its licensed agents only those agents who also hold an  
5 appointment as defined in s. 626.015(3) with an insurer who at  
6 the time of the agent's initial appointment by the corporation  
7 is authorized to write and is actually writing personal lines  
8 residential property coverage, commercial residential property  
9 coverage, or commercial nonresidential property coverage  
10 within the state.

11 17. Must provide, by July 1, 2007, a premium payment  
12 plan option to its policyholders which allows for quarterly  
13 and semiannual payment of premiums.

14 18. Must provide, effective July 1, 2007, that the  
15 corporation contract with each insurer providing the non-wind  
16 coverage for risks insured by the corporation in the high-risk  
17 account, requiring that the insurer provide claims adjusting  
18 services for the wind coverage provided by the corporation for  
19 such risks. An insurer is required to enter into this contract  
20 as a condition of providing non-wind coverage for a risk that  
21 is insured by the corporation in the high-risk account unless  
22 the board finds, after a hearing, that the insurer is not  
23 capable of providing adjusting services at an acceptable level  
24 of quality to corporation policyholders. The terms and  
25 conditions of such contracts must be substantially the same as  
26 the contracts that the corporation executed with insurers  
27 under the "adjust-your-own" program in 2006, except as may be  
28 mutually agreed to by the parties and except for such changes  
29 that the board determines are necessary to ensure that claims  
30 are adjusted appropriately. The corporation shall provide a  
31 process for neutral arbitration of any dispute between the

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 corporation and the insurer regarding the terms of the  
2 contract. The corporation shall review and monitor the  
3 performance of insurers under these contracts.

4 (d)1. All prospective employees for senior management  
5 positions, as defined by the plan of operation, are subject to  
6 background checks as a prerequisite for employment. The office  
7 shall conduct background checks on such prospective employees  
8 pursuant to ss. 624.404(3) and 628.261.

9 2. On or before July 1 of each year, employees of the  
10 corporation are required to sign and submit a statement  
11 attesting that they do not have a conflict of interest, as  
12 defined in part III of chapter 112. As a condition of  
13 employment, all prospective employees are required to sign and  
14 submit to the corporation a conflict-of-interest statement.

15 3. Senior managers and members of the board of  
16 governors are subject to the provisions of part III of chapter  
17 112, including, but not limited to, the code of ethics and  
18 public disclosure and reporting of financial interests,  
19 pursuant to s. 112.3145. Senior managers and board members are  
20 also required to file such disclosures with the Office of  
21 Insurance Regulation. The executive director of the  
22 corporation or his or her designee shall notify each newly  
23 appointed and existing appointed member of the board of  
24 governors and senior managers of their duty to comply with the  
25 reporting requirements of part III of chapter 112. At least  
26 quarterly, the executive director or his or her designee shall  
27 submit to the Commission on Ethics a list of names of the  
28 senior managers and members of the board of governors that are  
29 subject to the public disclosure requirements under s.  
30 112.3145.

31 4. Notwithstanding s. 112.3148 or s. 112.3149, or any

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 other provision of law, an employee or board member may not  
2 knowingly accept, directly or indirectly, any gift or  
3 expenditure from a person or entity, or an employee or  
4 representative of such person or entity, that has a  
5 contractual relationship with the corporation or who is under  
6 consideration for a contract. An employee or board member that  
7 fails to comply with this subparagraph is subject to penalties  
8 provided under ss. 112.317 and 112.3173.

9 5. Any senior manager of the corporation who is  
10 employed on or after January 1, 2007, regardless of the date  
11 of hire, who subsequently retires or terminates employment is  
12 prohibited from representing another person or entity before  
13 the corporation for 2 years after retirement or termination of  
14 employment from the corporation.

15 6. Any employee of the corporation who is employed on  
16 or after January 1, 2007, regardless of the date of hire, who  
17 subsequently retires or terminates employment is prohibited  
18 from having any employment or contractual relationship for 2  
19 years with an insurer that has received a take-out bonus from  
20 the corporation.

21 (e) Purchases that equal or exceed \$2,500, but are  
22 less than \$25,000, shall be made by receipt of written quotes,  
23 written record of telephone quotes, or informal bids, whenever  
24 practical. The procurement of goods or services valued at or  
25 over \$25,000 shall be subject to competitive solicitation,  
26 except in situations where the goods or services are provided  
27 by a sole source or are deemed an emergency purchase; the  
28 services are exempted from competitive solicitation  
29 requirements under s. 287.057(5)(f); or the procurement of  
30 services is subject to s. 627.3513. Justification for the  
31 sole-sourcing or emergency procurement must be documented.



Bill No. SB 1980

Barcode 070118

597-2109B-06

1 Contracts for goods or services valued at or over \$100,000 are  
2 subject to approval by the board.

3 (f) The board shall determine whether it is more  
4 cost-effective and in the best interests of the corporation to  
5 use legal services provided by in-house attorneys employed by  
6 the corporation rather than contracting with outside counsel.  
7 In making such determination, the board shall document its  
8 findings and shall consider: the expertise needed; whether  
9 time commitments exceed in-house staff resources; whether  
10 local representation is needed; the travel, lodging and other  
11 costs associated with in-house representation; and such other  
12 factors that the board determines are relevant.

13 (g) The corporation may not retain a lobbyist to  
14 represent it before the legislative branch or executive  
15 branch. However, full-time employees of the corporation may  
16 register as lobbyists and represent the corporation before the  
17 legislative branch or executive branch.

18 (h)1. The Office of the Internal Auditor is  
19 established within the corporation to provide a central point  
20 for coordination of and responsibility for activities that  
21 promote accountability, integrity, and efficiency to the  
22 policyholders and to the taxpayers of this state. The internal  
23 auditor shall be appointed by the board of governors, shall  
24 report to and be under the general supervision of the board of  
25 governors, and is not subject to supervision by any employee  
26 of the corporation. Administrative staff and support shall be  
27 provided by the corporation. The internal auditor shall be  
28 appointed without regard to political affiliation. It is the  
29 duty and responsibility of the internal auditor to:

30 a. Provide direction for, supervise, conduct, and  
31 coordinate audits, investigations, and management reviews

597-2109B-06

1 relating to the programs and operations of the corporation.

2 b. Conduct, supervise, or coordinate other activities  
3 carried out or financed by the corporation for the purpose of  
4 promoting efficiency in the administration of, or preventing  
5 and detecting fraud, abuse, and mismanagement in, its programs  
6 and operations.

7 c. Submit final audit reports, reviews, or  
8 investigative reports to the board of governors, the executive  
9 director, the members of the Financial Services Commission,  
10 and the President of the Senate and the Speaker of the House  
11 of Representatives.

12 d. Keep the board of governors informed concerning  
13 fraud, abuses, and internal control deficiencies relating to  
14 programs and operations administered or financed by the  
15 corporation, recommend corrective action, and report on the  
16 progress made in implementing corrective action.

17 e. Report expeditiously to the Department of Law  
18 Enforcement or other law enforcement agencies, as appropriate,  
19 whenever the internal auditor has reasonable grounds to  
20 believe there has been a violation of criminal law.

21 2. On or before February 15, the internal auditor  
22 shall prepare an annual report evaluating the effectiveness of  
23 the internal controls of the corporation and providing  
24 recommendations for corrective action, if necessary, and  
25 summarizing the audits, reviews, and investigations conducted  
26 by the office during the preceding fiscal year. The final  
27 report shall be furnished to the board of governors and the  
28 executive director, the President of the Senate, the Speaker  
29 of the House of Representatives, and the Financial Services  
30 Commission.

31 (i) All records of the corporation, except as

597-2109B-06

1 otherwise provided by law, are subject to the record retention  
2 requirements of s. 119.021.

3 (j)1. The corporation shall establish and maintain a  
4 unit or division to investigate possible fraudulent claims by  
5 insureds or by persons making claims for services or repairs  
6 against policies held by insureds; or it may contract with  
7 others to investigate possible fraudulent claims for services  
8 or repairs against policies held by the corporation pursuant  
9 to s. 626.9891. The corporation must comply with reporting  
10 requirements of s. 626.9891.

11 2. The corporation shall establish a unit or division  
12 responsible for receiving and responding to consumer  
13 complaints, which unit or division is the sole responsibility  
14 of a senior manager of the corporation.

15 (k) The office shall conduct a comprehensive market  
16 conduct examination of the corporation every 2 years to  
17 determine compliance with its plan of operation and internal  
18 operations procedures. The first market conduct examination  
19 report shall be submitted to the President of the Senate and  
20 the Speaker of the House of Representatives no later than  
21 February 1, 2009. Subsequent reports shall be submitted on or  
22 before February 1 every 2 years thereafter.

23 (l) The Auditor General shall conduct an operational  
24 audit of the corporations every 3 years to evaluate  
25 management's performance in administering laws, policies, and  
26 procedures governing the operations of the corporation in an  
27 efficient and effective manner. The scope of the review shall  
28 include, but is not limited to, evaluating claims handling,  
29 customer service, take-out programs and bonuses, financing  
30 arrangements, procurement of goods and services, internal  
31 controls, and the internal audit function.

Bill No. SB 1980

Barcode 070118

597-2109B-06

1           ~~(m)(d)~~1. ~~It is the intent of the Legislature that the~~  
2 Rates for coverage provided by the corporation shall be  
3 actuarially sound and not competitive with approved rates  
4 charged in the admitted voluntary market, so that the  
5 corporation functions as a residual market mechanism to  
6 provide insurance only when the insurance cannot be procured  
7 in the voluntary market. Rates shall include an appropriate  
8 catastrophe loading factor that reflects the actual  
9 catastrophic exposure of the corporation.

10           2. For each county, the average rates of the  
11 corporation for each line of business for personal lines  
12 residential policies excluding rates for wind-only policies  
13 shall be no lower than the average rates charged by the  
14 insurer that had the highest average rate in that county among  
15 the 20 insurers with the greatest total direct written premium  
16 in the state for that line of business in the preceding year,  
17 except that with respect to mobile home coverages, the average  
18 rates of the corporation shall be no lower than the average  
19 rates charged by the insurer that had the highest average rate  
20 in that county among the 5 insurers with the greatest total  
21 written premium for mobile home owner's policies in the state  
22 in the preceding year.

23           3. Rates for personal lines residential wind-only  
24 policies must be actuarially sound and not competitive with  
25 approved rates charged by authorized insurers. Corporation  
26 rate manuals shall include a rate surcharge for seasonal  
27 occupancy. To ensure that personal lines residential wind-only  
28 rates are not competitive with approved rates charged by  
29 authorized insurers, the corporation, in conjunction with the  
30 office, shall develop a wind-only ratemaking methodology,  
31 which methodology shall be contained in each rate filing made

597-2109B-06

1 by the corporation with the office. If the office determines  
 2 that the wind-only rates or rating factors filed by the  
 3 corporation fail to comply with the wind-only ratemaking  
 4 methodology provided for in this subsection, it shall so  
 5 notify the corporation and require the corporation to amend  
 6 its rates or rating factors to come into compliance within 90  
 7 days of notice from the office.

8 4. For policies issued or renewed on or after January  
 9 1, 2007, rates for coverage provided by the corporation for  
 10 nonhomestead property shall include a 25-percent surcharge.

11 ~~5.4.~~ For the purposes of establishing a pilot program  
 12 to evaluate issues relating to the availability and  
 13 affordability of insurance in an area where historically there  
 14 has been little market competition, the provisions of  
 15 subparagraph 2. do not apply to coverage provided by the  
 16 corporation in Monroe County if the office determines that a  
 17 reasonable degree of competition does not exist for personal  
 18 lines residential policies. The provisions of subparagraph 3.  
 19 do not apply to coverage provided by the corporation in Monroe  
 20 County if the office determines that a reasonable degree of  
 21 competition does not exist for personal lines residential  
 22 policies in the area of that county which is eligible for  
 23 wind-only coverage. In this county, the rates for personal  
 24 lines residential coverage shall be actuarially sound and not  
 25 excessive, inadequate, or unfairly discriminatory and are  
 26 subject to the other provisions of the paragraph and s.  
 27 627.062. The commission shall adopt rules establishing the  
 28 criteria for determining whether a reasonable degree of  
 29 competition exists for personal lines residential policies in  
 30 Monroe County. By March 1, 2006, the office shall submit a  
 31 report to the Legislature providing an evaluation of the

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 implementation of the pilot program affecting Monroe County.

2 ~~6.5.~~ Rates for commercial lines coverage shall not be  
3 subject to the requirements of subparagraph 2., but shall be  
4 subject to all other requirements of this paragraph and s.  
5 627.062.

6 ~~7.6.~~ Nothing in this paragraph shall require or allow  
7 the corporation to adopt a rate that is inadequate under s.  
8 627.062.

9 ~~8.7.~~ The corporation shall certify to the office at  
10 least twice annually that its personal lines rates comply with  
11 the requirements of subparagraphs 1. and 2. If any adjustment  
12 in the rates or rating factors of the corporation is necessary  
13 to ensure such compliance, the corporation shall make and  
14 implement such adjustments and file its revised rates and  
15 rating factors with the office. If the office thereafter  
16 determines that the revised rates and rating factors fail to  
17 comply with the provisions of subparagraphs 1. and 2., it  
18 shall notify the corporation and require the corporation to  
19 amend its rates or rating factors in conjunction with its next  
20 rate filing. The office must notify the corporation by  
21 electronic means of any rate filing it approves for any  
22 insurer among the insurers referred to in subparagraph 2.

23 ~~9.8.~~ In addition to the rates otherwise determined  
24 pursuant to this paragraph, the corporation shall impose and  
25 collect an amount equal to the premium tax provided for in s.  
26 624.509 to augment the financial resources of the corporation.

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

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

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

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

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

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

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

12           ~~(n)(e)~~ If coverage in an account is deactivated  
13 pursuant to paragraph (f), coverage through the corporation  
14 shall be reactivated by order of the office only under one of  
15 the following circumstances:

16           1. If the market assistance plan receives a minimum of  
17 100 applications for coverage within a 3-month period, or 200  
18 applications for coverage within a 1-year period or less for  
19 residential coverage, unless the market assistance plan  
20 provides a quotation from admitted carriers at their filed  
21 rates for at least 90 percent of such applicants. Any market  
22 assistance plan application that is rejected because an  
23 individual risk is so hazardous as to be uninsurable using the  
24 criteria specified in subparagraph (c)8. shall not be included  
25 in the minimum percentage calculation provided herein. In the  
26 event that there is a legal or administrative challenge to a  
27 determination by the office that the conditions of this  
28 subparagraph have been met for eligibility for coverage in the  
29 corporation, any eligible risk may obtain coverage during the  
30 pendency of such challenge.

31           2. In response to a state of emergency declared by the



Bill No. SB 1980

Barcode 070118

597-2109B-06

1 Governor under s. 252.36, the office may activate coverage by  
2 order for the period of the emergency upon a finding by the  
3 office that the emergency significantly affects the  
4 availability of residential property insurance.

5 ~~(o)(f)~~1. The corporation shall file with the office  
6 quarterly statements of financial condition, an annual  
7 statement of financial condition, and audited financial  
8 statements in the manner prescribed by law. In addition, the  
9 corporation shall report to the office monthly on the types,  
10 premium, exposure, and distribution by county of its policies  
11 in force, and shall submit other reports as the office  
12 requires to carry out its oversight of the corporation.

13 2. The activities of the corporation shall be reviewed  
14 at least annually by the office to determine whether coverage  
15 shall be deactivated in an account on the basis that the  
16 conditions giving rise to its activation no longer exist.

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

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

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

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

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 partially from assessments under sub-subparagraphs (b)3.a. and  
2 b. However, any "take-out bonus" or payment to an insurer must  
3 be conditioned on the property being insured for at least 5  
4 years by the insurer, unless canceled or nonrenewed by the  
5 policyholder. If the policy is canceled or nonrenewed by the  
6 policyholder before the end of the 5-year period, the amount  
7 of the take-out bonus must be prorated for the time period the  
8 policy was insured. When the corporation enters into a  
9 contractual agreement for a take-out plan, the producing agent  
10 of record of the corporation policy is entitled to retain any  
11 unearned commission on such policy, and the insurer shall  
12 either:

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

18 (II) Offer to allow the producing agent of record of  
19 the policy to continue servicing the policy for a period of  
20 not less than 1 year and offer to pay the agent the insurer's  
21 usual and customary commission for the type of policy written.  
22 If the producing agent is unwilling or unable to accept  
23 appointment by the new insurer, the new insurer shall pay the  
24 agent in accordance with sub-sub-subparagraph (I).

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

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 insurer guarantees 2 additional years of renewability for all  
2 policies so removed.

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

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

16 5. Effective July 1, 2007, in order to evaluate the  
17 costs and benefits of approved take-out plans, if the  
18 corporation pays a bonus or other payment to an insurer for an  
19 approved take-out plan, it shall maintain a record of the  
20 address or such other identifying information on the property  
21 or risk removed in order to track if and when the property or  
22 risk is later insured by the corporation.

23 ~~(g)(h)~~ Nothing in this subsection shall be construed  
24 to preclude the issuance of residential property insurance  
25 coverage pursuant to part VIII of chapter 626.

26 ~~(r)(i)~~ There shall be no liability on the part of, and  
27 no cause of action of any nature shall arise against, any  
28 assessable insurer or its agents or employees, the corporation  
29 or its agents or employees, members of the board of governors  
30 or their respective designees at a board meeting, corporation  
31 committee members, or the office or its representatives, for

597-2109B-06

1 any action taken by them in the performance of their duties or  
2 responsibilities under this subsection. Such immunity does not  
3 apply to:

4 1. Any of the foregoing persons or entities for any  
5 willful tort;

6 2. The corporation or its producing agents for breach  
7 of any contract or agreement pertaining to insurance coverage;

8 3. The corporation with respect to issuance or payment  
9 of debt; or

10 4. Any assessable insurer with respect to any action  
11 to enforce an assessable insurer's obligations to the  
12 corporation under this subsection.

13 ~~(s)(j)~~ For the purposes of s. 199.183(1), the  
14 corporation shall be considered a political subdivision of the  
15 state and shall be exempt from the corporate income tax. The  
16 premiums, assessments, investment income, and other revenue of  
17 the corporation are funds received for providing property  
18 insurance coverage as required by this subsection, paying  
19 claims for Florida citizens insured by the corporation,  
20 securing and repaying debt obligations issued by the  
21 corporation, and conducting all other activities of the  
22 corporation, and shall not be considered taxes, fees,  
23 licenses, or charges for services imposed by the Legislature  
24 on individuals, businesses, or agencies outside state  
25 government. Bonds and other debt obligations issued by or on  
26 behalf of the corporation are not to be considered "state  
27 bonds" within the meaning of s. 215.58(8). The corporation is  
28 not subject to the procurement provisions of chapter 287, and  
29 policies and decisions of the corporation relating to  
30 incurring debt, levying of assessments and the sale, issuance,  
31 continuation, terms and claims under corporation policies, and

597-2109B-06

1 all services relating thereto, are not subject to the  
2 provisions of chapter 120. The corporation is not required to  
3 obtain or to hold a certificate of authority issued by the  
4 office, nor is it required to participate as a member insurer  
5 of the Florida Insurance Guaranty Association. However, the  
6 corporation is required to pay, in the same manner as an  
7 authorized insurer, assessments pledged by the Florida  
8 Insurance Guaranty Association to secure bonds issued or other  
9 indebtedness incurred to pay covered claims arising from  
10 insurer insolvencies caused by, or proximately related to,  
11 hurricane losses. It is the intent of the Legislature that the  
12 tax exemptions provided in this paragraph will augment the  
13 financial resources of the corporation to better enable the  
14 corporation to fulfill its public purposes. Any bonds issued  
15 by the corporation, their transfer, and the income therefrom,  
16 including any profit made on the sale thereof, shall at all  
17 times be free from taxation of every kind by the state and any  
18 political subdivision or local unit or other instrumentality  
19 thereof; however, this exemption does not apply to any tax  
20 imposed by chapter 220 on interest, income, or profits on debt  
21 obligations owned by corporations other than the corporation.

22       (t)~~(k)~~ Upon a determination by the office that the  
23 conditions giving rise to the establishment and activation of  
24 the corporation no longer exist, the corporation is dissolved.  
25 Upon dissolution, the assets of the corporation shall be  
26 applied first to pay all debts, liabilities, and obligations  
27 of the corporation, including the establishment of reasonable  
28 reserves for any contingent liabilities or obligations, and  
29 all remaining assets of the corporation shall become property  
30 of the state and shall be deposited in the Florida Hurricane  
31 Catastrophe Fund. However, no dissolution shall take effect as

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 long as the corporation has bonds or other financial  
2 obligations outstanding unless adequate provision has been  
3 made for the payment of the bonds or other financial  
4 obligations pursuant to the documents authorizing the issuance  
5 of the bonds or other financial obligations.

6       (u)~~(t)~~1. Effective July 1, 2002, policies of the  
7 Residential Property and Casualty Joint Underwriting  
8 Association shall become policies of the corporation. All  
9 obligations, rights, assets and liabilities of the Residential  
10 Property and Casualty Joint Underwriting Association,  
11 including bonds, note and debt obligations, and the financing  
12 documents pertaining to them become those of the corporation  
13 as of July 1, 2002. The corporation is not required to issue  
14 endorsements or certificates of assumption to insureds during  
15 the remaining term of in-force transferred policies.

16       2. Effective July 1, 2002, policies of the Florida  
17 Windstorm Underwriting Association are transferred to the  
18 corporation and shall become policies of the corporation. All  
19 obligations, rights, assets, and liabilities of the Florida  
20 Windstorm Underwriting Association, including bonds, note and  
21 debt obligations, and the financing documents pertaining to  
22 them are transferred to and assumed by the corporation on July  
23 1, 2002. The corporation is not required to issue endorsement  
24 or certificates of assumption to insureds during the remaining  
25 term of in-force transferred policies.

26       3. The Florida Windstorm Underwriting Association and  
27 the Residential Property and Casualty Joint Underwriting  
28 Association shall take all actions as may be proper to further  
29 evidence the transfers and shall provide the documents and  
30 instruments of further assurance as may reasonably be  
31 requested by the corporation for that purpose. The corporation



597-2109B-06

1 shall execute assumptions and instruments as the trustees or  
 2 other parties to the financing documents of the Florida  
 3 Windstorm Underwriting Association or the Residential Property  
 4 and Casualty Joint Underwriting Association may reasonably  
 5 request to further evidence the transfers and assumptions,  
 6 which transfers and assumptions, however, are effective on the  
 7 date provided under this paragraph whether or not, and  
 8 regardless of the date on which, the assumptions or  
 9 instruments are executed by the corporation. Subject to the  
 10 relevant financing documents pertaining to their outstanding  
 11 bonds, notes, indebtedness, or other financing obligations,  
 12 the moneys, investments, receivables, choses in action, and  
 13 other intangibles of the Florida Windstorm Underwriting  
 14 Association shall be credited to the high-risk account of the  
 15 corporation, and those of the personal lines residential  
 16 coverage account and the commercial lines residential coverage  
 17 account of the Residential Property and Casualty Joint  
 18 Underwriting Association shall be credited to the personal  
 19 lines account and the commercial lines account, respectively,  
 20 of the corporation.

21           4. Effective July 1, 2002, a new applicant for  
 22 property insurance coverage who would otherwise have been  
 23 eligible for coverage in the Florida Windstorm Underwriting  
 24 Association is eligible for coverage from the corporation as  
 25 provided in this subsection.

26           5. The transfer of all policies, obligations, rights,  
 27 assets, and liabilities from the Florida Windstorm  
 28 Underwriting Association to the corporation and the renaming  
 29 of the Residential Property and Casualty Joint Underwriting  
 30 Association as the corporation shall in no way affect the  
 31 coverage with respect to covered policies as defined in s.

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 215.555(2)(c) provided to these entities by the Florida  
2 Hurricane Catastrophe Fund. The coverage provided by the  
3 Florida Hurricane Catastrophe Fund to the Florida Windstorm  
4 Underwriting Association based on its exposures as of June 30,  
5 2002, and each June 30 thereafter shall be redesignated as  
6 coverage for the high-risk account of the corporation.  
7 Notwithstanding any other provision of law, the coverage  
8 provided by the Florida Hurricane Catastrophe Fund to the  
9 Residential Property and Casualty Joint Underwriting  
10 Association based on its exposures as of June 30, 2002, and  
11 each June 30 thereafter shall be transferred to the personal  
12 lines account and the commercial lines account of the  
13 corporation. Notwithstanding any other provision of law, the  
14 high-risk account shall be treated, for all Florida Hurricane  
15 Catastrophe Fund purposes, as if it were a separate  
16 participating insurer with its own exposures, reimbursement  
17 premium, and loss reimbursement. Likewise, the personal lines  
18 and commercial lines accounts shall be viewed together, for  
19 all Florida Hurricane Catastrophe Fund purposes, as if the two  
20 accounts were one and represent a single, separate  
21 participating insurer with its own exposures, reimbursement  
22 premium, and loss reimbursement. The coverage provided by the  
23 Florida Hurricane Catastrophe Fund to the corporation shall  
24 constitute and operate as a full transfer of coverage from the  
25 Florida Windstorm Underwriting Association and Residential  
26 Property and Casualty Joint Underwriting to the corporation.

27 ~~(v)~~(m) Notwithstanding any other provision of law:

28 1. The pledge or sale of, the lien upon, and the  
29 security interest in any rights, revenues, or other assets of  
30 the corporation created or purported to be created pursuant to  
31 any financing documents to secure any bonds or other

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 indebtedness of the corporation shall be and remain valid and  
2 enforceable, notwithstanding the commencement of and during  
3 the continuation of, and after, any rehabilitation,  
4 insolvency, liquidation, bankruptcy, receivership,  
5 conservatorship, reorganization, or similar proceeding against  
6 the corporation under the laws of this state.

7         2. No such proceeding shall relieve the corporation of  
8 its obligation, or otherwise affect its ability to perform its  
9 obligation, to continue to collect, or levy and collect,  
10 assessments, market equalization or other surcharges under  
11 subparagraph (c)10., or any other rights, revenues, or other  
12 assets of the corporation pledged pursuant to any financing  
13 documents.

14         3. Each such pledge or sale of, lien upon, and  
15 security interest in, including the priority of such pledge,  
16 lien, or security interest, any such assessments, market  
17 equalization or other surcharges, or other rights, revenues,  
18 or other assets which are collected, or levied and collected,  
19 after the commencement of and during the pendency of, or  
20 after, any such proceeding shall continue unaffected by such  
21 proceeding. As used in this subsection, the term "financing  
22 documents" means any agreement or agreements, instrument or  
23 instruments, or other document or documents now existing or  
24 hereafter created evidencing any bonds or other indebtedness  
25 of the corporation or pursuant to which any such bonds or  
26 other indebtedness has been or may be issued and pursuant to  
27 which any rights, revenues, or other assets of the corporation  
28 are pledged or sold to secure the repayment of such bonds or  
29 indebtedness, together with the payment of interest on such  
30 bonds or such indebtedness, or the payment of any other  
31 obligation or financial product, as defined in the plan of

597-2109B-06

1 operation of the corporation related to such bonds or  
2 indebtedness.

3           4. Any such pledge or sale of assessments, revenues,  
4 contract rights, or other rights or assets of the corporation  
5 shall constitute a lien and security interest, or sale, as the  
6 case may be, that is immediately effective and attaches to  
7 such assessments, revenues, or contract rights or other rights  
8 or assets, whether or not imposed or collected at the time the  
9 pledge or sale is made. Any such pledge or sale is effective,  
10 valid, binding, and enforceable against the corporation or  
11 other entity making such pledge or sale, and valid and binding  
12 against and superior to any competing claims or obligations  
13 owed to any other person or entity, including policyholders in  
14 this state, asserting rights in any such assessments,  
15 revenues, or contract rights or other rights or assets to the  
16 extent set forth in and in accordance with the terms of the  
17 pledge or sale contained in the applicable financing  
18 documents, whether or not any such person or entity has notice  
19 of such pledge or sale and without the need for any physical  
20 delivery, recordation, filing, or other action.

21           (w)~~(n)~~1. The following records of the corporation are  
22 confidential and exempt from the provisions of s. 119.07(1)  
23 and s. 24(a), Art. I of the State Constitution:

24           a. Underwriting files, except that a policyholder or  
25 an applicant shall have access to his or her own underwriting  
26 files.

27           b. Claims files, until termination of all litigation  
28 and settlement of all claims arising out of the same incident,  
29 although portions of the claims files may remain exempt, as  
30 otherwise provided by law. Confidential and exempt claims file  
31 records may be released to other governmental agencies upon

597-2109B-06

1 written request and demonstration of need; such records held  
2 by the receiving agency remain confidential and exempt as  
3 provided for herein.

4 c. Records obtained or generated by an internal  
5 auditor pursuant to a routine audit, until the audit is  
6 completed, or if the audit is conducted as part of an  
7 investigation, until the investigation is closed or ceases to  
8 be active. An investigation is considered "active" while the  
9 investigation is being conducted with a reasonable, good faith  
10 belief that it could lead to the filing of administrative,  
11 civil, or criminal proceedings.

12 d. Matters reasonably encompassed in privileged  
13 attorney-client communications.

14 e. Proprietary information licensed to the corporation  
15 under contract and the contract provides for the  
16 confidentiality of such proprietary information.

17 f. All information relating to the medical condition  
18 or medical status of a corporation employee which is not  
19 relevant to the employee's capacity to perform his or her  
20 duties, except as otherwise provided in this paragraph.  
21 Information which is exempt shall include, but is not limited  
22 to, information relating to workers' compensation, insurance  
23 benefits, and retirement or disability benefits.

24 g. Upon an employee's entrance into the employee  
25 assistance program, a program to assist any employee who has a  
26 behavioral or medical disorder, substance abuse problem, or  
27 emotional difficulty which affects the employee's job  
28 performance, all records relative to that participation shall  
29 be confidential and exempt from the provisions of s. 119.07(1)  
30 and s. 24(a), Art. I of the State Constitution, except as  
31 otherwise provided in s. 112.0455(11).

597-2109B-06

1           h. Information relating to negotiations for financing,  
 2 reinsurance, depopulation, or contractual services, until the  
 3 conclusion of the negotiations.

4           i. Minutes of closed meetings regarding underwriting  
 5 files, and minutes of closed meetings regarding an open claims  
 6 file until termination of all litigation and settlement of all  
 7 claims with regard to that claim, except that information  
 8 otherwise confidential or exempt by law will be redacted.

9  
 10 When an authorized insurer is considering underwriting a risk  
 11 insured by the corporation, relevant underwriting files and  
 12 confidential claims files may be released to the insurer  
 13 provided the insurer agrees in writing, notarized and under  
 14 oath, to maintain the confidentiality of such files. When a  
 15 file is transferred to an insurer that file is no longer a  
 16 public record because it is not held by an agency subject to  
 17 the provisions of the public records law. Underwriting files  
 18 and confidential claims files may also be released to staff of  
 19 and the board of governors of the market assistance plan  
 20 established pursuant to s. 627.3515, who must retain the  
 21 confidentiality of such files, except such files may be  
 22 released to authorized insurers that are considering assuming  
 23 the risks to which the files apply, provided the insurer  
 24 agrees in writing, notarized and under oath, to maintain the  
 25 confidentiality of such files. Finally, the corporation or  
 26 the board or staff of the market assistance plan may make the  
 27 following information obtained from underwriting files and  
 28 confidential claims files available to licensed general lines  
 29 insurance agents: name, address, and telephone number of the  
 30 residential property owner or insured; location of the risk;  
 31 rating information; loss history; and policy type. The

597-2109B-06

1 receiving licensed general lines insurance agent must retain  
 2 the confidentiality of the information received.

3           2. Portions of meetings of the corporation are exempt  
 4 from the provisions of s. 286.011 and s. 24(b), Art. I of the  
 5 State Constitution wherein confidential underwriting files or  
 6 confidential open claims files are discussed. All portions of  
 7 corporation meetings which are closed to the public shall be  
 8 recorded by a court reporter. The court reporter shall record  
 9 the times of commencement and termination of the meeting, all  
 10 discussion and proceedings, the names of all persons present  
 11 at any time, and the names of all persons speaking. No  
 12 portion of any closed meeting shall be off the record.  
 13 Subject to the provisions hereof and s. 119.07(1)(b)-(d), the  
 14 court reporter's notes of any closed meeting shall be retained  
 15 by the corporation for a minimum of 5 years. A copy of the  
 16 transcript, less any exempt matters, of any closed meeting  
 17 wherein claims are discussed shall become public as to  
 18 individual claims after settlement of the claim.

19           ~~(x)~~(o) It is the intent of the Legislature that the  
 20 amendments to this subsection enacted in 2002 should, over  
 21 time, reduce the probable maximum windstorm losses in the  
 22 residual markets and should reduce the potential assessments  
 23 to be levied on property insurers and policyholders statewide.  
 24 In furtherance of this intent:

25           1. The board shall, on or before February 1 of each  
 26 year, provide a report to the President of the Senate and the  
 27 Speaker of the House of Representatives showing the reduction  
 28 or increase in the 100-year probable maximum loss attributable  
 29 to wind-only coverages and the quota share program under this  
 30 subsection combined, as compared to the benchmark 100-year  
 31 probable maximum loss of the Florida Windstorm Underwriting

597-2109B-06

1 Association. For purposes of this paragraph, the benchmark  
 2 100-year probable maximum loss of the Florida Windstorm  
 3 Underwriting Association shall be the calculation dated  
 4 February 2001 and based on November 30, 2000, exposures. In  
 5 order to ensure comparability of data, the board shall use the  
 6 same methods for calculating its probable maximum loss as were  
 7 used to calculate the benchmark probable maximum loss.

8         2. Beginning February 1, 2009 ~~2007~~, if the report  
 9 under subparagraph 1. for any year indicates that the 100-year  
 10 probable maximum loss attributable to wind-only coverages and  
 11 the quota share program combined does not reflect a reduction  
 12 of at least 25 percent from the benchmark, the board shall  
 13 reduce the boundaries of the high-risk area eligible for  
 14 wind-only coverages under this subsection in a manner  
 15 calculated to reduce such probable maximum loss to an amount  
 16 at least 25 percent below the benchmark.

17         3. Beginning February 1, 2014 ~~2012~~, if the report  
 18 under subparagraph 1. for any year indicates that the 100-year  
 19 probable maximum loss attributable to wind-only coverages and  
 20 the quota share program combined does not reflect a reduction  
 21 of at least 50 percent from the benchmark, the boundaries of  
 22 the high-risk area eligible for wind-only coverages under this  
 23 subsection shall be reduced by the elimination of any area  
 24 that is not seaward of a line 1,000 feet inland from the  
 25 Intracoastal Waterway.

26         (y)(p) In enacting the provisions of this section, the  
 27 Legislature recognizes that both the Florida Windstorm  
 28 Underwriting Association and the Residential Property and  
 29 Casualty Joint Underwriting Association have entered into  
 30 financing arrangements that obligate each entity to service  
 31 its debts and maintain the capacity to repay funds secured



Bill No. SB 1980

Barcode 070118

597-2109B-06

1 under these financing arrangements. It is the intent of the  
2 Legislature that nothing in this section be construed to  
3 compromise, diminish, or interfere with the rights of  
4 creditors under such financing arrangements. It is further the  
5 intent of the Legislature to preserve the obligations of the  
6 Florida Windstorm Underwriting Association and Residential  
7 Property and Casualty Joint Underwriting Association with  
8 regard to outstanding financing arrangements, with such  
9 obligations passing entirely and unchanged to the corporation  
10 and, specifically, to the applicable account of the  
11 corporation. So long as any bonds, notes, indebtedness, or  
12 other financing obligations of the Florida Windstorm  
13 Underwriting Association or the Residential Property and  
14 Casualty Joint Underwriting Association are outstanding, under  
15 the terms of the financing documents pertaining to them, the  
16 governing board of the corporation shall have and shall  
17 exercise the authority to levy, charge, collect, and receive  
18 all premiums, assessments, surcharges, charges, revenues, and  
19 receipts that the associations had authority to levy, charge,  
20 collect, or receive under the provisions of subsection (2) and  
21 this subsection, respectively, as they existed on January 1,  
22 2002, to provide moneys, without exercise of the authority  
23 provided by this subsection, in at least the amounts, and by  
24 the times, as would be provided under those former provisions  
25 of subsection (2) or this subsection, respectively, so that  
26 the value, amount, and collectability of any assets, revenues,  
27 or revenue source pledged or committed to, or any lien thereon  
28 securing such outstanding bonds, notes, indebtedness, or other  
29 financing obligations will not be diminished, impaired, or  
30 adversely affected by the amendments made by this act and to  
31 permit compliance with all provisions of financing documents

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 pertaining to such bonds, notes, indebtedness, or other  
2 financing obligations, or the security or credit enhancement  
3 for them, and any reference in this subsection to bonds,  
4 notes, indebtedness, financing obligations, or similar  
5 obligations, of the corporation shall include like instruments  
6 or contracts of the Florida Windstorm Underwriting Association  
7 and the Residential Property and Casualty Joint Underwriting  
8 Association to the extent not inconsistent with the provisions  
9 of the financing documents pertaining to them.

10 ~~(z)(g)~~ The corporation shall not require the securing  
11 of flood insurance as a condition of coverage if the insured  
12 or applicant executes a form approved by the office affirming  
13 that flood insurance is not provided by the corporation and  
14 that if flood insurance is not secured by the applicant or  
15 insured in addition to coverage by the corporation, the risk  
16 will not be covered for flood damage. A corporation  
17 policyholder electing not to secure flood insurance and  
18 executing a form as provided herein making a claim for water  
19 damage against the corporation shall have the burden of  
20 proving the damage was not caused by flooding. Notwithstanding  
21 other provisions of this subsection, the corporation may deny  
22 coverage to an applicant or insured who refuses to execute the  
23 form described herein.

24 ~~(aa)(r)~~ A salaried employee of the corporation who  
25 performs policy administration services subsequent to the  
26 effectuation of a corporation policy is not required to be  
27 licensed as an agent under the provisions of s. 626.112.

28 Section 9. The amendments made by this act to s.  
29 627.351(6), Florida Statutes, which change the method for  
30 calculating and determining the assessments and surcharges  
31 that must be levied or collected to fund deficits in Citizens

597-2109B-06

1 Property Insurance Corporation apply to a deficit incurred by  
2 the corporation for calendar year 2006 and thereafter.

3 Section 10. Effective July 1, 2006, paragraph (a) of  
4 subsection (5) of section 627.3511, Florida Statutes, is  
5 amended to read:

6 627.3511 Depopulation of Citizens Property Insurance  
7 Corporation.--

8 (5) APPLICABILITY.--

9 (a) The take-out bonus provided by subsection (2) and  
10 the exemption from assessment provided by paragraph (3)(a)  
11 apply only if the corporation policy is replaced by either a  
12 standard policy including wind coverage or, if consistent with  
13 the insurer's underwriting rules as filed with the office, a  
14 basic policy including wind coverage; however, with respect to  
15 risks located in areas where coverage through the high-risk  
16 account of the corporation is available, the replacement  
17 policy need not provide wind coverage. The insurer must renew  
18 the replacement policy at approved rates on substantially  
19 similar terms for four ~~two~~ additional 1-year terms, unless  
20 canceled or not renewed by the policyholder ~~insurer for a~~  
21 ~~lawful reason other than reduction of hurricane exposure~~. If  
22 an insurer assumes the corporation's obligations for a policy,  
23 it must issue a replacement policy for a 1-year term upon  
24 expiration of the corporation policy and must renew the  
25 replacement policy at approved rates on substantially similar  
26 terms for four ~~two~~ additional 1-year terms, unless canceled or  
27 not renewed by the policyholder ~~insurer for a lawful reason~~  
28 ~~other than reduction of hurricane exposure~~. For each  
29 replacement policy canceled or nonrenewed by the insurer for  
30 any reason during the 5-year ~~3-year~~ coverage period required  
31 by this paragraph, the insurer must remove from the

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 corporation one additional policy covering a risk similar to  
 2 the risk covered by the canceled or nonrenewed policy. In  
 3 addition to these requirements, the corporation must place the  
 4 bonus moneys in escrow for a period of 5 3 years; such moneys  
 5 may be released from escrow only to pay claims. If the policy  
 6 is canceled or nonrenewed before the end of the 5-year period,  
 7 the amount of the take-out bonus must be prorated for the time  
 8 period the policy was insured. A take-out bonus provided by  
 9 subsection (2) or subsection (6) shall not be considered  
 10 premium income for purposes of taxes and assessments under the  
 11 Florida Insurance Code and shall remain the property of the  
 12 corporation, subject to the prior security interest of the  
 13 insurer under the escrow agreement until it is released from  
 14 escrow, and after it is released from escrow it shall be  
 15 considered an asset of the insurer and credited to the  
 16 insurer's capital and surplus.

17 Section 11. Effective July 1, 2006, section 627.3517,  
 18 Florida Statutes, is amended to read:

19 627.3517 Consumer choice.--

20 (1) Except as provided in subsection (2), no provision  
 21 of s. 627.351, s. 627.3511, or s. 627.3515 shall be construed  
 22 to impair the right of any insurance risk apportionment plan  
 23 policyholder, upon receipt of any keepout or take-out offer,  
 24 to retain his or her current agent, so long as that agent is  
 25 duly licensed and appointed by the insurance risk  
 26 apportionment plan or otherwise authorized to place business  
 27 with the insurance risk apportionment plan. This right shall  
 28 not be canceled, suspended, impeded, abridged, or otherwise  
 29 compromised by any rule, plan of operation, or depopulation  
 30 plan, whether through keepout, take-out, midterm assumption,  
 31 or any other means, of any insurance risk apportionment plan

597-2109B-06

1 or depopulation plan, including, but not limited to, those  
 2 described in s. 627.351, s. 627.3511, or s. 627.3515. The  
 3 commission shall adopt any rules necessary to cause any  
 4 insurance risk apportionment plan or market assistance plan  
 5 under such sections to demonstrate that the operations of the  
 6 plan do not interfere with, promote, or allow interference  
 7 with the rights created under this section. If the  
 8 policyholder's current agent is unable or unwilling to be  
 9 appointed with the insurer making the take-out or keepout  
 10 offer, the policyholder shall not be disqualified from  
 11 participation in the appropriate insurance risk apportionment  
 12 plan because of an offer of coverage in the voluntary market.  
 13 An offer of full property insurance coverage by the insurer  
 14 currently insuring either the ex-wind or wind-only coverage on  
 15 the policy to which the offer applies shall not be considered  
 16 a take-out or keepout offer. Any rule, plan of operation, or  
 17 plan of depopulation, through keepout, take-out, midterm  
 18 assumption, or any other means, of any property insurance risk  
 19 apportionment plan under s. 627.351(2) or (6) is subject to  
 20 ss. 627.351(2)(b) and (6)(c) and 627.3511(4).

21 (2) This section does not apply during the first 10  
 22 days after a new application for coverage has been submitted  
 23 to Citizens Property Insurance Corporation under s.  
 24 627.351(6), whether or not coverage is bound during this  
 25 period.

26 Section 12. Paragraph (b) of subsection (3) of section  
 27 627.4035, Florida Statutes, is amended to read:

28 627.4035 Cash payment of premiums; claims.--

29 (3) All payments of claims made in this state under  
 30 any contract of insurance shall be paid:

31 (b) If authorized in writing by the recipient or the

597-2109B-06

1 recipient's representative, by debit card or any other form of  
 2 electronic transfer. Any fees or costs to be charged against  
 3 the recipient must be disclosed in writing to the recipient or  
 4 the recipient's representative at the time of written  
 5 authorization. However, the written authorization requirement  
 6 may be waived by the recipient or the recipient's  
 7 representative if the insurer verifies the identity of the  
 8 insured or the insured's recipient and does not charge a fee  
 9 for the transaction. If the funds are misdirected, the insurer  
 10 remains liable for the payment of the claim.

11 Section 13. Section 627.6121, Florida Statutes, is  
 12 created to read:

13 627.6121 Payment of claims for dual interest  
 14 property.--For policies issued or renewed on or after October  
 15 1, 2006, a property insurer shall transmit claims payments  
 16 directly to the primary policyholder by check or other  
 17 allowable payment method, payable to the primary policyholder  
 18 only, without requiring a dual endorsement from any  
 19 mortgageholder or lienholder, for the following:

20 (1) Amounts payable under the policy for personal  
 21 property and contents, additional living expenses, and other  
 22 covered items that are not subject to a recorded security  
 23 interest that is noted in the dual interest provision of the  
 24 policy.

25 (2) Amounts payable under the policy for the lesser of  
 26 \$20,000 or the first 20 percent of the insurer's estimate of  
 27 the total projected covered claim amount, for the repair or  
 28 replacement of property subject to a recorded security  
 29 interest that is noted in the dual interest provision of the  
 30 policy. The insurer shall provide written notice to the  
 31 mortgageholder or lienholder of such payments made pursuant to

597-2109B-06

1 this subsection.

2 Section 14. Subsection (2) of section 627.7011,  
3 Florida Statutes, is amended to read:

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

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

29 Section 15. Section 627.7019, Florida Statutes, is  
30 created to read:

31 627.7019 Standardization of requirements applicable to

597-2109B-06

1 insurers after natural disasters.--

2 (1) The commission shall adopt by rule, pursuant to s.  
3 120.54(1)-(3), standardized requirements that may be applied  
4 to insurers as a consequence of a hurricane or other natural  
5 disaster. The rules shall address the following areas:

6 (a) Claims reporting requirements.

7 (b) Grace periods for payment of premiums and  
8 performance of other duties by insureds.

9 (c) Temporary postponement of cancellations and  
10 nonrenewals.

11 (2) The rules adopted under this section shall require  
12 the office to issue an order within 72 hours after the  
13 occurrence of a hurricane or other natural disaster  
14 specifying, by line of insurance, which of the standardized  
15 requirements apply, the geographic areas in which they apply,  
16 the time at which applicability commences, and the time at  
17 which applicability terminates.

18 Section 16. Subsection (5) of section 627.707, Florida  
19 Statutes, is amended to read:

20 627.707 Standards for investigation of sinkhole claims  
21 by insurers; nonrenewals.--Upon receipt of a claim for a  
22 sinkhole loss, an insurer must meet the following standards in  
23 investigating a claim:

24 (5)(a) Subject to paragraph (b), if a sinkhole loss is  
25 verified, the insurer shall pay to stabilize the land and  
26 building and repair the foundation in accordance with the  
27 recommendations of the engineer as provided under s. 627.7073,  
28 and in consultation with the policyholder, subject to the  
29 coverage and terms of the policy. The insurer shall pay for  
30 other repairs to the structure and contents in accordance with  
31 the terms of the policy.



597-2109B-06

1           (b) The insurer may limit its payment to the actual  
 2 cash value of the sinkhole loss, not including underpinning or  
 3 grouting or any other repair technique performed below the  
 4 existing foundation of the building, until the policyholder  
 5 enters into a contract for the performance of building  
 6 stabilization or foundation repairs. After the policyholder  
 7 enters into the contract, the insurer shall pay the amounts  
 8 necessary to begin and perform such repairs as the work is  
 9 performed and the expenses are incurred. The insurer may not  
 10 require the policyholder to advance payment for such repairs.  
 11 If repair covered by the policy has begun and the engineer  
 12 selected or approved by the insurer determines that the repair  
 13 cannot be completed within the policy limits, the insurer must  
 14 either complete the engineer's recommended repair or tender  
 15 the policy limits to the policyholder without a reduction for  
 16 the repair expenses incurred.

17           (c) Upon written approval of the policyholder and the  
 18 lienholder, if any, obtained by the insurer, the insurer may  
 19 make payment directly to the persons selected by the  
 20 policyholder to perform the land and building stabilization  
 21 and foundation repairs. The decision by the insurer to make  
 22 direct payment to such persons does not create liability for  
 23 the insurer for the work performed.

24  
 25 This subsection does not apply when two or more buildings,  
 26 structures, mobile homes, or manufactured buildings are  
 27 insured under a blanket form for a single amount of insurance.

28           Section 17. Section 627.7072, Florida Statutes, is  
 29 amended to read:

30           627.7072 Testing standards for sinkholes.--

31           (1) The engineer and professional geologist shall

597-2109B-06

1 perform such tests as are sufficient, in their professional  
 2 opinion, to determine the presence or absence of sinkhole loss  
 3 or other cause of damage within reasonable professional  
 4 probability and for the engineer to make recommendations  
 5 regarding necessary building stabilization and foundation  
 6 repair.

7 ~~(2) Testing by a professional geologist shall be~~  
 8 ~~conducted in compliance with the Florida Geological Survey~~  
 9 ~~Special Publication No. 57 (2005).~~

10 Section 18. Paragraph (c) of subsection (1) of section  
 11 627.7073, Florida Statutes, is amended to read:

12 627.7073 Sinkhole reports.--

13 (1) Upon completion of testing as provided in s.  
 14 627.7072, the engineer and professional geologist shall issue  
 15 a report and certification to the insurer and the policyholder  
 16 as provided in this section.

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

23 Section 19. Effective October 1, 2006, section  
 24 627.7074, Florida Statutes, is created to read:

25 627.7074 Alternative procedure for resolution of  
 26 disputed sinkhole insurance claims.--

27 (1) As used in this section, the term:

28 (a) "Neutral evaluation" means the alternative dispute  
 29 resolution provided for in this section.

30 (b) "Neutral evaluator" means an engineer or a  
 31 professional geologist who has completed a course of study in

597-2109B-06

1 alternative dispute resolution designed or approved by the  
2 department for use in the neutral evaluation process, who is  
3 determined to be fair and impartial.

4 (2)(a) The department shall certify and maintain a  
5 list of persons who are neutral evaluators.

6 (b) The department shall prepare a consumer  
7 information pamphlet for distribution by insurers to  
8 policyholders which clearly describes the neutral evaluation  
9 process and includes information and forms necessary for the  
10 policyholder to request a neutral evaluation.

11 (3) Following the receipt of the report provided under  
12 s. 627.7073 or the denial of a claim for a sinkhole loss, the  
13 insurer shall notify the policyholder of his or her right to  
14 participate in the neutral evaluation program under this  
15 section. Neutral evaluation supersedes the alternative dispute  
16 resolution process under s. 627.7015. The insurer shall  
17 provide to the policyholder the consumer information pamphlet  
18 prepared by the department pursuant to paragraph (2)(b).

19 (4) Neutral evaluation is optional and nonbinding.  
20 Either the policyholder or the insurer may decline to  
21 participate. A request for neutral evaluation may be filed  
22 with the department by the policyholder or the insurer on a  
23 form approved by the department. The request for neutral  
24 evaluation must state the reason for the request and must  
25 include an explanation of all the issues in dispute at the  
26 time of the request. Filing a request for neutral evaluation  
27 tolls the applicable time requirements for filing suit for a  
28 period of 60 days following the conclusion of the neutral  
29 evaluation process or the time prescribed in s. 95.11,  
30 whichever is later.

31 (5) Neutral evaluation shall be conducted as an

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 informal process in which formal rules of evidence and  
2 procedure need not be observed. A party to neutral evaluation  
3 is not required to attend neutral evaluation if a  
4 representative of the party attends and has the authority to  
5 make a binding decision on behalf of the party. All parties  
6 shall participate in the evaluation in good faith.

7       (6) The insurer shall pay the costs associated with  
8 the neutral evaluation.

9       (7) Upon receipt of a request for neutral evaluation,  
10 the department shall refer the request to a neutral evaluator.  
11 The neutral evaluator shall notify the policyholder and the  
12 insurer of the date, time, and place of the neutral evaluation  
13 conference. The conference may be held by telephone, if  
14 feasible and desirable. The neutral evaluation conference  
15 shall be held within 45 days after receipt of the request by  
16 the department.

17       (8) The department shall adopt rules of procedure for  
18 the neutral evaluation process.

19       (9) For policyholders not represented by an attorney,  
20 a consumer affairs specialist of the department or an employee  
21 designated as the primary contact for consumers on issues  
22 relating to sinkholes under s. 20.121 shall be available for  
23 consultation to the extent that he or she may lawfully do so.

24       (10) Evidence of an offer to settle a claim during the  
25 neutral evaluation process, as well as any relevant conduct or  
26 statements made in negotiations concerning the offer to settle  
27 a claim, is inadmissible to prove liability or absence of  
28 liability for the claim or its value, except as provided in  
29 subsection (13).

30       (11) Any court proceeding related to the subject  
31 matter of the neutral evaluation shall be stayed pending

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 completion of the neutral evaluation.

2 (12) For matters that are not resolved by the parties  
3 at the conclusion of the neutral evaluation, the neutral  
4 evaluator shall prepare a report stating that in his or her  
5 opinion the sinkhole loss has been verified or eliminated and,  
6 if verified, the need for and estimated costs of stabilizing  
7 the land and any covered structures or buildings and other  
8 appropriate remediation or structural repairs. The evaluator's  
9 report shall be sent to all parties in attendance at the  
10 neutral evaluation and to the department.

11 (13) The recommendation of the neutral evaluator is  
12 not binding on any party, and the parties retain access to  
13 courts. The neutral evaluator's written recommendation is  
14 admissible in any subsequent action or proceeding relating to  
15 the claim or to the cause of action giving rise to the claim  
16 only for purposes of determining the award of attorney's fees.

17 (14) If the policyholder declines to participate in  
18 neutral evaluation requested by the insurer or declines to  
19 resolve the matter in accordance with the recommendation of  
20 the neutral evaluator pursuant to this section, the insurer is  
21 not liable for attorney's fees under s. 627.428 or other  
22 provisions of the insurance code or for extra-contractual  
23 damages related to a claim for a sinkhole loss.

24 (15) A party may seek judicial review of the  
25 recommendation of the neutral evaluator to determine whether  
26 the recommendation is reasonable. A recommendation is  
27 reasonable unless: it was procured by corruption, fraud, or  
28 other undue means; there was evident partiality by the neutral  
29 evaluator or misconduct prejudicing the rights of any party;  
30 or the neutral evaluator exceeded the authority and power  
31 granted by this section. If the court declares the

597-2109B-06

1 recommendation is not reasonable, the neutral evaluation  
2 recommendation shall be vacated.

3 Section 20. Subsection (5) of section 627.727, Florida  
4 Statutes, is amended to read:

5 627.727 Motor vehicle insurance; uninsured and  
6 underinsured vehicle coverage; insolvent insurer protection.--

7 (5) Any person having a claim against an insolvent  
8 insurer as defined in s. 631.54(6) ~~s. 631.54(5)~~ under the  
9 provisions of this section shall present such claim for  
10 payment to the Florida Insurance Guaranty Association only. In  
11 the event of a payment to any person in settlement of a claim  
12 arising under the provisions of this section, the association  
13 is not subrogated or entitled to any recovery against the  
14 claimant's insurer. The association, however, has the rights  
15 of recovery as set forth in chapter 631 in the proceeds  
16 recoverable from the assets of the insolvent insurer.

17 Section 21. Paragraph (f) is added to subsection (2)  
18 of section 631.181, Florida Statutes, to read:

19 631.181 Filing and proof of claim.--

20 (2)

21 (f) The signed statement required by this section  
22 shall not be required on claims for which adequate claims file  
23 documentation exists within the records of the insolvent  
24 insurer. Claims for payment of unearned premium shall not be  
25 required to use the signed statement required by this section  
26 if the receiver certifies to the guaranty fund that the  
27 records of the insolvent insurer are sufficient to determine  
28 the amount of unearned premium owed to each policyholder of  
29 the insurer and such information is remitted to the guaranty  
30 fund by the receiver in electronic or other mutually  
31 agreed-upon format.

597-2109B-06

1           Section 22. Subsection (3) of section 631.54, Florida  
 2 Statutes, is amended, present subsections (5), (6), (7), and  
 3 (8) of that section are renumbered as subsections (6), (7),  
 4 (8), and (9), respectively, and a new subsection (5) is added  
 5 to that section to read:

6           631.54 Definitions.--As used in this part:

7           (3) "Covered claim" means an unpaid claim, including  
 8 one of unearned premiums, which arises out of, and is within  
 9 the coverage, and not in excess of, the applicable limits of  
 10 an insurance policy to which this part applies, issued by an  
 11 insurer, if such insurer becomes an insolvent insurer and the  
 12 claimant or insured is a resident of this state at the time of  
 13 the insured event or the property from which the claim arises  
 14 is permanently located in this state. For entities other than  
 15 individuals, the residence of a claimant, insured, or  
 16 policyholder is the state in which the entity's principal  
 17 place of business is located at the time of the insured event.

18 "Covered claim" shall not include:

19           (a) Any amount due any reinsurer, insurer, insurance  
 20 pool, or underwriting association, sought directly or  
 21 indirectly through a third party, as subrogation,  
 22 contribution, indemnification, or otherwise; or

23           (b) Any claim that would otherwise be a covered claim  
 24 under this part that has been rejected by any other state  
 25 guaranty fund on the grounds that an insured's net worth is  
 26 greater than that allowed under that state's guaranty law.

27 Member insurers shall have no right of subrogation,  
 28 contribution, indemnification, or otherwise, sought directly  
 29 or indirectly through a third party, against the insured of  
 30 any insolvent member.

31           (5) "Homeowner's insurance" means personal lines

597-2109B-06

1 residential property insurance coverage that consists of the  
 2 type of coverage provided under homeowner's, dwelling, and  
 3 similar policies for repair or replacement of the insured  
 4 structure and contents, which policies are written directly to  
 5 the individual homeowner. Residential coverage for personal  
 6 lines as set forth in this section includes policies that  
 7 provide coverage for particular perils such as windstorm and  
 8 hurricane coverage but excludes all coverage for mobile homes,  
 9 renter's insurance, or tenant's coverage. The term  
 10 "homeowner's insurance" excludes commercial residential  
 11 policies covering condominium associations or homeowners'  
 12 associations, which associations have a responsibility to  
 13 provide insurance coverage on residential units within the  
 14 association, and also excludes coverage for the common  
 15 elements of a homeowners' association.

16 Section 23. Subsection (1) of section 631.55, Florida  
 17 Statutes, is amended to read:

18 631.55 Creation of the association.--

19 (1) There is created a nonprofit corporation to be  
 20 known as the "Florida Insurance Guaranty Association,  
 21 Incorporated." All insurers defined as member insurers in s.  
 22 631.54(7) ~~s. 631.54(6)~~ shall be members of the association as  
 23 a condition of their authority to transact insurance in this  
 24 state, and, further, as a condition of such authority, an  
 25 insurer shall agree to reimburse the association for all claim  
 26 payments the association makes on said insurer's behalf if  
 27 such insurer is subsequently rehabilitated. The association  
 28 shall perform its functions under a plan of operation  
 29 established and approved under s. 631.58 and shall exercise  
 30 its powers through a board of directors established under s.  
 31 631.56. The corporation shall have all those powers granted or



597-2109B-06

1 permitted nonprofit corporations, as provided in chapter 617.

2 Section 24. Paragraph (a) of subsection (1), paragraph  
3 (d) of subsection (2), and paragraph (a) of subsection (3) of  
4 section 631.57, Florida Statutes, are amended, and paragraph  
5 (e) is added to subsection (3) of that section, to read:

6 631.57 Powers and duties of the association.--

7 (1) The association shall:

8 (a)1. Be obligated to the extent of the covered claims  
9 existing:

10 a. Prior to adjudication of insolvency and arising  
11 within 30 days after the determination of insolvency;

12 b. Before the policy expiration date if less than 30  
13 days after the determination; or

14 c. Before the insured replaces the policy or causes  
15 its cancellation, if she or he does so within 30 days of the  
16 determination.

17 2. The obligation under subparagraph 1. includes only  
18 the amount of each covered claim which is in excess of \$100  
19 and is less than \$300,000, except that policies providing  
20 coverage for homeowner's insurance shall provide for an  
21 additional \$200,000 for the portion of a covered claim which  
22 relates only to the damage to the structure and contents.

23 3.a.2. Notwithstanding subparagraph 2., the obligation  
24 under subparagraph 1. for ~~shall include only that amount of~~  
25 ~~each covered claim which is in excess of \$100 and is less than~~  
26 ~~\$300,000, except with respect to policies covering condominium~~  
27 ~~associations or homeowners' associations, which associations~~  
28 ~~have a responsibility to provide insurance coverage on~~  
29 ~~residential units within the association, the obligation shall~~  
30 ~~include that amount of each covered property insurance claim~~  
31 ~~which is less than \$100,000 multiplied by the number of~~

597-2109B-06

1 condominium units or other residential units; however, as to  
 2 homeowners' associations, this sub-subparagraph ~~subparagraph~~  
 3 applies only to claims for damage or loss to residential units  
 4 and structures attached to residential units.

5 b. Notwithstanding sub-subparagraph a., the  
 6 association has no obligation to pay covered claims that are  
 7 to be paid from the proceeds of bonds issued under s. 631.695.  
 8 However, the association shall assign and pledge the first  
 9 available moneys from all or part of the assessments to be  
 10 made under paragraph (3)(a) to or on behalf of the issuer of  
 11 such bonds for the benefit of the holders of such bonds. The  
 12 association shall administer any such covered claims and  
 13 present valid covered claims for payment in accordance with  
 14 the provisions of the assistance program in connection with  
 15 which such bonds have been issued.

16 ~~4.3-~~ In no event shall the association be obligated to  
 17 a policyholder or claimant in an amount in excess of the  
 18 obligation of the insolvent insurer under the policy from  
 19 which the claim arises.

20 (2) The association may:

21 (d) Negotiate and become a party to such contracts as  
 22 are necessary to carry out the purpose of this part.  
 23 Additionally, the association may enter into such contracts  
 24 with a municipality, a county, or a legal entity created  
 25 pursuant to s. 163.01(7)(g) as are necessary in order for the  
 26 municipality, county, or legal entity to issue bonds under s.  
 27 631.695. In connection with the issuance of any such bonds and  
 28 the entering into of any such necessary contracts, the  
 29 association may agree to such terms and conditions as the  
 30 association deems necessary and proper.

31 (3)(a) To the extent necessary to secure the funds for

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 the respective accounts for the payment of covered claims, ~~and~~  
2 ~~also~~ to pay the reasonable costs to administer the same, and  
3 to the extent necessary to secure the funds for the account  
4 specified in s. 631.55(2)(c) or to retire indebtedness,  
5 including, without limitation, the principal, redemption  
6 premium, if any, and interest on, and related costs of  
7 issuance of, bonds issued under s. 631.695 and the funding of  
8 any reserves and other payments required under the bond  
9 resolution or trust indenture pursuant to which such bonds  
10 have been issued, the office, upon certification of the board  
11 of directors, shall levy assessments in the proportion that  
12 each insurer's net direct written premiums in this state in  
13 the classes protected by the account bears to the total of  
14 said net direct written premiums received in this state by all  
15 such insurers for the preceding calendar year for the kinds of  
16 insurance included within such account. Assessments shall be  
17 remitted to and administered by the board of directors in the  
18 manner specified by the approved plan. Each insurer so  
19 assessed shall have at least 30 days' written notice as to the  
20 date the assessment is due and payable. Every assessment shall  
21 be made as a uniform percentage applicable to the net direct  
22 written premiums of each insurer in the kinds of insurance  
23 included within the account in which the assessment is made.  
24 The assessments levied against any insurer shall not exceed in  
25 any one year more than 2 percent of that insurer's net direct  
26 written premiums in this state for the kinds of insurance  
27 included within such account during the calendar year next  
28 preceding the date of such assessments.

29 (e)1.a. In addition to assessments otherwise  
30 authorized in paragraph (a) and to the extent necessary to  
31 secure the funds for the account specified in s. 631.55(2)(c)

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 or to retire indebtedness, including, without limitation, the  
2 principal, redemption premium, if any, and interest on, and  
3 related costs of issuance of, bonds issued under s. 631.695  
4 and the funding of any reserves and other payments required  
5 under the bond resolution or trust indenture pursuant to which  
6 such bonds have been issued, the office, upon certification of  
7 the board of directors, shall levy emergency assessments upon  
8 insurers holding a certificate of authority. The emergency  
9 assessments payable under this paragraph by any insurer shall  
10 not exceed in any single year more than 2 percent of that  
11 insurer's direct written premiums, net of refunds, in this  
12 state during the preceding calendar year for the kinds of  
13 insurance within the account specified in s. 631.55(2)(c).

14 b. Any emergency assessments authorized under this  
15 paragraph shall be levied by the office upon insurers referred  
16 to in sub-subparagraph a., upon certification as to the need  
17 for such assessments by the board of directors, in each year  
18 that bonds issued under s. 631.695 and secured by such  
19 emergency assessments are outstanding, in such amounts up to  
20 such 2-percent limit as required in order to provide for the  
21 full and timely payment of the principal of, redemption  
22 premium, if any, and interest on, and related costs of  
23 issuance of, such bonds. The emergency assessments provided  
24 for in this paragraph are assigned and pledged to the  
25 municipality, county, or legal entity issuing bonds under s.  
26 631.695 for the benefit of the holders of such bonds, in order  
27 to enable such municipality, county, or legal entity to  
28 provide for the payment of the principal of, redemption  
29 premium, if any, and interest on such bonds, the cost of  
30 issuance of such bonds, and the funding of any reserves and  
31 other payments required under the bond resolution or trust

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 indenture pursuant to which such bonds have been issued,  
2 without the necessity of any further action by the  
3 association, the office, or any other party. To the extent  
4 bonds are issued under s. 631.695 and the association  
5 determines to secure such bonds by a pledge of revenues  
6 received from the emergency assessments, such bonds, upon such  
7 pledge of revenues, shall be secured by and payable from the  
8 proceeds of such emergency assessments, and the proceeds of  
9 emergency assessments levied under this paragraph shall be  
10 remitted directly to and administered by the trustee or  
11 custodian appointed for such bonds.

12 c. Emergency assessments under this paragraph may be  
13 payable in a single payment or, at the option of the  
14 association, may be payable in 12 monthly installments with  
15 the first installment being due and payable at the end of the  
16 month after an emergency assessment is levied and subsequent  
17 installments being due not later than the end of each  
18 succeeding month.

19 d. If emergency assessments are imposed, the report  
20 required by s. 631.695(7) shall include an analysis of the  
21 revenues generated from the emergency assessments imposed  
22 under this paragraph.

23 e. If emergency assessments are imposed, the  
24 references in sub-subparagraph (1)(a)3.b. and s. 631.695(2)  
25 and (7) to assessments levied under paragraph (a) shall  
26 include emergency assessments imposed under this paragraph.

27 2. In order to ensure that insurers paying emergency  
28 assessments levied under this paragraph continue to charge  
29 rates that are neither inadequate nor excessive, within 90  
30 days after being notified of such assessments, each insurer  
31 that is to be assessed pursuant to this paragraph shall submit

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 a rate filing for coverage included within the account  
2 specified in s. 631.55(2)(c) and for which rates are required  
3 to be filed under s. 627.062. If the filing reflects a rate  
4 change that, as a percentage, is equal to the difference  
5 between the rate of such assessment and the rate of the  
6 previous year's assessment under this paragraph, the filing  
7 shall consist of a certification so stating and shall be  
8 deemed approved when made. Any rate change of a different  
9 percentage shall be subject to the standards and procedures of  
10 s. 627.062.

11 3. An annual assessment under this paragraph shall  
12 continue while the bonds issued with respect to which the  
13 assessment was imposed are outstanding, including any bonds  
14 the proceeds of which were used to refund bonds issued  
15 pursuant to s. 631.695, unless adequate provision has been  
16 made for the payment of the bonds in the documents authorizing  
17 the issuance of such bonds.

18 4. Emergency assessments under this paragraph are not  
19 premium and are not subject to the premium tax, to any fees,  
20 or to any commissions. An insurer is liable for all emergency  
21 assessments that the insurer collects and shall treat the  
22 failure of an insured to pay an emergency assessment as a  
23 failure to pay the premium. An insurer is not liable for  
24 uncollectible emergency assessments.

25 Section 25. Section 631.695, Florida Statutes, is  
26 created to read:

27 631.695 Revenue bond issuance through counties or  
28 municipalities.--

29 (1) The Legislature finds:

30 (a) The potential for widespread and massive damage to  
31 persons and property caused by hurricanes making landfall in

597-2109B-06

1 this state can generate insurance claims of such a number as  
 2 to render numerous insurers operating within this state  
 3 insolvent and therefore unable to satisfy covered claims.

4 (b) The inability of insureds within this state to  
 5 receive payment of covered claims or to timely receive such  
 6 payment creates financial and other hardships for such  
 7 insureds and places undue burdens on the state, the affected  
 8 units of local government, and the community at large.

9 (c) In addition, the failure of insurers to pay  
 10 covered claims or to timely pay such claims due to the  
 11 insolvency of such insurers can undermine the public's  
 12 confidence in insurers operating within this state, thereby  
 13 adversely affecting the stability of the insurance industry in  
 14 this state.

15 (d) The state has previously taken action to address  
 16 these problems by adopting the Florida Insurance Guaranty  
 17 Association Act, which, among other things, provides a  
 18 mechanism for the payment of covered claims under certain  
 19 insurance policies to avoid excessive delay in payment and to  
 20 avoid financial loss to claimants or policyholders because of  
 21 the insolvency of an insurer.

22 (e) In the wake of the unprecedented destruction  
 23 caused by various hurricanes that have made landfall in this  
 24 state, the resultant covered claims, and the number of  
 25 insurers rendered insolvent thereby, make it evident that  
 26 alternative programs must be developed to allow the Florida  
 27 Insurance Guaranty Association to more expeditiously and  
 28 effectively provide for the payment of covered claims.

29 (f) It is therefore determined to be in the best  
 30 interests of, and necessary for, the protection of the public  
 31 health, safety, and general welfare of the residents of this

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 state and for the protection and preservation of the economic  
2 stability of insurers operating in this state, and it is  
3 declared to be an essential public purpose, to permit certain  
4 municipalities and counties to take such actions as will  
5 provide relief to claimants and policyholders having covered  
6 claims against insolvent insurers operating in this state by  
7 expediting the handling and payment of covered claims.

8       (g) To achieve the foregoing purposes, it is proper to  
9 authorize municipalities and counties of this state  
10 substantially affected by the landfall of a hurricane to issue  
11 bonds to assist the Florida Insurance Guaranty Association in  
12 expediting the handling and payment of covered claims of  
13 insolvent insurers.

14       (h) In order to avoid the needless and indiscriminate  
15 proliferation, duplication, and fragmentation of such  
16 assistance programs, it is in the best interests of the  
17 residents of this state to authorize municipalities and  
18 counties severely affected by a hurricane to provide for the  
19 payment of covered claims beyond their territorial limits in  
20 the implementation of such programs.

21       (i) It is a paramount public purpose for  
22 municipalities and counties substantially affected by the  
23 landfall of a hurricane to be able to issue bonds for the  
24 purposes described in this section. Such issuance shall  
25 provide assistance to residents of those municipalities and  
26 counties as well as to other residents of this state.

27       (2) The governing body of any municipality or county,  
28 the residents of which have been substantially affected by a  
29 hurricane, may issue bonds to fund an assistance program in  
30 conjunction with, and with the consent of, the Florida  
31 Insurance Guaranty Association for the purpose of paying



Bill No. SB 1980

Barcode 070118

597-2109B-06

1 claimants' or policyholders' covered claims, as defined in s.  
2 631.54, arising through the insolvency of an insurer, which  
3 insolvency is determined by the Florida Insurance Guaranty  
4 Association to have been a result of a hurricane, regardless  
5 of whether the claimants or policyholders are residents of  
6 such municipality or county or the property to which the claim  
7 relates is located within or outside the territorial  
8 jurisdiction of the municipality or county. The power of a  
9 municipality or county to issue bonds, as described in this  
10 section, is in addition to any powers granted by law and may  
11 not be abrogated or restricted by any provisions in such  
12 municipality's or county's charter. A municipality or county  
13 issuing bonds for this purpose shall enter into such contracts  
14 with the Florida Insurance Guaranty Association or any entity  
15 acting on behalf of the Florida Insurance Guaranty Association  
16 as are necessary to implement the assistance program. Any  
17 bonds issued by a municipality or county or a combination  
18 thereof under this subsection shall be payable from and  
19 secured by moneys received by or on behalf of the municipality  
20 or county from assessments levied under s. 631.57(3)(a) and  
21 assigned and pledged to or on behalf of the municipality or  
22 county for the benefit of the holders of the bonds in  
23 connection with the assistance program. The funds, credit,  
24 property, and taxing power of the state or any municipality or  
25 county shall not be pledged for the payment of such bonds.

26 (3) Bonds may be validated by the municipality or  
27 county pursuant to chapter 75. The proceeds of the bonds may  
28 be used to pay covered claims of insolvent insurers; to  
29 refinance or replace previously existing borrowings or  
30 financial arrangements; to pay interest on bonds; to fund  
31 reserves for the bonds; to pay expenses incident to the

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 issuance or sale of any bond issued under this section,  
2 including costs of validating, printing, and delivering the  
3 bonds, costs of printing the official statement, costs of  
4 publishing notices of sale of the bonds, costs of obtaining  
5 credit enhancement or liquidity support, and related  
6 administrative expenses; or for such other purposes related to  
7 the financial obligations of the fund as the association may  
8 determine. The term of the bonds may not exceed 30 years.

9       (4) The state covenants with holders of bonds of the  
10 assistance program that the state will not take any action  
11 that will have a material adverse effect on the holders and  
12 will not repeal or abrogate the power of the board of  
13 directors of the association to direct the Office of Insurance  
14 Regulation to levy the assessments and to collect the proceeds  
15 of the revenues pledged to the payment of the bonds as long as  
16 any of the bonds remain outstanding, unless adequate provision  
17 has been made for the payment of the bonds in the documents  
18 authorizing the issuance of the bonds.

19       (5) The accomplishment of the authorized purposes of  
20 such municipality or county under this section is in all  
21 respects for the benefit of the people of the state, for the  
22 increase of their commerce and prosperity, and for the  
23 improvement of their health and living conditions. The  
24 municipality or county, in performing essential governmental  
25 functions in accomplishing its purposes, is not required to  
26 pay any taxes or assessments of any kind whatsoever upon any  
27 property acquired or used by the county or municipality for  
28 such purposes or upon any revenues at any time received by the  
29 county or municipality. The bonds, notes, and other  
30 obligations of the municipality or county and the transfer of  
31 and income from such bonds, notes, and other obligations,

Bill No. SB 1980

Barcode 070118

597-2109B-06

1 including any profits made on the sale of such bonds, notes,  
2 and other obligations, are exempt from taxation of any kind by  
3 the state or by any political subdivision or other agency or  
4 instrumentality of the state. The exemption granted in this  
5 subsection is not applicable to any tax imposed by chapter 220  
6 on interest, income, or profits on debt obligations owned by  
7 corporations.

8 (6) Two or more municipalities or counties, the  
9 residents of which have been substantially affected by a  
10 hurricane, may create a legal entity pursuant to s.  
11 163.01(7)(g) to exercise the powers described in this section  
12 as well as those powers granted in s. 163.01(7)(g). References  
13 in this section to a municipality or county includes such  
14 legal entity.

15 (7) The association shall issue an annual report on  
16 the status of the use of bond proceeds as related to  
17 insolvencies caused by hurricanes. The report must contain the  
18 number and amount of claims paid. The association shall also  
19 include an analysis of the revenue generated from the  
20 assessment levied under s. 631.57(3)(a) to pay such bonds. The  
21 association shall submit a copy of the report to the President  
22 of the Senate, the Speaker of the House of Representatives,  
23 and the Chief Financial Officer within 90 days after the end  
24 of each calendar year in which bonds were outstanding.

25 Section 26. No provision of s. 631.57 or s. 631.695,  
26 Florida Statutes, shall be repealed until such time as the  
27 principal, redemption premium, if any, and interest on all  
28 bonds issued under s. 631.695, Florida Statutes, payable and  
29 secured from assessments levied under s. 631.57(3)(a), Florida  
30 Statutes, have been paid in full or adequate provision for  
31 such payment has been made in accordance with the bond

597-2109B-06

1 resolution or trust indenture pursuant to which the bonds were  
2 issued.

3           Section 27. For the 2006-2007 fiscal year, the sum  
4 of \_\_\_\_\_ is appropriated from the General Revenue Fund to the  
5 Department of Community Affairs as a nonrecurring  
6 appropriation for the purposes of the Home Retrofit Hardening  
7 Program specified in s. 215.558, Florida Statutes, as created  
8 by this act.

9           Section 28. For the 2006-2007 fiscal year, the sum  
10 of \_\_\_\_\_ is appropriated from the General Revenue Fund to the  
11 Department of Community Affairs as a nonrecurring  
12 appropriation for the purposes of wind certification and  
13 hurricane mitigation inspections specified in s. 215.5586,  
14 Florida Statutes, as created by this act.

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

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31