

Bill No. CS for CS for SB 1980

Barcode 335282

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senators Garcia and Alexander moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Effective June 1, 2006, paragraph (d) of subsection (2), paragraphs (b), (c), and (d) of subsection (4), paragraph (b) of subsection (5), and paragraphs (a) and (b) of subsection (6) of section 215.555, Florida Statutes, are amended, and paragraph (e) is added to subsection (5) of that section, to read:

215.555 Florida Hurricane Catastrophe Fund.--

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

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

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1 (4) REIMBURSEMENT CONTRACTS.--

2 (b)1. The contract shall contain a promise by the
3 board to reimburse the insurer for 45 percent, 75 percent, or
4 90 percent of its losses from each covered event in excess of
5 the insurer's retention, plus 5 percent of the reimbursed
6 losses to cover loss adjustment expenses.

7 2. The insurer must elect one of the percentage
8 coverage levels specified in this paragraph and may, upon
9 renewal of a reimbursement contract, elect a lower percentage
10 coverage level if no revenue bonds issued under subsection (6)
11 after a covered event are outstanding, or elect a higher
12 percentage coverage level, regardless of whether or not
13 revenue bonds are outstanding. All members of an insurer group
14 must elect the same percentage coverage level. Any joint
15 underwriting association, risk apportionment plan, or other
16 entity created under s. 627.351 must elect the 90-percent
17 coverage level.

18 3. The contract shall provide that reimbursement
19 amounts shall not be reduced by reinsurance paid or payable to
20 the insurer from other sources.

21 4. Notwithstanding any other provision contained in
22 this section, the board shall make available to insurers
23 qualifying as limited apportionment companies under s.
24 627.351(6)(c) a contract or contract addendum that provides an
25 additional amount of reimbursement coverage of up to \$10
26 million. The premium to be charged for this additional
27 reimbursement coverage shall be 50 percent of the additional
28 reimbursement coverage provided, which shall include one
29 prepaid reinstatement. The minimum retention level that an
30 eligible participating insurer must retain associated with
31 this additional coverage layer is 30 percent of the insurer's

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1 surplus as of March 31, 2006. This coverage shall be in
 2 addition to all other coverage that may be provided under this
 3 section. The coverage provided by the fund under this
 4 subsection shall be in addition to the claims-paying capacity
 5 as defined in subparagraph (c)1., but only with respect to
 6 those insurers that select the additional coverage option and
 7 meet the requirements of this subsection. The claims-paying
 8 capacity with respect to all other participating insurers and
 9 limited apportionment companies that do not select the
 10 additional coverage option shall be limited to their
 11 reimbursement premium's proportionate share of the actual
 12 claims-paying capacity otherwise defined in subparagraph (c)1.
 13 and as provided for under the terms of the reimbursement
 14 contract. Coverage provided in the reimbursement contract for
 15 participating insurers will not be affected by the additional
 16 premiums paid by limited apportionment companies exercising
 17 the additional coverage option allowed in this subparagraph.
 18 This subparagraph expires on May 31, 2007.

19 (c)1. The contract shall also provide that the
 20 obligation of the board with respect to all contracts covering
 21 a particular contract year shall not exceed the actual
 22 claims-paying capacity of the fund up to a limit of \$15
 23 billion for that contract year adjusted based upon the
 24 reported exposure from the prior contract year to reflect the
 25 percentage growth in exposure to the fund for covered policies
 26 since 2003, provided the dollar growth in the limit may not
 27 increase in any year by an amount greater than the dollar
 28 growth of the ~~cash~~ balance of the fund as of December 31 as
 29 defined by rule which occurred over the prior calendar year.

30 2. In May before the start of the upcoming contract
 31 year and in October during the contract year, the board shall

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1 publish in the Florida Administrative Weekly a statement of
2 the fund's estimated borrowing capacity and the projected
3 balance of the fund as of December 31. After the end of each
4 calendar year, the board shall notify insurers of the
5 estimated borrowing capacity and the balance of the fund as of
6 December 31 to provide insurers with data necessary to assist
7 them in determining their retention and projected payout from
8 the fund for loss reimbursement purposes. In conjunction with
9 the development of the premium formula, as provided for in
10 subsection (5), the board shall publish factors or multiples
11 that assist insurers in determining their retention and
12 projected payout for the next contract year. For all
13 regulatory and reinsurance purposes, an insurer may calculate
14 its projected payout from the fund as its share of the total
15 fund premium for the current contract year multiplied by the
16 sum of the projected balance of the fund as of December 31 and
17 the estimated borrowing capacity for that contract year as
18 reported under this subparagraph.

19 (d)1. For purposes of determining potential liability
20 and to aid in the sound administration of the fund, the
21 contract shall require each insurer to report such insurer's
22 losses from each covered event on an interim basis, as
23 directed by the board. The contract shall require the insurer
24 to report to the board no later than December 31 of each year,
25 and quarterly thereafter, its reimbursable losses from covered
26 events for the year. The contract shall require the board to
27 determine and pay, as soon as practicable after receiving
28 these reports of reimbursable losses, the initial amount of
29 reimbursement due and adjustments to this amount based on
30 later loss information. The adjustments to reimbursement
31 amounts shall require the board to pay, or the insurer to

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1 return, amounts reflecting the most recent calculation of
2 losses.

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

5 ~~a. First reimburse insurers writing covered policies,~~
6 ~~which insurers are in full compliance with this section and~~
7 ~~have petitioned the Office of Insurance Regulation and~~
8 ~~qualified as limited apportionment companies under s.~~
9 ~~627.351(2)(b)3. The amount of such reimbursement shall be the~~
10 ~~lesser of \$10 million or an amount equal to 10 times the~~
11 ~~insurer's reimbursement premium for the current year. The~~
12 ~~amount of reimbursement paid under this sub-subparagraph may~~
13 ~~not exceed the full amount of reimbursement promised in the~~
14 ~~reimbursement contract. This sub-subparagraph does not apply~~
15 ~~with respect to any contract year in which the year-end~~
16 ~~projected cash balance of the fund, exclusive of any bonding~~
17 ~~capacity of the fund, exceeds \$2 billion. Only one member of~~
18 ~~any insurer group may receive reimbursement under this~~
19 ~~sub-subparagraph.~~

20 ~~a.b.~~ Next pay to each insurer such insurer's projected
21 payout, which is the amount of reimbursement it is owed, up to
22 an amount equal to the insurer's share of the actual premium
23 paid for that contract year, multiplied by the actual
24 claims-paying capacity available for that contract year;
25 provided, entities created pursuant to s. 627.351 shall be
26 further reimbursed in accordance with sub-subparagraph ~~b. c.~~

27 ~~b.c.~~ Thereafter, establish the prorated reimbursement
28 level at the highest level for which any remaining fund
29 balance or bond proceeds are sufficient to reimburse entities
30 created pursuant to s. 627.351 based on reimbursable losses
31 exceeding the amounts payable pursuant to sub-subparagraph a.

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1 ~~b.~~ for the current contract year.

2 (5) REIMBURSEMENT PREMIUMS.--

3 (b) The State Board of Administration shall select an
4 independent consultant to develop a formula for determining
5 the actuarially indicated premium to be paid to the fund. The
6 formula shall specify, for each zip code or other limited
7 geographical area, the amount of premium to be paid by an
8 insurer for each \$1,000 of insured value under covered
9 policies in that zip code or other area. In establishing
10 premiums, the board shall consider the coverage elected under
11 paragraph (4)(b) and any factors that tend to enhance the
12 actuarial sophistication of ratemaking for the fund, including
13 deductibles, type of construction, type of coverage provided,
14 relative concentration of risks, ~~a factor providing for more~~
15 ~~rapid cash buildup in the fund until the fund capacity for a~~
16 ~~single hurricane season is fully funded,~~ and other such
17 factors deemed by the board to be appropriate. The formula may
18 provide for a procedure to determine the premiums to be paid
19 by new insurers that begin writing covered policies after the
20 beginning of a contract year, taking into consideration when
21 the insurer starts writing covered policies, the potential
22 exposure of the insurer, the potential exposure of the fund,
23 the administrative costs to the insurer and to the fund, and
24 any other factors deemed appropriate by the board. The formula
25 shall include a factor of 25 percent of the fund's actuarially
26 indicated premium in order to provide for more rapid cash
27 buildup in the fund. The formula must be approved by unanimous
28 vote of the board. The board may, at any time, revise the
29 formula pursuant to the procedure provided in this paragraph.

30 (e) If Citizens Property Insurance Corporation assumes
31 or otherwise provides coverage for policies of an insurer

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1 placed in liquidation under chapter 631 pursuant to s.
2 627.351(6), the corporation may, pursuant to conditions
3 mutually agreed to between the corporation and the State Board
4 of Administration, obtain coverage for such policies under its
5 contract with the fund or accept an assignment of the
6 liquidated insurer's contract with the fund. If Citizens
7 Property Insurance Corporation elects to cover these policies
8 under the corporation's contract with the fund, it shall
9 notify the board of its insured values with respect to such
10 policies within a specified time mutually agreed to between
11 the corporation and the board, after such assumption or other
12 coverage transaction, and the fund shall treat such policies
13 as having been in effect as of June 30 of that year. In the
14 event of an assignment, the fund shall apply that contract to
15 such policies and treat Citizens Property Insurance
16 Corporation as if the corporation were the liquidated insurer
17 for the remaining term of the contract, and the corporation
18 shall have all rights and duties of the liquidated insurer
19 beginning on the date it provides coverage for such policies,
20 but the corporation is not subject to any preexisting rights,
21 liabilities, or duties of the liquidated insurer. The
22 assignment, including any unresolved issues between the
23 liquidated insurer and Citizens Property Insurance Corporation
24 under the contract, shall be provided for in the liquidation
25 order or otherwise determined by the court. However, if a
26 covered event occurs before the effective date of the
27 assignment, the corporation may not obtain coverage for such
28 policies under its contract with the fund and shall accept an
29 assignment of the liquidated insurer's contract as provided in
30 this paragraph. This paragraph expires on June 1, 2007.

(6) REVENUE BONDS.--

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1 (a) General provisions.--

2 1. Upon the occurrence of a hurricane and a

3 determination that the moneys in the fund are or will be

4 insufficient to pay reimbursement at the levels promised in

5 the reimbursement contracts, the board may take the necessary

6 steps under paragraph (c) or paragraph (d) for the issuance of

7 revenue bonds for the benefit of the fund. The proceeds of

8 such revenue bonds may be used to make reimbursement payments

9 under reimbursement contracts; to refinance or replace

10 previously existing borrowings or financial arrangements; to

11 pay interest on bonds; to fund reserves for the bonds; to pay

12 expenses incident to the issuance or sale of any bond issued

13 under this section, including costs of validating, printing,

14 and delivering the bonds, costs of printing the official

15 statement, costs of publishing notices of sale of the bonds,

16 and related administrative expenses; or for such other

17 purposes related to the financial obligations of the fund as

18 the board may determine. The term of the bonds may not exceed

19 30 years. The board may pledge or authorize the corporation to

20 pledge all or a portion of all revenues under subsection (5)

21 and under paragraph (b) to secure such revenue bonds and the

22 board may execute such agreements between the board and the

23 issuer of any revenue bonds and providers of other financing

24 arrangements under paragraph (7)(b) as the board deems

25 necessary to evidence, secure, preserve, and protect such

26 pledge. If reimbursement premiums received under subsection

27 (5) or earnings on such premiums are used to pay debt service

28 on revenue bonds, such premiums and earnings shall be used

29 only after the use of the moneys derived from assessments

30 under paragraph (b). The funds, credit, property, or taxing

31 power of the state or political subdivisions of the state

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1 shall not be pledged for the payment of such bonds. The board
 2 may also enter into agreements under paragraph (c) or
 3 paragraph (d) for the purpose of issuing revenue bonds in the
 4 absence of a hurricane upon a determination that such action
 5 would maximize the ability of the fund to meet future
 6 obligations.

7 2. The Legislature finds and declares that the
 8 issuance of bonds under this subsection is for the public
 9 purpose of paying the proceeds of the bonds to insurers,
 10 thereby enabling insurers to pay the claims of policyholders
 11 to assure that policyholders are able to pay the cost of
 12 construction, reconstruction, repair, restoration, and other
 13 costs associated with damage to property of policyholders of
 14 covered policies after the occurrence of a hurricane. ~~Revenue~~
 15 ~~bonds may not be issued under this subsection until validated~~
 16 ~~under chapter 75. The validation of at least the first~~
 17 ~~obligations incurred pursuant to this subsection shall be~~
 18 ~~appealed to the Supreme Court, to be handled on an expedited~~
 19 ~~basis.~~

20 (b) Emergency assessments.--

21 1. If the board determines that the amount of revenue
 22 produced under subsection (5) is insufficient to fund the
 23 obligations, costs, and expenses of the fund and the
 24 corporation, including repayment of revenue bonds and that
 25 portion of the debt service coverage not met by reimbursement
 26 premiums, the board shall direct the Office of Insurance
 27 Regulation to levy, by order, an emergency assessment on
 28 direct premiums for all property and casualty lines of
 29 business in this state, including property and casualty
 30 business of surplus lines insurers regulated under part VIII
 31 of chapter 626, but not including any workers' compensation

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1 premiums or medical malpractice premiums. As used in this
2 subsection, the term "property and casualty business" includes
3 all lines of business identified on Form 2, Exhibit of
4 Premiums and Losses, in the annual statement required of
5 authorized insurers by s. 624.424 and any rule adopted under
6 this section, except for those lines identified as accident
7 and health insurance and except for policies written under the
8 National Flood Insurance Program. The assessment shall be
9 specified as a percentage of direct written ~~future~~ premium
10 ~~collections~~ and is subject to annual adjustments by the board
11 ~~to reflect changes in premiums subject to assessments~~
12 ~~collected under this subparagraph~~ in order to meet debt
13 obligations. The same percentage shall apply to all policies
14 in lines of business subject to the assessment issued or
15 renewed during the 12-month period beginning on the effective
16 date of the assessment.

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

29 3. Emergency assessments shall be collected from
30 policyholders. Emergency assessments shall be remitted by
31 insurers as a percentage of direct written premium for the

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1 preceding calendar quarter as specified in the order from the
2 Office of Insurance Regulation. ~~With respect to each insurer~~
3 ~~collecting premiums that are subject to the assessment, the~~
4 ~~insurer shall collect the assessment at the same time as it~~
5 ~~collects the premium payment for each policy and shall remit~~
6 ~~the assessment collected to the fund or corporation as~~
7 ~~provided in the order issued by the Office of Insurance~~
8 ~~Regulation.~~ The office shall verify the accurate and timely
9 collection and remittance of emergency assessments and shall
10 report the information to the board in a form and at a time
11 specified by the board. Each insurer collecting assessments
12 shall provide the information with respect to premiums and
13 collections as may be required by the office to enable the
14 office to monitor and verify compliance with this paragraph.

15 4. With respect to assessments of surplus lines
16 premiums, each surplus lines agent shall collect the
17 assessment at the same time as the agent collects the surplus
18 lines tax required by s. 626.932, and the surplus lines agent
19 shall remit the assessment to the Florida Surplus Lines
20 Service Office created by s. 626.921 at the same time as the
21 agent remits the surplus lines tax to the Florida Surplus
22 Lines Service Office. The emergency assessment on each insured
23 procuring coverage and filing under s. 626.938 shall be
24 remitted by the insured to the Florida Surplus Lines Service
25 Office at the time the insured pays the surplus lines tax to
26 the Florida Surplus Lines Service Office. The Florida Surplus
27 Lines Service Office shall remit the collected assessments to
28 the fund or corporation as provided in the order levied by the
29 Office of Insurance Regulation. The Florida Surplus Lines
30 Service Office shall verify the proper application of such
31 emergency assessments and shall assist the board in ensuring

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1 the accurate and timely collection and remittance of
 2 assessments as required by the board. The Florida Surplus
 3 Lines Service Office shall annually calculate the aggregate
 4 written premium on property and casualty business, other than
 5 workers' compensation and medical malpractice, procured
 6 through surplus lines agents and insureds procuring coverage
 7 and filing under s. 626.938 and shall report the information
 8 to the board in a form and at a time specified by the board.

9 5. Any assessment authority not used for a particular
 10 contract year may be used for a subsequent contract year. If,
 11 for a subsequent contract year, the board determines that the
 12 amount of revenue produced under subsection (5) is
 13 insufficient to fund the obligations, costs, and expenses of
 14 the fund and the corporation, including repayment of revenue
 15 bonds and that portion of the debt service coverage not met by
 16 reimbursement premiums, the board shall direct the Office of
 17 Insurance Regulation to levy an emergency assessment up to an
 18 amount not exceeding the amount of unused assessment authority
 19 from a previous contract year or years, plus an additional 4
 20 percent provided that the assessments in the aggregate do not
 21 exceed the limits specified in subparagraph 2.

22 6. The assessments otherwise payable to the
 23 corporation under this paragraph shall be paid to the fund
 24 unless and until the Office of Insurance Regulation and the
 25 Florida Surplus Lines Service Office have received from the
 26 corporation and the fund a notice, which shall be conclusive
 27 and upon which they may rely without further inquiry, that the
 28 corporation has issued bonds and the fund has no agreements in
 29 effect with local governments under paragraph (c). On or after
 30 the date of the notice and until the date the corporation has
 31 no bonds outstanding, the fund shall have no right, title, or

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1 interest in or to the assessments, except as provided in the
2 fund's agreement with the corporation.

3 7. Emergency assessments are not premium and are not
4 subject to the premium tax, to the surplus lines tax, to any
5 fees, or to any commissions. An insurer is liable for all
6 assessments that it collects and must treat the failure of an
7 insured to pay an assessment as a failure to pay the premium.
8 An insurer is not liable for uncollectible assessments.

9 8. When an insurer is required to return an unearned
10 premium, it shall also return any collected assessment
11 attributable to the unearned premium. A credit adjustment to
12 the collected assessment may be made by the insurer with
13 regard to future remittances that are payable to the fund or
14 corporation, but the insurer is not entitled to a refund.

15 9. When a surplus lines insured or an insured who has
16 procured coverage and filed under s. 626.938 is entitled to
17 the return of an unearned premium, the Florida Surplus Lines
18 Service Office shall provide a credit or refund to the agent
19 or such insured for the collected assessment attributable to
20 the unearned premium prior to remitting the emergency
21 assessment collected to the fund or corporation.

22 10. The exemption of medical malpractice insurance
23 premiums from emergency assessments under this paragraph is
24 repealed May 31, 2007, and medical malpractice insurance
25 premiums shall be subject to emergency assessments
26 attributable to loss events occurring in the contract years
27 commencing on June 1, 2007.

28 Section 2. Effective July 1, 2006, section 215.5586,
29 Florida Statutes, is created to read:

30 215.5586 Florida Comprehensive Hurricane Damage
31 Mitigation Program.--There is established within the

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1 Department of Financial Services the Florida Comprehensive
 2 Hurricane Damage Mitigation Program. This section does not
 3 create an entitlement for property owners or obligate the
 4 state in any way to fund the inspection or retrofitting of
 5 residential property in this state. Implementation of this
 6 program is subject to annual legislative appropriations. The
 7 program shall be administered by an individual with prior
 8 executive experience in the private sector in the areas of
 9 insurance, business, or construction. The program shall
 10 develop and implement a comprehensive and coordinated approach
 11 for hurricane damage mitigation that shall include the
 12 following:

13 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
 14 INSPECTIONS.--

15 (a) Free home-retrofit inspections of site-built,
 16 residential property, including single-family, two-family,
 17 three-family, or four-family residential units, shall be
 18 offered to determine what mitigation measures are needed and
 19 what improvements to existing residential properties are
 20 needed to reduce the property's vulnerability to hurricane
 21 damage. The Department of Financial Services shall establish a
 22 request for proposals to solicit proposals from wind
 23 certification entities to provide at no cost to homeowners
 24 wind certification and hurricane mitigation inspections. The
 25 inspections provided to homeowners, at a minimum, must
 26 include:

27 1. A home inspection and report that summarizes the
 28 results and identifies corrective actions a homeowner may take
 29 to mitigate hurricane damage.

30 2. A range of cost estimates regarding the mitigation
 31 features.

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1 3. Insurer-specific information regarding premium
2 discounts correlated to recommended mitigation features
3 identified by the inspection.

4 4. A hurricane resistance rating scale specifying the
5 home's current as well as projected wind resistance
6 capabilities.

7 (b) To qualify for selection by the department as a
8 provider of wind certification and hurricane mitigation
9 inspections, the entity shall, at a minimum:

10 1. Use wind certification and hurricane mitigation
11 inspectors who:

12 a. Have prior experience in residential construction
13 or inspection and have received specialized training in
14 hurricane mitigation procedures.

15 b. Have undergone drug testing and background checks.

16 c. Have been certified, in a manner satisfactory to
17 the department, to conduct the inspections.

18 2. Provide a quality assurance program including a
19 reinspection component.

20 (2) GRANTS.--Financial grants shall be used to
21 encourage single-family, site-built, owner-occupied,
22 residential property owners to retrofit their properties to
23 make them less vulnerable to hurricane damage.

24 (a) To be eligible for a grant, a residential property
25 must:

26 1. Have been granted a homestead exemption under
27 chapter 196.

28 2. Be a dwelling with an insured value of \$500,000 or
29 less.

30 3. Have undergone an acceptable wind certification and
31 hurricane mitigation inspection.

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A residential property which is part of a multi-family residential unit may receive a grant only if all homeowners participate and the total number of units does not exceed four.

(b) All grants must be matched on a dollar-for-dollar basis for a total of \$10,000 for the mitigation project with the state's contribution not to exceed \$5,000.

(c) The program shall create a process in which mitigation contractors agree to participate and seek reimbursement from the state and homeowners select from a list of participating contractors. All mitigation must be based upon the securing of all required local permits and inspections. Mitigation projects are subject to random reinspection of up to at least 10 percent of all projects.

(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built, owner-occupied, residential property.

(e) Grants may be used for the following improvements:

- 1. Roof deck attachment;
- 2. Secondary water barrier;
- 3. Roof covering;
- 4. Brace gable ends;
- 5. Reinforce roof-to-wall connections;
- 6. Opening protection; and
- 7. Exterior doors, including garage doors.

(f) Low-income homeowners, as defined in s. 420.0004(9), who otherwise meet the requirements of paragraphs (a) and (c) are eligible for a grant of up to \$5,000 and are not required to provide a matching amount to receive the

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1 grant. Such grants shall be used to retrofit single-family,
2 site-built, owner-occupied, residential properties in order to
3 make them less vulnerable to hurricane damage.

4 (3) EDUCATION AND CONSUMER AWARENESS.--Multimedia
5 public education, awareness, and advertising efforts designed
6 to specifically address mitigation techniques shall be
7 employed, as well as a component to support ongoing consumer
8 resources and referral services.

9 (4) ADVISORY COUNCIL.--There is created an advisory
10 council to provide advice and assistance to the program
11 administrator with regard to his or her administration of the
12 program. The advisory council shall consist of:

13 (a) A representative of lending institutions, selected
14 by the Financial Services Commission from a list of at least
15 three persons recommended by the Florida Bankers Association.

16 (b) A representative of residential property insurers,
17 selected by the Financial Services Commission from a list of
18 at least three persons recommended by the Florida Insurance
19 Council.

20 (c) A representative of home builders, selected by the
21 Financial Services Commission from a list of at least three
22 persons recommended by the Florida Home Builders Association.

23 (d) A faculty member of a state university, selected
24 by the Financial Services Commission, who is an expert in
25 hurricane-resistant construction methodologies and materials.

26 (e) Two members of the House of Representatives,
27 selected by the Speaker of the House of Representatives.

28 (f) Two members of the Senate, selected by the
29 President of the Senate.

30 (g) The Chief Executive Officer of the Federal
31 Alliance for Safe Homes, Inc., or his or her designee.

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1 (h) The senior officer of the Florida Hurricane
2 Catastrophe Fund.

3 (i) The executive director of Citizens Property
4 Insurance Corporation.

5 (j) The director of the Division of Emergency
6 Management of the Department of Community Affairs.

7
8 Members appointed under paragraphs (a)-(d) shall serve at the
9 pleasure of the Financial Services Commission. Members
10 appointed under paragraphs (e) and (f) shall serve at the
11 pleasure of the appointing officer. All other members shall
12 serve voting ex officio. Members of the advisory council shall
13 serve without compensation but may receive reimbursement as
14 provided in s. 112.061 for per diem and travel expenses
15 incurred in the performance of their official duties.

16 (5) FEDERAL FUNDING.--The department shall use its
17 best efforts to obtain grants or funds from the federal
18 government to supplement the financial resources of the
19 program.

20 (6) RULES.--The Department of Financial Services shall
21 adopt rules pursuant to ss. 120.536(1) and 120.54 governing
22 the Florida Comprehensive Hurricane Damage Mitigation Program.
23 The department shall also adopt rules establishing priorities
24 for grants provided under this section based on objective
25 criteria that gives priority to reducing the state's probable
26 maximum loss from hurricanes. However, pursuant to this
27 overall goal, the department may further establish priorities
28 based on the insured value of the dwelling, whether or not the
29 dwelling is insured by Citizens Property Insurance Corporation
30 and whether or not the area under consideration has sufficient
31 resources and the ability to perform the retrofitting

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1 required.

2 Section 3. Subsections (4) and (6) of section 215.559,
3 Florida Statutes, are amended to read:

4 215.559 Hurricane Loss Mitigation Program.--

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

19 (b)1. There is created the Manufactured Housing and
20 Mobile Home Mitigation and Enhancement Program. The program
21 shall require the mitigation of damage to or the enhancement
22 of homes for the areas of concern raised by the Department of
23 Highway Safety and Motor Vehicles in the 2004-2005 Hurricane
24 Reports on the effects of the 2004 and 2005 hurricanes on
25 manufactured and mobile homes in this state. The mitigation or
26 enhancement must include, but need not be limited to, problems
27 associated with weakened trusses, studs, and other structural
28 components caused by wood rot or termite damage; site-built
29 additions; or tie-down systems and may also address any other
30 issues deemed appropriate by Tallahassee Community College,
31 the Federation of Manufactured Home Owners of Florida, Inc.,

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1 the Florida Manufactured Housing Association, and the
 2 Department of Highway Safety and Motor Vehicles. The program
 3 shall include an education and outreach component to ensure
 4 that owners of manufactured and mobile homes are aware of the
 5 benefits of participation.

6 2. The program shall be a grant program that ensures
 7 that entire manufactured home communities and mobile home
 8 parks may be improved wherever practicable. The moneys
 9 appropriated for this program shall be distributed directly to
 10 Tallahassee Community College for the uses set forth under
 11 this subsection.

12 3. Upon evidence of completion of the program, the
 13 Citizens Property Insurance Corporation shall grant, on a
 14 pro-rata basis, actuarially reasonable discounts, credits, or
 15 other rate differentials or appropriate reductions in
 16 deductibles for the properties of owners of manufactured homes
 17 or mobile homes on which fixtures or construction techniques
 18 that have been demonstrated to reduce the amount of loss in a
 19 windstorm have been installed or implemented. The discount on
 20 the premium must be applied to subsequent renewal premium
 21 amounts. Premiums of the Citizens Property Insurance
 22 Corporation must reflect the location of the home and the fact
 23 that the home has been installed in compliance with building
 24 codes adopted after Hurricane Andrew. Rates resulting from the
 25 completion of the Manufactured Housing and Mobile Home
 26 Mitigation and Enhancement Program are not considered
 27 competitive rates for the purposes of s. 627.351(6)(d)1. and
 28 2.

29 4. On or before January 1 of each year, Tallahassee
 30 Community College shall provide a report of activities under
 31 this subsection to the Governor, the President of the Senate,

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1 and the Speaker of the House of Representatives. The report
 2 must set forth the number of homes that have taken advantage
 3 of the program, the types of enhancements and improvements
 4 made to the manufactured or mobile homes and attachments to
 5 such homes, and whether there has been an increase in
 6 availability of insurance products to owners of manufactured
 7 or mobile homes.

8
 9 Tallahassee Community College shall develop the programs set
 10 forth in this subsection in consultation with the Federation
 11 of Manufactured Home Owners of Florida, Inc., the Florida
 12 Manufactured Housing Association, and the Department of
 13 Highway Safety and Motor Vehicles. The moneys appropriated for
 14 the programs set forth in this subsection shall be distributed
 15 directly to Tallahassee Community College to be used as set
 16 forth in this subsection.

17 (6) Except for the programs set forth in subsection
 18 (4), the Department of Community Affairs shall develop the
 19 programs set forth in this section in consultation with an
 20 advisory council consisting of a representative designated by
 21 the Chief Financial Officer, a representative designated by
 22 the Florida Home Builders Association, a representative
 23 designated by the Florida Insurance Council, a representative
 24 designated by the Federation of Manufactured Home Owners, a
 25 representative designated by the Florida Association of
 26 Counties, and a representative designated by the Florida
 27 Manufactured Housing Association.

28 Section 4. Of the funds appropriated for the Florida
 29 Comprehensive Hurricane Damage Mitigation Program specified in
 30 s. 215.5586, Florida Statutes, as created by this act, \$7.5
 31 million shall be for the Manufactured Housing and Mobile Home

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1 Mitigation and Enhancement Program specified in s.
 2 215.559(4)(b), Florida Statutes, as created by this act. The
 3 Department of Financial Services shall use these funds to
 4 contract with Tallahassee Community College to implement the
 5 Manufactured Housing and Mobile Home Mitigation and
 6 Enhancement Program.

7 Section 5. Section 215.5595, Florida Statutes, is
 8 created to read:

9 215.5595 Insurance Capital Build-Up Incentive
 10 Program.--

11 (1) Upon entering the 2006 hurricane season, the
 12 Legislature finds that:

13 (a) The losses in Florida from eight hurricanes in
 14 2004 and 2005 have seriously strained the resources of both
 15 the voluntary insurance market and the public-sector
 16 mechanisms of Citizens Property Insurance Corporation and the
 17 Florida Hurricane Catastrophe Fund.

18 (b) Private reinsurance is much less available and at
 19 a significantly greater cost to residential property insurers
 20 as compared to 1 year ago, particularly for amounts below the
 21 insurer's retention or retained losses that must be paid
 22 before reimbursement is provided by the Florida Hurricane
 23 Catastrophe Fund.

24 (c) The Office of Insurance Regulation has reported
 25 that the insolvency of certain insurers may be imminent.

26 (d) Hurricane forecast experts predict that the 2006
 27 hurricane season will be an active hurricane season and that
 28 the Atlantic and Gulf Coast regions face an active hurricane
 29 cycle of 10 to 20 years or longer.

30 (e) The number of cancellations or nonrenewals of
 31 residential property insurance policies is expected to

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1 increase and the number of new residential policies written in
2 the voluntary market are likely to decrease, causing increased
3 policy growth and exposure to the state insurer of last
4 resort, Citizens Property Insurance Corporation, and
5 threatening to increase the deficit of the corporation,
6 currently estimated to be over \$1.7 billion. This deficit must
7 be funded by assessments against insurers and policyholders,
8 unless otherwise funded by the state.

9 (f) Policyholders are subject to increased premiums
10 and assessments that are increasingly making such coverage
11 unaffordable and that may force policyholders to sell their
12 homes and even leave the state.

13 (g) The increased risk to the public sector and
14 private sector poses a serious threat to the economy of this
15 state, particularly the building and financing of residential
16 structures, and existing mortgages may be placed in default.

17 (h) The losses from 2004 and 2005, combined with the
18 expectation that the increase in hurricane activity will
19 continue for the foreseeable future, have caused both insurers
20 and reinsurers to limit the capital they are willing to commit
21 to covering the hurricane risk in Florida; attracting new
22 capital to the Florida market is a critical priority; and
23 providing a low-cost source of capital would enable insurers
24 to write additional residential property insurance coverage
25 and act to mitigate premium increases.

26 (i) Appropriating state funds to be used as surplus
27 notes for residential property insurers, under conditions
28 requiring the insurer to contribute additional private-sector
29 capital and to write a minimum level of premiums for
30 residential hurricane coverage, is a valid and important
31 public purpose.

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1 (2) The purpose of this section is to provide surplus
 2 notes to new or existing authorized residential property
 3 insurers under the Insurance Capital Build-Up Incentive
 4 Program administered by the State Board of Administration,
 5 under the following conditions:

6 (a) The amount of the surplus note for any insurer or
 7 insurer group may not exceed \$25 million or 20 percent of the
 8 total amount of funds available under the program, whichever
 9 is greater.

10 (b) The insurer must contribute an amount of new
 11 capital to its surplus which is at least equal to the amount
 12 of the surplus note and must apply to the board by July 1,
 13 2006. If an insurer applies after July 1, 2006, but before
 14 June 1, 2007, the amount of the surplus note is limited to
 15 one-half of the new capital that the insurer contributes to
 16 its surplus. For purposes of this section, new capital must be
 17 in the form of cash or cash equivalents as specified in s.
 18 625.012(1).

19 (c) The insurer's surplus, new capital, and the
 20 surplus note must total at least \$50 million.

21 (d) The insurer must commit to meeting a minimum
 22 writing ratio of net written premium to surplus of at least
 23 2:1 for the term of the surplus note, which shall be
 24 determined by the Office of Insurance Regulation and certified
 25 quarterly to the board. For this purpose, the term "net
 26 written premium" means net written premium for residential
 27 property insurance in Florida, including the peril of wind,
 28 and "surplus" refers to the entire surplus of the insurer. If
 29 the required ratio is not maintained during the term of the
 30 surplus note, the board may increase the interest rate,
 31 accelerate the repayment of interest and principal, or shorten

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1 the term of the surplus note, subject to approval by the
2 Commissioner of Insurance of payments by the insurer of
3 principal and interest as provided in paragraph (f).

4 (e) If the requirements of this section are met, the
5 board may approve an application by an insurer for a surplus
6 note, unless the board determines that the financial condition
7 of the insurer and its business plan for writing residential
8 property insurance in Florida places an unreasonably high
9 level of financial risk to the state of nonpayment in full of
10 the interest and principal. The board shall consult with the
11 Office of Insurance Regulation and may contract with
12 independent financial and insurance consultants in making this
13 determination.

14 (f) The surplus note must be repayable to the state
15 with a term of 20 years. The surplus note shall accrue
16 interest on the unpaid principal balance at a rate equivalent
17 to the 10-year U.S. Treasury Bond rate, require the payment
18 only of interest during the first 3 years, and include such
19 other terms as approved by the board. Payment of principal or
20 interest by the insurer on the surplus note must be approved
21 by the Commissioner of Insurance, who shall approve such
22 payment unless the commissioner determines that such payment
23 will substantially impair the financial condition of the
24 insurer. If such a determination is made, the commissioner
25 shall approve such payment that will not substantially impair
26 the financial condition of the insurer.

27 (g) The total amount of funds available for the
28 program is limited to the amount appropriated by the
29 Legislature for this purpose. If the amount of surplus notes
30 requested by insurers exceeds the amount of funds available,
31 the board may prioritize insurers that are eligible and

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1 approved, regardless of the date of application, based on the
2 financial strength of the insurer, the viability of its
3 proposed business plan for writing additional residential
4 property insurance in the state, and the effect on competition
5 in the residential property insurance market.

6 (h) The board may allocate portions of the funds
7 available for the program and establish dates for insurers to
8 apply for surplus notes from such allocation which are earlier
9 than the dates established in paragraph (b).

10 (3) As used in this section, the term:

11 (a) "Board" means the State Board of Administration.

12 (b) "Program" means the Insurance Capital Build-Up
13 Incentive Program established by this section.

14 (4) A surplus note provided to an insurer pursuant to
15 this section is considered an asset of the insurer pursuant to
16 s. 625.012.

17 (5) If an insurer that receives a surplus note
18 pursuant to this section is rendered insolvent, the state is a
19 class 3 creditor pursuant to s. 631.271 for the unpaid
20 principal and interest on the surplus note.

21 (6) The board shall adopt rules prescribing the
22 procedures, administration, and criteria for approving the
23 issuance of surplus notes pursuant to this section, which may
24 be adopted pursuant to the procedures for emergency rules of
25 chapter 120. Otherwise, actions and determinations by the
26 board pursuant to this section are exempt from chapter 120.

27 (7) The board shall invest and reinvest the funds
28 appropriated for the program in accordance with s. 215.47 and
29 consistent with board policy.

30 Section 6. Section 252.63, Florida Statutes, is
31 created to read:

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1 252.63 Commissioner of Insurance Regulation; powers in
2 a state of emergency.--

3 (1) When the Governor declares a state of emergency
4 pursuant to s. 252.36, the commissioner may issue one or more
5 general orders applicable to all insurance companies,
6 entities, and persons, as defined in s. 624.04, that are
7 subject to the Florida Insurance Code and that serve any
8 portion of the area of the state under the state of emergency.

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

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

23 Section 7. Section 626.8795, Florida Statutes, is
24 created to read:

25 626.8795 Public adjusters; prohibition of conflict of
26 interest.--A public adjuster may not participate, directly or
27 indirectly, in the reconstruction, repair, or restoration of
28 damaged property that is the subject of a claim adjusted by
29 the licensee; may not engage in any other activities that may
30 be reasonably construed as a conflict of interest, including
31 soliciting or accepting any remuneration from, of any kind or

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1 nature, directly or indirectly; and may not have a financial
 2 interest in any salvage, repair, or any other business entity
 3 that obtains business in connection with any claim that the
 4 public adjuster has a contract or an agreement to adjust.

5 Section 8. Subsection (1) of 627.0613, Florida
 6 Statutes, is amended to read:

7 627.0613 Consumer advocate.--The Chief Financial
 8 Officer must appoint a consumer advocate who must represent
 9 the general public of the state before the department and the
 10 office. The consumer advocate must report directly to the
 11 Chief Financial Officer, but is not otherwise under the
 12 authority of the department or of any employee of the
 13 department. The consumer advocate has such powers as are
 14 necessary to carry out the duties of the office of consumer
 15 advocate, including, but not limited to, the powers to:

16 (1) Recommend to the department or office, by
 17 petition, the commencement of any proceeding or action; appear
 18 in any proceeding or action before the department or office;
 19 or appear in any proceeding before the Division of
 20 Administrative Hearings or arbitration panel specified in s.
 21 627.062(6) relating to subject matter under the jurisdiction
 22 of the department or office.

23 Section 9. For the 2006-2007 fiscal year, there is
 24 appropriated \$250,000 from the Insurance Regulatory Trust Fund
 25 to the Office of the Consumer Advocate within the Department
 26 of Financial Services for the purposes provided in section
 27 627.0613, Florida Statutes.

28 Section 10. Subsections (1) and (2) of section
 29 626.918, Florida Statutes, are amended to read:

30 626.918 Eligible surplus lines insurers.--

31 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any

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1 coverage with any unauthorized insurer which is not then an
2 eligible surplus lines insurer, except as permitted under
3 subsections (5) and (6).

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

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

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

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

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

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

25 ~~(I)a.~~ On December 31, 1994, and until December 30,
 26 1995, \$2.5 million.

27 ~~(II)b.~~ On December 31, 1995, and until December 30,
 28 1996, \$3.5 million.

29 ~~(III)c.~~ On December 31, 1996, and until December 30,
 30 1997, \$4.5 million.

31 ~~(IV)d.~~ On December 31, 1997, and until December 30,

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1 1998, \$5.5 million.

2 ~~(V)e.~~ On December 31, 1998, and until December 30,
3 1999, \$6.5 million.

4 ~~(VI)f.~~ On December 31, 1999, and until December 30,
5 2000, \$8 million.

6 ~~(VII)g.~~ On December 31, 2000, and until December 30,
7 2001, \$9.5 million.

8 ~~(VIII)h.~~ On December 31, 2001, and until December 30,
9 2002, \$11 million.

10 ~~(IX)i.~~ On December 31, 2002, and until December 30,
11 2003, \$13 million.

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

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

30 ~~d.4.~~ A surplus lines insurer which is a member of an
31 insurance holding company that includes a member which is a

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

8
 9 The election shall be submitted to the office and shall be
 10 effective upon the office's being satisfied that the
 11 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
 12 met. The initial date of election shall be the date of office
 13 approval. The election approval application shall be on a form
 14 adopted by commission rule. The office may approve an election
 15 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
 16 only if it was on file with the former Department of Insurance
 17 before February 28, 1998.⁺

18 2. For purposes of letters of credit under
 19 subparagraph 1., the term "qualified United States financial
 20 institution" means an institution that:

21 a. Is organized or, in the case of a United States
 22 office of a foreign banking organization, is licensed under
 23 the laws of the United States or any state.

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

27 c. Has been determined by the office or the Securities
 28 Valuation Office of the National Association of Insurance
 29 Commissioners to meet such standards of financial condition
 30 and standing as are considered necessary and appropriate to
 31 regulate the quality of financial institutions whose letters

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1 of credit are acceptable to the office.

2 (e) The insurer must be of good reputation as to the
3 providing of service to its policyholders and the payment of
4 losses and claims.~~†~~

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

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

10 Section 11. Effective July 1, 2006, paragraph (b) of
11 subsection (2) of section 627.062, Florida Statutes, is
12 amended, paragraph (j) is added to that subsection, and
13 subsection (9) is added to that section, to read:

14 627.062 Rate standards.--

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

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

22 1. Past and prospective loss experience within and
23 without this state.

24 2. Past and prospective expenses.

25 3. The degree of competition among insurers for the
26 risk insured.

27 4. Investment income reasonably expected by the
28 insurer, consistent with the insurer's investment practices,
29 from investable premiums anticipated in the filing, plus any
30 other expected income from currently invested assets
31 representing the amount expected on unearned premium reserves

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

11 5. The reasonableness of the judgment reflected in the
 12 filing.

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

16 7. The adequacy of loss reserves.

17 8. The cost of reinsurance.

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

20 10. Conflagration and catastrophe hazards, if
 21 applicable.

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

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

30 13. Other relevant factors which impact upon the
 31 frequency or severity of claims or upon expenses.

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

(j) Effective July 1, 2007, notwithstanding any other provision of this section:

1. With respect to any residential property insurance subject to regulation under this section for any area for which the office determines a reasonable degree of competition exists, a rate filing, including, but not limited to, any rate changes, rating factors, territories, classification, discounts, and credits, with respect to any policy form, including endorsements issued with the form, that results in an overall average statewide premium increase or decrease of no more than 5 percent above or below the premium that would result from the insurer's rates then in effect shall not be subject to a determination by the office that the rate is excessive or unfairly discriminatory except as provided in subparagraph 3., or any other provision of law, provided all changes specified in the filing do not result in an overall premium increase of more than 10 percent for any one territory, for reasons related solely to the rate change. As used in this subparagraph, the term "insurer's rates then in effect" includes only rates that have been lawfully in effect under this section or rates that have been determined to be lawful through administrative proceedings or judicial proceedings.

2. An insurer may not make filings under this paragraph with respect to any policy form, including endorsements issued with the form, if the overall premium changes resulting from such filings exceed the amounts

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1 specified in this paragraph in any 12-month period. An insurer
2 may proceed under other provisions of this section or other
3 provisions of law if the insurer seeks to exceed the premium
4 or rate limitations of this paragraph.

5 3. This paragraph does not affect the authority of the
6 office to disapprove a rate as inadequate or to disapprove a
7 filing for the unlawful use of unfairly discriminatory rating
8 factors that are prohibited by the laws of this state. An
9 insurer electing to implement a rate change under this
10 paragraph shall submit a filing to the office at least 40 days
11 prior to the effective date of the rate change. The office
12 shall have 30 days after the filing's submission to review the
13 filing and determine if the rate is inadequate or uses
14 unfairly discriminatory rating factors. Absent a finding by
15 the office within such 30-day period that the rate is
16 inadequate or that the insurer has used unfairly
17 discriminatory rating factors, the filing is deemed approved.
18 If the office finds during the 30-day period that the filing
19 will result in inadequate premiums or otherwise endanger the
20 insurer's solvency, the office shall suspend the rate
21 decrease. If the insurer is implementing an overall rate
22 increase, the results of which continue to produce an
23 inadequate rate, such increase shall proceed pending
24 additional action by the office to ensure the adequacy of the
25 rate.

26 4. This paragraph does not apply to rate filings for
27 any insurance other than residential property insurance.

28 (9) The burden is on the office to establish that
29 rates are excessive for personal lines residential coverage
30 with a dwelling replacement cost of \$1 million or more or for
31 a single condominium unit with a combined dwelling and

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1 contents replacement cost of \$1 million or more. Upon request
 2 of the office, the insurer shall provide to the office such
 3 loss and expense information as the office reasonably needs to
 4 meet this burden.

5 Section 12. Paragraph (c) of subsection (3) of section
 6 627.0628, Florida Statutes, is amended to read:

7 627.0628 Florida Commission on Hurricane Loss
 8 Projection Methodology; public records exemption; public
 9 meetings exemption.--

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

11 (c) With respect to a rate filing under s. 627.062, an
 12 insurer may employ actuarial methods, principles, standards,
 13 models, or output ranges found by the commission to be
 14 accurate or reliable to determine hurricane loss factors for
 15 use in a rate filing under s. 627.062. Such findings and
 16 factors are admissible and relevant in consideration of a rate
 17 filing by the office or in any arbitration or administrative
 18 or judicial review only if the office and the consumer
 19 advocate appointed pursuant to s. 627.0613 have access to all
 20 of the assumptions and factors that were used in developing
 21 the actuarial methods, principles, standards, models, or
 22 output ranges, and are not precluded from disclosing such
 23 information in a rate proceeding. In any rate hearing under s.
 24 120.57 or in any arbitration proceeding under s. 627.062(6),
 25 the hearing officer, judge, or arbitration panel may determine
 26 whether the office and the consumer advocate were provided
 27 with access to all of the assumptions and factors that were
 28 used in developing the actuarial methods, principles,
 29 standards, models, or output ranges and to determine their
 30 admissibility.

31 Section 13. Section 627.06281, Florida Statutes, is

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1 amended to read:

2 627.06281 Public hurricane loss projection model;
3 reporting of data by insurers.--

4 (1) Within 30 days after a written request for loss
5 data and associated exposure data by the office or a type I
6 center within the State University System established to study
7 mitigation, residential property insurers and licensed rating
8 and advisory organizations that compile residential property
9 insurance loss data shall provide loss data and associated
10 exposure data for residential property insurance policies to
11 the office or to a type I center within the State University
12 System established to study mitigation, as directed by the
13 office, for the purposes of developing, maintaining, and
14 updating a public model for hurricane loss projections. The
15 loss data and associated exposure data provided shall be in
16 writing.

17 (2) The public model must be submitted to the Florida
18 Commission on Hurricane Loss Projection Methodology for review
19 under s. 627.0628 by March 1, 2007. The office may continue to
20 use the model for its review of rate filings pursuant to ss.
21 627.062 and 627.351 until such time as the Florida Commission
22 on Hurricane Loss Projection Methodology determines that the
23 public model is not accurate or reliable pursuant to the same
24 process and standards as the commission uses for the review of
25 other hurricane loss projection models.

26 Section 14. Subsection (1) of section 627.0629,
27 Florida Statutes, is amended to read:

28 627.0629 Residential property insurance; rate
29 filings.--

30 (1) Effective June 1, 2002, a rate filing for
31 residential property insurance must include actuarially

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1 reasonable discounts, credits, or other rate differentials, or
2 appropriate reductions in deductibles, for properties on which
3 fixtures or construction techniques demonstrated to reduce the
4 amount of loss in a windstorm have been installed or
5 implemented. The fixtures or construction techniques shall
6 include, but not be limited to, fixtures or construction
7 techniques which enhance roof strength, roof covering
8 performance, roof-to-wall strength,
9 wall-to-floor-to-foundation strength, opening protection, and
10 window, door, and skylight strength. Credits, discounts, or
11 other rate differentials for fixtures and construction
12 techniques which meet the minimum requirements of the Florida
13 Building Code must be included in the rate filing. All
14 insurance companies must make a rate filing which includes the
15 credits, discounts, or other rate differentials by February
16 28, 2003. By July 1, 2007, the office shall reevaluate the
17 discounts, credits, other rate differentials, and appropriate
18 reductions in deductibles for fixtures and construction
19 techniques that meet the minimum requirements of the Florida
20 Building Code, based upon actual experience or any other loss
21 relativity studies available to the office. The office shall
22 determine the discounts, credits, other rate differentials,
23 and appropriate reductions in deductibles that reflect the
24 full actuarial value of such revaluation, which may be used by
25 insurers in rate filings.

26 Section 15. Effective July 1, 2006, subsection (6) of
27 section 627.351, Florida Statutes, is amended to read:

28 627.351 Insurance risk apportionment plans.--

29 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

30 (a)1. The Legislature finds that actual and threatened
31 catastrophic losses to property in this state from hurricanes

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

27 2. The Residential Property and Casualty Joint
28 Underwriting Association originally created by this statute
29 shall be known, as of July 1, 2002, as the Citizens Property
30 Insurance Corporation. The corporation shall provide insurance
31 for residential and commercial property, for applicants who

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1 are in good faith entitled, but are unable, to procure
 2 insurance through the voluntary market. The corporation shall
 3 operate pursuant to a plan of operation approved by order of
 4 the Financial Services Commission ~~office~~. The plan is subject
 5 to continuous review by the commission ~~office~~. The commission
 6 ~~office~~ may, by order, withdraw approval of all or part of a
 7 plan if the commission ~~office~~ determines that conditions have
 8 changed since approval was granted and that the purposes of
 9 the plan require changes in the plan. The corporation shall
 10 continue to operate pursuant to the plan of operation approved
 11 by the Office of Insurance Regulation until October 1, 2006.

12 For the purposes of this subsection, residential coverage
 13 includes both personal lines residential coverage, which
 14 consists of the type of coverage provided by homeowner's,
 15 mobile home owner's, dwelling, tenant's, condominium unit
 16 owner's, and similar policies, and commercial lines
 17 residential coverage, which consists of the type of coverage
 18 provided by condominium association, apartment building, and
 19 similar policies.

20 3. For the purposes of this subsection, the term

21 "homestead property" means:

22 a. Property that has been granted a homestead
 23 exemption under chapter 196;

24 b. Property for which the owner has a current, written
 25 lease with a renter for a term of at least 7 months and for
 26 which the dwelling is insured by the corporation for \$200,000
 27 or less;

28 c. An owner-occupied mobile home or manufactured home,
 29 as defined in s. 320.01, which is permanently affixed to real
 30 property, is owned by a Florida resident, and has been granted
 31 a homestead exemption under chapter 196 or, if the owner does

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1 not own the real property, the owner certifies that the mobile
2 home or manufactured home is his or her principal place of
3 residence.

4 d. Tenants coverage;

5 e. Commercial lines residential property; or

6 f. Any county, district, or municipal hospital; a
7 hospital licensed by any not-for-profit corporation qualified
8 under s. 501(c)(3) of the United States Internal Revenue Code;
9 or a continuing care retirement community that is certified
10 under chapter 651 and that receives an exemption from ad
11 valorem taxes under chapter 196.

12 4. For the purposes of this subsection, the term
13 "nonhomestead property" means property that is not homestead
14 property.

15 5. Effective July 1, 2008, a personal lines
16 residential structure that has a dwelling replacement cost of
17 \$1 million or more, or a single condominium unit that has a
18 combined dwelling and content replacement cost of \$1 million
19 or more is not eligible for coverage by the corporation. Such
20 dwellings insured by the corporation on June 30, 2008, may
21 continue to be covered by the corporation until the end of the
22 policy term. However, such dwellings that are insured by the
23 corporation and become ineligible for coverage due to the
24 provisions of this subparagraph may reapply and obtain
25 coverage in the high-risk account and be considered
26 "nonhomestead property" if the property owner provides the
27 corporation with a sworn affidavit from one or more insurance
28 agents, on a form provided by the corporation, stating that
29 the agents have made their best efforts to obtain coverage and
30 that the property has been rejected for coverage by at least
31 one authorized insurer and at least three surplus lines

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1 insurers. If such conditions are met, the dwelling may be
 2 insured by the corporation for up to 3 years, after which time
 3 the dwelling is ineligible for coverage. The office shall
 4 approve the method used by the corporation for valuing the
 5 dwelling replacement cost for the purposes of this
 6 subparagraph. If a policyholder is insured by the corporation
 7 prior to being determined to be ineligible pursuant to this
 8 subparagraph and such policyholder files a lawsuit challenging
 9 the determination, the policyholder may remain insured by the
 10 corporation until the conclusion of the litigation.

11 6. Effective March 1, 2007, nonhomestead property is
 12 not eligible for coverage by the corporation and is not
 13 eligible for renewal of such coverage unless the property
 14 owner provides the corporation with a sworn affidavit from one
 15 or more insurance agents, on a form provided by the
 16 corporation, stating that the agents have made their best
 17 efforts to obtain coverage and that the property has been
 18 rejected for coverage by at least one authorized insurer and
 19 at least three surplus lines insurers.

20 7.3. It is the intent of the Legislature that
 21 policyholders, applicants, and agents of the corporation
 22 receive service and treatment of the highest possible level
 23 but never less than that generally provided in the voluntary
 24 market. It also is intended that the corporation be held to
 25 service standards no less than those applied to insurers in
 26 the voluntary market by the office with respect to
 27 responsiveness, timeliness, customer courtesy, and overall
 28 dealings with policyholders, applicants, or agents of the
 29 corporation.

30 (b)1. All insurers authorized to write one or more
 31 subject lines of business in this state are subject to

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

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

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

30 (II) A commercial lines account for commercial
31 residential policies issued by the corporation or issued by

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1 the Residential Property and Casualty Joint Underwriting
 2 Association and renewed by the corporation that provide
 3 coverage for basic property perils on risks that are not
 4 located in areas eligible for coverage in the Florida
 5 Windstorm Underwriting Association as those areas were defined
 6 on January 1, 2002, and for such policies that do not provide
 7 coverage for the peril of wind on risks that are located in
 8 such areas; and

9 (III) A high-risk account for personal residential
 10 policies and commercial residential and commercial
 11 nonresidential property policies issued by the corporation or
 12 transferred to the corporation that provide coverage for the
 13 peril of wind on risks that are located in areas eligible for
 14 coverage in the Florida Windstorm Underwriting Association as
 15 those areas were defined on January 1, 2002. The high-risk
 16 account must also include quota share primary insurance under
 17 subparagraph (c)2. The area eligible for coverage under the
 18 high-risk account also includes the area within Port
 19 Canaveral, which is bordered on the south by the City of Cape
 20 Canaveral, bordered on the west by the Banana River, and
 21 bordered on the north by Federal Government property. The
 22 office may remove territory from the area eligible for
 23 wind-only and quota share coverage if, after a public hearing,
 24 the office finds that authorized insurers in the voluntary
 25 market are willing and able to write sufficient amounts of
 26 personal and commercial residential coverage for all perils in
 27 the territory, including coverage for the peril of wind, such
 28 that risks covered by wind-only policies in the removed
 29 territory could be issued a policy by the corporation in
 30 either the personal lines or commercial lines account without
 31 a significant increase in the corporation's probable maximum

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1 loss in such account. Removal of territory from the area
2 eligible for wind-only or quota share coverage does not alter
3 the assignment of wind coverage written in such areas to the
4 high-risk account.

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

27 c. Creditors of the Residential Property and Casualty
28 Joint Underwriting Association shall have a claim against, and
29 recourse to, the accounts referred to in sub-sub-subparagraphs
30 a.(I) and (II) and shall have no claim against, or recourse
31 to, the account referred to in sub-sub-subparagraph a.(III).

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

6 d. Revenues, assets, liabilities, losses, and expenses
 7 not attributable to particular accounts shall be prorated
 8 among the accounts.

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

13 f. No part of the income of the corporation may inure
 14 to the benefit of any private person.

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

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

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

1 sub-subparagraph d.

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

31 d. Upon a determination by the board of governors that

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

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1 applicable account. The aggregate amount of emergency
 2 assessments levied for an account under this sub-subparagraph
 3 in any calendar year may not exceed the greater of 10 percent
 4 of the amount needed to cover the original deficit, plus
 5 interest, fees, commissions, required reserves, and other
 6 costs associated with financing of the original deficit, or 10
 7 percent of the aggregate statewide direct written premium for
 8 subject lines of business and for all accounts of the
 9 corporation for the prior year, plus interest, fees,
 10 commissions, required reserves, and other costs associated
 11 with financing the original deficit.

12 e. The corporation may pledge the proceeds of
 13 assessments, projected recoveries from the Florida Hurricane
 14 Catastrophe Fund, other insurance and reinsurance
 15 recoverables, policyholder ~~market equalization~~ surcharges and
 16 other surcharges, and other funds available to the corporation
 17 as the source of revenue for and to secure bonds issued under
 18 paragraph(p) ~~(g)~~, bonds or other indebtedness issued under
 19 subparagraph (c)3., or lines of credit or other financing
 20 mechanisms issued or created under this subsection, or to
 21 retire any other debt incurred as a result of deficits or
 22 events giving rise to deficits, or in any other way that the
 23 board determines will efficiently recover such deficits. The
 24 purpose of the lines of credit or other financing mechanisms
 25 is to provide additional resources to assist the corporation
 26 in covering claims and expenses attributable to a catastrophe.
 27 As used in this subsection, the term "assessments" includes
 28 regular assessments under sub-subparagraph a.,
 29 sub-subparagraph b., or subparagraph(p)1. ~~(g)1.~~ and emergency
 30 assessments under sub-subparagraph d. Emergency assessments
 31 collected under sub-subparagraph d. are not part of an

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

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

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

28 h. The Florida Surplus Lines Service Office shall
 29 verify the proper application by surplus lines agents of
 30 assessment percentages for regular assessments and emergency
 31 assessments levied under this subparagraph on assessable

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1 insureds and shall assist the corporation in ensuring the
2 accurate, timely collection and payment of assessments by
3 surplus lines agents as required by the corporation.

4 i. The board of governors shall maintain separate
5 accounting records that consolidate data for nonhomestead
6 properties, including, but not limited to, number of policies,
7 insured values, premiums written, and losses. The board of
8 governors shall annually report to the office and the
9 Legislature a summary of such data.

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

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

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

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

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

30 d. Personal lines and commercial lines residential
31 property insurance forms that cover the peril of wind only.

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1 The forms are applicable only to residential properties
2 located in areas eligible for coverage under the high-risk
3 account referred to in sub-subparagraph (b)2.a.

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

9 f. The corporation may adopt variations of the policy
10 forms listed in sub-subparagraphs a.-e. that contain more
11 restrictive coverage.

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

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

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

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

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

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

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

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

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

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

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

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

7 3. May provide that the corporation may employ or
 8 otherwise contract with individuals or other entities to
 9 provide administrative or professional services that may be
 10 appropriate to effectuate the plan. The corporation shall have
 11 the power to borrow funds, by issuing bonds or by incurring
 12 other indebtedness, and shall have other powers reasonably
 13 necessary to effectuate the requirements of this subsection,
 14 including, without limitation, the power to issue bonds and
 15 incur other indebtedness in order to refinance outstanding
 16 bonds or other indebtedness. The corporation may, but is not
 17 required to, seek judicial validation of its bonds or other
 18 indebtedness under chapter 75. The corporation may issue bonds
 19 or incur other indebtedness, or have bonds issued on its
 20 behalf by a unit of local government pursuant to subparagraph
 21 (g)2., in the absence of a hurricane or other weather-related
 22 event, upon a determination by the corporation, subject to
 23 approval by the office, that such action would enable it to
 24 efficiently meet the financial obligations of the corporation
 25 and that such financings are reasonably necessary to
 26 effectuate the requirements of this subsection. The
 27 corporation is authorized to take all actions needed to
 28 facilitate tax-free status for any such bonds or indebtedness,
 29 including formation of trusts or other affiliated entities.
 30 The corporation shall have the authority to pledge
 31 assessments, projected recoveries from the Florida Hurricane

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1 Catastrophe Fund, other reinsurance recoverables, market
2 equalization and other surcharges, and other funds available
3 to the corporation as security for bonds or other
4 indebtedness. In recognition of s. 10, Art. I of the State
5 Constitution, prohibiting the impairment of obligations of
6 contracts, it is the intent of the Legislature that no action
7 be taken whose purpose is to impair any bond indenture or
8 financing agreement or any revenue source committed by
9 contract to such bond or other indebtedness.

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

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1 2006, is subject to confirmation by the Senate. The executive
 2 director is responsible for employing other staff as the
 3 corporation may require, subject to review and concurrence by
 4 the board ~~and the Chief Financial Officer.~~

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

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1 5. Must provide a procedure for determining the
2 eligibility of a risk for coverage, as follows:
3 a. Subject to the provisions of s. 627.3517, with
4 respect to personal lines residential risks, if the risk is
5 offered coverage from an authorized insurer at the insurer's
6 approved rate under either a standard policy including wind
7 coverage or, if consistent with the insurer's underwriting
8 rules as filed with the office, a basic policy including wind
9 coverage, the risk is not eligible for any policy issued by
10 the corporation. If the risk is not able to obtain any such
11 offer, the risk is eligible for either a standard policy
12 including wind coverage or a basic policy including wind
13 coverage issued by the corporation; however, if the risk could
14 not be insured under a standard policy including wind coverage
15 regardless of market conditions, the risk shall be eligible
16 for a basic policy including wind coverage unless rejected
17 under subparagraph 8. The corporation shall determine the type
18 of policy to be provided on the basis of objective standards
19 specified in the underwriting manual and based on generally
20 accepted underwriting practices.

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

29 (A) Pay to the producing agent of record of the
30 policy, for the first year, an amount that is the greater of
31 the insurer's usual and customary commission for the type of

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1 policy written or a fee equal to the usual and customary
2 commission of the corporation; or

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

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

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

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

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

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

30 b. With respect to commercial lines residential risks,
31 if the risk is offered coverage under a policy including wind

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1 coverage from an authorized insurer at its approved rate, the
 2 risk is not eligible for any policy issued by the corporation.
 3 If the risk is not able to obtain any such offer, the risk is
 4 eligible for a policy including wind coverage issued by the
 5 corporation.

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

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

18 (B) 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 greater of
 21 the insurer's or the corporation's usual and customary
 22 commission for the type of policy written.

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

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

31 (A) Pay to the producing agent of record of the

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1 corporation policy, for the first year, an amount that is the
 2 greater of the insurer's usual and customary commission for
 3 the type of policy written or a fee equal to the usual and
 4 customary commission of the corporation; or

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

10

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

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

24 ~~7.6.~~ Must include rules for classifications of risks
 25 and rates therefor.

26 ~~8.7.~~ Must provide that if premium and investment
 27 income for an account attributable to a particular calendar
 28 year are in excess of projected losses and expenses for the
 29 account attributable to that year, such excess shall be held
 30 in surplus in the account. Such surplus shall be available to
 31 defray deficits in that account as to future years and shall

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1 be used for that purpose prior to assessing assessable
2 insurers and assessable insureds as to any calendar year.

3 ~~9.8.~~ Must provide objective criteria and procedures to
4 be uniformly applied for all applicants in determining whether
5 an individual risk is so hazardous as to be uninsurable. In
6 making this determination and in establishing the criteria and
7 procedures, the following shall be considered:

8 a. Whether the likelihood of a loss for the individual
9 risk is substantially higher than for other risks of the same
10 class; and

11 b. Whether the uncertainty associated with the
12 individual risk is such that an appropriate premium cannot be
13 determined.

14
15 The acceptance or rejection of a risk by the corporation shall
16 be construed as the private placement of insurance, and the
17 provisions of chapter 120 shall not apply.

18 ~~10.9.~~ Must provide that the corporation shall make its
19 best efforts to procure catastrophe reinsurance at reasonable
20 rates, to cover its projected 100-year probable maximum loss
21 as determined by the board of governors.

22 ~~11.10.~~ Must provide that in the event of regular
23 deficit assessments under sub-subparagraph (b)3.a. or
24 sub-subparagraph (b)3.b., in the personal lines account, the
25 commercial lines residential account, or the high-risk
26 account, the corporation shall levy upon corporation
27 policyholders in its next rate filing, or by a separate rate
28 filing solely for this purpose, a Citizens policyholder ~~market~~
29 ~~equalization~~ surcharge arising from a regular assessment in
30 such account in a percentage equal to the total amount of such
31 regular assessments divided by the aggregate statewide direct

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1 written premium for subject lines of business for the prior
 2 calendar year. For purposes of calculating the Citizens
 3 policyholder surcharge to be levied under this subparagraph,
 4 the total amount of the regular assessment to which this
 5 surcharge is related shall be determined as set forth in
 6 subparagraph (b)3., without deducting the estimated Citizens
 7 policyholder surcharge. Citizens policyholder Market
 8 ~~equalization~~ surcharges under this subparagraph are not
 9 considered premium and are not subject to commissions, fees,
 10 or premium taxes; however, failure to pay a market
 11 equalization surcharge shall be treated as failure to pay
 12 premium.

13 ~~12.11.~~ The policies issued by the corporation must
 14 provide that, if the corporation or the market assistance plan
 15 obtains an offer from an authorized insurer to cover the risk
 16 at its approved rates, the risk is no longer eligible for
 17 renewal through the corporation.

18 ~~13.12.~~ Corporation policies and applications must
 19 include a notice that the corporation policy could, under this
 20 section, be replaced with a policy issued by an authorized
 21 insurer that does not provide coverage identical to the
 22 coverage provided by the corporation. The notice shall also
 23 specify that acceptance of corporation coverage creates a
 24 conclusive presumption that the applicant or policyholder is
 25 aware of this potential.

26 ~~14.13.~~ May establish, subject to approval by the
 27 office, different eligibility requirements and operational
 28 procedures for any line or type of coverage for any specified
 29 county or area if the board determines that such changes to
 30 the eligibility requirements and operational procedures are
 31 justified due to the voluntary market being sufficiently

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

11 ~~15.14.~~ Must provide that, with respect to the
 12 high-risk account, any assessable insurer with a surplus as to
 13 policyholders of \$25 million or less writing 25 percent or
 14 more of its total countrywide property insurance premiums in
 15 this state may petition the office, within the first 90 days
 16 of each calendar year, to qualify as a limited apportionment
 17 company. A regular assessment levied by the corporation on a
 18 limited apportionment company for a deficit incurred by the
 19 corporation for the high-risk account in 2006 or thereafter
 20 may be paid to the corporation on a monthly basis as the
 21 assessments are collected by the limited apportionment company
 22 from its insureds pursuant to s. 627.3512, but the regular
 23 assessment must be paid in full within 12 months after being
 24 levied by the corporation. ~~In no event shall a limited~~
 25 ~~apportionment company be required to participate in the~~
 26 ~~portion of any assessment, within the high-risk account,~~
 27 ~~pursuant to sub-subparagraph (b)3.a. or sub-subparagraph~~
 28 ~~(b)3.b. in the aggregate which exceeds \$50 million after~~
 29 ~~payment of available high-risk account funds in any calendar~~
 30 ~~year. However,~~ A limited apportionment company shall collect
 31 from its policyholders any emergency assessment imposed under

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

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

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

20 18. Must provide, effective June 1, 2007, that the
 21 corporation contract with each insurer providing the non-wind
 22 coverage for risks insured by the corporation in the high-risk
 23 account, requiring that the insurer provide claims-adjusting
 24 services for the wind coverage provided by the corporation for
 25 such risks. An insurer is required to enter into this contract
 26 as a condition of providing non-wind coverage for a risk that
 27 is insured by the corporation in the high-risk account unless
 28 the board finds, after a hearing, that the insurer is not
 29 capable of providing adjusting services at an acceptable level
 30 of quality to corporation policyholders. The terms and
 31 conditions of such contracts must be substantially the same as

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1 the contracts that the corporation executed with insurers
2 under the "adjust-your-own" program in 2006, except as may be
3 mutually agreed to by the parties and except for such changes
4 that the board determines are necessary to ensure that claims
5 are adjusted appropriately. The corporation shall provide a
6 process for neutral arbitration of any dispute between the
7 corporation and the insurer regarding the terms of the
8 contract. The corporation shall review and monitor the
9 performance of insurers under these contracts.

10 19. Must limit coverage on mobile homes or
11 manufactured homes built prior to 1994 to actual cash value of
12 the dwelling rather than replacement costs of the dwelling.

13 (d)1. All prospective employees for senior management
14 positions, as defined by the plan of operation, are subject to
15 background checks as a prerequisite for employment. The office
16 shall conduct background checks on such prospective employees
17 pursuant to ss. 624.404(3), 624.34, and 628.261.

18 2. On or before July 1 of each year, employees of the
19 corporation are required to sign and submit a statement
20 attesting that they do not have a conflict of interest, as
21 defined in part III of chapter 112. As a condition of
22 employment, all prospective employees are required to sign and
23 submit to the corporation a conflict-of-interest statement.

24 3. Senior managers and members of the board of
25 governors are subject to the provisions of part III of chapter
26 112, including, but not limited to, the code of ethics and
27 public disclosure and reporting of financial interests,
28 pursuant to s. 112.3145. Senior managers and board members are
29 also required to file such disclosures with the Office of
30 Insurance Regulation. The executive director of the
31 corporation or his or her designee shall notify each newly

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1 appointed and existing appointed member of the board of
2 governors and senior managers of their duty to comply with the
3 reporting requirements of part III of chapter 112. At least
4 quarterly, the executive director or his or her designee shall
5 submit to the Commission on Ethics a list of names of the
6 senior managers and members of the board of governors that are
7 subject to the public disclosure requirements under s.
8 112.3145.

9 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
10 other provision of law, an employee or board member may not
11 knowingly accept, directly or indirectly, any gift or
12 expenditure from a person or entity, or an employee or
13 representative of such person or entity, that has a
14 contractual relationship with the corporation or who is under
15 consideration for a contract. An employee or board member that
16 fails to comply with this subparagraph is subject to penalties
17 provided under ss. 112.317 and 112.3173.

18 5. Any senior manager of the corporation who is
19 employed on or after January 1, 2007, regardless of the date
20 of hire, who subsequently retires or terminates employment is
21 prohibited from representing another person or entity before
22 the corporation for 2 years after retirement or termination of
23 employment from the corporation.

24 6. Any employee of the corporation who is employed on
25 or after January 1, 2007, regardless of the date of hire, who
26 subsequently retires or terminates employment is prohibited
27 from having any employment or contractual relationship for 2
28 years with an insurer that has received a take-out bonus from
29 the corporation.

30 (e) Purchases that equal or exceed \$2,500, but are
31 less than \$25,000, shall be made by receipt of written quotes,

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1 written record of telephone quotes, or informal bids, whenever
2 practical. The procurement of goods or services valued at or
3 over \$25,000 shall be subject to competitive solicitation,
4 except in situations where the goods or services are provided
5 by a sole source or are deemed an emergency purchase; the
6 services are exempted from competitive solicitation
7 requirements under s. 287.057(5)(f); or the procurement of
8 services is subject to s. 627.3513. Justification for the
9 sole-sourcing or emergency procurement must be documented.
10 Contracts for goods or services valued at or over \$100,000 are
11 subject to approval by the board.

12 (f) The board shall determine whether it is more
13 cost-effective and in the best interests of the corporation to
14 use legal services provided by in-house attorneys employed by
15 the corporation rather than contracting with outside counsel.
16 In making such determination, the board shall document its
17 findings and shall consider: the expertise needed; whether
18 time commitments exceed in-house staff resources; whether
19 local representation is needed; the travel, lodging and other
20 costs associated with in-house representation; and such other
21 factors that the board determines are relevant.

22 (g) The corporation may not retain a lobbyist to
23 represent it before the legislative branch or executive
24 branch. However, full-time employees of the corporation may
25 register as lobbyists and represent the corporation before the
26 legislative branch or executive branch.

27 (h)1. The Office of the Internal Auditor is
28 established within the corporation to provide a central point
29 for coordination of and responsibility for activities that
30 promote accountability, integrity, and efficiency to the
31 policyholders and to the taxpayers of this state. The internal

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1 auditor shall be appointed by the board of governors, shall
 2 report to and be under the general supervision of the board of
 3 governors, and is not subject to supervision by any employee
 4 of the corporation. Administrative staff and support shall be
 5 provided by the corporation. The internal auditor shall be
 6 appointed without regard to political affiliation. It is the
 7 duty and responsibility of the internal auditor to:

8 a. Provide direction for, supervise, conduct, and
 9 coordinate audits, investigations, and management reviews
 10 relating to the programs and operations of the corporation.

11 b. Conduct, supervise, or coordinate other activities
 12 carried out or financed by the corporation for the purpose of
 13 promoting efficiency in the administration of, or preventing
 14 and detecting fraud, abuse, and mismanagement in, its programs
 15 and operations.

16 c. Submit final audit reports, reviews, or
 17 investigative reports to the board of governors, the executive
 18 director, the members of the Financial Services Commission,
 19 and the President of the Senate and the Speaker of the House
 20 of Representatives.

21 d. Keep the board of governors informed concerning
 22 fraud, abuses, and internal control deficiencies relating to
 23 programs and operations administered or financed by the
 24 corporation, recommend corrective action, and report on the
 25 progress made in implementing corrective action.

26 e. Report expeditiously to the Department of Law
 27 Enforcement or other law enforcement agencies, as appropriate,
 28 whenever the internal auditor has reasonable grounds to
 29 believe there has been a violation of criminal law.

30 2. On or before February 15, the internal auditor
 31 shall prepare an annual report evaluating the effectiveness of

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1 the internal controls of the corporation and providing
2 recommendations for corrective action, if necessary, and
3 summarizing the audits, reviews, and investigations conducted
4 by the office during the preceding fiscal year. The final
5 report shall be furnished to the board of governors and the
6 executive director, the President of the Senate, the Speaker
7 of the House of Representatives, and the Financial Services
8 Commission.

9 (i) All records of the corporation, except as
10 otherwise provided by law, are subject to the record retention
11 requirements of s. 119.021.

12 (j)1. The corporation shall establish and maintain a
13 unit or division to investigate possible fraudulent claims by
14 insureds or by persons making claims for services or repairs
15 against policies held by insureds; or it may contract with
16 others to investigate possible fraudulent claims for services
17 or repairs against policies held by the corporation pursuant
18 to s. 626.9891. The corporation must comply with reporting
19 requirements of s. 626.9891. An employee of the corporation
20 shall notify the Division of Insurance Fraud within 48 hours
21 after having information that would lead a reasonable person
22 to suspect that fraud may have been committed by any employee
23 of the corporation.

24 2. The corporation shall establish a unit or division
25 responsible for receiving and responding to consumer
26 complaints, which unit or division is the sole responsibility
27 of a senior manager of the corporation.

28 (k) The office shall conduct a comprehensive market
29 conduct examination of the corporation every 2 years to
30 determine compliance with its plan of operation and internal
31 operations procedures. The first market conduct examination

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1 report shall be submitted to the President of the Senate and
2 the Speaker of the House of Representatives no later than
3 February 1, 2009. Subsequent reports shall be submitted on or
4 before February 1 every 2 years thereafter.

5 (1) The Auditor General shall conduct an operational
6 audit of the corporations every 3 years to evaluate
7 management's performance in administering laws, policies, and
8 procedures governing the operations of the corporation in an
9 efficient and effective manner. The scope of the review shall
10 include, but is not limited to, evaluating claims handling,
11 customer service, take-out programs and bonuses, financing
12 arrangements, procurement of goods and services, internal
13 controls, and the internal audit function. The initial audit
14 must be completed by February 1, 2009.

15 (m)(d)1.a. It is the intent of the Legislature that
16 the Rates for coverage provided by the corporation shall be
17 actuarially sound and not competitive with approved rates
18 charged in the admitted voluntary market, so that the
19 corporation functions as a residual market mechanism to
20 provide insurance only when the insurance cannot be procured
21 in the voluntary market. Rates shall include an appropriate
22 catastrophe loading factor that reflects the actual
23 catastrophic exposure of the corporation. For policies in the
24 personal lines account and the commercial lines account issued
25 or renewed on or after March 1, 2007, a rate is deemed
26 inadequate if the rate, including investment income, is not
27 sufficient to provide for the procurement of coverage under
28 the Florida Hurricane Catastrophe Fund and private reinsurance
29 costs, whether or not reinsurance is procured, and to pay all
30 claims and expenses reasonably expected to result from a
31 100-year probable maximum loss event without resort to any

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1 regular or emergency assessments, long-term debt, state
 2 revenues, or other funding sources. For policies in the
 3 high-risk account issued or renewed on or after March 1, 2007,
 4 a rate is deemed inadequate if the rate, including investment
 5 income, is not sufficient to provide for the procurement of
 6 coverage under the Florida Hurricane Catastrophe Fund and
 7 private reinsurance costs, whether or not reinsurance is
 8 procured, and to pay all claims and expenses reasonably
 9 expected to result from a 70-year probable maximum loss event
 10 with resort to any regular or emergency assessments, long-term
 11 debt, state revenues, or other funding sources. For policies
 12 in the high-risk account issued or renewed in 2008 and 2009,
 13 the rate must be based upon an 85-year and 100-year probable
 14 maximum loss event, respectively.

15 b. It is the intent of the Legislature to reaffirm the
 16 requirement of rate adequacy in the residual market.
 17 Recognizing that rates may comply with the intent expressed in
 18 sub-subparagraph a. and yet be inadequate and recognizing the
 19 public need to limit subsidies within the residual market, it
 20 is the further intent of the Legislature to establish
 21 statutory standards for rate adequacy. Such standards are
 22 intended to supplement the standard specified in s.
 23 627.062(2)(e)3., providing that rates are inadequate if they
 24 are clearly insufficient to sustain projected losses and
 25 expenses in the class of business to which they apply.

26 2. For each county, the average rates of the
 27 corporation for each line of business for personal lines
 28 residential policies excluding rates for wind-only policies
 29 shall be no lower than the average rates charged by the
 30 insurer that had the highest average rate in that county among
 31 the 20 insurers with the greatest total direct written premium

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1 in the state for that line of business in the preceding year,
 2 except that with respect to mobile home coverages, the average
 3 rates of the corporation shall be no lower than the average
 4 rates charged by the insurer that had the highest average rate
 5 in that county among the 5 insurers with the greatest total
 6 written premium for mobile home owner's policies in the state
 7 in the preceding year.

8 3. Rates for personal lines residential wind-only
 9 policies must be actuarially sound and not competitive with
 10 approved rates charged by authorized insurers. If the filing
 11 under this subparagraph is made at least 90 days before the
 12 proposed effective date and the filing is not implemented
 13 during the office's review of the filing and any proceeding
 14 and judicial review, such filing shall be considered a file
 15 and use filing. In such case, the office shall finalize its
 16 review by issuance of a notice of intent to approve or a
 17 notice of intent to disapprove within 90 days after receipt of
 18 the filing. The notice of intent to approve and the notice of
 19 intent to disapprove constitute agency action for purposes of
 20 the Administrative Procedure Act. Requests for supporting
 21 information, requests for mathematical or mechanical
 22 corrections, or notification to the insurer by the office of
 23 its preliminary findings shall not toll the 90-day period
 24 during any such proceedings and subsequent judicial review.
 25 The rate shall be deemed approved if the office does not issue
 26 a notice of intent to approve or a notice of intent to
 27 disapprove within 90 days after receipt of the filing.

28 Corporation rate manuals shall include a rate surcharge for
 29 seasonal occupancy. To ensure that personal lines residential
 30 wind-only rates are not competitive with approved rates
 31 charged by authorized insurers, the corporation, in

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

10 4. The requirements of paragraph (m) that rates not be
 11 competitive with approved rates charged by authorized insurers
 12 do not apply in a county or area for which the office
 13 determines that no authorized insurer is offering coverage.
 14 The corporation shall amend its rates or rating factors for
 15 the affected county or area in conjunction with its next rate
 16 filing after such determination is made.

17 ~~5.4.~~ For the purposes of establishing a pilot program
 18 to evaluate issues relating to the availability and
 19 affordability of insurance in an area where historically there
 20 has been little market competition, the provisions of
 21 subparagraph 2. do not apply to coverage provided by the
 22 corporation in Monroe County if the office determines that a
 23 reasonable degree of competition does not exist for personal
 24 lines residential policies. The provisions of subparagraph 3.
 25 do not apply to coverage provided by the corporation in Monroe
 26 County if the office determines that a reasonable degree of
 27 competition does not exist for personal lines residential
 28 policies in the area of that county which is eligible for
 29 wind-only coverage. In this county, the rates for personal
 30 lines residential coverage shall be actuarially sound and not
 31 excessive, inadequate, or unfairly discriminatory and are

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1 subject to the other provisions of the paragraph and s.
 2 627.062. The commission shall adopt rules establishing the
 3 criteria for determining whether a reasonable degree of
 4 competition exists for personal lines residential policies in
 5 Monroe County. By March 1, 2006, the office shall submit a
 6 report to the Legislature providing an evaluation of the
 7 implementation of the pilot program affecting Monroe County.

8 ~~6.5.~~ Rates for commercial lines coverage shall not be
 9 subject to the requirements of subparagraph 2., but shall be
 10 subject to all other requirements of this paragraph and s.
 11 627.062.

12 ~~7.6.~~ Nothing in this paragraph shall require or allow
 13 the corporation to adopt a rate that is inadequate under s.
 14 627.062.

15 ~~8.7.~~ The corporation shall certify to the office at
 16 least twice annually that its personal lines rates comply with
 17 the requirements of subparagraphs 1., ~~and 2.,~~ and 3. If any
 18 adjustment in the rates or rating factors of the corporation
 19 is necessary to ensure such compliance, the corporation shall
 20 make and implement such adjustments and file its revised rates
 21 and rating factors with the office. If the office thereafter
 22 determines that the revised rates and rating factors fail to
 23 comply with the provisions of subparagraphs 1., ~~and 2.,~~ and
 24 3., it shall notify the corporation and require the
 25 corporation to amend its rates or rating factors in
 26 conjunction with its next rate filing. The office must notify
 27 the corporation by electronic means of any rate filing it
 28 approves for any insurer among the insurers referred to in
 29 subparagraph 2.

30 ~~9.8.~~ In addition to the rates otherwise determined
 31 pursuant to this paragraph, the corporation shall impose and

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

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

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

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

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

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

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

19 11. After the public hurricane loss-projection model
20 under s. 627.06281 has been found to be accurate and reliable
21 by the Florida Commission on Hurricane Loss Projection
22 Methodology, that model shall serve as the minimum benchmark
23 for determining the windstorm portion of the corporation's
24 rates. This subparagraph does not require or allow the
25 corporation to adopt rates lower than the rates otherwise
26 required or allowed by this paragraph.

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

31 1. If the market assistance plan receives a minimum of

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1 100 applications for coverage within a 3-month period, or 200
2 applications for coverage within a 1-year period or less for
3 residential coverage, unless the market assistance plan
4 provides a quotation from admitted carriers at their filed
5 rates for at least 90 percent of such applicants. Any market
6 assistance plan application that is rejected because an
7 individual risk is so hazardous as to be uninsurable using the
8 criteria specified in subparagraph (c)8. shall not be included
9 in the minimum percentage calculation provided herein. In the
10 event that there is a legal or administrative challenge to a
11 determination by the office that the conditions of this
12 subparagraph have been met for eligibility for coverage in the
13 corporation, any eligible risk may obtain coverage during the
14 pendency of such challenge.

15 2. In response to a state of emergency declared by the
16 Governor under s. 252.36, the office may activate coverage by
17 order for the period of the emergency upon a finding by the
18 office that the emergency significantly affects the
19 availability of residential property insurance.

20 ~~(o)(f)~~1. The corporation shall file with the office
21 quarterly statements of financial condition, an annual
22 statement of financial condition, and audited financial
23 statements in the manner prescribed by law. In addition, the
24 corporation shall report to the office monthly on the types,
25 premium, exposure, and distribution by county of its policies
26 in force, and shall submit other reports as the office
27 requires to carry out its oversight of the corporation.

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

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1 ~~(p)(g)~~1. The corporation shall certify to the office
2 its needs for annual assessments as to a particular calendar
3 year, and for any interim assessments that it deems to be
4 necessary to sustain operations as to a particular year
5 pending the receipt of annual assessments. Upon verification,
6 the office shall approve such certification, and the
7 corporation shall levy such annual or interim assessments.
8 Such assessments shall be prorated as provided in paragraph
9 (b). The corporation shall take all reasonable and prudent
10 steps necessary to collect the amount of assessment due from
11 each assessable insurer, including, if prudent, filing suit to
12 collect such assessment. If the corporation is unable to
13 collect an assessment from any assessable insurer, the
14 uncollected assessments shall be levied as an additional
15 assessment against the assessable insurers and any assessable
16 insurer required to pay an additional assessment as a result
17 of such failure to pay shall have a cause of action against
18 such nonpaying assessable insurer. Assessments shall be
19 included as an appropriate factor in the making of rates. The
20 failure of a surplus lines agent to collect and remit any
21 regular or emergency assessment levied by the corporation is
22 considered to be a violation of s. 626.936 and subjects the
23 surplus lines agent to the penalties provided in that section.

24 2. The governing body of any unit of local government,
25 any residents of which are insured by the corporation, may
26 issue bonds as defined in s. 125.013 or s. 166.101 from time
27 to time to fund an assistance program, in conjunction with the
28 corporation, for the purpose of defraying deficits of the
29 corporation. In order to avoid needless and indiscriminate
30 proliferation, duplication, and fragmentation of such
31 assistance programs, any unit of local government, any

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1 residents of which are insured by the corporation, may provide
2 for the payment of losses, regardless of whether or not the
3 losses occurred within or outside of the territorial
4 jurisdiction of the local government. Revenue bonds under this
5 subparagraph may not be issued until validated pursuant to
6 chapter 75, unless a state of emergency is declared by
7 executive order or proclamation of the Governor pursuant to s.
8 252.36 making such findings as are necessary to determine that
9 it is in the best interests of, and necessary for, the
10 protection of the public health, safety, and general welfare
11 of residents of this state and declaring it an essential
12 public purpose to permit certain municipalities or counties to
13 issue such bonds as will permit relief to claimants and
14 policyholders of the corporation. Any such unit of local
15 government may enter into such contracts with the corporation
16 and with any other entity created pursuant to this subsection
17 as are necessary to carry out this paragraph. Any bonds issued
18 under this subparagraph shall be payable from and secured by
19 moneys received by the corporation from emergency assessments
20 under sub-subparagraph (b)3.d., and assigned and pledged to or
21 on behalf of the unit of local government for the benefit of
22 the holders of such bonds. The funds, credit, property, and
23 taxing power of the state or of the unit of local government
24 shall not be pledged for the payment of such bonds. If any of
25 the bonds remain unsold 60 days after issuance, the office
26 shall require all insurers subject to assessment to purchase
27 the bonds, which shall be treated as admitted assets; each
28 insurer shall be required to purchase that percentage of the
29 unsold portion of the bond issue that equals the insurer's
30 relative share of assessment liability under this subsection.
31 An insurer shall not be required to purchase the bonds to the

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1 extent that the office determines that the purchase would
2 endanger or impair the solvency of the insurer.

3 3.a. The corporation shall adopt one or more programs
4 subject to approval by the office for the reduction of both
5 new and renewal writings in the corporation. Beginning January
6 1, 2008, any program the corporation adopts for the payment of
7 bonuses to an insurer for each risk the insurer removes from
8 the corporation shall comply with s. 627.3511(2) and may not
9 exceed the amount referenced in s. 627.3511(2) for each risk
10 removed. The corporation may consider any prudent and not
11 unfairly discriminatory approach to reducing corporation
12 writings, and may adopt a credit against assessment liability
13 or other liability that provides an incentive for insurers to
14 take risks out of the corporation and to keep risks out of the
15 corporation by maintaining or increasing voluntary writings in
16 counties or areas in which corporation risks are highly
17 concentrated and a program to provide a formula under which an
18 insurer voluntarily taking risks out of the corporation by
19 maintaining or increasing voluntary writings will be relieved
20 wholly or partially from assessments under sub-subparagraphs
21 (b)3.a. and b. However, any "take-out bonus" or payment to an
22 insurer must be conditioned on the property being insured for
23 at least 5 years by the insurer, unless canceled or nonrenewed
24 by the policyholder. If the policy is canceled or nonrenewed
25 by the policyholder before the end of the 5-year period, the
26 amount of the take-out bonus must be prorated for the time
27 period the policy was insured. When the corporation enters
28 into a contractual agreement for a take-out plan, the
29 producing agent of record of the corporation policy is
30 entitled to retain any unearned commission on such policy, and
31 the insurer shall either:

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

6 (II) Offer to allow the producing agent of record of
 7 the policy to continue servicing the policy for a period of
 8 not less than 1 year and offer to pay the agent the insurer's
 9 usual and customary commission for the type of policy written.
 10 If the producing agent is unwilling or unable to accept
 11 appointment by the new insurer, the new insurer shall pay the
 12 agent in accordance with sub-sub-subparagraph (I).

13 b. Any credit or exemption from regular assessments
 14 adopted under this subparagraph shall last no longer than the
 15 3 years following the cancellation or expiration of the policy
 16 by the corporation. With the approval of the office, the board
 17 may extend such credits for an additional year if the insurer
 18 guarantees an additional year of renewability for all policies
 19 removed from the corporation, or for 2 additional years if the
 20 insurer guarantees 2 additional years of renewability for all
 21 policies so removed.

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

25 4. The plan shall provide for the deferment, in whole
 26 or in part, of the assessment of an assessable insurer, other
 27 than an emergency assessment collected from policyholders
 28 pursuant to sub-subparagraph (b)3.d., if the office finds that
 29 payment of the assessment would endanger or impair the
 30 solvency of the insurer. In the event an assessment against an
 31 assessable insurer is deferred in whole or in part, the amount

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1 by which such assessment is deferred may be assessed against
2 the other assessable insurers in a manner consistent with the
3 basis for assessments set forth in paragraph (b).

4 5. Effective July 1, 2007, in order to evaluate the
5 costs and benefits of approved take-out plans, if the
6 corporation pays a bonus or other payment to an insurer for an
7 approved take-out plan, it shall maintain a record of the
8 address or such other identifying information on the property
9 or risk removed in order to track if and when the property or
10 risk is later insured by the corporation.

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

14 ~~(r)(i)~~ There shall be no liability on the part of, and
15 no cause of action of any nature shall arise against, any
16 assessable insurer or its agents or employees, the corporation
17 or its agents or employees, members of the board of governors
18 or their respective designees at a board meeting, corporation
19 committee members, or the office or its representatives, for
20 any action taken by them in the performance of their duties or
21 responsibilities under this subsection. Such immunity does not
22 apply to:

23 1. Any of the foregoing persons or entities for any
24 willful tort;

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

27 3. The corporation with respect to issuance or payment
28 of debt; or

29 4. Any assessable insurer with respect to any action
30 to enforce an assessable insurer's obligations to the
31 corporation under this subsection.

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1 ~~(s)(j)~~ For the purposes of s. 199.183(1), the
2 corporation shall be considered a political subdivision of the
3 state and shall be exempt from the corporate income tax. The
4 premiums, assessments, investment income, and other revenue of
5 the corporation are funds received for providing property
6 insurance coverage as required by this subsection, paying
7 claims for Florida citizens insured by the corporation,
8 securing and repaying debt obligations issued by the
9 corporation, and conducting all other activities of the
10 corporation, and shall not be considered taxes, fees,
11 licenses, or charges for services imposed by the Legislature
12 on individuals, businesses, or agencies outside state
13 government. Bonds and other debt obligations issued by or on
14 behalf of the corporation are not to be considered "state
15 bonds" within the meaning of s. 215.58(8). The corporation is
16 not subject to the procurement provisions of chapter 287, and
17 policies and decisions of the corporation relating to
18 incurring debt, levying of assessments and the sale, issuance,
19 continuation, terms and claims under corporation policies, and
20 all services relating thereto, are not subject to the
21 provisions of chapter 120. The corporation is not required to
22 obtain or to hold a certificate of authority issued by the
23 office, nor is it required to participate as a member insurer
24 of the Florida Insurance Guaranty Association. However, the
25 corporation is required to pay, in the same manner as an
26 authorized insurer, assessments pledged by the Florida
27 Insurance Guaranty Association to secure bonds issued or other
28 indebtedness incurred to pay covered claims arising from
29 insurer insolvencies caused by, or proximately related to,
30 hurricane losses. It is the intent of the Legislature that the
31 tax exemptions provided in this paragraph will augment the

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1 financial resources of the corporation to better enable the
 2 corporation to fulfill its public purposes. Any debt
 3 obligations ~~bonds~~ issued by the corporation, their transfer,
 4 and the income therefrom, including any profit made on the
 5 sale thereof, shall at all times be free from taxation of
 6 every kind by the state and any political subdivision or local
 7 unit or other instrumentality thereof; however, this exemption
 8 does not apply to any tax imposed by chapter 220 on interest,
 9 income, or profits on debt obligations owned by corporations
 10 other than the corporation.

11 ~~(t)~~(*) Upon a determination by the office that the
 12 conditions giving rise to the establishment and activation of
 13 the corporation no longer exist, the corporation is dissolved.
 14 Upon dissolution, the assets of the corporation shall be
 15 applied first to pay all debts, liabilities, and obligations
 16 of the corporation, including the establishment of reasonable
 17 reserves for any contingent liabilities or obligations, and
 18 all remaining assets of the corporation shall become property
 19 of the state and shall be deposited in the Florida Hurricane
 20 Catastrophe Fund. However, no dissolution shall take effect as
 21 long as the corporation has bonds or other financial
 22 obligations outstanding unless adequate provision has been
 23 made for the payment of the bonds or other financial
 24 obligations pursuant to the documents authorizing the issuance
 25 of the bonds or other financial obligations.

26 ~~(u)~~(1)1. Effective July 1, 2002, policies of the
 27 Residential Property and Casualty Joint Underwriting
 28 Association shall become policies of the corporation. All
 29 obligations, rights, assets and liabilities of the Residential
 30 Property and Casualty Joint Underwriting Association,
 31 including bonds, note and debt obligations, and the financing

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1 documents pertaining to them become those of the corporation
2 as of July 1, 2002. The corporation is not required to issue
3 endorsements or certificates of assumption to insureds during
4 the remaining term of in-force transferred policies.

5 2. Effective July 1, 2002, policies of the Florida
6 Windstorm Underwriting Association are transferred to the
7 corporation and shall become policies of the corporation. All
8 obligations, rights, assets, and liabilities of the Florida
9 Windstorm Underwriting Association, including bonds, note and
10 debt obligations, and the financing documents pertaining to
11 them are transferred to and assumed by the corporation on July
12 1, 2002. The corporation is not required to issue endorsement
13 or certificates of assumption to insureds during the remaining
14 term of in-force transferred policies.

15 3. The Florida Windstorm Underwriting Association and
16 the Residential Property and Casualty Joint Underwriting
17 Association shall take all actions as may be proper to further
18 evidence the transfers and shall provide the documents and
19 instruments of further assurance as may reasonably be
20 requested by the corporation for that purpose. The corporation
21 shall execute assumptions and instruments as the trustees or
22 other parties to the financing documents of the Florida
23 Windstorm Underwriting Association or the Residential Property
24 and Casualty Joint Underwriting Association may reasonably
25 request to further evidence the transfers and assumptions,
26 which transfers and assumptions, however, are effective on the
27 date provided under this paragraph whether or not, and
28 regardless of the date on which, the assumptions or
29 instruments are executed by the corporation. Subject to the
30 relevant financing documents pertaining to their outstanding
31 bonds, notes, indebtedness, or other financing obligations,

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1 the moneys, investments, receivables, choses in action, and
 2 other intangibles of the Florida Windstorm Underwriting
 3 Association shall be credited to the high-risk account of the
 4 corporation, and those of the personal lines residential
 5 coverage account and the commercial lines residential coverage
 6 account of the Residential Property and Casualty Joint
 7 Underwriting Association shall be credited to the personal
 8 lines account and the commercial lines account, respectively,
 9 of the corporation.

10 4. Effective July 1, 2002, a new applicant for
 11 property insurance coverage who would otherwise have been
 12 eligible for coverage in the Florida Windstorm Underwriting
 13 Association is eligible for coverage from the corporation as
 14 provided in this subsection.

15 5. The transfer of all policies, obligations, rights,
 16 assets, and liabilities from the Florida Windstorm
 17 Underwriting Association to the corporation and the renaming
 18 of the Residential Property and Casualty Joint Underwriting
 19 Association as the corporation shall in no way affect the
 20 coverage with respect to covered policies as defined in s.
 21 215.555(2)(c) provided to these entities by the Florida
 22 Hurricane Catastrophe Fund. The coverage provided by the
 23 Florida Hurricane Catastrophe Fund to the Florida Windstorm
 24 Underwriting Association based on its exposures as of June 30,
 25 2002, and each June 30 thereafter shall be redesignated as
 26 coverage for the high-risk account of the corporation.
 27 Notwithstanding any other provision of law, the coverage
 28 provided by the Florida Hurricane Catastrophe Fund to the
 29 Residential Property and Casualty Joint Underwriting
 30 Association based on its exposures as of June 30, 2002, and
 31 each June 30 thereafter shall be transferred to the personal

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1 lines account and the commercial lines account of the
 2 corporation. Notwithstanding any other provision of law, the
 3 high-risk account shall be treated, for all Florida Hurricane
 4 Catastrophe Fund purposes, as if it were a separate
 5 participating insurer with its own exposures, reimbursement
 6 premium, and loss reimbursement. Likewise, the personal lines
 7 and commercial lines accounts shall be viewed together, for
 8 all Florida Hurricane Catastrophe Fund purposes, as if the two
 9 accounts were one and represent a single, separate
 10 participating insurer with its own exposures, reimbursement
 11 premium, and loss reimbursement. The coverage provided by the
 12 Florida Hurricane Catastrophe Fund to the corporation shall
 13 constitute and operate as a full transfer of coverage from the
 14 Florida Windstorm Underwriting Association and Residential
 15 Property and Casualty Joint Underwriting to the corporation.

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

17 1. The pledge or sale of, the lien upon, and the
 18 security interest in any rights, revenues, or other assets of
 19 the corporation created or purported to be created pursuant to
 20 any financing documents to secure any bonds or other
 21 indebtedness of the corporation shall be and remain valid and
 22 enforceable, notwithstanding the commencement of and during
 23 the continuation of, and after, any rehabilitation,
 24 insolvency, liquidation, bankruptcy, receivership,
 25 conservatorship, reorganization, or similar proceeding against
 26 the corporation under the laws of this state.

27 2. No such proceeding shall relieve the corporation of
 28 its obligation, or otherwise affect its ability to perform its
 29 obligation, to continue to collect, or levy and collect,
 30 assessments, market equalization or other surcharges under
 31 subparagraph (c)10., or any other rights, revenues, or other

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1 assets of the corporation pledged pursuant to any financing
2 documents.

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

23 4. Any such pledge or sale of assessments, revenues,
24 contract rights, or other rights or assets of the corporation
25 shall constitute a lien and security interest, or sale, as the
26 case may be, that is immediately effective and attaches to
27 such assessments, revenues, or contract rights or other rights
28 or assets, whether or not imposed or collected at the time the
29 pledge or sale is made. Any such pledge or sale is effective,
30 valid, binding, and enforceable against the corporation or
31 other entity making such pledge or sale, and valid and binding

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1 against and superior to any competing claims or obligations
 2 owed to any other person or entity, including policyholders in
 3 this state, asserting rights in any such assessments,
 4 revenues, or contract rights or other rights or assets to the
 5 extent set forth in and in accordance with the terms of the
 6 pledge or sale contained in the applicable financing
 7 documents, whether or not any such person or entity has notice
 8 of such pledge or sale and without the need for any physical
 9 delivery, recordation, filing, or other action.

10 5. As long as the corporation has any bonds
 11 outstanding, the corporation may not file a voluntary petition
 12 under chapter 9 of the federal Bankruptcy Code or such
 13 corresponding chapter or sections as may be in effect, from
 14 time to time, and a public officer or any organization,
 15 entity, or other person may not authorize the corporation to
 16 be or become a debtor under chapter 9 of the federal
 17 Bankruptcy Code or such corresponding chapter or sections as
 18 may be in effect, from time to time, during any such period.

19 6. If ordered by a court of competent jurisdiction,
 20 the corporation may assume policies or otherwise provide
 21 coverage for policyholders of an insurer placed in liquidation
 22 under chapter 631, under such forms, rates, terms, and
 23 conditions as the corporation deems appropriate, subject to
 24 approval by the office.

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

28 a. Underwriting files, except that a policyholder or
 29 an applicant shall have access to his or her own underwriting
 30 files.

31 b. Claims files, until termination of all litigation

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1 and settlement of all claims arising out of the same incident,
2 although portions of the claims files may remain exempt, as
3 otherwise provided by law. Confidential and exempt claims file
4 records may be released to other governmental agencies upon
5 written request and demonstration of need; such records held
6 by the receiving agency remain confidential and exempt as
7 provided for herein.

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

16 d. Matters reasonably encompassed in privileged
17 attorney-client communications.

18 e. Proprietary information licensed to the corporation
19 under contract and the contract provides for the
20 confidentiality of such proprietary information.

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

28 g. Upon an employee's entrance into the employee
29 assistance program, a program to assist any employee who has a
30 behavioral or medical disorder, substance abuse problem, or
31 emotional difficulty which affects the employee's job

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1 performance, all records relative to that participation shall
 2 be confidential and exempt from the provisions of s. 119.07(1)
 3 and s. 24(a), Art. I of the State Constitution, except as
 4 otherwise provided in s. 112.0455(11).

5 h. Information relating to negotiations for financing,
 6 reinsurance, depopulation, or contractual services, until the
 7 conclusion of the negotiations.

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

13
 14 When an authorized insurer is considering underwriting a risk
 15 insured by the corporation, relevant underwriting files and
 16 confidential claims files may be released to the insurer
 17 provided the insurer agrees in writing, notarized and under
 18 oath, to maintain the confidentiality of such files. When a
 19 file is transferred to an insurer that file is no longer a
 20 public record because it is not held by an agency subject to
 21 the provisions of the public records law. Underwriting files
 22 and confidential claims files may also be released to staff of
 23 and the board of governors of the market assistance plan
 24 established pursuant to s. 627.3515, who must retain the
 25 confidentiality of such files, except such files may be
 26 released to authorized insurers that are considering assuming
 27 the risks to which the files apply, provided the insurer
 28 agrees in writing, notarized and under oath, to maintain the
 29 confidentiality of such files. Finally, the corporation or
 30 the board or staff of the market assistance plan may make the
 31 following information obtained from underwriting files and

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1 confidential claims files available to licensed general lines
 2 insurance agents: name, address, and telephone number of the
 3 residential property owner or insured; location of the risk;
 4 rating information; loss history; and policy type. The
 5 receiving licensed general lines insurance agent must retain
 6 the confidentiality of the information received.

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

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

29 1. The board shall, on or before February 1 of each
 30 year, provide a report to the President of the Senate and the
 31 Speaker of the House of Representatives showing the reduction

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1 or increase in the 100-year probable maximum loss attributable
 2 to wind-only coverages and the quota share program under this
 3 subsection combined, as compared to the benchmark 100-year
 4 probable maximum loss of the Florida Windstorm Underwriting
 5 Association. For purposes of this paragraph, the benchmark
 6 100-year probable maximum loss of the Florida Windstorm
 7 Underwriting Association shall be the calculation dated
 8 February 2001 and based on November 30, 2000, exposures. In
 9 order to ensure comparability of data, the board shall use the
 10 same methods for calculating its probable maximum loss as were
 11 used to calculate the benchmark probable maximum loss.

12 2. Beginning February 1, 2010 ~~2007~~, if the report
 13 under subparagraph 1. for any year indicates that the 100-year
 14 probable maximum loss attributable to wind-only coverages and
 15 the quota share program combined does not reflect a reduction
 16 of at least 25 percent from the benchmark, the board shall
 17 reduce the boundaries of the high-risk area eligible for
 18 wind-only coverages under this subsection in a manner
 19 calculated to reduce such probable maximum loss to an amount
 20 at least 25 percent below the benchmark.

21 3. Beginning February 1, 2015 ~~2012~~, if the report
 22 under subparagraph 1. for any year indicates that the 100-year
 23 probable maximum loss attributable to wind-only coverages and
 24 the quota share program combined does not reflect a reduction
 25 of at least 50 percent from the benchmark, the boundaries of
 26 the high-risk area eligible for wind-only coverages under this
 27 subsection shall be reduced by the elimination of any area
 28 that is not seaward of a line 1,000 feet inland from the
 29 Intracoastal Waterway.

30 (y)(p) In enacting the provisions of this section, the
 31 Legislature recognizes that both the Florida Windstorm

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1 Underwriting Association and the Residential Property and
2 Casualty Joint Underwriting Association have entered into
3 financing arrangements that obligate each entity to service
4 its debts and maintain the capacity to repay funds secured
5 under these financing arrangements. It is the intent of the
6 Legislature that nothing in this section be construed to
7 compromise, diminish, or interfere with the rights of
8 creditors under such financing arrangements. It is further the
9 intent of the Legislature to preserve the obligations of the
10 Florida Windstorm Underwriting Association and Residential
11 Property and Casualty Joint Underwriting Association with
12 regard to outstanding financing arrangements, with such
13 obligations passing entirely and unchanged to the corporation
14 and, specifically, to the applicable account of the
15 corporation. So long as any bonds, notes, indebtedness, or
16 other financing obligations of the Florida Windstorm
17 Underwriting Association or the Residential Property and
18 Casualty Joint Underwriting Association are outstanding, under
19 the terms of the financing documents pertaining to them, the
20 governing board of the corporation shall have and shall
21 exercise the authority to levy, charge, collect, and receive
22 all premiums, assessments, surcharges, charges, revenues, and
23 receipts that the associations had authority to levy, charge,
24 collect, or receive under the provisions of subsection (2) and
25 this subsection, respectively, as they existed on January 1,
26 2002, to provide moneys, without exercise of the authority
27 provided by this subsection, in at least the amounts, and by
28 the times, as would be provided under those former provisions
29 of subsection (2) or this subsection, respectively, so that
30 the value, amount, and collectability of any assets, revenues,
31 or revenue source pledged or committed to, or any lien thereon

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1 securing such outstanding bonds, notes, indebtedness, or other
 2 financing obligations will not be diminished, impaired, or
 3 adversely affected by the amendments made by this act and to
 4 permit compliance with all provisions of financing documents
 5 pertaining to such bonds, notes, indebtedness, or other
 6 financing obligations, or the security or credit enhancement
 7 for them, and any reference in this subsection to bonds,
 8 notes, indebtedness, financing obligations, or similar
 9 obligations, of the corporation shall include like instruments
 10 or contracts of the Florida Windstorm Underwriting Association
 11 and the Residential Property and Casualty Joint Underwriting
 12 Association to the extent not inconsistent with the provisions
 13 of the financing documents pertaining to them.

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

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

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1 (bb) By February 1, 2007, the corporation shall submit
2 a report to the President of the Senate, the Speaker of the
3 House of Representatives, the minority party leaders of the
4 Senate and the House of Representatives, and the chairs of the
5 standing committees of the Senate and the House of
6 Representatives having jurisdiction over matters relating to
7 property and casualty insurance. In preparing the report, the
8 corporation shall consult with the Office of Insurance
9 Regulation, the Department of Financial Services, and any
10 other party the corporation determines appropriate. The report
11 must include all findings and recommendations on the
12 feasibility of requiring authorized insurers that issue and
13 service personal and commercial residential policies and
14 commercial nonresidential policies that provide coverage for
15 basic property perils except for the peril of wind to issue
16 and service for a fee personal and commercial residential
17 policies and commercial nonresidential policies providing
18 coverage for the peril of wind issued by the corporation. The
19 report must include:

20 1. The expense savings to the corporation of issuing
21 and servicing such policies as determined by a cost-benefit
22 analysis.

23 2. The expenses and liability to authorized insurers
24 associated with issuing and servicing such policies.

25 3. The effect on service to policyholders of the
26 corporation relating to issuing and servicing such policies.

27 4. The effect on the producing agent of the
28 corporation of issuing and servicing such policies.

29 5. Recommendations as to the amount of the fee which
30 should be paid to authorized insurers for issuing and
31 servicing such policies.

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1 6. The effect that issuing and servicing such policies
2 will have on the corporation's number of policies, total
3 insured value, and probable maximum loss.

4 (cc) There shall be no liability on the part of, and
5 no cause of action of any nature shall arise against,
6 producing agents of record of the corporation or employees of
7 such agents for insolvency of any take-out insurer.

8 (dd)1. For policies subject to nonrenewal as a result
9 of the risk being no longer eligible for coverage due to being
10 valued at \$1 million or more, the corporation shall, directly
11 or through the market assistance plan, make information from
12 confidential underwriting and claims files of policyholders
13 available only to licensed general lines agents who register
14 with the corporation to receive such information according to
15 the following procedures:

16 2. By August 1, 2006, the corporation shall provide
17 such policyholders who are not eligible for renewal the
18 opportunity to request in writing, within 30 days after the
19 notification is sent, that information from their confidential
20 underwriting and claims files not be released to licensed
21 general lines agents registered pursuant to this paragraph.

22 3. By August 1, 2006, the corporation shall make
23 available to licensed general lines agents the registration
24 procedures to be used to obtain confidential information from
25 underwriting and claims files for such policies not eligible
26 for renewal. As a condition of registration, the corporation
27 shall require the licensed general lines agent to attest that
28 the agent has the experience and relationships with authorized
29 or surplus lines carriers to attempt to offer replacement
30 coverage for such policies.

31 4. By September 1, 2006, the corporation shall make

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1 available through a secured website to licensed general lines
 2 agents registered pursuant to this paragraph application,
 3 rating, loss history, mitigation, and policy type information
 4 relating to such policies not eligible for renewal and for
 5 which the policyholder has not requested the corporation
 6 withhold such information. The registered licensed general
 7 lines agent may use such information to contact and assist the
 8 policyholder in securing replacement policies and the agent
 9 may disclose to the policyholder that such information was
 10 obtained from the corporation.

11 Section 16. The amendments made by this act to s.
 12 627.351(6), Florida Statutes, which change the method for
 13 calculating and determining the assessments and surcharges
 14 that must be levied or collected to fund deficits in Citizens
 15 Property Insurance Corporation apply to a deficit incurred by
 16 the corporation for calendar year 2006 and thereafter.

17 Section 17. Effective July 1, 2006, paragraph (a) of
 18 subsection (5) of section 627.3511, Florida Statutes, is
 19 amended to read:

20 627.3511 Depopulation of Citizens Property Insurance
 21 Corporation.--

22 (5) APPLICABILITY.--

23 (a) The take-out bonus provided by subsection (2) and
 24 the exemption from assessment provided by paragraph (3)(a)
 25 apply only if the corporation policy is replaced by either a
 26 standard policy including wind coverage or, if consistent with
 27 the insurer's underwriting rules as filed with the office, a
 28 basic policy including wind coverage; however, with respect to
 29 risks located in areas where coverage through the high-risk
 30 account of the corporation is available, the replacement
 31 policy need not provide wind coverage. The insurer must renew

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1 the replacement policy at approved rates on substantially
 2 similar terms for four ~~two~~ additional 1-year terms, unless
 3 canceled or not renewed by the policyholder ~~insurer for a~~
 4 ~~lawful reason other than reduction of hurricane exposure~~. If
 5 an insurer assumes the corporation's obligations for a policy,
 6 it must issue a replacement policy for a 1-year term upon
 7 expiration of the corporation policy and must renew the
 8 replacement policy at approved rates on substantially similar
 9 terms for four ~~two~~ additional 1-year terms, unless canceled or
 10 not renewed by the policyholder ~~insurer for a lawful reason~~
 11 ~~other than reduction of hurricane exposure~~. For each
 12 replacement policy canceled or nonrenewed by the insurer for
 13 any reason during the 5-year ~~3-year~~ coverage period required
 14 by this paragraph, the insurer must remove from the
 15 corporation one additional policy covering a risk similar to
 16 the risk covered by the canceled or nonrenewed policy. In
 17 addition to these requirements, the corporation must place the
 18 bonus moneys in escrow for a period of 5 ~~3~~ years; such moneys
 19 may be released from escrow only to pay claims. If the policy
 20 is canceled or nonrenewed before the end of the 5-year period,
 21 the amount of the take-out bonus must be prorated for the time
 22 period the policy was insured. A take-out bonus provided by
 23 subsection (2) or subsection (6) shall not be considered
 24 premium income for purposes of taxes and assessments under the
 25 Florida Insurance Code and shall remain the property of the
 26 corporation, subject to the prior security interest of the
 27 insurer under the escrow agreement until it is released from
 28 escrow, and after it is released from escrow it shall be
 29 considered an asset of the insurer and credited to the
 30 insurer's capital and surplus.

31 Section 18. Subsection (1) of section 627.3512,

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1 Florida Statutes, is amended to read:

2 627.3512 Recoupment of residual market deficit
3 assessments.--

4 (1) An insurer or insurer group may recoup any
5 assessments that have been paid during or after 1995 by the
6 insurer or insurer group to defray deficits of an insurance
7 risk apportionment plan or assigned risk plan under ss.
8 627.311 and 627.351, net of any earnings returned to the
9 insurer or insurer group by the association or plan for any
10 year after 1993. A limited apportionment company as defined in
11 s. 627.351(6)(c) may recoup any regular assessment that has
12 been levied by, or paid to, Citizens Property Insurance
13 Corporation. The recoupment shall be made by applying a
14 separate assessment factor on policies of the same line or
15 type as were considered by the residual markets in determining
16 the assessment liability of the insurer or insurer group. An
17 insurer or insurer group shall calculate a separate assessment
18 factor for personal lines and commercial lines. The separate
19 assessment factor shall provide for full recoupment of the
20 assessments over a period of 1 year, unless the insurer or
21 insurer group, at its option, elects to recoup the assessments
22 over a longer period. The assessment factor expires upon
23 collection of the full amount allowed to be recouped. Amounts
24 recouped under this section are not subject to premium taxes,
25 fees, or commissions.

26 Section 19. Effective July 1, 2006, section 627.3517,
27 Florida Statutes, is amended to read:

28 627.3517 Consumer choice.--

29 (1) Except as provided in subsection (2), no provision
30 of s. 627.351, s. 627.3511, or s. 627.3515 shall be construed
31 to impair the right of any insurance risk apportionment plan

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

30 (2) This section does not apply during the first 10
 31 days after a new application for coverage has been submitted

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1 to Citizens Property Insurance Corporation under s.
2 627.351(6), whether or not coverage is bound during this
3 period.

4 Section 20. Section 627.3519, Florida Statutes, is
5 created to read:

6 627.3519 Annual report of aggregate net probable
7 maximum losses, financing options, and potential
8 assessments.--No later than February 1 of each year, the
9 Financial Services Commission shall provide to the Legislature
10 a report of the aggregate net probable maximum losses,
11 financing options, and potential assessments of the Florida
12 Hurricane Catastrophe Fund and Citizens Property Insurance
13 Corporation. The report must include the respective 50-year,
14 100-year, and 250-year probable maximum losses of the fund and
15 the corporation; analysis of all reasonable financing
16 strategies for each such probable maximum loss, including the
17 amount and term of debt instruments; specification of the
18 percentage assessments that would be needed to support each of
19 the financing strategies; and calculations of the aggregate
20 assessment burden on Florida property and casualty
21 policyholders for each of the probable maximum losses. The
22 commission shall require the fund and the corporation to
23 provide the commission with such data and analysis as the
24 commission considers necessary to prepare the report.

25 Section 21. Paragraph (b) of subsection (3) of section
26 627.4035, Florida Statutes, is amended to read:

27 627.4035 Cash payment of premiums; claims.--

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

30 (b) If authorized in writing by the recipient or the
31 recipient's representative, by debit card or any other form of

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

10 Section 22. Section 627.6121, Florida Statutes, is
 11 created to read:

12 627.6121 Payment of claims for dual interest
 13 property.--For policies issued or renewed on or after October
 14 1, 2006, a property insurer shall transmit claims payments
 15 directly to the primary policyholder by check or other
 16 allowable payment method, payable to the primary policyholder
 17 only, without requiring a dual endorsement from any
 18 mortgageholder or lienholder, for amounts payable under the
 19 policy for personal property and contents, additional living
 20 expenses, and other covered items that are not subject to a
 21 recorded security interest that is noted in the dual interest
 22 provision of the policy.

23 Section 23. Subsection (2) of section 627.7011,
 24 Florida Statutes, is amended, and subsection (6) is added to
 25 that section, to read:

26 627.7011 Homeowners' policies; offer of replacement
 27 cost coverage and law and ordinance coverage.--

28 (2) Unless the insurer obtains the policyholder's
 29 written refusal of the policies or endorsements specified in
 30 subsection (1), any policy covering the dwelling is deemed to
 31 include the law and ordinance coverage limited to 25 percent

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

20 (6) This section does not prohibit an insurer from
 21 limiting its liability under a policy or endorsement providing
 22 that loss will be adjusted on the basis of replacement costs
 23 to the lesser of:

24 (a) The limit of liability shown on the policy
 25 declarations page;

26 (b) The reasonable and necessary cost to repair the
 27 damaged, destroyed, or stolen covered property; or

28 (c) The reasonable and necessary cost to replace the
 29 damaged, destroyed, or stolen covered property.

30 Section 24. Section 627.7019, Florida Statutes, is
 31 created to read:

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1 627.7019 Standardization of requirements applicable to
2 insurers after natural disasters.--

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

7 (a) Claims reporting requirements.

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

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

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

19 (3) Any emergency rule adopted under s. 120.54(4)
20 which is in conflict with any provision of the rules adopted
21 under this section must be by unanimous vote of the
22 commission.

23 Section 25. Effective October 1, 2006, subsection (1)
24 and paragraph (d) of subsection (2) of section 627.706,
25 Florida Statutes, are amended to read:

26 627.706 Sinkhole insurance; definitions.--

27 (1) Every insurer authorized to transact property
28 insurance in this state shall make available coverage for
29 insurable sinkhole losses on any structure, including contents
30 of personal property contained therein, to the extent provided
31 in the form to which the sinkhole coverage attaches. A policy

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1 for residential property insurance may include a deductible
 2 amount applicable to sinkhole losses equal to 1 percent, 2
 3 percent, 5 percent, or 10 percent of the policy dwelling
 4 limits, with appropriate premium discounts offered with each
 5 deductible amount.

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

9 (d) "Professional engineer" means a person, as defined
 10 in s. 471.005, who has a bachelor's degree or higher in
 11 engineering with a specialty in the geotechnical engineering
 12 field. A professional ~~an~~ engineer must have geotechnical
 13 experience and expertise in the identification of sinkhole
 14 activity as well as other potential causes of damage to the
 15 structure.

16 Section 26. Subsections (2), (3), (5), (6), and (9) of
 17 section 627.707, Florida Statutes, are amended to read:

18 627.707 Standards for investigation of sinkhole claims
 19 by insurers; nonrenewals.--Upon receipt of a claim for a
 20 sinkhole loss, an insurer must meet the following standards in
 21 investigating a claim:

22 (2) Following the insurer's initial inspection, the
 23 insurer shall engage a professional ~~an~~ engineer or a
 24 professional geologist to conduct testing as provided in s.
 25 627.7072 to determine the cause of the loss within a
 26 reasonable professional probability and issue a report as
 27 provided in s. 627.7073, if:

28 (a) The insurer is unable to identify a valid cause of
 29 the damage or discovers damage to the structure which is
 30 consistent with sinkhole loss; or

31 (b) The policyholder demands testing in accordance

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1 with this section or s. 627.7072.

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

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

7 (b) A statement of the circumstances under which the
8 insurer is required to engage a professional ~~an~~ engineer or a
9 professional geologist to verify or eliminate sinkhole loss
10 and to engage a professional ~~an~~ engineer to make
11 recommendations regarding land and building stabilization and
12 foundation repair.

13 (c) A statement regarding the right of the
14 policyholder to request testing by a professional ~~an~~ engineer
15 or a professional geologist and the circumstances under which
16 the policyholder may demand certain testing.

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

25 (b) The insurer may limit its payment to the actual
26 cash value of the sinkhole loss, not including underpinning or
27 grouting or any other repair technique performed below the
28 existing foundation of the building, until the policyholder
29 enters into a contract for the performance of building
30 stabilization or foundation repairs. After the policyholder
31 enters into the contract, the insurer shall pay the amounts

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1 necessary to begin and perform such repairs as the work is
 2 performed and the expenses are incurred. The insurer may not
 3 require the policyholder to advance payment for such repairs.
 4 If repair covered by a personal lines residential property
 5 insurance policy has begun and the professional engineer
 6 selected or approved by the insurer determines that the repair
 7 cannot be completed within the policy limits, the insurer must
 8 either complete the professional engineer's recommended repair
 9 or tender the policy limits to the policyholder without a
 10 reduction for the repair expenses incurred.

11 (c) Upon the insurer's obtaining the written approval
 12 of the policyholder and any lienholder, the insurer may make
 13 payment directly to the persons selected by the policyholder
 14 to perform the land and building stabilization and foundation
 15 repairs. The decision by the insurer to make payment to such
 16 persons does not hold the insurer liable for the work
 17 performed.

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

21 (9) The insurer may engage a professional structural
 22 engineer to make recommendations as to the repair of the
 23 structure.

24 Section 27. Section 627.7072, Florida Statutes, is
 25 amended to read:

26 627.7072 Testing standards for sinkholes.--

27 ~~(1)~~ The professional engineer and professional
 28 geologist shall perform such tests as sufficient, in their
 29 professional opinion, to determine the presence or absence of
 30 sinkhole loss or other cause of damage within reasonable
 31 professional probability and for the professional engineer to

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1 make recommendations regarding necessary building
2 stabilization and foundation repair.

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

6 Section 28. Subsections (1) and (2) of section
7 627.7073, Florida Statutes, are amended to read:

8 627.7073 Sinkhole reports.--

9 (1) Upon completion of testing as provided in s.
10 627.7072, the professional engineer or ~~and~~ professional
11 geologist shall issue a report and certification to the
12 insurer and the policyholder as provided in this section.

13 (a) Sinkhole loss is verified if, based upon tests
14 performed in accordance with s. 627.7072, a professional ~~an~~
15 engineer or ~~and~~ a professional geologist issues ~~issue~~ a
16 written report and certification stating:

17 1. That the cause of the actual physical and
18 structural damage is sinkhole activity within a reasonable
19 professional probability.

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

23 3. A description of the tests performed.

24 4. A recommendation by the professional engineer of
25 methods for stabilizing the land and building and for making
26 repairs to the foundation.

27 (b) If sinkhole activity is eliminated as the cause of
28 damage to the structure, the professional engineer or ~~and~~
29 professional geologist shall issue a written report and
30 certification to the policyholder and the insurer stating:

31 1. That the cause of the damage is not sinkhole

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1 activity within a reasonable professional probability.

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

5 3. A statement of the cause of the damage within a
6 reasonable professional probability.

7 4. A description of the tests performed.

8 (c) The respective findings, opinions, and
9 recommendations of the professional engineer or ~~and~~
10 professional geologist as to the cause of distress to the
11 property ~~verification or elimination of a sinkhole loss~~ and
12 the findings, opinions, and recommendations of the
13 professional engineer as to land and building stabilization
14 and foundation repair shall be presumed correct.

15 (2)(a) Any insurer that has paid a claim for a
16 sinkhole loss shall file a copy of the report and
17 certification, prepared pursuant to subsection (1), including
18 the legal description of the real property and the name of the
19 property owner, with the county clerk of court ~~property~~
20 ~~appraiser,~~ who shall record the report and certification ~~with~~
21 ~~the parcel number.~~ The insurer shall bear the cost of filing
22 and recording the report and certification. There shall be no
23 cause of action or liability against an insurer for compliance
24 with this section. The recording of the report and
25 certification does not:

26 1. Constitute a lien, encumbrance, or restriction on
27 the title to the real property or constitute a defect in the
28 title to the real property;

29 2. Create any cause of action or liability against any
30 grantor of the real property for breach of any warranty of
31 good title or warranty against encumbrances; or

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1 3. Create any cause of action or liability against any
2 title insurer that insures the title to the real property.

3 (b) The seller of real property upon which a sinkhole
4 claim has been made by the seller and paid by the insurer
5 shall disclose to the buyer of such property that a claim has
6 been paid and whether or not the full amount of the proceeds
7 were used to repair the sinkhole damage.

8 Section 29. Effective October 1, 2006, section
9 627.7074, Florida Statutes, is created to read:

10 627.7074 Alternative procedure for resolution of
11 disputed sinkhole insurance claims.--

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

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

15 (b) "Neutral evaluator" means a professional engineer
16 or a professional geologist who has completed a course of
17 study in alternative dispute resolution designed or approved
18 by the department for use in the neutral evaluation process,
19 who is determined to be fair and impartial.

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

22 (b) The department shall prepare a consumer
23 information pamphlet for distribution by insurers to
24 policyholders which clearly describes the neutral evaluation
25 process and includes information and forms necessary for the
26 policyholder to request a neutral evaluation.

27 (3) Following the receipt of the report provided under
28 s. 627.7073 or the denial of a claim for a sinkhole loss, the
29 insurer shall notify the policyholder of his or her right to
30 participate in the neutral evaluation program under this
31 section. Neutral evaluation supersedes the alternative dispute

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1 resolution process under s. 627.7015. The insurer shall
2 provide to the policyholder the consumer information pamphlet
3 prepared by the department pursuant to paragraph (2)(b).

4 (4) Neutral evaluation is nonbinding, but mandatory if
5 requested by either party. A request for neutral evaluation
6 may be filed with the department by the policyholder or the
7 insurer on a form approved by the department. The request for
8 neutral evaluation must state the reason for the request and
9 must include an explanation of all the issues in dispute at
10 the time of the request. Filing a request for neutral
11 evaluation tolls the applicable time requirements for filing
12 suit for a period of 60 days following the conclusion of the
13 neutral evaluation process or the time prescribed in s. 95.11,
14 whichever is later.

15 (5) Neutral evaluation shall be conducted as an
16 informal process in which formal rules of evidence and
17 procedure need not be observed. A party to neutral evaluation
18 is not required to attend neutral evaluation if a
19 representative of the party attends and has the authority to
20 make a binding decision on behalf of the party. All parties
21 shall participate in the evaluation in good faith.

22 (6) The insurer shall pay the costs associated with
23 the neutral evaluation.

24 (7) Upon receipt of a request for neutral evaluation,
25 the department shall provide the parties a list of certified
26 neutral evaluators. The parties shall mutually select a
27 neutral evaluator from the list and promptly inform the
28 department. If the parties cannot agree to a neutral evaluator
29 within 10 business days, the department shall appoint a
30 neutral evaluator from the department list. Upon selection or
31 appointment, the department shall promptly refer the request

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1 to the neutral evaluator. Within 5 business days after the
2 referral, the neutral evaluator shall notify the policyholder
3 and the insurer of the date, time, and place of the neutral
4 evaluation conference. The conference may be held by
5 telephone, if feasible and desirable. The neutral evaluation
6 conference shall be held within 45 days after the receipt of
7 the request by the department.

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

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

15 (10) Evidence of an offer to settle a claim during the
16 neutral evaluation process, as well as any relevant conduct or
17 statements made in negotiations concerning the offer to settle
18 a claim, is inadmissible to prove liability or absence of
19 liability for the claim or its value, except as provided in
20 subsection (13).

21 (11) Any court proceeding related to the subject
22 matter of the neutral evaluation shall be stayed pending
23 completion of the neutral evaluation.

24 (12) For matters that are not resolved by the parties
25 at the conclusion of the neutral evaluation, the neutral
26 evaluator shall prepare a report stating that in his or her
27 opinion the sinkhole loss has been verified or eliminated and,
28 if verified, the need for and estimated costs of stabilizing
29 the land and any covered structures or buildings and other
30 appropriate remediation or structural repairs. The evaluator's
31 report shall be sent to all parties in attendance at the

1 neutral evaluation and to the department.

2 (13) The recommendation of the neutral evaluator is
3 not binding on any party, and the parties retain access to
4 court. The neutral evaluator's written recommendation is
5 admissible in any subsequent action or proceeding relating to
6 the claim or to the cause of action giving rise to the claim.

7 (14) If the neutral evaluator first verifies the
8 existence of a sinkhole and, second, recommends the need for
9 and estimates costs of stabilizing the land and any covered
10 structures or buildings and other appropriate remediation or
11 structural repairs, which costs exceed the amount that the
12 insurer has offered to pay the policyholder, the insurer is
13 liable to the policyholder for up to \$2,500 in attorney's fees
14 for the attorney's participation in the neutral evaluation
15 process. For purposes of this subsection, the term "offer to
16 pay" means a written offer signed by the insurer or its legal
17 representative and delivered to the policyholder within 10
18 days after the insurer receives notice that a request for
19 neutral evaluation has been made under this section.

20 (15) If the insurer timely agrees in writing to comply
21 and timely complies with the recommendation of the neutral
22 evaluator, but the policyholder declines to resolve the matter
23 in accordance with the recommendation of the neutral evaluator
24 pursuant to this section:

25 a. The insurer is not liable for extra-contractual
26 damages related to a claim for a sinkhole loss but only as
27 related to the issues determined by the neutral evaluation
28 process. This section does not affect or impair claims for
29 extra contractual damages unrelated to the issues determined
30 by the neutral evaluation process contained in this section;
31 and

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1 b. The insurer is not liable for attorney's fees under
 2 s. 627.428 or other provisions of the insurance code unless
 3 the policyholder obtains a judgment that is more favorable
 4 than the recommendation of the neutral evaluator.

5 Section 30. Subsection (5) of section 627.727, Florida
 6 Statutes, is amended to read:

7 627.727 Motor vehicle insurance; uninsured and
 8 underinsured vehicle coverage; insolvent insurer protection.--

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

19 Section 31. Paragraph (f) is added to subsection (2)
 20 of section 631.181, Florida Statutes, to read:

21 631.181 Filing and proof of claim.--

22 (2)

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

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1 fund by the receiver in electronic or other mutually
2 agreed-upon format.

3 Section 32. Subsection (3) of section 631.54, Florida
4 Statutes, is amended, present subsections (5), (6), (7), and
5 (8) of that section are renumbered as subsections (6), (7),
6 (8), and (9), respectively, and a new subsection (5) is added
7 to that section to read:

8 631.54 Definitions.--As used in this part:

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

20 "Covered claim" shall not include:

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

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

29 Member insurers shall have no right of subrogation,
30 contribution, indemnification, or otherwise, sought directly
31 or indirectly through a third party, against the insured of

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1 any insolvent member.

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

18 Section 33. Subsection (1) of section 631.55, Florida
19 Statutes, is amended to read:

20 631.55 Creation of the association.--

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

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1 its powers through a board of directors established under s.
2 631.56. The corporation shall have all those powers granted or
3 permitted nonprofit corporations, as provided in chapter 617.

4 Section 34. Paragraph (a) of subsection (1), paragraph
5 (d) of subsection (2), and paragraph (a) of subsection (3) of
6 section 631.57, Florida Statutes, are amended, and paragraph
7 (e) is added to subsection (3) of that section, to read:

8 631.57 Powers and duties of the association.--

9 (1) The association shall:

10 (a)1. Be obligated to the extent of the covered claims
11 existing:

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

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

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

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

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

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1 include that amount of each covered property insurance claim
 2 which is less than \$100,000 multiplied by the number of
 3 condominium units or other residential units; however, as to
 4 homeowners' associations, this ~~sub-subparagraph~~ ~~subparagraph~~
 5 applies only to claims for damage or loss to residential units
 6 and structures attached to residential units.

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

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

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

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1 association deems necessary and proper.

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

31 (e)1.a. In addition to assessments otherwise

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

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

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

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

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

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

29 2. In order to ensure that insurers paying emergency
30 assessments levied under this paragraph continue to charge
31 rates that are neither inadequate nor excessive, within 90

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

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

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

27 Section 35. Section 631.695, Florida Statutes, is
 28 created to read:

29 631.695 Revenue bond issuance through counties or
 30 municipalities.--

31 (1) The Legislature finds:

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1 (a) The potential for widespread and massive damage to
2 persons and property caused by hurricanes making landfall in
3 this state can generate insurance claims of such a number as
4 to render numerous insurers operating within this state
5 insolvent and therefore unable to satisfy covered claims.

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

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

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

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

31 (f) It is therefore determined to be in the best

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

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

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

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

29 (2) The governing body of any municipality or county,
30 the residents of which have been substantially affected by a
31 hurricane, may issue bonds to fund an assistance program in

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

28 (3) Bonds may be validated by the municipality or
29 county pursuant to chapter 75. The proceeds of the bonds may
30 be used to pay covered claims of insolvent insurers; to
31 refinance or replace previously existing borrowings or

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

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

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

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

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

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

27 Section 36. No provision of s. 631.57 or s. 631.695,
28 Florida Statutes, shall be repealed until such time as the
29 principal, redemption premium, if any, and interest on all
30 bonds issued under s. 631.695, Florida Statutes, payable and
31 secured from assessments levied under s. 631.57(3)(a), Florida

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1 Statutes, have been paid in full or adequate provision for
2 such payment has been made in accordance with the bond
3 resolution or trust indenture pursuant to which the bonds were
4 issued.

5 Section 37. Subsection (2) of section 877.02, Florida
6 Statutes, is amended to read:

7 877.02 Solicitation of legal services or retainers
8 therefor; penalty.--

9 (2) It shall be unlawful for any person in the employ
10 of or in any capacity attached to any hospital, sanitarium,
11 police department, wrecker service or garage, prison or court,
12 ~~or~~ for a person authorized to furnish bail bonds,
13 investigators, photographers, insurance or public adjusters,
14 or for a general or other contractor as defined in s. 489.105
15 or other business providing sinkhole remediation services, to
16 communicate directly or indirectly with any attorney or person
17 acting on said attorney's behalf for the purpose of aiding,
18 assisting or abetting such attorney in the solicitation of
19 legal business or the procurement through solicitation of a
20 retainer, written or oral, or any agreement authorizing the
21 attorney to perform or render legal services.

22 Section 38. By January 1, 2007, the Office of
23 Insurance Regulation shall submit a report to the President of
24 the Senate, the Speaker of the House of Representatives, the
25 minority party leaders of the Senate and the House of
26 Representatives, and the chairs of the standing committees of
27 the Senate and the House of Representatives having
28 jurisdiction over matters relating to property and casualty
29 insurance. In preparing the report, the office shall consult
30 with the Department of Highway Safety and Motor Vehicles, the
31 Department of Community Affairs, the Florida Building

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1 Commission, the Florida Home Builders Association,
 2 representatives of the mobile and manufactured home industry,
 3 representatives of the property and casualty insurance
 4 industry, and any other party the office determines is
 5 appropriate. The report shall include findings and
 6 recommendations on the insurability of attached or free
 7 standing structures to residential homes, mobile, or
 8 manufactured homes, such as carports or pool enclosures; the
 9 increase or decrease in insurance costs associated with
 10 insuring such structures; the feasibility of insuring such
 11 structures; the impact on homeowners of not having insurance
 12 coverage for such structures; the ability of mitigation
 13 measures relating to such structures to reduce risk and loss;
 14 and such other related information as the office determines is
 15 appropriate for the Legislature to consider.

16 Section 39. (1) The Office of Insurance Regulation,
 17 in consultation with the Department of Community Affairs, the
 18 Department of Financial Services, the Federal Alliance for
 19 Safe Homes, the Florida Insurance Council, the Florida Home
 20 Builders Association, the Florida Manufactured Housing
 21 Association, the Risk and Insurance Department of Florida
 22 State University, and the Institute for Business and Homes
 23 Safety, shall study and develop a program that will provide an
 24 objective rating system that will allow homeowners to evaluate
 25 the relative ability of Florida properties to withstand the
 26 wind load from a sustained severe tropical storm or hurricane.

27 (2) The rating system will be designed in a manner
 28 that is easy to understand for the property owner, based on
 29 proven readily verifiable mitigation techniques and devices,
 30 and able to be implemented based on a visual inspection
 31 program. The Department of Financial Services shall implement

1 a pilot program for use in the Florida Comprehensive Hurricane
2 Damage Mitigation Program.

3 (3) The Department shall provide a report to the
4 Governor, the President of the Senate, and the Speaker of the
5 House of Representatives by March 31, 2007, detailing the
6 nature and construction of the rating scale, its effectiveness
7 based on implementation in a pilot program, and an operational
8 plan for statewide implementation of the rating scale.

9 Section 40. (1) By September 1, 2006, the Office of
10 Insurance Regulation shall calculate a presumed factor to
11 reflect the impact to rates of the changes made by the
12 provisions of this act related to insurance claims for
13 sinkhole losses and by sections 17, 18, 19, 20, and 21 of
14 chapter 2005-111, Laws of Florida.

15 (2) In determining the presumed factor, the office
16 shall use generally accepted actuarial techniques and
17 standards in determining the expected impact on losses,
18 expenses, and investment income of the insurer.

19 (3) The office may contract with an appropriate vendor
20 to determine the presumed factor.

21 (4) Each residential property insurer shall, at its
22 next rate filing after October 1, 2006, reflect a rate change
23 that takes into account the presumed factor determined under
24 subsection (1).

25 (5) The sum of \$250,000 in nonrecurring funds is
26 appropriated from the Insurance Regulatory Trust Fund in the
27 Department of Financial Services to the Office of Insurance
28 Regulation for the 2006-2007 fiscal year for the purpose of
29 implementing this section.

30 Section 41. The sums of \$115,322 in recurring funds
31 and \$10,486 in nonrecurring funds are appropriated from the

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1 Insurance Regulatory Trust Fund in the Department of Financial
2 Services for the 2006-2007 fiscal year for the purpose of
3 implementing the provisions this act related to the neutral
4 evaluation process for insurance claims, and two full-time
5 equivalent positions with \$59,435 in associated salary rate
6 are authorized.

7 Section 42. (1) For the 2006-2007 fiscal year, the
8 sum of \$250 million is appropriated on a nonrecurring basis
9 from the General Revenue Fund to the Insurance Regulatory
10 Trust Fund in the Department of Financial Services for
11 purposes of the Florida Comprehensive Hurricane Damage
12 Mitigation Program specified in s. 215.5586, Florida Statutes,
13 as created by this act. The department shall establish a
14 separate account within the trust fund for accounting
15 purposes.

16 (2) The sum of \$250 million is appropriated from the
17 Insurance Regulatory Trust Fund in the Department of Financial
18 Services for the purposes set forth in subsection (1). The
19 department may expend up to 1 percent of the funds
20 appropriated to administer the program. Beginning October 15,
21 2007, and quarterly thereafter, the Chief Financial Officer
22 shall provide a report to the Executive Office of the Governor
23 and the chair and vice chair of the Legislative Budget
24 Commission containing information regarding expenditures made
25 for the purposes set forth in subsection (1).

26 (3) Notwithstanding the provisions of s. 216.301,
27 Florida Statutes, to the contrary, the unexpended balance of
28 appropriations authorized in subsections (1) and (2) shall not
29 revert until June 30, 2009.

30 Section 43. The sum of \$250 million is appropriated
31 from the General Revenue Fund on a nonrecurring basis to the

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1 State Board of Administration for purposes of the Insurance
2 Capital Build-Up Incentive Program established pursuant to s.
3 215.5595, Florida Statutes, as created by this act. Costs and
4 fees incurred by the board in administering this program,
5 including fees for investment services, shall be paid from
6 funds appropriated by the Legislature for this program, but
7 are limited to 1 percent of the amount appropriated.
8 Notwithstanding the provisions of s. 216.301, Florida
9 Statutes, to the contrary, the unexpended balance of this
10 appropriation shall not revert until June 30, 2007.

11 Section 44. (1) For the 2006-2007 fiscal year, the
12 sum of \$715 million is appropriated to the Department of
13 Financial Services from nonrecurring funds in the General
14 Revenue Fund. Such funds shall be transferred to Citizens
15 Property Insurance Corporation established pursuant to s.
16 627.351(6), Florida Statutes. The appropriation shall be
17 allocated to each of the personal lines and commercial lines
18 accounts so as to eliminate the deficit for the 2005 calendar
19 year in each of those two accounts, and the remaining moneys
20 shall be applied to reduce the portion of the deficit in the
21 high-risk account that would have been paid from the proceeds
22 of regular assessments except for the appropriation. The
23 moneys allocated to each account from the appropriation shall
24 be considered as proceeds of regular assessments for purposes
25 of the financing documents of Citizens Property Insurance
26 Corporation.

27 (2) Citizens Property Insurance Corporation shall
28 include in the notice of assessment to each assessable insurer
29 the amount by which the assessment has been reduced due to the
30 appropriation in paragraph (1).

31 (3) Each insurer that recoups an assessment from its

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1 policyholders as allowed by law for the regular assessment by
 2 Citizens Property Insurance Corporation for its 2005 deficit
 3 shall include on the premium notice or on a separate document
 4 included with the premium notice sent to policyholders, in
 5 12-point type, the following statement with the appropriate
 6 dollar amount shown:

7
 8 "The \$ SURCHARGE IN YOUR PREMIUM FOR THE ASSESSMENT
 9 BY CITIZENS PROPERTY INSURANCE CORPORATION HAS BEEN REDUCED BY
 10 \$ DUE TO AN APPROPRIATION BY THE FLORIDA LEGISLATURE."

11
 12 (4) The corporation shall amortize over a 10-year
 13 period any emergency assessments resulting from the 2005 Plan
 14 Year deficit.

15 (5) A violation of this section by an insurer is a
 16 violation of the Insurance Code and the insurer is subject to
 17 the penalties provided in ss. 624.418 and 624.4211, Florida
 18 Statutes.

19 (6) For the purposes of this section, the terms
 20 "assessable insurer," "corporation," "deficit," and "regular
 21 assessment," have the same meaning as provided in s.
 22 627.351(6), Florida Statutes.

23 Section 45. Effective January 1, 2007, subsection (9)
 24 is added to section 627.701, Florida Statutes, to read:

25 627.701 Liability of insureds; coinsurance;
 26 deductibles.--

27 (9) With respect to hurricane coverage provided in a
 28 policy of residential coverage, when the policyholder has
 29 taken appropriate hurricane mitigation measures regarding the
 30 residence covered under the policy, the insurer may provide
 31 the insured the option of selecting an appropriate reduction

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1 in the policy's hurricane deductible in lieu of selecting the
 2 appropriate discount credit or other rate differential as
 3 provided in s. 627.0629. If made available by the insurer, the
 4 insurer must provide the policyholder with notice of the
 5 options available under this subsection on a form approved by
 6 the office.

7 Section 46. Effective July 1, 2006, subsection (3) of
 8 s. 215.559, Florida Statutes, is repealed.

9 Section 47. Subsection (1) and paragraph (b) of
 10 subsection (2) of section 627.4133, Florida Statutes, are
 11 amended to read:

12 627.4133 Notice of cancellation, nonrenewal, or
 13 renewal premium.--

14 (1) Except as provided in subsection (2):

15 (a) An insurer issuing a policy providing coverage for
 16 workers' compensation and employer's liability insurance,
 17 property, casualty, except mortgage guaranty, surety, or
 18 marine insurance, other than motor vehicle insurance subject
 19 to s. 627.728, shall give the named insured at least 45 days'
 20 advance written notice of nonrenewal or of the renewal
 21 premium. If the policy is not to be renewed, the written
 22 notice shall state the reason or reasons as to why the policy
 23 is not to be renewed. This requirement applies only if the
 24 insured has furnished all of the necessary information so as
 25 to enable the insurer to develop the renewal premium prior to
 26 the expiration date of the policy to be renewed.

27 (b) An insurer issuing a policy providing coverage for
 28 property, casualty, except mortgage guaranty, surety, or
 29 marine insurance, other than motor vehicle insurance subject
 30 to s. 627.728 or s. 627.7281, shall give the named insured
 31 written notice of cancellation or termination other than

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1 nonrenewal at least 45 days prior to the effective date of the
2 cancellation or termination, including in the written notice
3 the reason or reasons for the cancellation or termination,
4 except that:

5 1. When cancellation is for nonpayment of premium, at
6 least 10 days' written notice of cancellation accompanied by
7 the reason therefor shall be given. As used in this
8 subparagraph, the term "nonpayment of premium" means failure
9 of the named insured to discharge when due any of her or his
10 obligations in connection with the payment of premiums on a
11 policy or any installment of such premium, whether the premium
12 is payable directly to the insurer or its agent or indirectly
13 under any premium finance plan or extension of credit, or
14 failure to maintain membership in an organization if such
15 membership is a condition precedent to insurance coverage.

16 "Nonpayment of premium" also means the failure of a financial
17 institution to honor an insurance applicant's check after
18 delivery to a licensed agent for payment of a premium, even if
19 the agent has previously delivered or transferred the premium
20 to the insurer. If a dishonored check represents the initial
21 premium payment, the contract and all contractual obligations
22 shall be void ab initio unless the nonpayment is cured within
23 the earlier of 5 days after actual notice by certified mail is
24 received by the applicant or 15 days after notice is sent to
25 the applicant by certified mail or registered mail, and if the
26 contract is void, any premium received by the insurer from a
27 third party shall be refunded to that party in full; and

28 2. When such cancellation or termination occurs during
29 the first 90 days during which the insurance is in force and
30 the insurance is canceled or terminated for reasons other than
31 nonpayment of premium, at least 20 days' written notice of

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1 cancellation or termination accompanied by the reason therefor
 2 shall be given except where there has been a material
 3 misstatement or misrepresentation or failure to comply with
 4 the underwriting requirements established by the insurer.

5
 6 After the policy has been in effect for 90 days, no such
 7 policy shall be canceled by the insurer except when there has
 8 been a material misstatement, a nonpayment of premium, a
 9 failure to comply with underwriting requirements established
 10 by the insurer within 90 days of the date of effectuation of
 11 coverage, or a substantial change in the risk covered by the
 12 policy or when the cancellation is for all insureds under such
 13 policies for a given class of insureds. ~~The provisions of This~~
 14 subsection does ~~shall~~ not apply to individually rated risks
 15 having a policy term of less than 90 days.

16 (c) If an insurer fails to provide the 45-day or
 17 20-day written notice required under this section, the
 18 coverage provided to the named insured shall remain in effect
 19 until 45 days after the notice is given or until the effective
 20 date of replacement coverage obtained by the named insured,
 21 whichever occurs first. The premium for the coverage shall
 22 remain the same during any such extension period except that,
 23 in the event of failure to provide notice of nonrenewal, if
 24 the rate filing then in effect would have resulted in a
 25 premium reduction, the premium during such extension of
 26 coverage shall be calculated based upon the later rate filing.

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

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1 its contents:

2 (b) The insurer shall give the named insured written
3 notice of nonrenewal, cancellation, or termination at least 90
4 days prior to the effective date of the nonrenewal,
5 cancellation, or termination. The notice must include the
6 reason or reasons for the nonrenewal, cancellation, or
7 termination, except that:

8 1. When cancellation is for nonpayment of premium, at
9 least 10 days' written notice of cancellation accompanied by
10 the reason therefor shall be given. As used in this
11 subparagraph, the term "nonpayment of premium" means failure
12 of the named insured to discharge when due any of her or his
13 obligations in connection with the payment of premiums on a
14 policy or any installment of such premium, whether the premium
15 is payable directly to the insurer or its agent or indirectly
16 under any premium finance plan or extension of credit, or
17 failure to maintain membership in an organization if such
18 membership is a condition precedent to insurance coverage.

19 "Nonpayment of premium" also means the failure of a financial
20 institution to honor an insurance applicant's check after
21 delivery to a licensed agent for payment of a premium, even if
22 the agent has previously delivered or transferred the premium
23 to the insurer. If a dishonored check represents the initial
24 premium payment, the contract and all contractual obligations
25 shall be void ab initio unless the nonpayment is cured within
26 the earlier of 5 days after actual notice by certified mail is
27 received by the applicant or 15 days after notice is sent to
28 the applicant by certified mail or registered mail, and if the
29 contract is void, any premium received by the insurer from a
30 third party shall be refunded to that party in full.

31 2. When such cancellation or termination occurs during

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1 the first 90 days during which the insurance is in force and
 2 the insurance is canceled or terminated for reasons other than
 3 nonpayment of premium, at least 20 days' written notice of
 4 cancellation or termination accompanied by the reason therefor
 5 shall be given except where there has been a material
 6 misstatement or misrepresentation or failure to comply with
 7 the underwriting requirements established by the insurer.

8
 9 After the policy has been in effect for 90 days, the policy
 10 shall not be canceled by the insurer except when there has
 11 been a material misstatement, a nonpayment of premium, a
 12 failure to comply with underwriting requirements established
 13 by the insurer within 90 days of the date of effectuation of
 14 coverage, or a substantial change in the risk covered by the
 15 policy or when the cancellation is for all insureds under such
 16 policies for a given class of insureds. This paragraph does
 17 not apply to individually rated risks having a policy term of
 18 less than 90 days.

19 Section 48. Except as otherwise expressly provided in
 20 this act, this act shall take effect upon becoming a law.

21

22

23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28

A bill to be entitled

29

An act relating to property and casualty

30

insurance; amending s. 215.555, F.S.;

31

redefining the term "losses" for purposes of

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1 the Florida Hurricane Catastrophe Fund;
2 allowing limited apportionment companies to
3 purchase additional coverage amounts from the
4 fund; revising certain reimbursement contract
5 criteria; revising certain reimbursement
6 premium requirements; specifying procedures for
7 Citizens Property Insurance Corporation to
8 obtain coverage for certain policies from the
9 fund; deleting a requirement that bonds be
10 validated; revising certain revenue bond
11 emergency assessment requirements; specifying
12 premiums that are subject to assessment;
13 revising the date on which the exemption of
14 medical malpractice premiums from emergency
15 assessments is repealed; creating s. 215.5586,
16 F.S.; establishing the Florida Comprehensive
17 Hurricane Damage Mitigation Program within the
18 Department of Financial Services; providing
19 qualifications for the program administrator;
20 providing program components and requirements;
21 providing for wind certification and hurricane
22 mitigation inspections; providing inspection
23 requirements; providing inspector eligibility
24 requirements; providing for grants; providing
25 grant requirements; for loans; providing public
26 education and consumer awareness requirements;
27 amending s. 215.559, F.S.; creating the
28 Manufactured Housing and Mobile Home Mitigation
29 and Enhancement Program for specified purposes;
30 requiring Tallahassee Community College to
31 develop the program in consultation with

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1 certain entities; specifying requirements of
2 the program as to certain concerns of the
3 Department of Highway Safety and Motor Vehicles
4 relating to manufactured homes and mobile
5 homes; specifying that the program is a grant
6 program for the improvement of mobile home and
7 manufactured home parks; providing for the
8 distribution of the grants to Tallahassee
9 Community College for specified purposes;
10 requiring the Citizens Property Insurance
11 Corporation to grant certain insurance
12 discounts, credits, rate differentials, or
13 reductions in deductibles for property
14 insurance premiums for owners of manufactured
15 homes or mobile homes; specifying criteria for
16 such premiums; specifying funding for tie-down
17 enhancement systems; requiring Tallahassee
18 Community College to provide an annual report
19 on the program to the Governor and the
20 Legislature; providing requirements relating to
21 the report; providing an appropriation;
22 creating s. 215.5595, F.S.; providing
23 legislative findings concerning the
24 appropriation of state funds to be used as
25 surplus notes for residential property
26 insurers; providing conditions and requirements
27 for the issuance of surplus notes to new or
28 existing residential property insurers under
29 the Insurance Capital Build-Up Incentive
30 Program; providing for the program to be
31 administered by the State Board of

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1 Administration; limiting the amount of a
2 surplus note; requiring that an insurer
3 maintain a specified ratio of net written
4 premium to surplus for the term of the note;
5 providing for the term of a surplus note and
6 the rate of interest; providing that the state
7 is a creditor for unpaid principal and interest
8 on a surplus note; requiring the board to adopt
9 emergency rules; providing requirements for the
10 investment of appropriated funds; creating s.
11 252.63, F.S.; providing purpose and intent;
12 providing powers of the Commissioner of
13 Insurance Regulation during a state of
14 emergency; authorizing the commissioner to
15 issue certain orders in a state of emergency;
16 providing for effect and duration of such
17 orders; providing for legislative termination
18 of such orders; requiring the commissioner to
19 publish such orders and an explanatory
20 statement; creating s. 626.8795, F.S.;
21 prohibiting a public adjuster from engaging in
22 certain activities that constitute a conflict
23 of interest; providing an appropriation;
24 amending s. 627.0613, F.S.; revising powers of
25 the consumer advocate of the Chief Financial
26 Officer with respect to appearance in certain
27 proceedings; amending s. 626.918, F.S.;
28 authorizing certain letters of credit to fund a
29 surplus lines insurer's required policyholder
30 protection trust fund; defining the term
31 "qualified United States financial

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1 institution"; amending s. 627.062, F.S.;

2 requiring the Office of Insurance Regulation to

3 approve a rating factor relative to an

4 insurer's rate of return; specifying certain

5 rate filings as not subject to office

6 determination as excessive or unfairly

7 discriminatory; providing limitations;

8 providing a definition; prohibiting certain

9 rate filings under certain circumstances;

10 preserving the office's authority to disapprove

11 certain rate filings under certain

12 circumstances; providing procedures for

13 insurers submitting certain rate filings;

14 revising provisions providing for recoupment of

15 certain reinsurance costs; specifying

16 nonapplication to certain types of insurance;

17 providing that the burden is on the Office of

18 Insurance Regulation to establish that certain

19 rates are excessive; amending s. 627.0628,

20 F.S.; authorizing certain determinations to be

21 made in a rate hearing regarding the

22 assumptions and factors found to be accurate or

23 reliable by the Florida Commission on Hurricane

24 Loss Projection Methodology; amending s.

25 627.06281, F.S.; requiring the public hurricane

26 loss-projection model to be submitted for

27 review by the Florida Commission on Hurricane

28 Loss Projection Methodology; allowing the

29 Office of Insurance Regulation to use the

30 public model until the commission determines

31 that the public model is not accurate or

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1 reliable; amending s. 627.0629, F.S.; requiring
2 that the office reevaluate the rate
3 differentials for construction techniques that
4 meet the requirements of the Florida Building
5 Code; amending s. 627.351, F.S.; providing that
6 certain responsibilities of the Office of
7 Insurance Regulation with respect to the plan
8 of operation of Citizens Property Insurance
9 Corporation be assumed by the Financial
10 Services Commission; defining the terms
11 "homestead property" and "nonhomestead
12 property" for use with respect to Citizens
13 Property Insurance Corporation; limiting
14 eligibility for personal lines coverage by the
15 corporation; directing the corporation board to
16 reduce or, with approval by necessary parties,
17 restructure existing debt; requiring a report
18 with respect thereto; providing for a reduction
19 in aggregate amount of a regular assessment in
20 certain circumstances; authorizing the board of
21 governors of the corporation to levy an
22 assessment if certain deficits occur; providing
23 accounting requirements; authorizing the
24 corporation to adopt policy forms that contain
25 more restrictive coverage; requiring the
26 executive director of the corporation to be
27 confirmed by the Senate; deleting authority of
28 the Chief Financial Officer to review corporate
29 employees; prescribing a 10-day waiting period
30 for applications for coverage for a new policy;
31 authorizing exceptions; redesignating the

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1 market equalization surcharge as a Citizens
2 policyholder surcharge and providing for its
3 calculation; revising the liability of limited
4 apportionment companies for regular
5 assessments; providing for optional payment
6 plans; requiring insurers to provide
7 claims-adjusting services for certain wind
8 coverage in certain circumstances; requiring
9 the corporation to limit coverage on certain
10 mobile homes; requiring prospective senior
11 management employees of the corporation to
12 successfully pass a background check; requiring
13 employees of the corporation to sign annually a
14 statement that they have no conflict of
15 interest; providing that senior managers and
16 members of the board of governors are subject
17 to the code of ethics and must file financial
18 disclosure; prohibiting employees and members
19 of the board of governors from accepting gifts
20 or expenditures from a persons or entity, or
21 employee thereof, which has or is under
22 consideration for a contract with the
23 corporation; providing penalties; providing a
24 limitation on senior managers' representation
25 of persons before the corporation after
26 retirement or termination of employment and on
27 employment with an insurer that has received a
28 take-out bonus; prescribing guidelines for
29 purchases of goods and services; providing
30 guidelines on use of outside counsel;
31 prohibiting the corporation from retaining a

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1 lobbyist; authorizing full-time employees to
2 register and engage in lobbying; creating the
3 Office of Internal Auditor and prescribing its
4 duties; providing record-retention
5 requirements; requiring establishment of a unit
6 or division to investigate claims involving
7 possible fraud against the corporation and
8 another to receive and respond to consumer
9 complaints; requiring employees of the
10 corporation to report suspected fraud;
11 requiring a periodic comprehensive market
12 conduct examination of the corporation;
13 requiring periodic operational audits of the
14 corporation by the Auditor General; prescribing
15 elements to be included in such audits;
16 providing requirements for the office with
17 respect to rate filings; specifying
18 circumstances under which a rate is deemed
19 inadequate for certain policies; requiring the
20 rate for certain policies to be based on
21 certain loss events; providing a rate surcharge
22 for certain nonhomestead property and property
23 valued at more than a certain amount; providing
24 that rates for the corporation are not subject
25 to the requirements for being noncompetitive if
26 the Office of Insurance Regulation makes a
27 certain determination; deleting provisions
28 relating to appointment of a rate methodology
29 panel; providing for use of the public
30 hurricane loss-projection model in ratemaking;
31 prescribing requirements for paying takeout

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1 bonuses or payments to insurers; requiring
2 records of takeout bonuses or other payments
3 for certain purposes; clarifying that debt
4 obligations of the corporation are not subject
5 to taxation; prohibiting the corporation and
6 other persons from making certain filings
7 under, or becoming a debtor under, the federal
8 Bankruptcy Code; authorizing the corporation to
9 assume the policies of an insurer placed in
10 liquidation under conditions approved by the
11 office; postponing the dates by which the
12 boundaries of high-risk areas must be reduced;
13 requiring a study of the viability of
14 authorized insurers issuing and servicing, for
15 a fee, certain high-risk insurance policies;
16 requiring a report to legislative leaders;
17 providing that insurance agents are not liable
18 for certain action; requiring that the
19 corporation make certain information concerning
20 policies ineligible for renewal available to
21 licensed general lines agents unless the
22 policyholder has requested that the corporation
23 withhold such information; providing
24 registration requirements in order for an agent
25 to obtain such information; authorizing a
26 registered agent to contact and assist a
27 policyholder in securing a replacement policy;
28 providing applicability of specified provisions
29 relating to assessments and surcharges;
30 amending s. 627.3511, F.S.; extending the
31 period for which an insurer that assumes

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1 Citizens Property Insurance Corporation's
2 obligations under a policy must renew the
3 replacement policy; revising circumstances
4 under which replacement is not required;
5 amending s. 627.3512, F.S.; authorizing a
6 limited apportionment company to recoup
7 assessments levied by Citizens Property
8 Insurance Corporation; amending s. 627.3517,
9 F.S.; providing that an insurance risk
10 apportionment plan policyholder's right to
11 retain his or her current agent does not apply
12 during the first 10 days after a new
13 application for coverage has been submitted to
14 Citizens Property Insurance Corporation;
15 creating s. 627.3519, F.S.; requiring the
16 Financial Services Commission to report
17 annually to the Legislature on probable maximum
18 losses, financing options, and assessment
19 potentials of the Florida Hurricane Catastrophe
20 Fund and Citizens Property Insurance
21 Corporation; amending s. 627.4035, F.S.;
22 providing for a waiver of a written
23 authorization requirement to pay claims by
24 debit card or other electronic transfer;
25 creating s. 627.6121, F.S.; prescribing
26 circumstances under which an insurer must pay
27 benefits to a primary policyholder of dual
28 interest property; amending s. 627.7011, F.S.;
29 limiting certain law and ordinance coverage;
30 providing that the section does not prohibit an
31 insurer from limiting its liability concerning

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1 certain replacement costs; creating s.
2 627.7019, F.S.; requiring the Financial
3 Services Commission to adopt rules imposing
4 standardized requirements applicable to
5 insurers after certain natural events;
6 providing criteria; providing requirements of
7 the Office of Insurance Regulation; amending s.
8 627.706, F.S.; allowing for a deductible amount
9 applicable to sinkhole losses in a policy for
10 residential property insurance; defining the
11 term "professional engineer"; amending s.
12 627.707, F.S.; revising references to certain
13 engineers; authorizing insurers to make direct
14 payment for certain repairs; excluding insurers
15 from liability for repairs under certain
16 circumstances; amending s. 627.7072, F.S.;
17 revising references to certain engineers;
18 deleting a standard for testing; amending s.
19 627.7073, F.S.; revising requirements for
20 sinkhole reports by professional engineers and
21 professional geologists; providing for the
22 recording of sinkhole reports by the clerk of
23 court rather than the property appraiser;
24 providing that the recording of the report and
25 certification does not constitute certain
26 restrictions or create certain causes of action
27 or liabilities; creating s. 627.7074, F.S.;
28 prescribing an alternative method for resolving
29 disputed sinkhole insurance claims; providing
30 definitions; prescribing procedures for
31 invoking the alternative method; providing that

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1 a recommendation by a neutral evaluator is not
2 binding on any party; providing for payments of
3 costs; requiring the insurer to pay attorney's
4 fees of the policyholder up to a specified
5 amount under certain conditions; providing that
6 an insurer is not liable for attorney's fees or
7 for certain damages under certain conditions;
8 amending s. 627.727, F.S.; conforming a
9 cross-reference; amending s. 631.181, F.S.;
10 providing an exception to certain requirements
11 for a signed statement for certain claims
12 related to the insolvency of an insurer;
13 providing requirements; amending s. 631.54,
14 F.S.; redefining the term "covered claim" and
15 defining the term "homeowner's insurance" for
16 purposes of the Florida Insurance Guaranty
17 Association; amending s. 631.55, F.S.;
18 conforming a cross-reference; amending s.
19 631.57, F.S.; revising requirements and
20 limitations for obligations of the Florida
21 Insurance Guaranty Association for covered
22 claims; authorizing the association to contract
23 with counties, municipalities, and legal
24 entities to issue revenue bonds for certain
25 purposes; authorizing the Office of Insurance
26 Regulation to levy assessments and emergency
27 assessments on insurers under certain
28 circumstances for certain bond repayment
29 purposes; providing requirements for and
30 limitations on such assessments; providing for
31 payment, collection, and distribution of such

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1 assessments; requiring insurers to include an
2 analysis of revenues from such assessments in a
3 required report; providing rate filing
4 requirements for insurers relating to such
5 assessments; providing for continuing annual
6 assessments under certain circumstances;
7 specifying emergency assessments as not premium
8 and not subject to certain taxes, fees, or
9 commissions; specifying insurer liability for
10 emergency assessments; providing an exception;
11 creating s. 631.695, F.S.; providing
12 legislative findings and purposes; providing
13 for issuance of revenue bonds through counties
14 and municipalities to fund assistance programs
15 for paying covered claims for hurricane damage;
16 providing procedures, requirements, and
17 limitations for counties, municipalities, and
18 the Florida Insurance Guaranty Association,
19 Inc., relating to issuance and validation of
20 such bonds; prohibiting pledging the funds,
21 credit, property, and taxing power of the
22 state, counties, and municipalities for payment
23 of bonds; specifying authorized uses of bond
24 proceeds; limiting the term of bonds;
25 specifying a state covenant to protect
26 bondholders from adverse actions relating to
27 such bonds; specifying exemptions for bonds,
28 notes, and other obligations of counties and
29 municipalities from certain taxes or
30 assessments on property and revenues;
31 authorizing counties and municipalities to

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1 create a legal entity to exercise certain
2 powers; requiring the association to issue an
3 annual report on the status of certain uses of
4 bond proceeds; providing report requirements;
5 requiring the association to provide a copy of
6 the report to the Legislature and Chief
7 Financial Officer; prohibiting repeal of
8 certain provisions relating to certain bonds
9 under certain circumstances; amending s.
10 877.02, F.S.; prohibiting certain solicitations
11 by contractors and other persons providing
12 sinkhole remediation services; providing
13 penalties; requiring the Office of Insurance
14 Regulation to submit reports to the Legislature
15 relating to the insurability of certain
16 attached or free-standing structures and
17 relating to an objective rating system for
18 homes; requiring the Office of Insurance
19 Regulation to calculate a presumed factor that
20 reflects certain provisions of the act related
21 to sinkhole claims and by ss. 17, 18, 19, 20,
22 and 21 of ch. 2005-111, Laws of Florida;
23 providing procedures; requiring residential
24 property insurers to use the presumed factor in
25 calculating rates after a specified date;
26 providing appropriations; requiring that an
27 appropriation be transferred to Citizens
28 Property Insurance Corporation to reduce the
29 amount of the regular assessment for a
30 specified deficit; requiring the corporation to
31 notify assessable insurers of the amount by

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1 which assessments have been reduced; requiring
2 insurers who recoup assessments to notify
3 policyholders of the amount by which the
4 surcharge has been reduced; providing penalties
5 for a violation; defining terms; requiring that
6 emergency assessments be amortized over a
7 specified period; repealing s. 215.559(3),
8 F.S.; deleting the requirement that the
9 Department of Community Affairs develop a
10 low-interest loan program for retrofitting
11 homes; amending s. 627.701, F.S.; allowing
12 insurers to offer the insured certain
13 deductible options; amending s. 627.4133, F.S.;
14 defining the term "nonpayment of premium" for
15 purposes of insurance contracts; providing
16 effective dates.

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