

Bill No. CS for CS for SB 1980

Barcode 444056

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

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11 Senators Garcia and Alexander moved the following **amendment to**  
12 **amendment** (021596):

14 **Senate Amendment (with title amendment)**

15 On page 41, line 5, through  
16 page 68, line 29, delete those lines

17  
18 and insert: of operation and paragraph(p) ~~(g)~~.  
19 Notwithstanding any other provision of this subsection, the  
20 aggregate amount of a regular assessment for a deficit  
21 incurred in a particular calendar year shall be reduced by the  
22 estimated amount to be received by the corporation from the  
23 Citizens policyholder surcharge under subparagraph (c)11. and  
24 the amount collected or estimated to be collected from the  
25 assessment on Citizens policyholders pursuant to  
26 sub-subparagraph i. Assessments levied by the corporation on  
27 assessable insureds under sub-subparagraphs a. and b. shall be  
28 collected by the surplus lines agent at the time the surplus  
29 lines agent collects the surplus lines tax required by s.  
30 626.932 and shall be paid to the Florida Surplus Lines Service  
31 Office at the time the surplus lines agent pays the surplus

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1 lines tax to the Florida Surplus Lines Service Office. Upon  
 2 receipt of regular assessments from surplus lines agents, the  
 3 Florida Surplus Lines Service Office shall transfer the  
 4 assessments directly to the corporation as determined by the  
 5 corporation.

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

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

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

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

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

27 g. The Florida Surplus Lines Service Office shall  
 28 determine annually the aggregate statewide written premium in  
 29 subject lines of business procured by assessable insureds and  
 30 shall report that information to the corporation in a form and  
 31 at a time the corporation specifies to ensure that the

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1 corporation can meet the requirements of this subsection and  
 2 the corporation's financing obligations.

3 h. The Florida Surplus Lines Service Office shall  
 4 verify the proper application by surplus lines agents of  
 5 assessment percentages for regular assessments and emergency  
 6 assessments levied under this subparagraph on assessable  
 7 insureds and shall assist the corporation in ensuring the  
 8 accurate, timely collection and payment of assessments by  
 9 surplus lines agents as required by the corporation.

10 i. If a deficit is incurred in any account, the board  
 11 of governors shall levy an immediate assessment against the  
 12 premium of each nonhomestead property policyholder in all  
 13 accounts of the corporation, as a uniform percentage of the  
 14 premium of the policy of up to 50 percent of such premium,  
 15 which funds shall be used to offset the deficit. If this  
 16 assessment is insufficient to eliminate the deficit, the board  
 17 of governors shall levy an additional assessment against all  
 18 policyholders of the corporation, which shall be collected at  
 19 the time of issuance or renewal of a policy, as a uniform  
 20 percentage of the premium for the policy of up to 50 percent  
 21 of such premium, which funds shall be used to further offset  
 22 the deficit.

23 j. The board of governors shall maintain separate  
 24 accounting records that consolidate data for nonhomestead  
 25 properties, including, but not limited to, number of policies,  
 26 insured values, premiums written, and losses. The board of  
 27 governors shall annually report to the office and the  
 28 Legislature a summary of such data.

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

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

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

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

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

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

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

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

28 f. The corporation may adopt variations of the policy  
29 forms listed in sub-subparagraphs a.-e. that contain more  
30 restrictive coverage.

31 2.a. Must provide that the corporation adopt a program

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1 in which the corporation and authorized insurers enter into  
 2 quota share primary insurance agreements for hurricane  
 3 coverage, as defined in s. 627.4025(2)(a), for eligible risks,  
 4 and adopt property insurance forms for eligible risks which  
 5 cover the peril of wind only. As used in this subsection, the  
 6 term:

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

30 (II) "Eligible risks" means personal lines residential  
 31 and commercial lines residential risks that meet the

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1 underwriting criteria of the corporation and are located in  
2 areas that were eligible for coverage by the Florida Windstorm  
3 Underwriting Association on January 1, 2002.

4       b. The corporation may enter into quota share primary  
5 insurance agreements with authorized insurers at corporation  
6 coverage levels of 90 percent and 50 percent.

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

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

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

26       f. For all eligible risks covered under quota share  
27 primary insurance agreements, the exposure and coverage levels  
28 for both the corporation and authorized insurers shall be  
29 reported by the corporation to the Florida Hurricane  
30 Catastrophe Fund. For all policies of eligible risks covered  
31 under quota share primary insurance agreements, the



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1 corporation and the authorized insurer shall maintain complete  
 2 and accurate records for the purpose of exposure and loss  
 3 reimbursement audits as required by Florida Hurricane  
 4 Catastrophe Fund rules. The corporation and the authorized  
 5 insurer shall each maintain duplicate copies of policy  
 6 declaration pages and supporting claims documents.

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

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

26 3. May provide that the corporation may employ or  
 27 otherwise contract with individuals or other entities to  
 28 provide administrative or professional services that may be  
 29 appropriate to effectuate the plan. The corporation shall have  
 30 the power to borrow funds, by issuing bonds or by incurring  
 31 other indebtedness, and shall have other powers reasonably

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

29           4.a. Must require that the corporation operate subject  
30 to the supervision and approval of a board of governors  
31 consisting of 8 individuals who are residents of this state,

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

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

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

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

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

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1 coverage issued by the corporation; however, if the risk could  
 2 not be insured under a standard policy including wind coverage  
 3 regardless of market conditions, the risk shall be eligible  
 4 for a basic policy including wind coverage unless rejected  
 5 under subparagraph 8. The corporation shall determine the type  
 6 of policy to be provided on the basis of objective standards  
 7 specified in the underwriting manual and based on generally  
 8 accepted underwriting practices.

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

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

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

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

31 (II) When the corporation enters into a contractual

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1 agreement for a take-out plan, the producing agent of record  
2 of the corporation policy is entitled to retain any unearned  
3 commission on the policy, and the insurer shall:

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

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

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

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

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

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

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

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

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

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

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

29  
 30 If the producing agent is unwilling or unable to accept  
 31 appointment, the new insurer shall pay the agent in accordance

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1 with sub-sub-sub-subparagraph (A).

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

12           ~~7.6.~~ Must include rules for classifications of risks  
13 and rates therefor.

14           ~~8.7.~~ Must provide that if premium and investment  
15 income for an account attributable to a particular calendar  
16 year are in excess of projected losses and expenses for the  
17 account attributable to that year, such excess shall be held  
18 in surplus in the account. Such surplus shall be available to  
19 defray deficits in that account as to future years and shall  
20 be used for that purpose prior to assessing assessable  
21 insurers and assessable insureds as to any calendar year.

22           ~~9.8.~~ Must provide objective criteria and procedures to  
23 be uniformly applied for all applicants in determining whether  
24 an individual risk is so hazardous as to be uninsurable. In  
25 making this determination and in establishing the criteria and  
26 procedures, the following shall be considered:

27           a. Whether the likelihood of a loss for the individual  
28 risk is substantially higher than for other risks of the same  
29 class; and

30           b. Whether the uncertainty associated with the  
31 individual risk is such that an appropriate premium cannot be



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1 determined.

2

3 The acceptance or rejection of a risk by the corporation shall  
4 be construed as the private placement of insurance, and the  
5 provisions of chapter 120 shall not apply.

6 ~~10.9.~~ Must provide that the corporation shall make its  
7 best efforts to procure catastrophe reinsurance at reasonable  
8 rates, to cover its projected 100-year probable maximum loss  
9 as determined by the board of governors.

10 ~~11.10.~~ Must provide that in the event of regular  
11 deficit assessments under sub-subparagraph (b)3.a. or  
12 sub-subparagraph (b)3.b., in the personal lines account, the  
13 commercial lines residential account, or the high-risk  
14 account, the corporation shall levy upon corporation  
15 policyholders in its next rate filing, or by a separate rate  
16 filing solely for this purpose, a Citizens policyholder ~~market~~  
17 ~~equalization~~ surcharge arising from a regular assessment in  
18 such account in a percentage equal to the total amount of such  
19 regular assessments divided by the aggregate statewide direct  
20 written premium for subject lines of business for the prior  
21 calendar year. For purposes of calculating the Citizens  
22 policyholder surcharge to be levied under this subparagraph,  
23 the total amount of the regular assessment to which this  
24 surcharge is related shall be determined as set forth in  
25 subparagraph (b)3., without deducting the estimated Citizens  
26 policyholder surcharge. Citizens policyholder ~~Market~~  
27 ~~equalization~~ surcharges under this subparagraph are not  
28 considered premium and are not subject to commissions, fees,  
29 or premium taxes; however, failure to pay a market  
30 equalization surcharge shall be treated as failure to pay  
31 premium.

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1           ~~12.11.~~ The policies issued by the corporation must  
 2 provide that, if the corporation or the market assistance plan  
 3 obtains an offer from an authorized insurer to cover the risk  
 4 at its approved rates, the risk is no longer eligible for  
 5 renewal through the corporation.

6           ~~13.12.~~ Corporation policies and applications must  
 7 include a notice that the corporation policy could, under this  
 8 section, be replaced with a policy issued by an authorized  
 9 insurer that does not provide coverage identical to the  
 10 coverage provided by the corporation. The notice shall also  
 11 specify that acceptance of corporation coverage creates a  
 12 conclusive presumption that the applicant or policyholder is  
 13 aware of this potential.

14           ~~14.13.~~ May establish, subject to approval by the  
 15 office, different eligibility requirements and operational  
 16 procedures for any line or type of coverage for any specified  
 17 county or area if the board determines that such changes to  
 18 the eligibility requirements and operational procedures are  
 19 justified due to the voluntary market being sufficiently  
 20 stable and competitive in such area or for such line or type  
 21 of coverage and that consumers who, in good faith, are unable  
 22 to obtain insurance through the voluntary market through  
 23 ordinary methods would continue to have access to coverage  
 24 from the corporation. When coverage is sought in connection  
 25 with a real property transfer, such requirements and  
 26 procedures shall not provide for an effective date of coverage  
 27 later than the date of the closing of the transfer as  
 28 established by the transferor, the transferee, and, if  
 29 applicable, the lender.

30           ~~15.14.~~ Must provide that, with respect to the  
 31 high-risk account, any assessable insurer with a surplus as to

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1 policyholders of \$25 million or less writing 25 percent or  
2 more of its total countrywide property insurance premiums in  
3 this state may petition the office, within the first 90 days  
4 of each calendar year, to qualify as a limited apportionment  
5 company. A regular assessment levied by the corporation on a  
6 limited apportionment company for a deficit incurred by the  
7 corporation for the high-risk account in 2006 or thereafter  
8 may be paid to the corporation on a monthly basis as the  
9 assessments are collected by the limited apportionment company  
10 from its insureds pursuant to s. 627.3512, but the regular  
11 assessment must be paid in full within 12 months after being  
12 levied by the corporation. In no event shall a limited  
13 apportionment company be required to participate in the  
14 portion of any assessment, within the high-risk account,  
15 pursuant to sub-subparagraph (b)3.a. or sub-subparagraph  
16 (b)3.b. in the aggregate which exceeds \$50 million after  
17 payment of available high-risk account funds in any calendar  
18 year. However, A limited apportionment company shall collect  
19 from its policyholders any emergency assessment imposed under  
20 sub-subparagraph (b)3.d. The plan shall provide that, if the  
21 office determines that any regular assessment will result in  
22 an impairment of the surplus of a limited apportionment  
23 company, the office may direct that all or part of such  
24 assessment be deferred as provided in subparagraph (g)4.  
25 However, there shall be no limitation or deferment of an  
26 emergency assessment to be collected from policyholders under  
27 sub-subparagraph (b)3.d.

28 ~~16.15.~~ Must provide that the corporation appoint as  
29 its licensed agents only those agents who also hold an  
30 appointment as defined in s. 626.015(3) with an insurer who at  
31 the time of the agent's initial appointment by the corporation

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1 is authorized to write and is actually writing personal lines  
2 residential property coverage, commercial residential property  
3 coverage, or commercial nonresidential property coverage  
4 within the state.

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

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

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

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

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

12           3. Senior managers and members of the board of  
 13 governors are subject to the provisions of part III of chapter  
 14 112, including, but not limited to, the code of ethics and  
 15 public disclosure and reporting of financial interests,  
 16 pursuant to s. 112.3145. Senior managers and board members are  
 17 also required to file such disclosures with the Office of  
 18 Insurance Regulation. The executive director of the  
 19 corporation or his or her designee shall notify each newly  
 20 appointed and existing appointed member of the board of  
 21 governors and senior managers of their duty to comply with the  
 22 reporting requirements of part III of chapter 112. At least  
 23 quarterly, the executive director or his or her designee shall  
 24 submit to the Commission on Ethics a list of names of the  
 25 senior managers and members of the board of governors that are  
 26 subject to the public disclosure requirements under s.  
 27 112.3145.

28           4. Notwithstanding s. 112.3148 or s. 112.3149, or any  
 29 other provision of law, an employee or board member may not  
 30 knowingly accept, directly or indirectly, any gift or  
 31 expenditure from a person or entity, or an employee or

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1 representative of such person or entity, that has a  
 2 contractual relationship with the corporation or who is under  
 3 consideration for a contract. An employee or board member that  
 4 fails to comply with this subparagraph is subject to penalties  
 5 provided under ss. 112.317 and 112.3173.

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

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

18 (e) Purchases that equal or exceed \$2,500, but are  
 19 less than \$25,000, shall be made by receipt of written quotes,  
 20 written record of telephone quotes, or informal bids, whenever  
 21 practical. The procurement of goods or services valued at or  
 22 over \$25,000 shall be subject to competitive solicitation,  
 23 except in situations where the goods or services are provided  
 24 by a sole source or are deemed an emergency purchase; the  
 25 services are exempted from competitive solicitation  
 26 requirements under s. 287.057(5)(f); or the procurement of  
 27 services is subject to s. 627.3513. Justification for the  
 28 sole-sourcing or emergency procurement must be documented.  
 29 Contracts for goods or services valued at or over \$100,000 are  
 30 subject to approval by the board.

31 (f) The board shall determine whether it is more

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

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

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

27 a. Provide direction for, supervise, conduct, and  
28 coordinate audits, investigations, and management reviews  
29 relating to the programs and operations of the corporation.

30 b. Conduct, supervise, or coordinate other activities  
31 carried out or financed by the corporation for the purpose of

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1 promoting efficiency in the administration of, or preventing  
2 and detecting fraud, abuse, and mismanagement in, its programs  
3 and operations.

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

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

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

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

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

31 (j)1. The corporation shall establish and maintain a



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1 unit or division to investigate possible fraudulent claims by  
 2 insureds or by persons making claims for services or repairs  
 3 against policies held by insureds; or it may contract with  
 4 others to investigate possible fraudulent claims for services  
 5 or repairs against policies held by the corporation pursuant  
 6 to s. 626.9891. The corporation must comply with reporting  
 7 requirements of s. 626.9891. An employee of the corporation  
 8 shall notify the Division of Insurance Fraud within 48 hours  
 9 after having information that would lead a reasonable person  
 10 to suspect that fraud may have been committed by any employee  
 11 of the corporation.

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

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

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

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1 controls, and the internal audit function. The initial audit  
 2 must be completed by February 1, 2009.

3 ~~(m)(d)~~1.a. ~~It is the intent of the Legislature that~~  
 4 ~~the~~ Rates for coverage provided by the corporation shall be  
 5 actuarially sound and not competitive with approved rates  
 6 charged in the admitted voluntary market, so that the  
 7 corporation functions as a residual market mechanism to  
 8 provide insurance only when the insurance cannot be procured  
 9 in the voluntary market. Rates shall include an appropriate  
 10 catastrophe loading factor that reflects the actual  
 11 catastrophic exposure of the corporation. For policies issued  
 12 or renewed on or after March 1, 2007, a rate is deemed  
 13 inadequate if the rate, including investment income, is not  
 14 sufficient to provide for the procurement of coverage under  
 15 the Florida Hurricane Catastrophe Fund and private reinsurance  
 16 costs, whether or not reinsurance is procured, and to pay all  
 17 claims and expenses reasonably expected to result from a  
 18 100-year probable maximum loss event without resort to any  
 19 regular or emergency assessments, long-term debt, state  
 20 revenues, or other funding sources.

21 b. It is the intent of the Legislature to reaffirm the  
 22 requirement of rate adequacy in the residual market.  
 23 Recognizing that rates may comply with the intent expressed in  
 24 sub-subparagraph a. and yet be inadequate and recognizing the  
 25 public need to limit subsidies within the residual market, it  
 26 is the further intent of the Legislature to establish  
 27 statutory standards for rate adequacy. Such standards are  
 28 intended to supplement the standard specified in s.  
 29 627.062(2)(e)3., providing that rates are inadequate if they  
 30 are clearly insufficient to sustain projected losses and  
 31 expenses in the class of business to which they apply.

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

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

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1 a notice of intent to approve or a notice of intent to  
2 disapprove within 90 days after receipt of the filing.

3 Corporation rate manuals shall include a rate surcharge for  
4 seasonal occupancy. To ensure that personal lines residential  
5 wind-only rates are not competitive with approved rates  
6 charged by authorized insurers, the corporation, in  
7 conjunction with the office, shall develop a wind-only  
8 ratemaking methodology, which methodology shall be contained  
9 in each rate filing made by the corporation with the office.  
10 If the office determines that the wind-only rates or rating  
11 factors filed by the corporation fail to comply with the  
12 wind-only ratemaking methodology provided for in this  
13 subsection, it shall so notify the corporation and require the  
14 corporation to amend its rates or rating factors to come into  
15 compliance within 90 days of notice from the office.

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

23 ~~5.4.~~ For the purposes of establishing a pilot program  
24 to evaluate issues relating to the availability and  
25 affordability of insurance in an area where historically there  
26 has been little market competition, the provisions of  
27 subparagraph 2. do not apply to coverage provided by the  
28 corporation in Monroe County if the office determines that a  
29 reasonable degree of competition does not exist for personal  
30 lines residential policies. The provisions of subparagraph 3.  
31 do not apply to coverage provided by the corporation in Monroe

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1 County if the office determines that a reasonable degree of  
 2 competition does not exist for personal lines residential  
 3 policies in the area of that county which is eligible for  
 4 wind-only coverage. In this county, the rates for personal  
 5 lines residential coverage shall be actuarially sound and not  
 6 excessive, inadequate, or unfairly discriminatory and are  
 7 subject to the other provisions of the paragraph and s.  
 8 627.062. The commission shall adopt rules establishing the  
 9 criteria for determining whether a reasonable degree of  
 10 competition exists for personal lines residential policies in  
 11 Monroe County. By March 1, 2006, the office shall submit a  
 12 report to the Legislature providing an evaluation of the  
 13 implementation of the pilot program affecting Monroe County.

14 ~~6.5.~~ Rates for commercial lines coverage shall not be  
 15 subject to the requirements of subparagraph 2., but shall be  
 16 subject to all other requirements of this paragraph and s.  
 17 627.062.

18 ~~7.6.~~ Nothing in this paragraph shall require or allow  
 19 the corporation to adopt a rate that is inadequate under s.  
 20 627.062.

21 ~~8.7.~~ The corporation shall certify to the office at  
 22 least twice annually that its personal lines rates comply with  
 23 the requirements of subparagraphs 1., and 2., and 3. If any  
 24 adjustment in the rates or rating factors of the corporation  
 25 is necessary to ensure such compliance, the corporation shall  
 26 make and implement such adjustments and file its revised rates  
 27 and rating factors with the office. If the office thereafter  
 28 determines that the revised rates and rating factors fail to  
 29 comply with the provisions of subparagraphs 1., and 2., and  
 30 3., it shall notify the corporation and require the  
 31 corporation to amend its rates or rating factors in

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1 conjunction with its next rate filing. The office must notify  
 2 the corporation by electronic means of any rate filing it  
 3 approves for any insurer among the insurers referred to in  
 4 subparagraph 2.

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

8 And the title is amended as follows:

9           On page 132, line 8, through  
 10           page 134, line 4, delete those lines

11

12 and insert:

13           certain circumstances; authorizing the board of  
 14           governors of the corporation to levy an  
 15           assessment if certain deficits occur; providing  
 16           accounting requirements; authorizing the  
 17           corporation to adopt policy forms that contain  
 18           more restrictive coverage; requiring the  
 19           executive director of the corporation to be  
 20           confirmed by the Senate; deleting authority of  
 21           the Chief Financial Officer to review corporate  
 22           employees; prescribing a 10-day waiting period  
 23           for applications for coverage for a new policy;  
 24           authorizing exceptions; redesignating the  
 25           market equalization surcharge as a Citizens  
 26           policyholder surcharge and providing for its  
 27           calculation; prescribing an additional  
 28           surcharge on deficit assessments for certain  
 29           nonhomestead property; revising the liability  
 30           of limited apportionment companies for regular  
 31           assessments; providing for optional payment

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1 plans; requiring insurers to provide  
2 claims-adjusting services for certain wind  
3 coverage in certain circumstances; requiring  
4 the corporation to limit coverage on certain  
5 mobile homes; requiring prospective senior  
6 management employees of the corporation to  
7 successfully pass a background check; requiring  
8 employees of the corporation to sign annually a  
9 statement that they have no conflict of  
10 interest; providing that senior managers and  
11 members of the board of governors are subject  
12 to the code of ethics and must file financial  
13 disclosure; prohibiting employees and members  
14 of the board of governors from accepting gifts  
15 or expenditures from a persons or entity, or  
16 employee thereof, which has or is under  
17 consideration for a contract with the  
18 corporation; providing penalties; providing a  
19 limitation on senior managers' representation  
20 of persons before the corporation after  
21 retirement or termination of employment and on  
22 employment with an insurer that has received a  
23 take-out bonus; prescribing guidelines for  
24 purchases of goods and services; providing  
25 guidelines on use of outside counsel;  
26 prohibiting the corporation from retaining a  
27 lobbyist; authorizing full-time employees to  
28 register and engage in lobbying; creating the  
29 Office of Internal Auditor and prescribing its  
30 duties; providing record-retention  
31 requirements; requiring establishment of a unit

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1 or division to investigate claims involving  
2 possible fraud against the corporation and  
3 another to receive and respond to consumer  
4 complaints; requiring employees of the  
5 corporation to report suspected fraud;  
6 requiring a periodic comprehensive market  
7 conduct examination of the corporation;  
8 requiring periodic operational audits of the  
9 corporation by the Auditor General; prescribing  
10 elements to be included in such audits;  
11 providing requirements for the office with  
12 respect to rate filings; specifying  
13 circumstances under which a rate is deemed  
14 inadequate; providing a rate

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