

Bill No. CS for CS for SB 1980

Barcode 754398

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

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11 Senator Fasano moved the following amendment:

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

14 On page 101, line 20, through

15 page 122, line 2, delete those lines

16

17 and insert:

18 Section 20. Section 627.7072, Florida Statutes, is

19 amended to read:

20 627.7072 Testing standards for sinkholes.--

21 (1) The professional engineer or ~~and~~ professional

22 geologist shall perform such tests as sufficient, in their

23 professional opinion, to determine the presence or absence of

24 sinkhole loss or other cause of damage within reasonable

25 professional probability and for the professional engineer to

26 make recommendations regarding necessary building

27 stabilization and foundation repair.

28 ~~(2) Testing by a professional geologist shall be~~

29 ~~conducted in compliance with the Florida Geological Survey~~

30 ~~Special Publication No. 57 (2005).~~

31 Section 21. Subsections (1) and (2) of section

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1 627.7073, Florida Statutes, are amended to read:

2 627.7073 Sinkhole reports.--

3 (1) Upon completion of testing as provided in s.
4 627.7072, the professional engineer or ~~and~~ professional
5 geologist shall issue a report and certification to the
6 insurer and the policyholder as provided in this section.

7 (a) Sinkhole loss is verified if, based upon tests
8 performed in accordance with s. 627.7072, a professional ~~an~~
9 engineer or ~~and~~ a professional geologist issue a written
10 report and certification stating:

11 1. That the cause of the actual physical and
12 structural damage is sinkhole activity within a reasonable
13 professional probability.

14 2. That the analyses conducted were of sufficient
15 scope to identify sinkhole activity as the cause of damage
16 within a reasonable professional probability.

17 3. A description of the tests performed.

18 4. A recommendation by the professional engineer of
19 methods for stabilizing the land and building and for making
20 repairs to the foundation.

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

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

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

30 3. A statement of the cause of the damage within a
31 reasonable professional probability.

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1 4. A description of the tests performed.

2 (c) The respective findings, opinions, and
3 recommendations of the professional engineer or ~~and~~
4 professional geologist as to the cause of distress to the
5 property ~~verification or elimination of a sinkhole loss~~ and
6 the findings, opinions, and recommendations of the
7 professional engineer as to land and building stabilization
8 and foundation repair shall be presumed correct.

9 (2) Any insurer that has paid a claim for a sinkhole
10 loss shall file a copy of the report and certification,
11 prepared pursuant to subsection (1), with the county clerk of
12 court ~~property appraiser~~, who shall record the report and
13 certification with the parcel number. The insurer shall bear
14 the cost of filing and recording the report and certification.
15 There shall be no cause of action or liability against an
16 insurer for compliance with this section. The seller of real
17 property upon which a sinkhole claim has been made shall
18 disclose to the buyer of such property that a claim has been
19 paid and whether or not the full amount of the proceeds were
20 used to repair the sinkhole damage.

21 Section 22. Effective October 1, 2006, section
22 627.7074, Florida Statutes, is created to read:

23 627.7074 Alternative procedure for resolution of
24 disputed sinkhole insurance claims.--

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

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

28 (b) "Neutral evaluator" means a professional engineer
29 or a professional geologist who has completed a course of
30 study in alternative dispute resolution designed or approved
31 by the department for use in the neutral evaluation process,

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1 who is determined to be fair and impartial.

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

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

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

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

29 (5) Neutral evaluation shall be conducted as an
30 informal process in which formal rules of evidence and
31 procedure need not be observed. A party to neutral evaluation

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1 is not required to attend neutral evaluation if a
2 representative of the party attends and has the authority to
3 make a binding decision on behalf of the party. All parties
4 shall participate in the evaluation in good faith.

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

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

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

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

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

28 (11) Any court proceeding related to the subject
29 matter of the neutral evaluation shall be stayed pending
30 completion of the neutral evaluation.

31 (12) For matters that are not resolved by the parties

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1 at the conclusion of the neutral evaluation, the neutral
 2 evaluator shall prepare a report stating that in his or her
 3 opinion the sinkhole loss has been verified or eliminated and,
 4 if verified, the need for and estimated costs of stabilizing
 5 the land and any covered structures or buildings and other
 6 appropriate remediation or structural repairs. The evaluator's
 7 report shall be sent to all parties in attendance at the
 8 neutral evaluation and to the department.

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

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

28 (15) If the policyholder declines to participate in
 29 neutral evaluation requested by the insurer or declines to
 30 resolve the matter in accordance with the recommendation of
 31 the neutral evaluator pursuant to this section, the insurer is

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1 not liable for attorney's fees under s. 627.428 or other
2 provisions of the insurance code or for extra-contractual
3 damages related to a claim for a sinkhole loss.

4 Section 23. Subsection (5) of section 627.727, Florida
5 Statutes, is amended to read:

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

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

18 Section 24. Paragraph (f) is added to subsection (2)
19 of section 631.181, Florida Statutes, to read:

20 631.181 Filing and proof of claim.--

21 (2)

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

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1 agreed-upon format.

2 Section 25. Subsection (3) of section 631.54, Florida
3 Statutes, is amended, present subsections (5), (6), (7), and
4 (8) of that section are renumbered as subsections (6), (7),
5 (8), and (9), respectively, and a new subsection (5) is added
6 to that section to read:

7 631.54 Definitions.--As used in this part:

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

19 "Covered claim" shall not include:

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

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

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

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

17 Section 26. Subsection (1) of section 631.55, Florida
18 Statutes, is amended to read:

19 631.55 Creation of the association.--

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

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1 631.56. The corporation shall have all those powers granted or
2 permitted nonprofit corporations, as provided in chapter 617.

3 Section 27. Paragraph (a) of subsection (1), paragraph
4 (d) of subsection (2), and paragraph (a) of subsection (3) of
5 section 631.57, Florida Statutes, are amended, and paragraph
6 (e) is added to subsection (3) of that section, to read:

7 631.57 Powers and duties of the association.--

8 (1) The association shall:

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

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

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

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

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

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

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

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

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

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

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

30 (e)1.a. In addition to assessments otherwise
 31 authorized in paragraph (a) and to the extent necessary to

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

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

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

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

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

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

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

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

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

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

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

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

30 (1) The Legislature finds:

31 (a) The potential for widespread and massive damage to

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

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

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

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

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

30 (f) It is therefore determined to be in the best
31 interests of, and necessary for, the protection of the public

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 such payment has been made in accordance with the bond
2 resolution or trust indenture pursuant to which the bonds were
3 issued.

4 Section 30. Subsection (2) of section 877.02, Florida
5 Statutes, is amended to read:

6 877.02 Solicitation of legal services or retainers
7 therefor; penalty.--

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

21 Section 31. (1) By February 1, 2007, the Office of
22 Insurance Regulation shall calculate a presumed factor to
23 reflect the impact of the changes made in this act to rates
24 filed by residential property insurers providing sinkhole loss
25 coverage. The office shall issue a notice informing all
26 insurers writing residential property insurance coverage of
27 the presumed factor.

28 (2) In determining the presumed factor, the office
29 shall use generally accepted actuarial techniques and
30 standards in determining the expected impact on losses,
31 expenses, and investment income of the insurer.

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

3 (4) Each residential property insurer shall, at its
4 next annual rate filing after May 1, 2007, reflect an overall
5 rate reduction at least as great as the presumed factor
6 determined under subsection (1).

7 (5) The sum of \$250,000 in nonrecurring funds is
8 appropriated from the Insurance Regulatory Trust Fund in the
9 Department of Financial Services to the Office of Insurance
10 Regulation for the 2006-2007 fiscal year for the purposes of
11 funding the provisions of this section.

12 Section 32. The sums of \$115,322 in recurring funds
13 and \$10,486 in nonrecurring funds are appropriated from the
14 Insurance Regulatory Trust Fund in the Department of Financial
15 Services for the 2006-2007 fiscal year for the purposes of
16 funding the provisions of this act, and two full-time
17 equivalent positions with 59,435 in associated salary rate are
18 authorized.

19
20 (Redesignate subsequent sections.)

21

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

24 And the title is amended as follows:

25 On page 7, line 16, through
26 page 10, line 11, delete those lines

27

28 and insert:

29 circumstances; amending s. 627.7072, F.S.;

30 revising references to certain engineers;

31 eliminating the requirement for certain testing

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1 compliance; amending s. 627.7073, F.S.;

2 revising requirements for sinkhole reports by

3 professional engineers and professional

4 geologists; providing for the recording of

5 sinkhole reports by the clerk of court rather

6 than the property appraiser; creating s.

7 627.7074, F.S.; prescribing an alternative

8 method for resolving disputed sinkhole

9 insurance claims; providing definitions;

10 prescribing procedures for invoking the

11 alternative method; providing that a

12 recommendation by a neutral evaluator is not

13 binding on any party; providing for payments of

14 costs; requiring the insurer to pay attorney's

15 fees of the policyholder up to a specified

16 amount under certain conditions; providing that

17 an insurer is not liable for attorney's fees or

18 for certain damages under certain conditions;

19 amending s. 627.727, F.S.; conforming a

20 cross-reference; amending s. 631.181, F.S.;

21 providing an exception to certain requirements

22 for a signed statement for certain claims

23 related to the insolvency of an insurer;

24 providing requirements; amending s. 631.54,

25 F.S.; redefining the term "covered claim" and

26 defining the term "homeowner's insurance" for

27 purposes of the Florida Insurance Guaranty

28 Association; amending s. 631.55, F.S.;

29 conforming a cross-reference; amending s.

30 631.57, F.S.; revising requirements and

31 limitations for obligations of the Florida

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1 Insurance Guaranty Association for covered
2 claims; authorizing the association to contract
3 with counties, municipalities, and legal
4 entities to issue revenue bonds for certain
5 purposes; authorizing the Office of Insurance
6 Regulation to levy assessments and emergency
7 assessments on insurers under certain
8 circumstances for certain bond repayment
9 purposes; providing requirements for and
10 limitations on such assessments; providing for
11 payment, collection, and distribution of such
12 assessments; requiring insurers to include an
13 analysis of revenues from such assessments in a
14 required report; providing rate filing
15 requirements for insurers relating to such
16 assessments; providing for continuing annual
17 assessments under certain circumstances;
18 specifying emergency assessments as not premium
19 and not subject to certain taxes, fees, or
20 commissions; specifying insurer liability for
21 emergency assessments; providing an exception;
22 creating s. 631.695, F.S.; providing
23 legislative findings and purposes; providing
24 for issuance of revenue bonds through counties
25 and municipalities to fund assistance programs
26 for paying covered claims for hurricane damage;
27 providing procedures, requirements, and
28 limitations for counties, municipalities, and
29 the Florida Insurance Guaranty Association,
30 Inc., relating to issuance and validation of
31 such bonds; prohibiting pledging the funds,

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1 credit, property, and taxing power of the
2 state, counties, and municipalities for payment
3 of bonds; specifying authorized uses of bond
4 proceeds; limiting the term of bonds;
5 specifying a state covenant to protect
6 bondholders from adverse actions relating to
7 such bonds; specifying exemptions for bonds,
8 notes, and other obligations of counties and
9 municipalities from certain taxes or
10 assessments on property and revenues;
11 authorizing counties and municipalities to
12 create a legal entity to exercise certain
13 powers; requiring the association to issue an
14 annual report on the status of certain uses of
15 bond proceeds; providing report requirements;
16 requiring the association to provide a copy of
17 the report to the Legislature and Chief
18 Financial Officer; prohibiting repeal of
19 certain provisions relating to certain bonds
20 under certain circumstances; amending s.
21 877.02, F.S.; prohibiting certain solicitations
22 by contractors and other persons providing
23 sinkhole remediation services; providing
24 penalties; requiring the Office of Insurance
25 Regulation to calculate a certain presumed
26 factor on residential property insurance rates;
27 providing requirements and procedures for
28 determining such calculation; requiring the
29 office to provide notice of such rate factor to
30 insurers; requiring insurers to include such
31 rate factor in certain rate filings; providing

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1 appropriations and authorizing additional
2 positions and salary rates;
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