

1 emergency; authorizing the commissioner to
2 issue certain orders in a state of emergency;
3 providing for effect and duration of such
4 orders; providing for legislative termination
5 of such orders; requiring the commissioner to
6 publish such orders and an explanatory
7 statement; prescribing additional duties of the
8 commissioner with respect to mitigation of
9 consequences of emergencies; amending s.
10 626.918, F.S.; authorizing certain letters of
11 credit to fund a surplus lines insurer's
12 required policyholder protection trust fund;
13 defining the term "qualified United States
14 financial institution; amending s. 627.062,
15 F.S.; requiring the chief executive officer and
16 the chief financial officer of each property
17 insurer, or its certified public accountant
18 acting on its behalf, to sign a statement of
19 certification, sworn under oath, to accompany
20 the rate filing; revising factors to be used in
21 reviewing rate filings; providing that, in
22 considering a rate filing, the burden is on the
23 Office of Insurance Regulation to establish
24 that costs of reinsurance are excessive;
25 providing that the burden is on the Office of
26 Insurance Regulation to establish that certain
27 rates are excessive; amending s. 627.06281,
28 F.S.; requiring the public hurricane
29 loss-projection model to be submitted for
30 review by the Florida Commission on Hurricane
31 Loss Projection Methodology; allowing the

1 Office of Insurance Regulation to use the
2 public model until the commission determines
3 that the public model is not accurate or
4 reliable; amending s. 627.351, F.S.; providing
5 that certain responsibilities of the Office of
6 Insurance Regulation with respect to the plan
7 of operation of Citizens Property Insurance
8 Corporation be assumed by the Financial
9 Services Commission; defining the terms
10 "homestead property" and "nonhomestead
11 property" for use with respect to Citizens
12 Property Insurance Corporation; limiting
13 eligibility for personal lines coverage by the
14 corporation; directing the corporation board to
15 reduce or, with approval by necessary parties,
16 restructure existing debt; requiring a report
17 with respect thereto; providing for a reduction
18 in aggregate amount of a regular assessment in
19 certain circumstances; requiring the executive
20 director of the corporation to be confirmed by
21 the Senate; deleting authority of the Chief
22 Financial Officer to review corporate
23 employees; prescribing a 10-day waiting period
24 for applications for coverage for a new policy;
25 authorizing exceptions; redesignating the
26 market equalization surcharge as a Citizens
27 policyholder surcharge and providing for its
28 calculation; prescribing an additional
29 surcharge on deficit assessments for certain
30 nonhomestead property; providing for optional
31 payment plans; requiring insurers to provide

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

1 | complaints; requiring a periodic comprehensive
2 | market conduct examination of the corporation;
3 | requiring periodic operational audits of the
4 | corporation by the Auditor General; prescribing
5 | elements to be included in such audits;
6 | providing a rate surcharge for certain
7 | nonhomestead property and property valued at
8 | more than a certain amount; providing that
9 | rates for the corporation are not subject to
10 | the requirements for being noncompetitive if
11 | the Office of Insurance Regulation makes a
12 | certain determination; deleting provisions
13 | relating to appointment of a rate methodology
14 | panel; providing for use of the public
15 | hurricane loss-projection model in ratemaking;
16 | prescribing requirements for paying takeout
17 | bonuses or payments to insurers; requiring
18 | records of takeout bonuses or other payments
19 | for certain purposes; postponing the dates by
20 | which the boundaries of high-risk areas must be
21 | reduced; requiring a study of the viability of
22 | authorized insurers issuing and servicing, for
23 | a fee, certain high-risk insurance policies;
24 | requiring a report to legislative leaders;
25 | providing applicability of specified provisions
26 | relating to assessments and surcharges;
27 | amending s. 627.3511, F.S.; extending the
28 | period for which an insurer that assumes
29 | Citizens Property Insurance Corporation's
30 | obligations under a policy must renew the
31 | replacement policy; revising circumstances

1 under which replacement is not required;
2 amending s. 627.3517, F.S.; providing that an
3 insurance risk apportionment plan
4 policyholder's right to retain his or her
5 current agent does not apply during the first
6 10 days after a new application for coverage
7 has been submitted to Citizens Property
8 Insurance Corporation; creating s. 627.3519,
9 F.S.; requiring the Financial Services
10 Commission to report annually to the
11 Legislature on probable maximum losses,
12 financing options, and assessment potentials of
13 the Florida Hurricane Catastrophe Fund and
14 Citizens Property Insurance Corporation;
15 amending s. 627.4035, F.S.; providing for a
16 waiver of a written authorization requirement
17 to pay claims by debit card or other electronic
18 transfer; creating s. 627.6121, F.S.;
19 prescribing circumstances under which an
20 insurer must pay benefits to a primary
21 policyholder of dual interest property;
22 requiring mortgageholders and lienholders be
23 given notice of such payment; amending s.
24 627.7011, F.S.; limiting certain law and
25 ordinance coverage; providing that the section
26 does not prohibit an insurer from limiting its
27 liability concerning certain replacement costs;
28 creating s. 627.7019, F.S.; requiring the
29 Financial Services Commission to adopt rules
30 imposing standardized requirements applicable
31 to insurers after certain natural events;

1 providing criteria; providing requirements of
2 the Office of Insurance Regulation; amending s.
3 627.706, F.S.; allowing for a deductible amount
4 applicable to sinkhole losses in a policy for
5 residential property insurance; defining the
6 term "professional engineer"; amending s.
7 627.707, F.S.; revising references to certain
8 engineers; authorizing insurers to make direct
9 payment for certain repairs; excluding insurers
10 from liability for repairs under certain
11 circumstances; amending s. 627.7072, F.S.;
12 revising references to certain engineers;
13 amending s. 627.7073, F.S.; revising
14 requirements for sinkhole reports by
15 professional engineers and professional
16 geologists; providing for the recording of
17 sinkhole reports by the clerk of court rather
18 than the property appraiser; creating s.
19 627.7074, F.S.; prescribing an alternative
20 method for resolving disputed sinkhole
21 insurance claims; providing definitions;
22 prescribing procedures for invoking the
23 alternative method; providing that a
24 recommendation by a neutral evaluator is not
25 binding on any party; providing for payments of
26 costs; requiring the insurer to pay attorney's
27 fees of the policyholder up to a specified
28 amount under certain conditions; providing that
29 an insurer is not liable for attorney's fees or
30 for certain damages under certain conditions;
31 providing for judicial review; amending s.

1 627.727, F.S.; conforming a cross-reference;
2 amending s. 631.181, F.S.; providing an
3 exception to certain requirements for a signed
4 statement for certain claims related to the
5 insolvency of an insurer; providing
6 requirements; amending s. 631.54, F.S.;
7 redefining the term "covered claim" and
8 defining the term "homeowner's insurance" for
9 purposes of the Florida Insurance Guaranty
10 Association; amending s. 631.55, F.S.;
11 conforming a cross-reference; amending s.
12 631.57, F.S.; revising requirements and
13 limitations for obligations of the Florida
14 Insurance Guaranty Association for covered
15 claims; authorizing the association to contract
16 with counties, municipalities, and legal
17 entities to issue revenue bonds for certain
18 purposes; authorizing the Office of Insurance
19 Regulation to levy assessments and emergency
20 assessments on insurers under certain
21 circumstances for certain bond repayment
22 purposes; providing requirements for and
23 limitations on such assessments; providing for
24 payment, collection, and distribution of such
25 assessments; requiring insurers to include an
26 analysis of revenues from such assessments in a
27 required report; providing rate filing
28 requirements for insurers relating to such
29 assessments; providing for continuing annual
30 assessments under certain circumstances;
31 specifying emergency assessments as not premium

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

1 certain provisions relating to certain bonds
2 under certain circumstances; amending s.
3 877.02, F.S.; prohibiting certain solicitations
4 by contractors and other persons providing
5 sinkhole remediation services; providing
6 penalties; providing appropriations; providing
7 effective dates.

8

9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Effective June 1, 2006, paragraph (d) of
12 subsection (2), paragraphs (c) and (d) of subsection (4),
13 paragraph (b) of subsection (5), and paragraphs (a) and (b) of
14 subsection (6) of section 215.555, Florida Statutes, are
15 amended to read:

16

215.555 Florida Hurricane Catastrophe Fund.--

17

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

18

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

25

(4) REIMBURSEMENT CONTRACTS.--

26

(c)1. The contract shall also provide that the
27 obligation of the board with respect to all contracts covering
28 a particular contract year shall not exceed the actual
29 claims-paying capacity of the fund up to a limit of \$15
30 billion for that contract year adjusted based upon the
31 reported exposure from the prior contract year to reflect the

1 percentage growth in exposure to the fund for covered policies
2 since 2003, provided the dollar growth in the limit may not
3 increase in any year by an amount greater than the dollar
4 growth of the ~~cash~~ balance of the fund as of December 31 as
5 defined by rule which occurred over the prior calendar year.

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

26 (d)1. For purposes of determining potential liability
27 and to aid in the sound administration of the fund, the
28 contract shall require each insurer to report such insurer's
29 losses from each covered event on an interim basis, as
30 directed by the board. The contract shall require the insurer
31 to report to the board no later than December 31 of each year,

1 and quarterly thereafter, its reimbursable losses from covered
2 events for the year. The contract shall require the board to
3 determine and pay, as soon as practicable after receiving
4 these reports of reimbursable losses, the initial amount of
5 reimbursement due and adjustments to this amount based on
6 later loss information. The adjustments to reimbursement
7 amounts shall require the board to pay, or the insurer to
8 return, amounts reflecting the most recent calculation of
9 losses.

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

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

27 a.b. Next pay to each insurer such insurer's projected
28 payout, which is the amount of reimbursement it is owed, up to
29 an amount equal to the insurer's share of the actual premium
30 paid for that contract year, multiplied by the actual
31 claims-paying capacity available for that contract year;

1 provided, entities created pursuant to s. 627.351 shall be
2 further reimbursed in accordance with sub-subparagraph b. ~~e.~~
3 b.~~e.~~ Thereafter, establish the prorated reimbursement
4 level at the highest level for which any remaining fund
5 balance or bond proceeds are sufficient to reimburse entities
6 created pursuant to s. 627.351 based on reimbursable losses
7 exceeding the amounts payable pursuant to sub-subparagraph a.
8 ~~b.~~ for the current contract year.

9 (5) REIMBURSEMENT PREMIUMS.--

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

1 shall include a factor of 25 percent of the fund's actuarially
2 indicated premium in order to provide for more rapid cash
3 buildup in the fund. The formula must be approved by unanimous
4 vote of the board. The board may, at any time, revise the
5 formula pursuant to the procedure provided in this paragraph.

6 (6) REVENUE BONDS.--

7 (a) General provisions.--

8 1. Upon the occurrence of a hurricane and a
9 determination that the moneys in the fund are or will be
10 insufficient to pay reimbursement at the levels promised in
11 the reimbursement contracts, the board may take the necessary
12 steps under paragraph (c) or paragraph (d) for the issuance of
13 revenue bonds for the benefit of the fund. The proceeds of
14 such revenue bonds may be used to make reimbursement payments
15 under reimbursement contracts; to refinance or replace
16 previously existing borrowings or financial arrangements; to
17 pay interest on bonds; to fund reserves for the bonds; to pay
18 expenses incident to the issuance or sale of any bond issued
19 under this section, including costs of validating, printing,
20 and delivering the bonds, costs of printing the official
21 statement, costs of publishing notices of sale of the bonds,
22 and related administrative expenses; or for such other
23 purposes related to the financial obligations of the fund as
24 the board may determine. The term of the bonds may not exceed
25 30 years. The board may pledge or authorize the corporation to
26 pledge all or a portion of all revenues under subsection (5)
27 and under paragraph (b) to secure such revenue bonds and the
28 board may execute such agreements between the board and the
29 issuer of any revenue bonds and providers of other financing
30 arrangements under paragraph (7)(b) as the board deems
31 necessary to evidence, secure, preserve, and protect such

1 | pledge. If reimbursement premiums received under subsection
2 | (5) or earnings on such premiums are used to pay debt service
3 | on revenue bonds, such premiums and earnings shall be used
4 | only after the use of the moneys derived from assessments
5 | under paragraph (b). The funds, credit, property, or taxing
6 | power of the state or political subdivisions of the state
7 | shall not be pledged for the payment of such bonds. The board
8 | may also enter into agreements under paragraph (c) or
9 | paragraph (d) for the purpose of issuing revenue bonds in the
10 | absence of a hurricane upon a determination that such action
11 | would maximize the ability of the fund to meet future
12 | obligations.

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

26 | (b) Emergency assessments.--

27 | 1. If the board determines that the amount of revenue
28 | produced under subsection (5) is insufficient to fund the
29 | obligations, costs, and expenses of the fund and the
30 | corporation, including repayment of revenue bonds and that
31 | portion of the debt service coverage not met by reimbursement

1 | premiums, the board shall direct the Office of Insurance
2 | Regulation to levy, by order, an emergency assessment on
3 | direct premiums for all property and casualty lines of
4 | business in this state, including property and casualty
5 | business of surplus lines insurers regulated under part VIII
6 | of chapter 626, but not including any workers' compensation
7 | premiums or medical malpractice premiums. As used in this
8 | subsection, the term "property and casualty business" includes
9 | all lines of business identified on Form 2, Exhibit of
10 | Premiums and Losses, in the annual statement required of
11 | authorized insurers by s. 624.424 and any rule adopted under
12 | this section, except for those lines identified as accident
13 | and health insurance and except for policies written under the
14 | National Flood Insurance Program. The assessment shall be
15 | specified as a percentage of direct written ~~future~~ premium
16 | ~~collections~~ and is subject to annual adjustments by the board
17 | ~~to reflect changes in premiums subject to assessments~~
18 | ~~collected under this subparagraph~~ in order to meet debt
19 | obligations. The same percentage shall apply to all policies
20 | in lines of business subject to the assessment issued or
21 | renewed during the 12-month period beginning on the effective
22 | date of the assessment.

23 | 2. A premium is not subject to an annual assessment
24 | under this paragraph in excess of 6 percent of premium with
25 | respect to obligations arising out of losses attributable to
26 | any one contract year, and a premium is not subject to an
27 | aggregate annual assessment under this paragraph in excess of
28 | 10 percent of premium. An annual assessment under this
29 | paragraph shall continue as long as ~~until~~ the revenue bonds
30 | issued with respect to which the assessment was imposed are
31 | outstanding, including any bonds the proceeds of which were

1 used to refund the revenue bonds, unless adequate provision
2 has been made for the payment of the bonds under the documents
3 authorizing issuance of the bonds.

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

21 4. With respect to assessments of surplus lines
22 premiums, each surplus lines agent shall collect the
23 assessment at the same time as the agent collects the surplus
24 lines tax required by s. 626.932, and the surplus lines agent
25 shall remit the assessment to the Florida Surplus Lines
26 Service Office created by s. 626.921 at the same time as the
27 agent remits the surplus lines tax to the Florida Surplus
28 Lines Service Office. The emergency assessment on each insured
29 procuring coverage and filing under s. 626.938 shall be
30 remitted by the insured to the Florida Surplus Lines Service
31 Office at the time the insured pays the surplus lines tax to

1 | the Florida Surplus Lines Service Office. The Florida Surplus
2 | Lines Service Office shall remit the collected assessments to
3 | the fund or corporation as provided in the order levied by the
4 | Office of Insurance Regulation. The Florida Surplus Lines
5 | Service Office shall verify the proper application of such
6 | emergency assessments and shall assist the board in ensuring
7 | the accurate and timely collection and remittance of
8 | assessments as required by the board. The Florida Surplus
9 | Lines Service Office shall annually calculate the aggregate
10 | written premium on property and casualty business, other than
11 | workers' compensation and medical malpractice, procured
12 | through surplus lines agents and insureds procuring coverage
13 | and filing under s. 626.938 and shall report the information
14 | to the board in a form and at a time specified by the board.

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

28 | 6. The assessments otherwise payable to the
29 | corporation under this paragraph shall be paid to the fund
30 | unless and until the Office of Insurance Regulation and the
31 | Florida Surplus Lines Service Office have received from the

1 corporation and the fund a notice, which shall be conclusive
2 and upon which they may rely without further inquiry, that the
3 corporation has issued bonds and the fund has no agreements in
4 effect with local governments under paragraph (c). On or after
5 the date of the notice and until the date the corporation has
6 no bonds outstanding, the fund shall have no right, title, or
7 interest in or to the assessments, except as provided in the
8 fund's agreement with the corporation.

9 7. Emergency assessments are not premium and are not
10 subject to the premium tax, to the surplus lines tax, to any
11 fees, or to any commissions. An insurer is liable for all
12 assessments that it collects and must treat the failure of an
13 insured to pay an assessment as a failure to pay the premium.
14 An insurer is not liable for uncollectible assessments.

15 8. When an insurer is required to return an unearned
16 premium, it shall also return any collected assessment
17 attributable to the unearned premium. A credit adjustment to
18 the collected assessment may be made by the insurer with
19 regard to future remittances that are payable to the fund or
20 corporation, but the insurer is not entitled to a refund.

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

28 10. The exemption of medical malpractice insurance
29 premiums from emergency assessments under this paragraph is
30 repealed May 31, 2010 ~~2007~~, and medical malpractice insurance
31 premiums shall be subject to emergency assessments

1 attributable to loss events occurring in the contract years
2 commencing on June 1, ~~2010~~ 2007.

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

5 215.558 Home Retrofit Hardening Program.--The
6 Department of Community Affairs shall establish the Home
7 Retrofit Hardening Program. The program is a competitive grant
8 program to fund improvements to homes constructed before the
9 implementation of the current Florida Building Code to make
10 them less vulnerable to hurricane damage and to decrease the
11 cost of residential property insurance. Site-built homes,
12 manufactured homes, and mobile homes are eligible for funding
13 under this program. However, the highest priority shall be
14 given to low-income homeowners, as defined in s. 420.004(9),
15 who live in wind-borne debris regions as defined in the
16 Florida Building Code, which shall be eligible for up to 100
17 percent of the cost of the improvements. The next highest
18 priority shall be given to homestead dwellings insured at
19 \$500,000 or less and located in the areas designated as
20 high-risk areas for purposes of coverage by the Citizens
21 Property Insurance Corporation, which shall be eligible for up
22 to 50 percent of the cost of the improvements, with priority
23 within this category given to homes insured by Citizens. The
24 next highest priority shall be given to all other homestead
25 dwellings insured at \$500,000 or less, which shall be eligible
26 for up to 25 percent of the cost of the improvements.

27 (1) The program shall be administered by local
28 governments, regional planning councils, or private nonprofit
29 agencies under the overall direction of the department. In
30 order to qualify for funding, the program must include an
31 inspection of the dwelling to determine what mitigation

1 measures are needed, a means for verifying that the
2 improvements to be paid by the program have been demonstrated
3 to reduce a dwelling's vulnerability to hurricane damage, and
4 a means for verifying that the proceeds were actually spent on
5 such improvements. Funding for the program is contingent upon
6 appropriations. When awarding program funds, the department
7 shall be guided by:

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

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

12 (c) The number of persons who will benefit from the
13 improvements.

14 (d) The number of low-income households and other
15 dwelling's meeting the priority criteria of this section which
16 will benefit from the improvements.

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

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

20 (a) Roof deck attachment;

21 (b) Secondary water barrier;

22 (c) Roof covering;

23 (d) Brace gable ends;

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

25 (f) Opening protection; and

26 (g) Exterior doors, including garage doors.

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

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

31

1 (5) Grantees are encouraged to leverage grant funds
2 available under this program with other available funds.
3 Matching funds for a project is not a requirement. However,
4 matching funds from other available sources may be considered
5 by the department in the competitive-review process.

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

8 215.5586 Wind certification and hurricane mitigation
9 inspections.--

10 (1) The purpose of this section is to provide wind
11 certification and hurricane mitigation inspections to eligible
12 homeowners in this state for assistance in retrofitting the
13 properties of those homeowners to become less vulnerable to
14 hurricane damage.

15 (2) The Department of Community Affairs shall
16 establish a request for proposals to solicit proposals from
17 wind certification entities to provide, at no cost to
18 homeowners, wind certification and hurricane mitigation
19 inspections. The inspections provided to homeowners, at a
20 minimum, must include the following:

21 (a) A home inspection and report that summarizes the
22 results and identifies corrective actions a homeowner may take
23 to mitigate hurricane damage.

24 (b) A range of cost estimates regarding the mitigation
25 features.

26 (c) Insurer-specific information regarding premium
27 discounts correlated to recommended mitigation features
28 identified by the inspection.

29 (d) A hurricane resistance rating scale specifying the
30 home's current, as well as projected, wind resistance
31 capabilities.

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

4 (a) Use wind certification and hurricane mitigation
5 inspectors who have:

6 1. Prior experience in residential construction or
7 inspection and have received specialized training in hurricane
8 mitigation procedures.

9 2. Undergone drug testing and background checks.

10 3. Been certified, in a manner satisfactory to the
11 department, to conduct the inspections.

12 (b) Provide a quality assurance program including a
13 reinspection component.

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

17 Section 4. Paragraph (a) of subsection (4) of section
18 193.155, Florida Statutes, is amended to read:

19 193.155 Homestead assessments.--Homestead property
20 shall be assessed at just value as of January 1, 1994.

21 Property receiving the homestead exemption after January 1,
22 1994, shall be assessed at just value as of January 1 of the
23 year in which the property receives the exemption.

24 (4)(a) Changes, additions, or improvements to
25 homestead property shall be assessed at just value as of the
26 first January 1 after the changes, additions, or improvements
27 are substantially completed. However, the addition of storm
28 shutters, impact-resistant glazing, hurricane clips and
29 straps, garage door bracing, or generators for purposes of
30 mitigating hurricane damage and disaster preparedness shall
31

1 not be included or otherwise increase the assessed value of
2 homestead property.

3 Section 5. Section 252.63, Florida Statutes, is
4 created to read:

5 252.63 Commissioner of Insurance Regulation; powers in
6 a state of emergency.--

7 (1) It is the purpose and intent of this section to
8 provide the Commissioner of Insurance Regulation the authority
9 to temporarily modify or suspend provisions of the Florida
10 Insurance Code in order to expedite the recovery of
11 communities affected by a disaster or other emergency and
12 encourage insurance companies, entities, and persons subject
13 to the Florida Insurance Code and the jurisdiction of the
14 office to meet the insurance needs of such communities.

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

17 1. One or more general orders applicable to all
18 insurance companies, entities, and persons, as defined in s.
19 624.04, which are subject to the Florida Insurance Code and
20 serve any portion of the area of the state under the state of
21 emergency; or

22 2. One or more specific orders to particular insurance
23 companies, entities, and persons that are subject to the
24 Florida Insurance Code, as defined in s. 624.01, which orders
25 may modify or suspend, as to those companies, entities, and
26 persons, all or any part of the Florida Insurance Code, or any
27 applicable rule, consistent with the stated purposes of the
28 Florida Insurance Code.

29 (b) An order issued by the commissioner under this
30 section becomes effective upon issuance and continues for 120
31 days unless terminated sooner by the commissioner. The

1 commissioner may extend an order for one additional period of
2 120 days if he or she determines that the emergency conditions
3 that gave rise to the initial order still exist. By concurrent
4 resolution, the Legislature may terminate any order issued
5 under this section.

6 (3) The commissioner shall publish in the next
7 available publication of the Florida Administrative Weekly a
8 copy of the text of any order issued under this section,
9 together with a statement describing the modification or
10 suspension and explaining how the modification or suspension
11 will facilitate recovery from the emergency.

12 (4) The commissioner shall consider on a continuing
13 basis steps that could be taken to mitigate the harmful
14 consequences of emergencies and from time to time make
15 recommendations to the Legislature and other appropriate
16 private entities regarding such mitigation.

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

19 626.918 Eligible surplus lines insurers.--

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

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

27 (a) Eligibility of the insurer must be requested in
28 writing by the Florida Surplus Lines Service Office. +

29 (b) The insurer must be currently an authorized
30 insurer in the state or country of its domicile as to the kind
31 or kinds of insurance proposed to be so placed and must have

1 | been such an insurer for not less than the 3 years next
2 | preceding or must be the wholly owned subsidiary of such
3 | authorized insurer or must be the wholly owned subsidiary of
4 | an already eligible surplus lines insurer as to the kind or
5 | kinds of insurance proposed for a period of not less than the
6 | 3 years next preceding. However, the office may waive the
7 | 3-year requirement if the insurer provides a product or
8 | service not readily available to the consumers of this state
9 | or has operated successfully for a period of at least 1 year
10 | next preceding and has capital and surplus of not less than
11 | \$25 million.~~†~~

12 | (c) Before granting eligibility, the requesting
13 | surplus lines agent or the insurer shall furnish the office
14 | with a duly authenticated copy of its current annual financial
15 | statement in the English language and with all monetary values
16 | therein expressed in United States dollars, at an exchange
17 | rate (in the case of statements originally made in the
18 | currencies of other countries) then-current and shown in the
19 | statement, and with such additional information relative to
20 | the insurer as the office may request.~~†~~

21 | (d)1.a. The insurer must have and maintain surplus as
22 | to policyholders of not less than \$15 million; in addition, an
23 | alien insurer must also have and maintain in the United States
24 | a trust fund for the protection of all its policyholders in
25 | the United States under terms deemed by the office to be
26 | reasonably adequate, in an amount not less than \$5.4 million.
27 | Any such surplus as to policyholders or trust fund shall be
28 | represented by investments consisting of eligible investments
29 | for like funds of like domestic insurers under part II of
30 | chapter 625 provided, however, that in the case of an alien
31 | insurance company, any such surplus as to policyholders may be

1 | represented by investments permitted by the domestic regulator
2 | of such alien insurance company if such investments are
3 | substantially similar in terms of quality, liquidity, and
4 | security to eligible investments for like funds of like
5 | domestic insurers under part II of chapter 625. Clean,
6 | irrevocable, unconditional, and evergreen letters of credit
7 | issued or confirmed by a qualified United States financial
8 | institution, as defined in subparagraph 2., may be used to
9 | fund the trust.†

10 | ~~b.2.~~ For those surplus lines insurers that were
11 | eligible on January 1, 1994, and that maintained their
12 | eligibility thereafter, the required surplus as to
13 | policyholders shall be:

14 | ~~(I)a.~~ On December 31, 1994, and until December 30,
15 | 1995, \$2.5 million.

16 | ~~(II)b.~~ On December 31, 1995, and until December 30,
17 | 1996, \$3.5 million.

18 | ~~(III)c.~~ On December 31, 1996, and until December 30,
19 | 1997, \$4.5 million.

20 | ~~(IV)d.~~ On December 31, 1997, and until December 30,
21 | 1998, \$5.5 million.

22 | ~~(V)e.~~ On December 31, 1998, and until December 30,
23 | 1999, \$6.5 million.

24 | ~~(VI)f.~~ On December 31, 1999, and until December 30,
25 | 2000, \$8 million.

26 | ~~(VII)g.~~ On December 31, 2000, and until December 30,
27 | 2001, \$9.5 million.

28 | ~~(VIII)h.~~ On December 31, 2001, and until December 30,
29 | 2002, \$11 million.

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

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

3 ~~c.3.~~ The capital and surplus requirements as set forth
4 in sub-subparagraph b. ~~subparagraph 2.~~ do not apply in the
5 case of an insurance exchange created by the laws of
6 individual states, where the exchange maintains capital and
7 surplus pursuant to the requirements of that state, or
8 maintains capital and surplus in an amount not less than \$50
9 million in the aggregate. For an insurance exchange which
10 maintains funds in the amount of at least \$12 million for the
11 protection of all insurance exchange policyholders, each
12 individual syndicate shall maintain minimum capital and
13 surplus in an amount not less than \$3 million. If the
14 insurance exchange does not maintain funds in the amount of at
15 least \$12 million for the protection of all insurance exchange
16 policyholders, each individual syndicate shall meet the
17 minimum capital and surplus requirements set forth in
18 sub-subparagraph b. ~~subparagraph 2.~~

19 ~~d.4.~~ A surplus lines insurer which is a member of an
20 insurance holding company that includes a member which is a
21 Florida domestic insurer as set forth in its holding company
22 registration statement, as set forth in s. 628.801 and rules
23 adopted thereunder, may elect to maintain surplus as to
24 policyholders in an amount equal to the requirements of s.
25 624.408, subject to the requirement that the surplus lines
26 insurer shall at all times be in compliance with the
27 requirements of chapter 625.

28
29 The election shall be submitted to the office and shall be
30 effective upon the office's being satisfied that the
31 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been

1 met. The initial date of election shall be the date of office
2 approval. The election approval application shall be on a form
3 adopted by commission rule. The office may approve an election
4 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
5 only if it was on file with the former Department of Insurance
6 before February 28, 1998.†

7 2. For purposes of letters of credit under
8 subparagraph 1., the term "qualified United States financial
9 institution" means an institution that:

10 a. Is organized or, in the case of a United States
11 office of a foreign banking organization, is licensed under
12 the laws of the United States or any state.

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

16 c. Has been determined by the office or the Securities
17 Valuation Office of the National Association of Insurance
18 Commissioners to meet such standards of financial condition
19 and standing as are considered necessary and appropriate to
20 regulate the quality of financial institutions whose letters
21 of credit are acceptable to the office.

22 (e) The insurer must be of good reputation as to the
23 providing of service to its policyholders and the payment of
24 losses and claims.†

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

27 (g) This subsection does not apply as to unauthorized
28 insurers made eligible under s. 626.917 as to wet marine and
29 aviation risks.

30 Section 7. Effective July 1, 2006, paragraphs (a) and
31 (b) of subsection (2) and subsection (5) of section 627.062,

1 Florida Statutes, are amended, and subsection (9) is added to
2 that section, to read:

3 627.062 Rate standards.--

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

5 (a) Insurers or rating organizations shall establish
6 and use rates, rating schedules, or rating manuals to allow
7 the insurer a reasonable rate of return on such classes of
8 insurance written in this state. A copy of rates, rating
9 schedules, rating manuals, premium credits or discount
10 schedules, and surcharge schedules, and changes thereto, shall
11 be filed with the office under one of the following
12 procedures:

13 1. If the filing is made at least 90 days before the
14 proposed effective date and the filing is not implemented
15 during the office's review of the filing and any proceeding
16 and judicial review, then such filing shall be considered a
17 "file and use" filing. In such case, the office shall
18 finalize its review by issuance of a notice of intent to
19 approve or a notice of intent to disapprove within 90 days
20 after receipt of the filing. The notice of intent to approve
21 and the notice of intent to disapprove constitute agency
22 action for purposes of the Administrative Procedure Act.
23 Requests for supporting information, requests for mathematical
24 or mechanical corrections, or notification to the insurer by
25 the office of its preliminary findings shall not toll the
26 90-day period during any such proceedings and subsequent
27 judicial review. The rate shall be deemed approved if the
28 office does not issue a notice of intent to approve or a
29 notice of intent to disapprove within 90 days after receipt of
30 the filing.

31

1 2. If the filing is not made in accordance with the
2 provisions of subparagraph 1., such filing shall be made as
3 soon as practicable, but no later than 30 days after the
4 effective date, and shall be considered a "use and file"
5 filing. An insurer making a "use and file" filing is
6 potentially subject to an order by the office to return to
7 policyholders portions of rates found to be excessive, as
8 provided in paragraph (h).

9 3. The chief executive officer and the chief financial
10 officer of each property insurer, or its certified public
11 accountant acting on its behalf, shall sign a statement of
12 certification, sworn under oath, to accompany the rate filing.
13 The statement must certify the appropriateness of the
14 information provided in the rate filing and that the
15 information fairly presents, in all material respects, the
16 basis of the rate filing submitted by the property and
17 casualty insurer. The insurer shall certify all of the
18 information and factors described in paragraph (b), including,
19 but not limited to, investment income. The Office of Insurance
20 Regulation shall adopt by rule the form for the statement of
21 certification. Failure to provide the statement of
22 certification shall result in the rate filing being
23 disapproved without prejudice to be refiled.

24 (b) Upon receiving a rate filing, the office shall
25 review the rate filing to determine if a rate is excessive,
26 inadequate, or unfairly discriminatory. In making that
27 determination, the office shall, in accordance with generally
28 accepted and reasonable actuarial techniques, consider the
29 following factors:

30 1. Past and prospective loss experience within and
31 without this state.

- 1 2. Past and prospective expenses.
- 2 3. The degree of competition among insurers for the
3 risk insured.
- 4 4. Investment income reasonably expected by the
5 insurer, consistent with the insurer's investment practices,
6 from investable premiums anticipated in the filing, plus any
7 other expected income from currently invested assets
8 representing the amount expected on unearned premium reserves
9 and loss reserves. The commission may adopt rules utilizing
10 reasonable techniques of actuarial science and economics to
11 specify the manner in which insurers shall calculate
12 investment income attributable to such classes of insurance
13 written in this state and the manner in which such investment
14 income shall be used in the calculation of insurance rates.
15 Such manner shall contemplate allowances for an underwriting
16 profit factor and full consideration of investment income
17 which produce a reasonable rate of return; however, investment
18 income from invested surplus shall not be considered.
- 19 5. The reasonableness of the judgment reflected in the
20 filing.
- 21 6. Dividends, savings, or unabsorbed premium deposits
22 allowed or returned to Florida policyholders, members, or
23 subscribers.
- 24 7. The adequacy of loss reserves.
- 25 8. The cost of reinsurance, as further specified in
26 subsection (5).
- 27 9. Trend factors, including trends in actual losses
28 per insured unit for the insurer making the filing.
- 29 10. Conflagration and catastrophe hazards, if
30 applicable.
- 31

1 11. A reasonable margin for underwriting profit and
2 contingencies.

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

4 13. Other relevant factors which impact upon the
5 frequency or severity of claims or upon expenses.

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

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

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

1 Section 8. Section 627.06281, Florida Statutes, is
2 amended to read:

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

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

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

27 Section 9. Effective July 1, 2006, subsection (6) of
28 section 627.351, Florida Statutes, is amended to read:

29 627.351 Insurance risk apportionment plans.--

30 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

31

1 (a)1. The Legislature finds that actual and threatened
2 catastrophic losses to property in this state from hurricanes
3 have caused insurers to be unwilling or unable to provide
4 property insurance coverage to the extent sought and needed.
5 It is in the public interest and a public purpose to assist in
6 assuring that property in the state is insured so as to
7 facilitate the remediation, reconstruction, and replacement of
8 damaged or destroyed property in order to reduce or avoid the
9 negative effects otherwise resulting to the public health,
10 safety, and welfare; to the economy of the state; and to the
11 revenues of the state and local governments needed to provide
12 for the public welfare. It is necessary, therefore, to provide
13 property insurance to applicants who are in good faith
14 entitled to procure insurance through the voluntary market but
15 are unable to do so. The Legislature intends by this
16 subsection that property insurance be provided and that it
17 continues, as long as necessary, through an entity organized
18 to achieve efficiencies and economies, while providing service
19 to policyholders, applicants, and agents that is no less than
20 the quality generally provided in the voluntary market, all
21 toward the achievement of the foregoing public purposes.
22 Because it is essential for the corporation to have the
23 maximum financial resources to pay claims following a
24 catastrophic hurricane, it is the intent of the Legislature
25 that the income of the corporation be exempt from federal
26 income taxation and that interest on the debt obligations
27 issued by the corporation be exempt from federal income
28 taxation.
29 2. The Residential Property and Casualty Joint
30 Underwriting Association originally created by this statute
31 shall be known, as of July 1, 2002, as the Citizens Property

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

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

22 3. For the purposes of this subsection, the term
23 "homestead property" means:

24 a. Property that has been granted a homestead
25 exemption under chapter 196;

26 b. Property for which the owner has a current, written
27 lease with a renter for a term of at least 6 months and for
28 which the dwelling is insured by the corporation for \$200,000
29 or less;

30 c. An owner-occupied mobile home or manufactured home,
31 as defined in s. 320.01, which is permanently affixed to real

1 property, is owned by a Florida resident, and has been granted
2 a homestead exemption under chapter 196 or, if the owner does
3 not own the real property, the owner certifies that the mobile
4 home or manufactured home is his or her principal place of
5 residence.

6 d. Tenants coverage; or

7 e. Commercial lines coverage, including both
8 residential and nonresidential.

9 4. For the purposes of this subsection, the term
10 "nonhomestead property" means property that is not homestead
11 property.

12 5. Effective July 1, 2011, a personal lines
13 residential structure with a dwelling replacement cost of \$1
14 million or more, or a single condominium unit with combined
15 dwelling and content replacement cost of \$1 million or more,
16 is not eligible for coverage by the corporation.

17 ~~6.3-~~ It is the intent of the Legislature that
18 policyholders, applicants, and agents of the corporation
19 receive service and treatment of the highest possible level
20 but never less than that generally provided in the voluntary
21 market. It also is intended that the corporation be held to
22 service standards no less than those applied to insurers in
23 the voluntary market by the office with respect to
24 responsiveness, timeliness, customer courtesy, and overall
25 dealings with policyholders, applicants, or agents of the
26 corporation.

27 (b)1. All insurers authorized to write one or more
28 subject lines of business in this state are subject to
29 assessment by the corporation and, for the purposes of this
30 subsection, are referred to collectively as "assessable
31 insurers." Insurers writing one or more subject lines of

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

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

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

27 (II) A commercial lines account for commercial
28 residential policies issued by the corporation or issued by
29 the Residential Property and Casualty Joint Underwriting
30 Association and renewed by the corporation that provide
31 coverage for basic property perils on risks that are not

1 | located in areas eligible for coverage in the Florida
2 | Windstorm Underwriting Association as those areas were defined
3 | on January 1, 2002, and for such policies that do not provide
4 | coverage for the peril of wind on risks that are located in
5 | such areas; and
6 | (III) A high-risk account for personal residential
7 | policies and commercial residential and commercial
8 | nonresidential property policies issued by the corporation or
9 | transferred to the corporation that provide coverage for the
10 | peril of wind on risks that are located in areas eligible for
11 | coverage in the Florida Windstorm Underwriting Association as
12 | those areas were defined on January 1, 2002. The high-risk
13 | account must also include quota share primary insurance under
14 | subparagraph (c)2. The area eligible for coverage under the
15 | high-risk account also includes the area within Port
16 | Canaveral, which is bordered on the south by the City of Cape
17 | Canaveral, bordered on the west by the Banana River, and
18 | bordered on the north by Federal Government property. The
19 | office may remove territory from the area eligible for
20 | wind-only and quota share coverage if, after a public hearing,
21 | the office finds that authorized insurers in the voluntary
22 | market are willing and able to write sufficient amounts of
23 | personal and commercial residential coverage for all perils in
24 | the territory, including coverage for the peril of wind, such
25 | that risks covered by wind-only policies in the removed
26 | territory could be issued a policy by the corporation in
27 | either the personal lines or commercial lines account without
28 | a significant increase in the corporation's probable maximum
29 | loss in such account. Removal of territory from the area
30 | eligible for wind-only or quota share coverage does not alter
31 |

1 the assignment of wind coverage written in such areas to the
2 high-risk account.

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

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

1 referred to in sub-sub-subparagraph a.(III) and shall have no
2 claim against, or recourse to, the accounts referred to in
3 sub-sub-subparagraphs a.(I) and (II).

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

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

11 f. No part of the income of the corporation may inure
12 to the benefit of any private person.

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

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

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

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

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

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

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

1 premium tax, fees, or commissions; however, failure to pay the
2 emergency assessment shall be treated as failure to pay
3 premium. The emergency assessments under sub-subparagraph d.
4 shall continue as long as any bonds issued or other
5 indebtedness incurred with respect to a deficit for which the
6 assessment was imposed remain outstanding, unless adequate
7 provision has been made for the payment of such bonds or other
8 indebtedness pursuant to the documents governing such bonds or
9 other indebtedness.

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

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

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

1 accurate, timely collection and payment of assessments by
2 surplus lines agents as required by the corporation.

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

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

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

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

19 c. Commercial lines residential policy forms that are
20 generally similar to the basic perils of full coverage
21 obtainable for commercial residential structures in the
22 admitted voluntary market.

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

28 e. Commercial lines nonresidential property insurance
29 forms that cover the peril of wind only. The forms are
30 applicable only to nonresidential properties located in areas
31

1 eligible for coverage under the high-risk account referred to
2 in sub-subparagraph (b)2.a.

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

10 (I) "Quota share primary insurance" means an
11 arrangement in which the primary hurricane coverage of an
12 eligible risk is provided in specified percentages by the
13 corporation and an authorized insurer. The corporation and
14 authorized insurer are each solely responsible for a specified
15 percentage of hurricane coverage of an eligible risk as set
16 forth in a quota share primary insurance agreement between the
17 corporation and an authorized insurer and the insurance
18 contract. The responsibility of the corporation or authorized
19 insurer to pay its specified percentage of hurricane losses of
20 an eligible risk, as set forth in the quota share primary
21 insurance agreement, may not be altered by the inability of
22 the other party to the agreement to pay its specified
23 percentage of hurricane losses. Eligible risks that are
24 provided hurricane coverage through a quota share primary
25 insurance arrangement must be provided policy forms that set
26 forth the obligations of the corporation and authorized
27 insurer under the arrangement, clearly specify the percentages
28 of quota share primary insurance provided by the corporation
29 and authorized insurer, and conspicuously and clearly state
30 that neither the authorized insurer nor the corporation may be
31

1 held responsible beyond its specified percentage of coverage
2 of hurricane losses.

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

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

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

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

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

30 f. For all eligible risks covered under quota share
31 primary insurance agreements, the exposure and coverage levels

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

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

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

30 | 3. May provide that the corporation may employ or
31 | otherwise contract with individuals or other entities to

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

1 financing agreement or any revenue source committed by
2 contract to such bond or other indebtedness.

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

29 b. The board shall create a Market Accountability
30 Advisory Committee to assist the corporation in developing
31 awareness of its rates and its customer and agent service

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

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

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

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

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

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

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

1
2 If the producing agent is unwilling or unable to accept
3 appointment, the new insurer shall pay the agent in accordance
4 with sub-sub-sub-subparagraph (A).

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

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

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

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

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

30 (I) If the risk accepts an offer of coverage through
31 the market assistance plan or an offer of coverage through a

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

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

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

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

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

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

29 (B) Offer to allow the producing agent of record of
30 the corporation policy to continue servicing the policy for a
31 period of not less than 1 year and offer to pay the agent the

1 greater of the insurer's or the corporation's usual and
2 customary commission for the type of policy written.

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

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

17 ~~7.6.~~ Must include rules for classifications of risks
18 and rates therefor.

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

27 ~~9.8.~~ Must provide objective criteria and procedures to
28 be uniformly applied for all applicants in determining whether
29 an individual risk is so hazardous as to be uninsurable. In
30 making this determination and in establishing the criteria and
31 procedures, the following shall be considered:

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

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

7
8 The acceptance or rejection of a risk by the corporation shall
9 be construed as the private placement of insurance, and the
10 provisions of chapter 120 shall not apply.

11 ~~10.9-~~ Must provide that the corporation shall make its
12 best efforts to procure catastrophe reinsurance at reasonable
13 rates, to cover its projected 100-year probable maximum loss
14 as determined by the board of governors.

15 ~~11.10-~~ Must provide that in the event of regular
16 deficit assessments under sub-subparagraph (b)3.a. or
17 sub-subparagraph (b)3.b., in the personal lines account, the
18 commercial lines residential account, or the high-risk
19 account, the corporation shall levy upon corporation
20 policyholders in its next rate filing, or by a separate rate
21 filing solely for this purpose, the following surcharges:

22 a. A Citizens policyholder ~~market equalization~~
23 surcharge arising from a regular assessment in such account in
24 a percentage equal to the total amount of such regular
25 assessments divided by the aggregate statewide direct written
26 premium for subject lines of business for the prior calendar
27 year. For purposes of calculating the Citizens policyholder
28 surcharge to be levied under this subparagraph, the total
29 amount of the regular assessment to which this surcharge is
30 related shall be determined as set forth in subparagraph
31 (b)3., without deducting the estimated Citizens policyholder

1 ~~surcharge. Market equalization surcharges under this~~
2 ~~subparagraph are not considered premium and are not subject to~~
3 ~~commissions, fees, or premium taxes; however, failure to pay a~~
4 ~~market equalization surcharge shall be treated as failure to~~
5 ~~pay premium.~~

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

9
10 Surcharges under this subparagraph are not considered a
11 premium and are not subject to commissions, fees, or premium
12 taxes; however, failure to pay a surcharge shall be treated in
13 the same manner as failure to pay premium.

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

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

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

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

12 ~~15.14.~~ Must provide that, with respect to the
13 high-risk account, any assessable insurer with a surplus as to
14 policyholders of \$25 million or less writing 25 percent or
15 more of its total countrywide property insurance premiums in
16 this state may petition the office, within the first 90 days
17 of each calendar year, to qualify as a limited apportionment
18 company. In no event shall a limited apportionment company be
19 required to participate in the portion of any assessment,
20 within the high-risk account, pursuant to sub-subparagraph
21 (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which
22 exceeds \$50 million after payment of available high-risk
23 account funds in any calendar year. However, a limited
24 apportionment company shall collect from its policyholders any
25 emergency assessment imposed under sub-subparagraph (b)3.d.
26 The plan shall provide that, if the office determines that any
27 regular assessment will result in an impairment of the surplus
28 of a limited apportionment company, the office may direct that
29 all or part of such assessment be deferred as provided in
30 subparagraph (g)4. However, there shall be no limitation or
31

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

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

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

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

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

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

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

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

31

1 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
2 other provision of law, an employee or board member may not
3 knowingly accept, directly or indirectly, any gift or
4 expenditure from a person or entity, or an employee or
5 representative of such person or entity, that has a
6 contractual relationship with the corporation or who is under
7 consideration for a contract. An employee or board member that
8 fails to comply with this subparagraph is subject to penalties
9 provided under ss. 112.317 and 112.3173.

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

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

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

1 sole-sourcing or emergency procurement must be documented.

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

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

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

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

31

1 a. Provide direction for, supervise, conduct, and
2 coordinate audits, investigations, and management reviews
3 relating to the programs and operations of the corporation.

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

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

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

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

23 2. On or before February 15, the internal auditor
24 shall prepare an annual report evaluating the effectiveness of
25 the internal controls of the corporation and providing
26 recommendations for corrective action, if necessary, and
27 summarizing the audits, reviews, and investigations conducted
28 by the office during the preceding fiscal year. The final
29 report shall be furnished to the board of governors and the
30 executive director, the President of the Senate, the Speaker
31

1 of the House of Representatives, and the Financial Services
2 Commission.

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

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

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

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

26 (l) The Auditor General shall conduct an operational
27 audit of the corporations every 3 years to evaluate
28 management's performance in administering laws, policies, and
29 procedures governing the operations of the corporation in an
30 efficient and effective manner. The scope of the review shall
31 include, but is not limited to, evaluating claims handling,

1 customer service, take-out programs and bonuses, financing
2 arrangements, procurement of goods and services, internal
3 controls, and the internal audit function.

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

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

26 3. Rates for personal lines residential wind-only
27 policies must be actuarially sound and not competitive with
28 approved rates charged by authorized insurers. Corporation
29 rate manuals shall include a rate surcharge for seasonal
30 occupancy. To ensure that personal lines residential wind-only
31 rates are not competitive with approved rates charged by

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

11 4.a. For policies issued or renewed on or after
12 January 1, 2007, rates for coverage provided by the
13 corporation for nonhomestead property shall include a
14 25-percent surcharge.

15 b. For policies issued or renewed on or after January
16 1, 2007, rates for coverage provided by the corporation in the
17 high-risk account shall include a 25-percent surcharge for a
18 personal lines residential structure with a dwelling
19 replacement cost of \$1 million or more or for a single
20 condominium unit with a combined dwelling and content
21 replacement cost of \$1 million or more.

22 5. The requirements of paragraph (m) that rates not be
23 competitive with approved rates charged by authorized insurers
24 do not apply in a county or area for which the office
25 determines that no authorized insurer is offering coverage.

26 ~~6.4.~~ For the purposes of establishing a pilot program
27 to evaluate issues relating to the availability and
28 affordability of insurance in an area where historically there
29 has been little market competition, the provisions of
30 subparagraph 2. do not apply to coverage provided by the
31 corporation in Monroe County if the office determines that a

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

17 ~~7.5.~~ Rates for commercial lines coverage shall not be
18 subject to the requirements of subparagraph 2., but shall be
19 subject to all other requirements of this paragraph and s.
20 627.062.

21 ~~8.6.~~ Nothing in this paragraph shall require or allow
22 the corporation to adopt a rate that is inadequate under s.
23 627.062.

24 ~~9.7.~~ The corporation shall certify to the office at
25 least twice annually that its personal lines rates comply with
26 the requirements of subparagraphs 1. and 2. If any adjustment
27 in the rates or rating factors of the corporation is necessary
28 to ensure such compliance, the corporation shall make and
29 implement such adjustments and file its revised rates and
30 rating factors with the office. If the office thereafter
31 determines that the revised rates and rating factors fail to

1 | comply with the provisions of subparagraphs 1. and 2., it
2 | shall notify the corporation and require the corporation to
3 | amend its rates or rating factors in conjunction with its next
4 | rate filing. The office must notify the corporation by
5 | electronic means of any rate filing it approves for any
6 | insurer among the insurers referred to in subparagraph 2.

7 | 10.8. In addition to the rates otherwise determined
8 | pursuant to this paragraph, the corporation shall impose and
9 | collect an amount equal to the premium tax provided for in s.
10 | 624.509 to augment the financial resources of the corporation.

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

28 | ~~b. By January 1, 2004, the rate methodology panel~~
29 | ~~shall provide a report to the corporation of its findings and~~
30 | ~~recommendations for the use of additional ratemaking methods~~
31 | ~~and procedures, including the use of a rate equalization~~

1 ~~surcharge in an amount sufficient to assure that the total~~
2 ~~cost of coverage for policyholders or applicants to the~~
3 ~~corporation is sufficient to comply with subparagraph 1.~~

4 ~~c. Within 30 days after such report, the corporation~~
5 ~~shall present to the President of the Senate, the Speaker of~~
6 ~~the House of Representatives, the minority party leaders of~~
7 ~~each house of the Legislature, and the chairs of the standing~~
8 ~~committees of each house of the Legislature having~~
9 ~~jurisdiction of insurance issues, a plan for implementing the~~
10 ~~additional ratemaking methods and an outline of any~~
11 ~~legislation needed to facilitate use of the new methods.~~

12 ~~d. The plan must include a provision that producer~~
13 ~~commissions paid by the corporation shall not be calculated in~~
14 ~~such a manner as to include any rate equalization surcharge.~~
15 ~~However, without regard to the plan to be developed or its~~
16 ~~implementation, producer commissions paid by the corporation~~
17 ~~for each account, other than the quota share primary program,~~
18 ~~shall remain fixed as to percentage, effective rate,~~
19 ~~calculation, and payment method until January 1, 2004.~~

20 ~~11.10. By January 1, 2004, The corporation shall~~
21 ~~develop a notice to policyholders or applicants that the rates~~
22 ~~of Citizens Property Insurance Corporation are intended to be~~
23 ~~higher than the rates of any admitted carrier and providing~~
24 ~~other information the corporation deems necessary to assist~~
25 ~~consumers in finding other voluntary admitted insurers willing~~
26 ~~to insure their property.~~

27 12. After the public hurricane loss-projection model
28 under s. 627.06281 has been found to be accurate and reliable
29 by the Florida Commission on Hurricane Loss Projection
30 Methodology, that model shall serve as the minimum benchmark
31 for determining the windstorm portion of the corporation's

1 rates. This subparagraph does not require or allow the
2 corporation to adopt rates lower than the rates otherwise
3 required or allowed by this paragraph.

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

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

23 2. In response to a state of emergency declared by the
24 Governor under s. 252.36, the office may activate coverage by
25 order for the period of the emergency upon a finding by the
26 office that the emergency significantly affects the
27 availability of residential property insurance.

28 ~~(o)(f)~~1. The corporation shall file with the office
29 quarterly statements of financial condition, an annual
30 statement of financial condition, and audited financial
31 statements in the manner prescribed by law. In addition, the

1 corporation shall report to the office monthly on the types,
2 premium, exposure, and distribution by county of its policies
3 in force, and shall submit other reports as the office
4 requires to carry out its oversight of the corporation.

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

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

1 2. The governing body of any unit of local government,
2 any residents of which are insured by the corporation, may
3 issue bonds as defined in s. 125.013 or s. 166.101 from time
4 to time to fund an assistance program, in conjunction with the
5 corporation, for the purpose of defraying deficits of the
6 corporation. In order to avoid needless and indiscriminate
7 proliferation, duplication, and fragmentation of such
8 assistance programs, any unit of local government, any
9 residents of which are insured by the corporation, may provide
10 for the payment of losses, regardless of whether or not the
11 losses occurred within or outside of the territorial
12 jurisdiction of the local government. Revenue bonds under this
13 subparagraph may not be issued until validated pursuant to
14 chapter 75, unless a state of emergency is declared by
15 executive order or proclamation of the Governor pursuant to s.
16 252.36 making such findings as are necessary to determine that
17 it is in the best interests of, and necessary for, the
18 protection of the public health, safety, and general welfare
19 of residents of this state and declaring it an essential
20 public purpose to permit certain municipalities or counties to
21 issue such bonds as will permit relief to claimants and
22 policyholders of the corporation. Any such unit of local
23 government may enter into such contracts with the corporation
24 and with any other entity created pursuant to this subsection
25 as are necessary to carry out this paragraph. Any bonds issued
26 under this subparagraph shall be payable from and secured by
27 moneys received by the corporation from emergency assessments
28 under sub-subparagraph (b)3.d., and assigned and pledged to or
29 on behalf of the unit of local government for the benefit of
30 the holders of such bonds. The funds, credit, property, and
31 taxing power of the state or of the unit of local government

1 shall not be pledged for the payment of such bonds. If any of
2 the bonds remain unsold 60 days after issuance, the office
3 shall require all insurers subject to assessment to purchase
4 the bonds, which shall be treated as admitted assets; each
5 insurer shall be required to purchase that percentage of the
6 unsold portion of the bond issue that equals the insurer's
7 relative share of assessment liability under this subsection.
8 An insurer shall not be required to purchase the bonds to the
9 extent that the office determines that the purchase would
10 endanger or impair the solvency of the insurer.

11 3.a. The corporation shall adopt one or more programs
12 subject to approval by the office for the reduction of both
13 new and renewal writings in the corporation. The corporation
14 may consider any prudent and not unfairly discriminatory
15 approach to reducing corporation writings, and may adopt a
16 credit against assessment liability or other liability that
17 provides an incentive for insurers to take risks out of the
18 corporation and to keep risks out of the corporation by
19 maintaining or increasing voluntary writings in counties or
20 areas in which corporation risks are highly concentrated and a
21 program to provide a formula under which an insurer
22 voluntarily taking risks out of the corporation by maintaining
23 or increasing voluntary writings will be relieved wholly or
24 partially from assessments under sub-subparagraphs (b)3.a. and
25 b. However, any "take-out bonus" or payment to an insurer must
26 be conditioned on the property being insured for at least 5
27 years by the insurer, unless canceled or nonrenewed by the
28 policyholder. If the policy is canceled or nonrenewed by the
29 policyholder before the end of the 5-year period, the amount
30 of the take-out bonus must be prorated for the time period the
31 policy was insured. When the corporation enters into a

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

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

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

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

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

29 4. The plan shall provide for the deferment, in whole
30 or in part, of the assessment of an assessable insurer, other
31 than an emergency assessment collected from policyholders

1 pursuant to sub-subparagraph (b)3.d., if the office finds that
2 payment of the assessment would endanger or impair the
3 solvency of the insurer. In the event an assessment against an
4 assessable insurer is deferred in whole or in part, the amount
5 by which such assessment is deferred may be assessed against
6 the other assessable insurers in a manner consistent with the
7 basis for assessments set forth in paragraph (b).

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

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

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

27 1. Any of the foregoing persons or entities for any
28 willful tort;

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

31

1 3. The corporation with respect to issuance or payment
2 of debt; or

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

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

1 Insurance Guaranty Association to secure bonds issued or other
2 indebtedness incurred to pay covered claims arising from
3 insurer insolvencies caused by, or proximately related to,
4 hurricane losses. It is the intent of the Legislature that the
5 tax exemptions provided in this paragraph will augment the
6 financial resources of the corporation to better enable the
7 corporation to fulfill its public purposes. Any bonds issued
8 by the corporation, their transfer, and the income therefrom,
9 including any profit made on the sale thereof, shall at all
10 times be free from taxation of every kind by the state and any
11 political subdivision or local unit or other instrumentality
12 thereof; however, this exemption does not apply to any tax
13 imposed by chapter 220 on interest, income, or profits on debt
14 obligations owned by corporations other than the corporation.

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

30 ~~(u)(1)~~1. Effective July 1, 2002, policies of the
31 Residential Property and Casualty Joint Underwriting

1 Association shall become policies of the corporation. All
2 obligations, rights, assets and liabilities of the Residential
3 Property and Casualty Joint Underwriting Association,
4 including bonds, note and debt obligations, and the financing
5 documents pertaining to them become those of the corporation
6 as of July 1, 2002. The corporation is not required to issue
7 endorsements or certificates of assumption to insureds during
8 the remaining term of in-force transferred policies.

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

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

1 | regardless of the date on which, the assumptions or
2 | instruments are executed by the corporation. Subject to the
3 | relevant financing documents pertaining to their outstanding
4 | bonds, notes, indebtedness, or other financing obligations,
5 | the moneys, investments, receivables, choses in action, and
6 | other intangibles of the Florida Windstorm Underwriting
7 | Association shall be credited to the high-risk account of the
8 | corporation, and those of the personal lines residential
9 | coverage account and the commercial lines residential coverage
10 | account of the Residential Property and Casualty Joint
11 | Underwriting Association shall be credited to the personal
12 | lines account and the commercial lines account, respectively,
13 | of the corporation.

14 | 4. Effective July 1, 2002, a new applicant for
15 | property insurance coverage who would otherwise have been
16 | eligible for coverage in the Florida Windstorm Underwriting
17 | Association is eligible for coverage from the corporation as
18 | provided in this subsection.

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

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

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

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

31

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

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

28 4. Any such pledge or sale of assessments, revenues,
29 contract rights, or other rights or assets of the corporation
30 shall constitute a lien and security interest, or sale, as the
31 case may be, that is immediately effective and attaches to

1 such assessments, revenues, or contract rights or other rights
2 or assets, whether or not imposed or collected at the time the
3 pledge or sale is made. Any such pledge or sale is effective,
4 valid, binding, and enforceable against the corporation or
5 other entity making such pledge or sale, and valid and binding
6 against and superior to any competing claims or obligations
7 owed to any other person or entity, including policyholders in
8 this state, asserting rights in any such assessments,
9 revenues, or contract rights or other rights or assets to the
10 extent set forth in and in accordance with the terms of the
11 pledge or sale contained in the applicable financing
12 documents, whether or not any such person or entity has notice
13 of such pledge or sale and without the need for any physical
14 delivery, recordation, filing, or other action.

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

18 a. Underwriting files, except that a policyholder or
19 an applicant shall have access to his or her own underwriting
20 files.

21 b. Claims files, until termination of all litigation
22 and settlement of all claims arising out of the same incident,
23 although portions of the claims files may remain exempt, as
24 otherwise provided by law. Confidential and exempt claims file
25 records may be released to other governmental agencies upon
26 written request and demonstration of need; such records held
27 by the receiving agency remain confidential and exempt as
28 provided for herein.

29 c. Records obtained or generated by an internal
30 auditor pursuant to a routine audit, until the audit is
31 completed, or if the audit is conducted as part of an

1 investigation, until the investigation is closed or ceases to
2 be active. An investigation is considered "active" while the
3 investigation is being conducted with a reasonable, good faith
4 belief that it could lead to the filing of administrative,
5 civil, or criminal proceedings.

6 d. Matters reasonably encompassed in privileged
7 attorney-client communications.

8 e. Proprietary information licensed to the corporation
9 under contract and the contract provides for the
10 confidentiality of such proprietary information.

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

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

26 h. Information relating to negotiations for financing,
27 reinsurance, depopulation, or contractual services, until the
28 conclusion of the negotiations.

29 i. Minutes of closed meetings regarding underwriting
30 files, and minutes of closed meetings regarding an open claims
31 file until termination of all litigation and settlement of all

1 | claims with regard to that claim, except that information
2 | otherwise confidential or exempt by law will be redacted.

3 |
4 | When an authorized insurer is considering underwriting a risk
5 | insured by the corporation, relevant underwriting files and
6 | confidential claims files may be released to the insurer
7 | provided the insurer agrees in writing, notarized and under
8 | oath, to maintain the confidentiality of such files. When a
9 | file is transferred to an insurer that file is no longer a
10 | public record because it is not held by an agency subject to
11 | the provisions of the public records law. Underwriting files
12 | and confidential claims files may also be released to staff of
13 | and the board of governors of the market assistance plan
14 | established pursuant to s. 627.3515, who must retain the
15 | confidentiality of such files, except such files may be
16 | released to authorized insurers that are considering assuming
17 | the risks to which the files apply, provided the insurer
18 | agrees in writing, notarized and under oath, to maintain the
19 | confidentiality of such files. Finally, the corporation or
20 | the board or staff of the market assistance plan may make the
21 | following information obtained from underwriting files and
22 | confidential claims files available to licensed general lines
23 | insurance agents: name, address, and telephone number of the
24 | residential property owner or insured; location of the risk;
25 | rating information; loss history; and policy type. The
26 | receiving licensed general lines insurance agent must retain
27 | the confidentiality of the information received.

28 | 2. Portions of meetings of the corporation are exempt
29 | from the provisions of s. 286.011 and s. 24(b), Art. I of the
30 | State Constitution wherein confidential underwriting files or
31 | confidential open claims files are discussed. All portions of

1 corporation meetings which are closed to the public shall be
2 recorded by a court reporter. The court reporter shall record
3 the times of commencement and termination of the meeting, all
4 discussion and proceedings, the names of all persons present
5 at any time, and the names of all persons speaking. No
6 portion of any closed meeting shall be off the record.
7 Subject to the provisions hereof and s. 119.07(1)(b)-(d), the
8 court reporter's notes of any closed meeting shall be retained
9 by the corporation for a minimum of 5 years. A copy of the
10 transcript, less any exempt matters, of any closed meeting
11 wherein claims are discussed shall become public as to
12 individual claims after settlement of the claim.

13 ~~(x)~~~~(e)~~ It is the intent of the Legislature that the
14 amendments to this subsection enacted in 2002 should, over
15 time, reduce the probable maximum windstorm losses in the
16 residual markets and should reduce the potential assessments
17 to be levied on property insurers and policyholders statewide.
18 In furtherance of this intent:

19 1. The board shall, on or before February 1 of each
20 year, provide a report to the President of the Senate and the
21 Speaker of the House of Representatives showing the reduction
22 or increase in the 100-year probable maximum loss attributable
23 to wind-only coverages and the quota share program under this
24 subsection combined, as compared to the benchmark 100-year
25 probable maximum loss of the Florida Windstorm Underwriting
26 Association. For purposes of this paragraph, the benchmark
27 100-year probable maximum loss of the Florida Windstorm
28 Underwriting Association shall be the calculation dated
29 February 2001 and based on November 30, 2000, exposures. In
30 order to ensure comparability of data, the board shall use the
31

1 same methods for calculating its probable maximum loss as were
2 used to calculate the benchmark probable maximum loss.

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

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

21 ~~(y)~~~~(p)~~ In enacting the provisions of this section, the
22 Legislature recognizes that both the Florida Windstorm
23 Underwriting Association and the Residential Property and
24 Casualty Joint Underwriting Association have entered into
25 financing arrangements that obligate each entity to service
26 its debts and maintain the capacity to repay funds secured
27 under these financing arrangements. It is the intent of the
28 Legislature that nothing in this section be construed to
29 compromise, diminish, or interfere with the rights of
30 creditors under such financing arrangements. It is further the
31 intent of the Legislature to preserve the obligations of the

1 Florida Windstorm Underwriting Association and Residential
2 Property and Casualty Joint Underwriting Association with
3 regard to outstanding financing arrangements, with such
4 obligations passing entirely and unchanged to the corporation
5 and, specifically, to the applicable account of the
6 corporation. So long as any bonds, notes, indebtedness, or
7 other financing obligations of the Florida Windstorm
8 Underwriting Association or the Residential Property and
9 Casualty Joint Underwriting Association are outstanding, under
10 the terms of the financing documents pertaining to them, the
11 governing board of the corporation shall have and shall
12 exercise the authority to levy, charge, collect, and receive
13 all premiums, assessments, surcharges, charges, revenues, and
14 receipts that the associations had authority to levy, charge,
15 collect, or receive under the provisions of subsection (2) and
16 this subsection, respectively, as they existed on January 1,
17 2002, to provide moneys, without exercise of the authority
18 provided by this subsection, in at least the amounts, and by
19 the times, as would be provided under those former provisions
20 of subsection (2) or this subsection, respectively, so that
21 the value, amount, and collectability of any assets, revenues,
22 or revenue source pledged or committed to, or any lien thereon
23 securing such outstanding bonds, notes, indebtedness, or other
24 financing obligations will not be diminished, impaired, or
25 adversely affected by the amendments made by this act and to
26 permit compliance with all provisions of financing documents
27 pertaining to such bonds, notes, indebtedness, or other
28 financing obligations, or the security or credit enhancement
29 for them, and any reference in this subsection to bonds,
30 notes, indebtedness, financing obligations, or similar
31 obligations, of the corporation shall include like instruments

1 or contracts of the Florida Windstorm Underwriting Association
2 and the Residential Property and Casualty Joint Underwriting
3 Association to the extent not inconsistent with the provisions
4 of the financing documents pertaining to them.

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

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

23 (bb) By February 1, 2007, the corporation shall submit
24 a report to the President of the Senate, the Speaker of the
25 House of Representatives, the minority party leaders of the
26 Senate and the House of Representatives, and the chairs of the
27 standing committees of the Senate and the House of
28 Representatives having jurisdiction over matters relating to
29 property and casualty insurance. In preparing the report, the
30 corporation shall consult with the Office of Insurance
31 Regulation, the Department of Financial Services, and any

1 other party the corporation determines appropriate. The report
2 must include all findings and recommendations on the
3 feasibility of requiring authorized insurers that issue and
4 service personal and commercial residential policies and
5 commercial nonresidential policies that provide coverage for
6 basic property perils except for the peril of wind to issue
7 and service for a fee personal and commercial residential
8 policies and commercial nonresidential policies providing
9 coverage for the peril of wind issued by the corporation. The
10 report must include:
11 1. The expense savings to the corporation of issuing
12 and servicing such policies as determined by a cost-benefit
13 analysis.
14 2. The expenses and liability to authorized insurers
15 associated with issuing and servicing such policies.
16 3. The effect on service to policyholders of the
17 corporation relating to issuing and servicing such policies.
18 4. The effect on the producing agent of the
19 corporation of issuing and servicing such policies.
20 5. Recommendations as to the amount of the fee which
21 should be paid to authorized insurers for issuing and
22 servicing such policies.
23 6. The effect that issuing and servicing such policies
24 will have on the corporation's number of policies, total
25 insured value, and probable maximum loss.
26 Section 10. The amendments made by this act to s.
27 627.351(6), Florida Statutes, which change the method for
28 calculating and determining the assessments and surcharges
29 that must be levied or collected to fund deficits in Citizens
30 Property Insurance Corporation apply to a deficit incurred by
31 the corporation for calendar year 2006 and thereafter.

1 Section 11. Effective July 1, 2006, paragraph (a) of
2 subsection (5) of section 627.3511, Florida Statutes, is
3 amended to read:

4 627.3511 Depopulation of Citizens Property Insurance
5 Corporation.--

6 (5) APPLICABILITY.--

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

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

15 Section 12. Effective July 1, 2006, section 627.3517,
16 Florida Statutes, is amended to read:

17 627.3517 Consumer choice.--

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

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

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

24 | Section 13. Section 627.3519, Florida Statutes, is
25 | created to read:

26 | 627.3519 Annual report of aggregate net probable
27 | maximum losses, financing options, and potential
28 | assessments.--No later than February 1 of each year, the
29 | Financial Services Commission shall provide to the Legislature
30 | a report of the aggregate net probable maximum losses,
31 | financing options, and potential assessments of the Florida

1 Hurricane Catastrophe Fund and Citizens Property Insurance
2 Corporation. The report must include the respective 50-year,
3 100-year, and 250-year probable maximum losses of the fund and
4 the corporation; analysis of all reasonable financing
5 strategies for each such probable maximum loss, including the
6 amount and term of debt instruments; specification of the
7 percentage assessments that would be needed to support each of
8 the financing strategies; and calculations of the aggregate
9 assessment burden on Florida property and casualty
10 policyholders for each of the probable maximum losses. The
11 commission shall require the fund and the corporation to
12 provide the commission with such data and analysis as the
13 commission considers necessary to prepare the report.

14 Section 14. Paragraph (b) of subsection (3) of section
15 627.4035, Florida Statutes, is amended to read:

16 627.4035 Cash payment of premiums; claims.--

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

19 (b) If authorized in writing by the recipient or the
20 recipient's representative, by debit card or any other form of
21 electronic transfer. Any fees or costs to be charged against
22 the recipient must be disclosed in writing to the recipient or
23 the recipient's representative at the time of written
24 authorization. However, the written authorization requirement
25 may be waived by the recipient or the recipient's
26 representative if the insurer verifies the identity of the
27 insured or the insured's recipient and does not charge a fee
28 for the transaction. If the funds are misdirected, the insurer
29 remains liable for the payment of the claim.

30 Section 15. Section 627.6121, Florida Statutes, is
31 created to read:

1 627.6121 Payment of claims for dual interest
2 property.--For policies issued or renewed on or after October
3 1, 2006, a property insurer shall transmit claims payments
4 directly to the primary policyholder by check or other
5 allowable payment method, payable to the primary policyholder
6 only, without requiring a dual endorsement from any
7 mortgageholder or lienholder, for the following:

8 (1) Amounts payable under the policy for personal
9 property and contents, additional living expenses, and other
10 covered items that are not subject to a recorded security
11 interest that is noted in the dual interest provision of the
12 policy.

13 (2) Amounts payable under the policy for the lesser of
14 \$20,000 or the first 20 percent of the insurer's estimate of
15 the total projected covered claim amount, for the repair or
16 replacement of property subject to a recorded security
17 interest that is noted in the dual interest provision of the
18 policy. The insurer shall provide written notice to the
19 mortgageholder or lienholder of such payments made pursuant to
20 this subsection.

21 Section 16. Subsection (2) of section 627.7011,
22 Florida Statutes, is amended, and subsection (6) is added to
23 that section, to read:

24 627.7011 Homeowners' policies; offer of replacement
25 cost coverage and law and ordinance coverage.--

26 (2) Unless the insurer obtains the policyholder's
27 written refusal of the policies or endorsements specified in
28 subsection (1), any policy covering the dwelling is deemed to
29 include the law and ordinance coverage limited to 25 percent
30 of the dwelling limit ~~specified in paragraph (1)(b).~~ The
31 rejection or selection of alternative coverage shall be made

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

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

22 (a) The limit of liability shown on the policy
23 declarations page;

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

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

28 Section 17. Section 627.7019, Florida Statutes, is
29 created to read:

30 627.7019 Standardization of requirements applicable to
31 insurers after natural disasters.--

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

5 (a) Claims reporting requirements.

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

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

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

17 Section 18. Subsection (1) and paragraph (d) of
18 subsection (2) of section 627.706, Florida Statutes, are
19 amended to read:

20 627.706 Sinkhole insurance; definitions.--

21 (1) Every insurer authorized to transact property
22 insurance in this state shall make available coverage for
23 insurable sinkhole losses on any structure, including contents
24 of personal property contained therein, to the extent provided
25 in the form to which the sinkhole coverage attaches. A policy
26 for residential property insurance may include a deductible
27 amount applicable to sinkhole losses equal to 1 percent, 2
28 percent, 5 percent, or 10 percent of the policy dwelling
29 limits, with appropriate premium discounts offered with each
30 deductible amount.

31

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

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

11 Section 19. Subsections (2), (3), (5), (6), and (9) of
12 section 627.707, Florida Statutes, are amended to read:

13 627.707 Standards for investigation of sinkhole claims
14 by insurers; nonrenewals.--Upon receipt of a claim for a
15 sinkhole loss, an insurer must meet the following standards in
16 investigating a claim:

17 (2) Following the insurer's initial inspection, the
18 insurer shall engage a professional ~~an~~ engineer or a
19 professional geologist to conduct testing as provided in s.
20 627.7072 to determine the cause of the loss within a
21 reasonable professional probability and issue a report as
22 provided in s. 627.7073, if:

23 (a) The insurer is unable to identify a valid cause of
24 the damage or discovers damage to the structure which is
25 consistent with sinkhole loss; or

26 (b) The policyholder demands testing in accordance
27 with this section or s. 627.7072.

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

31

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

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

9 (c) A statement regarding the right of the
10 policyholder to request testing by a professional ~~an~~ engineer
11 or a professional geologist and the circumstances under which
12 the policyholder may demand certain testing.

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

21 (b) The insurer may limit its payment to the actual
22 cash value of the sinkhole loss, not including underpinning or
23 grouting or any other repair technique performed below the
24 existing foundation of the building, until the policyholder
25 enters into a contract for the performance of building
26 stabilization or foundation repairs. After the policyholder
27 enters into the contract, the insurer shall pay the amounts
28 necessary to begin and perform such repairs as the work is
29 performed and the expenses are incurred. The insurer may not
30 require the policyholder to advance payment for such repairs.
31 If repair covered by a personal lines residential property

1 insurance policy has begun and the professional engineer
2 selected or approved by the insurer determines that the repair
3 cannot be completed within the policy limits, the insurer must
4 either complete the professional engineer's recommended repair
5 or tender the policy limits to the policyholder without a
6 reduction for the repair expenses incurred.

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

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

17 (9) The insurer may engage a professional structural
18 engineer to make recommendations as to the repair of the
19 structure.

20 Section 20. Subsection (1) of section 627.7072,
21 Florida Statutes, is amended to read:

22 627.7072 Testing standards for sinkholes.--

23 (1) The professional engineer and professional
24 geologist shall perform such tests as sufficient, in their
25 professional opinion, to determine the presence or absence of
26 sinkhole loss or other cause of damage within reasonable
27 professional probability and for the professional engineer to
28 make recommendations regarding necessary building
29 stabilization and foundation repair.

30 Section 21. Subsections (1) and (2) of section
31 627.7073, Florida Statutes, are amended to read:

1 627.7073 Sinkhole reports.--

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

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

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

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

16 3. A description of the tests performed.

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

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

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

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

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

31 4. A description of the tests performed.

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

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

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

22 627.7074 Alternative procedure for resolution of
23 disputed sinkhole insurance claims.--

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

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

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

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

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

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

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

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

1 representative of the party attends and has the authority to
2 make a binding decision on behalf of the party. All parties
3 shall participate in the evaluation in good faith.

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

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

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

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

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

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

30 (12) For matters that are not resolved by the parties
31 at the conclusion of the neutral evaluation, the neutral

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

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

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

27 (15) If the policyholder declines to participate in
28 neutral evaluation requested by the insurer or declines to
29 resolve the matter in accordance with the recommendation of
30 the neutral evaluator pursuant to this section, the insurer is
31 not liable for attorney's fees under s. 627.428 or other

1 provisions of the insurance code or for extra-contractual
2 damages related to a claim for a sinkhole loss.

3 (16) A party may seek judicial review of the
4 recommendation of the neutral evaluator to determine whether
5 the recommendation is reasonable. A recommendation is
6 reasonable unless: it was procured by corruption, fraud, or
7 other undue means; there was evident partiality by the neutral
8 evaluator or misconduct prejudicing the rights of any party;
9 or the neutral evaluator exceeded the authority and power
10 granted by this section. If the court declares the
11 recommendation is not reasonable, the neutral evaluation
12 recommendation shall be vacated.

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

15 627.727 Motor vehicle insurance; uninsured and
16 underinsured vehicle coverage; insolvent insurer protection.--

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

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

29 631.181 Filing and proof of claim.--

30 (2)

31

1 (f) The signed statement required by this section
2 shall not be required on claims for which adequate claims file
3 documentation exists within the records of the insolvent
4 insurer. Claims for payment of unearned premium shall not be
5 required to use the signed statement required by this section
6 if the receiver certifies to the guaranty fund that the
7 records of the insolvent insurer are sufficient to determine
8 the amount of unearned premium owed to each policyholder of
9 the insurer and such information is remitted to the guaranty
10 fund by the receiver in electronic or other mutually
11 agreed-upon format.

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

17 631.54 Definitions.--As used in this part:

18 (3) "Covered claim" means an unpaid claim, including
19 one of unearned premiums, which arises out of, and is within
20 the coverage, and not in excess of, the applicable limits of
21 an insurance policy to which this part applies, issued by an
22 insurer, if such insurer becomes an insolvent insurer and the
23 claimant or insured is a resident of this state at the time of
24 the insured event or the property from which the claim arises
25 is permanently located in this state. For entities other than
26 individuals, the residence of a claimant, insured, or
27 policyholder is the state in which the entity's principal
28 place of business is located at the time of the insured event.

29 "Covered claim" shall not include:

30 (a) Any amount due any reinsurer, insurer, insurance
31 pool, or underwriting association, sought directly or

1 indirectly through a third party, as subrogation,
2 contribution, indemnification, or otherwise; or

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

7 Member insurers shall have no right of subrogation,
8 contribution, indemnification, or otherwise, sought directly
9 or indirectly through a third party, against the insured of
10 any insolvent member.

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

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

29 631.55 Creation of the association.--

30 (1) There is created a nonprofit corporation to be
31 known as the "Florida Insurance Guaranty Association,

1 Incorporated." All insurers defined as member insurers in s.
2 631.54(7) ~~s. 631.54(6)~~ shall be members of the association as
3 a condition of their authority to transact insurance in this
4 state, and, further, as a condition of such authority, an
5 insurer shall agree to reimburse the association for all claim
6 payments the association makes on said insurer's behalf if
7 such insurer is subsequently rehabilitated. The association
8 shall perform its functions under a plan of operation
9 established and approved under s. 631.58 and shall exercise
10 its powers through a board of directors established under s.
11 631.56. The corporation shall have all those powers granted or
12 permitted nonprofit corporations, as provided in chapter 617.

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

17 631.57 Powers and duties of the association.--

18 (1) The association shall:

19 (a)1. Be obligated to the extent of the covered claims
20 existing:

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

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

25 c. Before the insured replaces the policy or causes
26 its cancellation, if she or he does so within 30 days of the
27 determination.

28 2. The obligation under subparagraph 1. includes only
29 the amount of each covered claim which is in excess of \$100
30 and is less than \$300,000, except that policies providing
31 coverage for homeowner's insurance shall provide for an

1 additional \$200,000 for the portion of a covered claim which
2 relates only to the damage to the structure and contents.

3 ~~3.a.2.~~ Notwithstanding subparagraph 2., the obligation
4 under subparagraph 1. ~~for shall include only that amount of~~
5 ~~each covered claim which is in excess of \$100 and is less than~~
6 ~~\$300,000, except with respect to policies covering condominium~~
7 associations or homeowners' associations, which associations
8 have a responsibility to provide insurance coverage on
9 residential units within the association, ~~the obligation~~ shall
10 include that amount of each covered property insurance claim
11 which is less than \$100,000 multiplied by the number of
12 condominium units or other residential units; however, as to
13 homeowners' associations, this ~~sub-subparagraph~~ subparagraph
14 applies only to claims for damage or loss to residential units
15 and structures attached to residential units.

16 b. Notwithstanding sub-subparagraph a., the
17 association has no obligation to pay covered claims that are
18 to be paid from the proceeds of bonds issued under s. 631.695.
19 However, the association shall assign and pledge the first
20 available moneys from all or part of the assessments to be
21 made under paragraph (3)(a) to or on behalf of the issuer of
22 such bonds for the benefit of the holders of such bonds. The
23 association shall administer any such covered claims and
24 present valid covered claims for payment in accordance with
25 the provisions of the assistance program in connection with
26 which such bonds have been issued.

27 ~~4.3.~~ In no event shall the association be obligated to
28 a policyholder or claimant in an amount in excess of the
29 obligation of the insolvent insurer under the policy from
30 which the claim arises.

31 (2) The association may:

1 (d) Negotiate and become a party to such contracts as
2 are necessary to carry out the purpose of this part.
3 Additionally, the association may enter into such contracts
4 with a municipality, a county, or a legal entity created
5 pursuant to s. 163.01(7)(g) as are necessary in order for the
6 municipality, county, or legal entity to issue bonds under s.
7 631.695. In connection with the issuance of any such bonds and
8 the entering into of any such necessary contracts, the
9 association may agree to such terms and conditions as the
10 association deems necessary and proper.

11 (3)(a) To the extent necessary to secure the funds for
12 the respective accounts for the payment of covered claims, ~~and~~
13 ~~also~~ to pay the reasonable costs to administer the same, and
14 to the extent necessary to secure the funds for the account
15 specified in s. 631.55(2)(c) or to retire indebtedness,
16 including, without limitation, the principal, redemption
17 premium, if any, and interest on, and related costs of
18 issuance of, bonds issued under s. 631.695 and the funding of
19 any reserves and other payments required under the bond
20 resolution or trust indenture pursuant to which such bonds
21 have been issued, the office, upon certification of the board
22 of directors, shall levy assessments in the proportion that
23 each insurer's net direct written premiums in this state in
24 the classes protected by the account bears to the total of
25 said net direct written premiums received in this state by all
26 such insurers for the preceding calendar year for the kinds of
27 insurance included within such account. Assessments shall be
28 remitted to and administered by the board of directors in the
29 manner specified by the approved plan. Each insurer so
30 assessed shall have at least 30 days' written notice as to the
31 date the assessment is due and payable. Every assessment shall

1 be made as a uniform percentage applicable to the net direct
2 written premiums of each insurer in the kinds of insurance
3 included within the account in which the assessment is made.
4 The assessments levied against any insurer shall not exceed in
5 any one year more than 2 percent of that insurer's net direct
6 written premiums in this state for the kinds of insurance
7 included within such account during the calendar year next
8 preceding the date of such assessments.

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

25 b. Any emergency assessments authorized under this
26 paragraph shall be levied by the office upon insurers referred
27 to in sub-subparagraph a., upon certification as to the need
28 for such assessments by the board of directors, in each year
29 that bonds issued under s. 631.695 and secured by such
30 emergency assessments are outstanding, in such amounts up to
31 such 2-percent limit as required in order to provide for the

1 full and timely payment of the principal of, redemption
2 premium, if any, and interest on, and related costs of
3 issuance of, such bonds. The emergency assessments provided
4 for in this paragraph are assigned and pledged to the
5 municipality, county, or legal entity issuing bonds under s.
6 631.695 for the benefit of the holders of such bonds, in order
7 to enable such municipality, county, or legal entity to
8 provide for the payment of the principal of, redemption
9 premium, if any, and interest on such bonds, the cost of
10 issuance of such bonds, and the funding of any reserves and
11 other payments required under the bond resolution or trust
12 indenture pursuant to which such bonds have been issued,
13 without the necessity of any further action by the
14 association, the office, or any other party. To the extent
15 bonds are issued under s. 631.695 and the association
16 determines to secure such bonds by a pledge of revenues
17 received from the emergency assessments, such bonds, upon such
18 pledge of revenues, shall be secured by and payable from the
19 proceeds of such emergency assessments, and the proceeds of
20 emergency assessments levied under this paragraph shall be
21 remitted directly to and administered by the trustee or
22 custodian appointed for such bonds.

23 c. Emergency assessments under this paragraph may be
24 payable in a single payment or, at the option of the
25 association, may be payable in 12 monthly installments with
26 the first installment being due and payable at the end of the
27 month after an emergency assessment is levied and subsequent
28 installments being due not later than the end of each
29 succeeding month.

30 d. If emergency assessments are imposed, the report
31 required by s. 631.695(7) shall include an analysis of the

1 revenues generated from the emergency assessments imposed
2 under this paragraph.

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

7 2. In order to ensure that insurers paying emergency
8 assessments levied under this paragraph continue to charge
9 rates that are neither inadequate nor excessive, within 90
10 days after being notified of such assessments, each insurer
11 that is to be assessed pursuant to this paragraph shall submit
12 a rate filing for coverage included within the account
13 specified in s. 631.55(2)(c) and for which rates are required
14 to be filed under s. 627.062. If the filing reflects a rate
15 change that, as a percentage, is equal to the difference
16 between the rate of such assessment and the rate of the
17 previous year's assessment under this paragraph, the filing
18 shall consist of a certification so stating and shall be
19 deemed approved when made. Any rate change of a different
20 percentage shall be subject to the standards and procedures of
21 s. 627.062.

22 3. An annual assessment under this paragraph shall
23 continue while the bonds issued with respect to which the
24 assessment was imposed are outstanding, including any bonds
25 the proceeds of which were used to refund bonds issued
26 pursuant to s. 631.695, unless adequate provision has been
27 made for the payment of the bonds in the documents authorizing
28 the issuance of such bonds.

29 4. Emergency assessments under this paragraph are not
30 premium and are not subject to the premium tax, to any fees,
31 or to any commissions. An insurer is liable for all emergency

1 assessments that the insurer collects and shall treat the
2 failure of an insured to pay an emergency assessment as a
3 failure to pay the premium. An insurer is not liable for
4 uncollectible emergency assessments.

5 Section 28. Section 631.695, Florida Statutes, is
6 created to read:

7 631.695 Revenue bond issuance through counties or
8 municipalities.--

9 (1) The Legislature finds:

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

15 (b) The inability of insureds within this state to
16 receive payment of covered claims or to timely receive such
17 payment creates financial and other hardships for such
18 insureds and places undue burdens on the state, the affected
19 units of local government, and the community at large.

20 (c) In addition, the failure of insurers to pay
21 covered claims or to timely pay such claims due to the
22 insolvency of such insurers can undermine the public's
23 confidence in insurers operating within this state, thereby
24 adversely affecting the stability of the insurance industry in
25 this state.

26 (d) The state has previously taken action to address
27 these problems by adopting the Florida Insurance Guaranty
28 Association Act, which, among other things, provides a
29 mechanism for the payment of covered claims under certain
30 insurance policies to avoid excessive delay in payment and to
31

1 avoid financial loss to claimants or policyholders because of
2 the insolvency of an insurer.

3 (e) In the wake of the unprecedented destruction
4 caused by various hurricanes that have made landfall in this
5 state, the resultant covered claims, and the number of
6 insurers rendered insolvent thereby, make it evident that
7 alternative programs must be developed to allow the Florida
8 Insurance Guaranty Association to more expeditiously and
9 effectively provide for the payment of covered claims.

10 (f) It is therefore determined to be in the best
11 interests of, and necessary for, the protection of the public
12 health, safety, and general welfare of the residents of this
13 state and for the protection and preservation of the economic
14 stability of insurers operating in this state, and it is
15 declared to be an essential public purpose, to permit certain
16 municipalities and counties to take such actions as will
17 provide relief to claimants and policyholders having covered
18 claims against insolvent insurers operating in this state by
19 expediting the handling and payment of covered claims.

20 (g) To achieve the foregoing purposes, it is proper to
21 authorize municipalities and counties of this state
22 substantially affected by the landfall of a hurricane to issue
23 bonds to assist the Florida Insurance Guaranty Association in
24 expediting the handling and payment of covered claims of
25 insolvent insurers.

26 (h) In order to avoid the needless and indiscriminate
27 proliferation, duplication, and fragmentation of such
28 assistance programs, it is in the best interests of the
29 residents of this state to authorize municipalities and
30 counties severely affected by a hurricane to provide for the
31

1 payment of covered claims beyond their territorial limits in
2 the implementation of such programs.

3 (i) It is a paramount public purpose for
4 municipalities and counties substantially affected by the
5 landfall of a hurricane to be able to issue bonds for the
6 purposes described in this section. Such issuance shall
7 provide assistance to residents of those municipalities and
8 counties as well as to other residents of this state.

9 (2) The governing body of any municipality or county,
10 the residents of which have been substantially affected by a
11 hurricane, may issue bonds to fund an assistance program in
12 conjunction with, and with the consent of, the Florida
13 Insurance Guaranty Association for the purpose of paying
14 claimants' or policyholders' covered claims, as defined in s.
15 631.54, arising through the insolvency of an insurer, which
16 insolvency is determined by the Florida Insurance Guaranty
17 Association to have been a result of a hurricane, regardless
18 of whether the claimants or policyholders are residents of
19 such municipality or county or the property to which the claim
20 relates is located within or outside the territorial
21 jurisdiction of the municipality or county. The power of a
22 municipality or county to issue bonds, as described in this
23 section, is in addition to any powers granted by law and may
24 not be abrogated or restricted by any provisions in such
25 municipality's or county's charter. A municipality or county
26 issuing bonds for this purpose shall enter into such contracts
27 with the Florida Insurance Guaranty Association or any entity
28 acting on behalf of the Florida Insurance Guaranty Association
29 as are necessary to implement the assistance program. Any
30 bonds issued by a municipality or county or a combination
31 thereof under this subsection shall be payable from and

1 secured by moneys received by or on behalf of the municipality
2 or county from assessments levied under s. 631.57(3)(a) and
3 assigned and pledged to or on behalf of the municipality or
4 county for the benefit of the holders of the bonds in
5 connection with the assistance program. The funds, credit,
6 property, and taxing power of the state or any municipality or
7 county shall not be pledged for the payment of such bonds.

8 (3) Bonds may be validated by the municipality or
9 county pursuant to chapter 75. The proceeds of the bonds may
10 be used to pay covered claims of insolvent insurers; to
11 refinance or replace previously existing borrowings or
12 financial arrangements; to pay interest on bonds; to fund
13 reserves for the bonds; to pay expenses incident to the
14 issuance or sale of any bond issued under this section,
15 including costs of validating, printing, and delivering the
16 bonds, costs of printing the official statement, costs of
17 publishing notices of sale of the bonds, costs of obtaining
18 credit enhancement or liquidity support, and related
19 administrative expenses; or for such other purposes related to
20 the financial obligations of the fund as the association may
21 determine. The term of the bonds may not exceed 30 years.

22 (4) The state covenants with holders of bonds of the
23 assistance program that the state will not take any action
24 that will have a material adverse effect on the holders and
25 will not repeal or abrogate the power of the board of
26 directors of the association to direct the Office of Insurance
27 Regulation to levy the assessments and to collect the proceeds
28 of the revenues pledged to the payment of the bonds as long as
29 any of the bonds remain outstanding, unless adequate provision
30 has been made for the payment of the bonds in the documents
31 authorizing the issuance of the bonds.

1 (5) The accomplishment of the authorized purposes of
2 such municipality or county under this section is in all
3 respects for the benefit of the people of the state, for the
4 increase of their commerce and prosperity, and for the
5 improvement of their health and living conditions. The
6 municipality or county, in performing essential governmental
7 functions in accomplishing its purposes, is not required to
8 pay any taxes or assessments of any kind whatsoever upon any
9 property acquired or used by the county or municipality for
10 such purposes or upon any revenues at any time received by the
11 county or municipality. The bonds, notes, and other
12 obligations of the municipality or county and the transfer of
13 and income from such bonds, notes, and other obligations,
14 including any profits made on the sale of such bonds, notes,
15 and other obligations, are exempt from taxation of any kind by
16 the state or by any political subdivision or other agency or
17 instrumentality of the state. The exemption granted in this
18 subsection is not applicable to any tax imposed by chapter 220
19 on interest, income, or profits on debt obligations owned by
20 corporations.

21 (6) Two or more municipalities or counties, the
22 residents of which have been substantially affected by a
23 hurricane, may create a legal entity pursuant to s.
24 163.01(7)(g) to exercise the powers described in this section
25 as well as those powers granted in s. 163.01(7)(g). References
26 in this section to a municipality or county includes such
27 legal entity.

28 (7) The association shall issue an annual report on
29 the status of the use of bond proceeds as related to
30 insolvencies caused by hurricanes. The report must contain the
31 number and amount of claims paid. The association shall also

1 include an analysis of the revenue generated from the
2 assessment levied under s. 631.57(3)(a) to pay such bonds. The
3 association shall submit a copy of the report to the President
4 of the Senate, the Speaker of the House of Representatives,
5 and the Chief Financial Officer within 90 days after the end
6 of each calendar year in which bonds were outstanding.

7 Section 29. No provision of s. 631.57 or s. 631.695,
8 Florida Statutes, shall be repealed until such time as the
9 principal, redemption premium, if any, and interest on all
10 bonds issued under s. 631.695, Florida Statutes, payable and
11 secured from assessments levied under s. 631.57(3)(a), Florida
12 Statutes, have been paid in full or adequate provision for
13 such payment has been made in accordance with the bond
14 resolution or trust indenture pursuant to which the bonds were
15 issued.

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

18 877.02 Solicitation of legal services or retainers
19 therefor; penalty.--

20 (2) It shall be unlawful for any person in the employ
21 of or in any capacity attached to any hospital, sanitarium,
22 police department, wrecker service or garage, prison or court,
23 ~~or~~ for a person authorized to furnish bail bonds,
24 investigators, photographers, insurance or public adjusters,
25 or for a general or other contractor as defined in s. 489.105
26 or other business providing sinkhole remediation services, to
27 communicate directly or indirectly with any attorney or person
28 acting on said attorney's behalf for the purpose of aiding,
29 assisting or abetting such attorney in the solicitation of
30 legal business or the procurement through solicitation of a
31

1 | retainer, written or oral, or any agreement authorizing the
2 | attorney to perform or render legal services.

3 | Section 31. For the 2006-2007 fiscal year, the sum
4 | of _____ is appropriated from the General Revenue Fund to the
5 | Department of Community Affairs as a nonrecurring
6 | appropriation for the purposes of the Home Retrofit Hardening
7 | Program specified in s. 215.558, Florida Statutes, as created
8 | by this act.

9 | Section 32. For the 2006-2007 fiscal year, the sum
10 | of _____ is appropriated from the General Revenue Fund to the
11 | Department of Community Affairs as a nonrecurring
12 | appropriation for the purposes of wind certification and
13 | hurricane mitigation inspections specified in s. 215.5586,
14 | Florida Statutes, as created by this act.

15 | Section 33. Except as otherwise expressly provided in
16 | this act, this act shall take effect upon becoming a law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1980

- 4 1. Requires a 25 percent rate surcharge in Citizens Property
5 Insurance Corporation ("Citizens") for personal lines
6 residential property valued at \$1 million or more,
7 effective January 1, 2007, and makes such properties
8 ineligible for coverage with Citizens, effective July 1,
9 2011.
- 10 2. Revises the definition of "homestead property" for
11 purposes of requiring Citizens to impose a 25 percent
12 surcharge for "nonhomestead" property.
- 13 3. Revises standards for rates for coverage provided by
14 Citizens.
- 15 4. Revises standards for approval by the Office of Insurance
16 Regulation of property insurance rates by authorized
17 insurers.
- 18 5. Requires Citizens to report to the Legislature on the
19 feasibility of requiring insurers providing the non-wind
20 coverage to issue and service Citizens' wind policy.
- 21 6. Extends the exemption of medical malpractice premiums
22 from assessments to fund bonds issued by the Florida
23 Hurricane Catastrophe Fund (FHCF).
- 24 7. Clarifies procedures for issuing bonds and collecting
25 assessments, in order to facilitate a bond issue to cover
26 the current deficit of the FHCF.
- 27 8. Requires the public hurricane loss model to be submitted
28 for review by the Florida Commission on Hurricane Loss
29 Projection Methodology. Allows OIR to continue to use
30 the public model in reviewing rate filings until the
31 Commission determines that the public model is not
accurate or reliable.
9. Requires the chief executive officer and chief financial
officer of an insurer or its certified public accountant
to sign a sworn statement certifying the appropriateness
of a rate filing.
10. Requires the Financial Services Commission to provide an
annual report to the Legislature of the probable maximum
losses, financing options, and potential assessments of
Citizens and the FHCF, and the assessment burden on
Florida policyholders.
11. Allows residential policies to provide a deductible for
sinkhole losses equal to 1 percent, 2 percent, 5 percent,
or 10 percent of the dwelling limits and makes other
changes regarding coverage of sinkhole losses.
12. Makes it unlawful for a contractor or business providing
sinkhole remediation services to communicate with any
attorney for the purpose of assisting the attorney in the

1 solicitation of legal business.
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