

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; clarifying that debt
20 | obligations of the corporation are not subject
21 | to taxation; prohibiting the corporation and
22 | other persons from making certain filings
23 | under, or becoming a debtor under, the federal
24 | Bankruptcy Code; postponing the dates by which
25 | the boundaries of high-risk areas must be
26 | reduced; requiring a study of the viability of
27 | authorized insurers issuing and servicing, for
28 | a fee, certain high-risk insurance policies;
29 | requiring a report to legislative leaders;
30 | providing applicability of specified provisions
31 | relating to assessments and surcharges;

1 amending s. 627.3511, F.S.; extending the
2 period for which an insurer that assumes
3 Citizens Property Insurance Corporation's
4 obligations under a policy must renew the
5 replacement policy; revising circumstances
6 under which replacement is not required;
7 amending s. 627.3517, F.S.; providing that an
8 insurance risk apportionment plan
9 policyholder's right to retain his or her
10 current agent does not apply during the first
11 10 days after a new application for coverage
12 has been submitted to Citizens Property
13 Insurance Corporation; creating s. 627.3519,
14 F.S.; requiring the Financial Services
15 Commission to report annually to the
16 Legislature on probable maximum losses,
17 financing options, and assessment potentials of
18 the Florida Hurricane Catastrophe Fund and
19 Citizens Property Insurance Corporation;
20 amending s. 627.4035, F.S.; providing for a
21 waiver of a written authorization requirement
22 to pay claims by debit card or other electronic
23 transfer; creating s. 627.6121, F.S.;
24 prescribing circumstances under which an
25 insurer must pay benefits to a primary
26 policyholder of dual interest property;
27 requiring mortgageholders and lienholders be
28 given notice of such payment; amending s.
29 627.7011, F.S.; limiting certain law and
30 ordinance coverage; providing that the section
31 does not prohibit an insurer from limiting its

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

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

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

1 annual report on the status of certain uses of
2 bond proceeds; providing report requirements;
3 requiring the association to provide a copy of
4 the report to the Legislature and Chief
5 Financial Officer; prohibiting repeal of
6 certain provisions relating to certain bonds
7 under certain circumstances; amending s.
8 877.02, F.S.; prohibiting certain solicitations
9 by contractors and other persons providing
10 sinkhole remediation services; providing
11 penalties; providing appropriations; requiring
12 that an appropriation be transferred to
13 Citizens Property Insurance Corporation to
14 reduce the amount of the regular assessment for
15 a specified deficit; requiring the corporation
16 to notify assessable insurers of the amount by
17 which assessments have been reduced; requiring
18 insurers who recoup assessments to notify
19 policyholders of the amount by which the
20 surcharge has been reduced; providing penalties
21 for a violation; defining terms; repealing s.
22 215.559(3), F.S.; deleting the requirement that
23 the Department of Community Affairs develop a
24 low-interest loan program for retrofitting
25 homes; providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Effective June 1, 2006, paragraph (d) of
30 subsection (2), paragraphs (c) and (d) of subsection (4),
31 paragraph (b) of subsection (5), and paragraphs (a) and (b) of

1 subsection (6) of section 215.555, Florida Statutes, are
2 amended to read:

3 215.555 Florida Hurricane Catastrophe Fund.--

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

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

12 (4) REIMBURSEMENT CONTRACTS.--

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

24 2. In May before the start of the upcoming contract
25 year and in October during the contract year, the board shall
26 publish in the Florida Administrative Weekly a statement of
27 the fund's estimated borrowing capacity and the projected
28 balance of the fund as of December 31. After the end of each
29 calendar year, the board shall notify insurers of the
30 estimated borrowing capacity and the balance of the fund as of
31 December 31 to provide insurers with data necessary to assist

1 | them in determining their retention and projected payout from
2 | the fund for loss reimbursement purposes. In conjunction with
3 | the development of the premium formula, as provided for in
4 | subsection (5), the board shall publish factors or multiples
5 | that assist insurers in determining their retention and
6 | projected payout for the next contract year. For all
7 | regulatory and reinsurance purposes, an insurer may calculate
8 | its projected payout from the fund as its share of the total
9 | fund premium for the current contract year multiplied by the
10 | sum of the projected balance of the fund as of December 31 and
11 | the estimated borrowing capacity for that contract year as
12 | reported under this subparagraph.

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

28 | 2. In determining reimbursements pursuant to this
29 | subsection, the contract shall provide that the board shall:

30 | ~~a. First reimburse insurers writing covered policies,~~
31 | ~~which insurers are in full compliance with this section and~~

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

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

21 b.e. Thereafter, establish the prorated reimbursement
22 level at the highest level for which any remaining fund
23 balance or bond proceeds are sufficient to reimburse entities
24 created pursuant to s. 627.351 based on reimbursable losses
25 exceeding the amounts payable pursuant to sub-subparagraph a.
26 ~~b.~~ for the current contract year.

27 (5) REIMBURSEMENT PREMIUMS.--

28 (b) The State Board of Administration shall select an
29 independent consultant to develop a formula for determining
30 the actuarially indicated premium to be paid to the fund. The
31 formula shall specify, for each zip code or other limited

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

24 (6) REVENUE BONDS.--

25 (a) General provisions.--

26 1. Upon the occurrence of a hurricane and a
27 determination that the moneys in the fund are or will be
28 insufficient to pay reimbursement at the levels promised in
29 the reimbursement contracts, the board may take the necessary
30 steps under paragraph (c) or paragraph (d) for the issuance of
31 revenue bonds for the benefit of the fund. The proceeds of

1 such revenue bonds may be used to make reimbursement payments
2 under reimbursement contracts; to refinance or replace
3 previously existing borrowings or financial arrangements; to
4 pay interest on bonds; to fund reserves for the bonds; to pay
5 expenses incident to the issuance or sale of any bond issued
6 under this section, including costs of validating, printing,
7 and delivering the bonds, costs of printing the official
8 statement, costs of publishing notices of sale of the bonds,
9 and related administrative expenses; or for such other
10 purposes related to the financial obligations of the fund as
11 the board may determine. The term of the bonds may not exceed
12 30 years. The board may pledge or authorize the corporation to
13 pledge all or a portion of all revenues under subsection (5)
14 and under paragraph (b) to secure such revenue bonds and the
15 board may execute such agreements between the board and the
16 issuer of any revenue bonds and providers of other financing
17 arrangements under paragraph (7)(b) as the board deems
18 necessary to evidence, secure, preserve, and protect such
19 pledge. If reimbursement premiums received under subsection
20 (5) or earnings on such premiums are used to pay debt service
21 on revenue bonds, such premiums and earnings shall be used
22 only after the use of the moneys derived from assessments
23 under paragraph (b). The funds, credit, property, or taxing
24 power of the state or political subdivisions of the state
25 shall not be pledged for the payment of such bonds. The board
26 may also enter into agreements under paragraph (c) or
27 paragraph (d) for the purpose of issuing revenue bonds in the
28 absence of a hurricane upon a determination that such action
29 would maximize the ability of the fund to meet future
30 obligations.

31

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

14 (b) Emergency assessments.--

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

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

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

23 3. Emergency assessments shall be collected from
24 policyholders. Emergency assessments shall be remitted by
25 insurers as a percentage of direct written premium for the
26 preceding calendar quarter as specified in the order from the
27 Office of Insurance Regulation. With respect to each insurer
28 ~~collecting premiums that are subject to the assessment, the~~
29 ~~insurer shall collect the assessment at the same time as it~~
30 ~~collects the premium payment for each policy and shall remit~~
31 ~~the assessment collected to the fund or corporation as~~

1 ~~provided in the order issued by the Office of Insurance~~
2 ~~Regulation.~~ The office shall verify the accurate and timely
3 collection and remittance of emergency assessments and shall
4 report the information to the board in a form and at a time
5 specified by the board. Each insurer collecting assessments
6 shall provide the information with respect to premiums and
7 collections as may be required by the office to enable the
8 office to monitor and verify compliance with this paragraph.

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

1 and filing under s. 626.938 and shall report the information
2 to the board in a form and at a time specified by the board.

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

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

28 7. Emergency assessments are not premium and are not
29 subject to the premium tax, to the surplus lines tax, to any
30 fees, or to any commissions. An insurer is liable for all
31 assessments that it collects and must treat the failure of an

1 insured to pay an assessment as a failure to pay the premium.
2 An insurer is not liable for uncollectible assessments.

3 8. When an insurer is required to return an unearned
4 premium, it shall also return any collected assessment
5 attributable to the unearned premium. A credit adjustment to
6 the collected assessment may be made by the insurer with
7 regard to future remittances that are payable to the fund or
8 corporation, but the insurer is not entitled to a refund.

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

16 10. The exemption of medical malpractice insurance
17 premiums from emergency assessments under this paragraph is
18 repealed May 31, 2010 ~~2007~~, and medical malpractice insurance
19 premiums shall be subject to emergency assessments
20 attributable to loss events occurring in the contract years
21 commencing on June 1, 2010 ~~2007~~.

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

24 215.558 Home Retrofit Hardening Program.--The
25 Department of Community Affairs shall establish the Home
26 Retrofit Hardening Program. The program is a competitive grant
27 program to fund improvements to homes constructed before the
28 implementation of the current Florida Building Code to make
29 them less vulnerable to hurricane damage and to decrease the
30 cost of residential property insurance. Site-built homes,
31 manufactured homes, and mobile homes are eligible for funding

1 under this program. However, the highest priority shall be
2 given to low-income homeowners, as defined in s. 420.004(9),
3 who live in wind-borne debris regions as defined in the
4 Florida Building Code, which shall be eligible for up to 100
5 percent of the cost of the improvements. The next highest
6 priority shall be given to homestead dwellings insured at
7 \$500,000 or less and located in the areas designated as
8 high-risk areas for purposes of coverage by the Citizens
9 Property Insurance Corporation, which shall be eligible for up
10 to 50 percent of the cost of the improvements, with priority
11 within this category given to homes insured by Citizens. The
12 next highest priority shall be given to all other homestead
13 dwellings insured at \$500,000 or less, which shall be eligible
14 for up to 25 percent of the cost of the improvements.

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

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

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

31

1 (c) The number of persons who will benefit from the
2 improvements.

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

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

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

9 (a) Roof deck attachment;

10 (b) Secondary water barrier;

11 (c) Roof covering;

12 (d) Brace gable ends;

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

14 (f) Opening protection; and

15 (g) Exterior doors, including garage doors.

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

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

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

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

27 215.5586 Wind certification and hurricane mitigation
28 inspections.--

29 (1) The purpose of this section is to provide wind
30 certification and hurricane mitigation inspections to eligible
31 homeowners in this state for assistance in retrofitting the

1 properties of those homeowners to become less vulnerable to
2 hurricane damage.

3 (2) The Department of Community Affairs shall
4 establish a request for proposals to solicit proposals from
5 wind certification entities to provide, at no cost to
6 homeowners, wind certification and hurricane mitigation
7 inspections. The inspections provided to homeowners, at a
8 minimum, must include the following:

9 (a) A home inspection and report that summarizes the
10 results and identifies corrective actions a homeowner may take
11 to mitigate hurricane damage.

12 (b) A range of cost estimates regarding the mitigation
13 features.

14 (c) Insurer-specific information regarding premium
15 discounts correlated to recommended mitigation features
16 identified by the inspection.

17 (d) A hurricane resistance rating scale specifying the
18 home's current, as well as projected, wind resistance
19 capabilities.

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

23 (a) Use wind certification and hurricane mitigation
24 inspectors who have:

25 1. Prior experience in residential construction or
26 inspection and have received specialized training in hurricane
27 mitigation procedures.

28 2. Undergone drug testing and background checks.

29 3. Been certified, in a manner satisfactory to the
30 department, to conduct the inspections.

31

1 (b) Provide a quality assurance program including a
2 reinspection component.

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

6 Section 4. Paragraph (a) of subsection (4) of section
7 193.155, Florida Statutes, is amended to read:

8 193.155 Homestead assessments.--Homestead property
9 shall be assessed at just value as of January 1, 1994.

10 Property receiving the homestead exemption after January 1,
11 1994, shall be assessed at just value as of January 1 of the
12 year in which the property receives the exemption.

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

22 Section 5. Section 252.63, Florida Statutes, is
23 created to read:

24 252.63 Commissioner of Insurance Regulation; powers in
25 a state of emergency.--

26 (1) It is the purpose and intent of this section to
27 provide the Commissioner of Insurance Regulation the authority
28 to temporarily modify or suspend provisions of the Florida
29 Insurance Code in order to expedite the recovery of
30 communities affected by a disaster or other emergency and
31 encourage insurance companies, entities, and persons subject

1 to the Florida Insurance Code and the jurisdiction of the
2 office to meet the insurance needs of such communities.

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

5 1. One or more general orders applicable to all
6 insurance companies, entities, and persons, as defined in s.
7 624.04, which are subject to the Florida Insurance Code and
8 serve any portion of the area of the state under the state of
9 emergency; or

10 2. One or more specific orders to particular insurance
11 companies, entities, and persons that are subject to the
12 Florida Insurance Code, as defined in s. 624.01, which orders
13 may modify or suspend, as to those companies, entities, and
14 persons, all or any part of the Florida Insurance Code, or any
15 applicable rule, consistent with the stated purposes of the
16 Florida Insurance Code.

17 (b) An order issued by the commissioner under this
18 section becomes effective upon issuance and continues for 120
19 days unless terminated sooner by the commissioner. The
20 commissioner may extend an order for one additional period of
21 120 days if he or she determines that the emergency conditions
22 that gave rise to the initial order still exist. By concurrent
23 resolution, the Legislature may terminate any order issued
24 under this section.

25 (3) The commissioner shall publish in the next
26 available publication of the Florida Administrative Weekly a
27 copy of the text of any order issued under this section,
28 together with a statement describing the modification or
29 suspension and explaining how the modification or suspension
30 will facilitate recovery from the emergency.

31

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

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

8 626.918 Eligible surplus lines insurers.--

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

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

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

18 (b) The insurer must be currently an authorized
19 insurer in the state or country of its domicile as to the kind
20 or kinds of insurance proposed to be so placed and must have
21 been such an insurer for not less than the 3 years next
22 preceding or must be the wholly owned subsidiary of such
23 authorized insurer or must be the wholly owned subsidiary of
24 an already eligible surplus lines insurer as to the kind or
25 kinds of insurance proposed for a period of not less than the
26 3 years next preceding. However, the office may waive the
27 3-year requirement if the insurer provides a product or
28 service not readily available to the consumers of this state
29 or has operated successfully for a period of at least 1 year
30 next preceding and has capital and surplus of not less than
31 \$25 million.+

1 (c) Before granting eligibility, the requesting
2 surplus lines agent or the insurer shall furnish the office
3 with a duly authenticated copy of its current annual financial
4 statement in the English language and with all monetary values
5 therein expressed in United States dollars, at an exchange
6 rate (in the case of statements originally made in the
7 currencies of other countries) then-current and shown in the
8 statement, and with such additional information relative to
9 the insurer as the office may request.†

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

30 ~~b.2.~~ For those surplus lines insurers that were
31 eligible on January 1, 1994, and that maintained their

1 eligibility thereafter, the required surplus as to
2 policyholders shall be:

3 ~~(I)a-~~ On December 31, 1994, and until December 30,
4 1995, \$2.5 million.

5 ~~(II)b-~~ On December 31, 1995, and until December 30,
6 1996, \$3.5 million.

7 ~~(III)c-~~ On December 31, 1996, and until December 30,
8 1997, \$4.5 million.

9 ~~(IV)d-~~ On December 31, 1997, and until December 30,
10 1998, \$5.5 million.

11 ~~(V)e-~~ On December 31, 1998, and until December 30,
12 1999, \$6.5 million.

13 ~~(VI)f-~~ On December 31, 1999, and until December 30,
14 2000, \$8 million.

15 ~~(VII)g-~~ On December 31, 2000, and until December 30,
16 2001, \$9.5 million.

17 ~~(VIII)h-~~ On December 31, 2001, and until December 30,
18 2002, \$11 million.

19 ~~(IX)i-~~ On December 31, 2002, and until December 30,
20 2003, \$13 million.

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

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

1 individual syndicate shall maintain minimum capital and
2 surplus in an amount not less than \$3 million. If the
3 insurance exchange does not maintain funds in the amount of at
4 least \$12 million for the protection of all insurance exchange
5 policyholders, each individual syndicate shall meet the
6 minimum capital and surplus requirements set forth in
7 sub-subparagraph b. ~~subparagraph 2.~~

8 d.4. A surplus lines insurer which is a member of an
9 insurance holding company that includes a member which is a
10 Florida domestic insurer as set forth in its holding company
11 registration statement, as set forth in s. 628.801 and rules
12 adopted thereunder, may elect to maintain surplus as to
13 policyholders in an amount equal to the requirements of s.
14 624.408, subject to the requirement that the surplus lines
15 insurer shall at all times be in compliance with the
16 requirements of chapter 625.

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

27 2. For purposes of letters of credit under
28 subparagraph 1., the term "qualified United States financial
29 institution" means an institution that:

1 a. Is organized or, in the case of a United States
2 office of a foreign banking organization, is licensed under
3 the laws of the United States or any state.

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

7 c. Has been determined by the office or the Securities
8 Valuation Office of the National Association of Insurance
9 Commissioners to meet such standards of financial condition
10 and standing as are considered necessary and appropriate to
11 regulate the quality of financial institutions whose letters
12 of credit are acceptable to the office.

13 (e) The insurer must be of good reputation as to the
14 providing of service to its policyholders and the payment of
15 losses and claims.†

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

18 (g) This subsection does not apply as to unauthorized
19 insurers made eligible under s. 626.917 as to wet marine and
20 aviation risks.

21 Section 7. Effective July 1, 2006, paragraphs (a) and
22 (b) of subsection (2) and subsection (5) of section 627.062,
23 Florida Statutes, are amended, and subsection (9) is added to
24 that section, to read:

25 627.062 Rate standards.--

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

27 (a) Insurers or rating organizations shall establish
28 and use rates, rating schedules, or rating manuals to allow
29 the insurer a reasonable rate of return on such classes of
30 insurance written in this state. A copy of rates, rating
31 schedules, rating manuals, premium credits or discount

1 | schedules, and surcharge schedules, and changes thereto, shall
2 | be filed with the office under one of the following
3 | procedures:

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

22 | 2. If the filing is not made in accordance with the
23 | provisions of subparagraph 1., such filing shall be made as
24 | soon as practicable, but no later than 30 days after the
25 | effective date, and shall be considered a "use and file"
26 | filing. An insurer making a "use and file" filing is
27 | potentially subject to an order by the office to return to
28 | policyholders portions of rates found to be excessive, as
29 | provided in paragraph (h).

30 | 3. The chief executive officer and the chief financial
31 | officer of each property insurer, or its certified public

1 accountant acting on its behalf, shall sign a statement of
2 certification, sworn under oath, to accompany the rate filing.
3 The statement must certify the appropriateness of the
4 information provided in the rate filing and that the
5 information fairly presents, in all material respects, the
6 basis of the rate filing submitted by the property and
7 casualty insurer. The insurer shall certify all of the
8 information and factors described in paragraph (b), including,
9 but not limited to, investment income. The Office of Insurance
10 Regulation shall adopt by rule the form for the statement of
11 certification. Failure to provide the statement of
12 certification shall result in the rate filing being
13 disapproved without prejudice to be refiled.

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

- 20 1. Past and prospective loss experience within and
21 without this state.
- 22 2. Past and prospective expenses.
- 23 3. The degree of competition among insurers for the
24 risk insured.
- 25 4. Investment income reasonably expected by the
26 insurer, consistent with the insurer's investment practices,
27 from investable premiums anticipated in the filing, plus any
28 other expected income from currently invested assets
29 representing the amount expected on unearned premium reserves
30 and loss reserves. The commission may adopt rules utilizing
31 reasonable techniques of actuarial science and economics to

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

9 5. The reasonableness of the judgment reflected in the
10 filing.

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

14 7. The adequacy of loss reserves.

15 8. The cost of reinsurance, as further specified in
16 subsection (5).

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

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

21 11. A reasonable margin for underwriting profit and
22 contingencies.

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

24 13. Other relevant factors which impact upon the
25 frequency or severity of claims or upon expenses.

26
27 The provisions of this subsection shall not apply to workers'
28 compensation and employer's liability insurance and to motor
29 vehicle insurance.

30 (5) With respect to a rate filing involving coverage
31 of the type for which the insurer is required to pay a

1 reimbursement premium to the Florida Hurricane Catastrophe
2 Fund, the insurer may fully recoup in its property insurance
3 premiums any reimbursement premiums paid to the Florida
4 Hurricane Catastrophe Fund, together with ~~reasonable~~ costs of
5 other reinsurance consistent with prudent business practices
6 and sound actuarial principles, but may not recoup reinsurance
7 costs that duplicate coverage provided by the Florida
8 Hurricane Catastrophe Fund. The burden is on the office to
9 establish that any costs of other reinsurance are in excess of
10 amounts consistent with prudent business practices and sound
11 actuarial principles. An insurer may not recoup more than 1
12 year of reimbursement premium at a time. Any under-recoupment
13 from the prior year may be added to the following year's
14 reimbursement premium and any over-recoupment shall be
15 subtracted from the following year's reimbursement premium.

16 (9) The burden is on the office to establish that
17 rates are excessive for personal lines residential coverage
18 with a dwelling replacement cost of \$1 million or more or for
19 a single condominium unit with a combined dwelling and
20 contents replacement cost of \$1 million or more.

21 Section 8. Section 627.06281, Florida Statutes, is
22 amended to read:

23 627.06281 Public hurricane loss projection model;
24 reporting of data by insurers.--

25 (1) Within 30 days after a written request for loss
26 data and associated exposure data by the office or a type I
27 center within the State University System established to study
28 mitigation, residential property insurers and licensed rating
29 and advisory organizations that compile residential property
30 insurance loss data shall provide loss data and associated
31 exposure data for residential property insurance policies to

1 | the office or to a type I center within the State University
2 | System established to study mitigation, as directed by the
3 | office, for the purposes of developing, maintaining, and
4 | updating a public model for hurricane loss projections. The
5 | loss data and associated exposure data provided shall be in
6 | writing.

7 | (2) The public model must be submitted to the Florida
8 | Commission on Hurricane Loss Projection Methodology for review
9 | under s. 627.0628. The office may continue to use the model
10 | for its review of rate filings pursuant to ss. 627.062 and
11 | 627.351 until such time as the Florida Commission on Hurricane
12 | Loss Projection Methodology determines that the public model
13 | is not accurate or reliable pursuant to the same process and
14 | standards as the commission uses for the review of other
15 | hurricane loss projection models.

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

18 | 627.351 Insurance risk apportionment plans.--

19 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

20 | (a)1. The Legislature finds that actual and threatened
21 | catastrophic losses to property in this state from hurricanes
22 | have caused insurers to be unwilling or unable to provide
23 | property insurance coverage to the extent sought and needed.
24 | It is in the public interest and a public purpose to assist in
25 | assuring that property in the state is insured so as to
26 | facilitate the remediation, reconstruction, and replacement of
27 | damaged or destroyed property in order to reduce or avoid the
28 | negative effects otherwise resulting to the public health,
29 | safety, and welfare; to the economy of the state; and to the
30 | revenues of the state and local governments needed to provide
31 | for the public welfare. It is necessary, therefore, to provide

1 | property insurance to applicants who are in good faith
2 | entitled to procure insurance through the voluntary market but
3 | are unable to do so. The Legislature intends by this
4 | subsection that property insurance be provided and that it
5 | continues, as long as necessary, through an entity organized
6 | to achieve efficiencies and economies, while providing service
7 | to policyholders, applicants, and agents that is no less than
8 | the quality generally provided in the voluntary market, all
9 | toward the achievement of the foregoing public purposes.
10 | Because it is essential for the corporation to have the
11 | maximum financial resources to pay claims following a
12 | catastrophic hurricane, it is the intent of the Legislature
13 | that the income of the corporation be exempt from federal
14 | income taxation and that interest on the debt obligations
15 | issued by the corporation be exempt from federal income
16 | taxation.

17 | 2. The Residential Property and Casualty Joint
18 | Underwriting Association originally created by this statute
19 | shall be known, as of July 1, 2002, as the Citizens Property
20 | Insurance Corporation. The corporation shall provide insurance
21 | for residential and commercial property, for applicants who
22 | are in good faith entitled, but are unable, to procure
23 | insurance through the voluntary market. The corporation shall
24 | operate pursuant to a plan of operation approved by order of
25 | the Financial Services Commission ~~office~~. The plan is subject
26 | to continuous review by the commission ~~office~~. The commission
27 | ~~office~~ may, by order, withdraw approval of all or part of a
28 | plan if the commission ~~office~~ determines that conditions have
29 | changed since approval was granted and that the purposes of
30 | the plan require changes in the plan. The corporation shall
31 | continue to operate pursuant to the plan of operation approved

1 by the Office of Insurance Regulation until October 1, 2006.

2 For the purposes of this subsection, residential coverage
3 includes both personal lines residential coverage, which
4 consists of the type of coverage provided by homeowner's,
5 mobile home owner's, dwelling, tenant's, condominium unit
6 owner's, and similar policies, and commercial lines
7 residential coverage, which consists of the type of coverage
8 provided by condominium association, apartment building, and
9 similar policies.

10 3. For the purposes of this subsection, the term
11 "homestead property" means:

12 a. Property that has been granted a homestead
13 exemption under chapter 196;

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

18 c. An owner-occupied mobile home or manufactured home,
19 as defined in s. 320.01, which is permanently affixed to real
20 property, is owned by a Florida resident, and has been granted
21 a homestead exemption under chapter 196 or, if the owner does
22 not own the real property, the owner certifies that the mobile
23 home or manufactured home is his or her principal place of
24 residence.

25 d. Tenants coverage; or

26 e. Commercial lines coverage, including both
27 residential and nonresidential.

28 4. For the purposes of this subsection, the term
29 "nonhomestead property" means property that is not homestead
30 property.

31

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

6 ~~6.3.~~ It is the intent of the Legislature that
7 policyholders, applicants, and agents of the corporation
8 receive service and treatment of the highest possible level
9 but never less than that generally provided in the voluntary
10 market. It also is intended that the corporation be held to
11 service standards no less than those applied to insurers in
12 the voluntary market by the office with respect to
13 responsiveness, timeliness, customer courtesy, and overall
14 dealings with policyholders, applicants, or agents of the
15 corporation.

16 (b)1. All insurers authorized to write one or more
17 subject lines of business in this state are subject to
18 assessment by the corporation and, for the purposes of this
19 subsection, are referred to collectively as "assessable
20 insurers." Insurers writing one or more subject lines of
21 business in this state pursuant to part VIII of chapter 626
22 are not assessable insurers, but insureds who procure one or
23 more subject lines of business in this state pursuant to part
24 VIII of chapter 626 are subject to assessment by the
25 corporation and are referred to collectively as "assessable
26 insureds." An authorized insurer's assessment liability shall
27 begin on the first day of the calendar year following the year
28 in which the insurer was issued a certificate of authority to
29 transact insurance for subject lines of business in this state
30 and shall terminate 1 year after the end of the first calendar
31 year during which the insurer no longer holds a certificate of

1 authority to transact insurance for subject lines of business
2 in this state.

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

6 (I) A personal lines account for personal residential
7 policies issued by the corporation or issued by the
8 Residential Property and Casualty Joint Underwriting
9 Association and renewed by the corporation that provide
10 comprehensive, multiperil coverage on risks that are not
11 located in areas eligible for coverage in the Florida
12 Windstorm Underwriting Association as those areas were defined
13 on January 1, 2002, and for such policies that do not provide
14 coverage for the peril of wind on risks that are located in
15 such areas;

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

26 (III) A high-risk account for personal residential
27 policies and commercial residential and commercial
28 nonresidential property policies issued by the corporation or
29 transferred to the corporation that provide coverage for the
30 peril of wind on risks that are located in areas eligible for
31 coverage in the Florida Windstorm Underwriting Association as

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

22 | b. The three separate accounts must be maintained as
23 | long as financing obligations entered into by the Florida
24 | Windstorm Underwriting Association or Residential Property and
25 | Casualty Joint Underwriting Association are outstanding, in
26 | accordance with the terms of the corresponding financing
27 | documents. When the financing obligations are no longer
28 | outstanding, in accordance with the terms of the corresponding
29 | financing documents, the corporation may use a single account
30 | for all revenues, assets, liabilities, losses, and expenses of
31 | the corporation. Consistent with the requirement of this

1 subparagraph and prudent investment policies that minimize the
2 cost of carrying debt, the board shall exercise its best
3 efforts to retire existing debt or to obtain approval of
4 necessary parties to amend the terms of existing debt, so as
5 to structure the most efficient plan to consolidate the three
6 separate accounts into a single account. By February 1, 2007,
7 the board shall submit a report to the Financial Services
8 Commission, the President of the Senate, and the Speaker of
9 the House of Representatives which includes an analysis of
10 consolidating the accounts, the actions the board has taken to
11 minimize the cost of carrying debt, and its recommendations
12 for executing the most efficient plan.

13 c. Creditors of the Residential Property and Casualty
14 Joint Underwriting Association shall have a claim against, and
15 recourse to, the accounts referred to in sub-sub-subparagraphs
16 a.(I) and (II) and shall have no claim against, or recourse
17 to, the account referred to in sub-sub-subparagraph a.(III).
18 Creditors of the Florida Windstorm Underwriting Association
19 shall have a claim against, and recourse to, the account
20 referred to in sub-sub-subparagraph a.(III) and shall have no
21 claim against, or recourse to, the accounts referred to in
22 sub-sub-subparagraphs a.(I) and (II).

23 d. Revenues, assets, liabilities, losses, and expenses
24 not attributable to particular accounts shall be prorated
25 among the accounts.

26 e. The Legislature finds that the revenues of the
27 corporation are revenues that are necessary to meet the
28 requirements set forth in documents authorizing the issuance
29 of bonds under this subsection.

30 f. No part of the income of the corporation may inure
31 to the benefit of any private person.

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

2 a. When the deficit incurred in a particular calendar
3 year is not greater than 10 percent of the aggregate statewide
4 direct written premium for the subject lines of business for
5 the prior calendar year, the entire deficit shall be recovered
6 through regular assessments of assessable insurers under
7 paragraph (p) ~~(g)~~ and assessable insureds.

8 b. When the deficit incurred in a particular calendar
9 year exceeds 10 percent of the aggregate statewide direct
10 written premium for the subject lines of business for the
11 prior calendar year, the corporation shall levy regular
12 assessments on assessable insurers under paragraph (p) ~~(g)~~ and
13 on assessable insureds in an amount equal to the greater of 10
14 percent of the deficit or 10 percent of the aggregate
15 statewide direct written premium for the subject lines of
16 business for the prior calendar year. Any remaining deficit
17 shall be recovered through emergency assessments under
18 sub-subparagraph d.

19 c. Each assessable insurer's share of the amount being
20 assessed under sub-subparagraph a. or sub-subparagraph b.
21 shall be in the proportion that the assessable insurer's
22 direct written premium for the subject lines of business for
23 the year preceding the assessment bears to the aggregate
24 statewide direct written premium for the subject lines of
25 business for that year. The assessment percentage applicable
26 to each assessable insured is the ratio of the amount being
27 assessed under sub-subparagraph a. or sub-subparagraph b. to
28 the aggregate statewide direct written premium for the subject
29 lines of business for the prior year. Assessments levied by
30 the corporation on assessable insurers under sub-subparagraphs
31 a. and b. shall be paid as required by the corporation's plan

1 of operation and paragraph ~~(p)~~~~(g)~~. Notwithstanding any other
2 provision of this subsection, the aggregate amount of a
3 regular assessment for a deficit incurred in a particular
4 calendar year shall be reduced by the estimated amount to be
5 received by the corporation from surcharges on corporation
6 policyholders under subparagraph (c)11. Assessments levied by
7 the corporation on assessable insureds under sub-subparagraphs
8 a. and b. shall be collected by the surplus lines agent at the
9 time the surplus lines agent collects the surplus lines tax
10 required by s. 626.932 and shall be paid to the Florida
11 Surplus Lines Service Office at the time the surplus lines
12 agent pays the surplus lines tax to the Florida Surplus Lines
13 Service Office. Upon receipt of regular assessments from
14 surplus lines agents, the Florida Surplus Lines Service Office
15 shall transfer the assessments directly to the corporation as
16 determined by the corporation.

17 d. Upon a determination by the board of governors that
18 a deficit in an account exceeds the amount that will be
19 recovered through regular assessments under sub-subparagraph
20 a. or sub-subparagraph b., the board shall levy, after
21 verification by the office, emergency assessments, for as many
22 years as necessary to cover the deficits, to be collected by
23 assessable insurers and the corporation and collected from
24 assessable insureds upon issuance or renewal of policies for
25 subject lines of business, excluding National Flood Insurance
26 policies. The amount of the emergency assessment collected in
27 a particular year shall be a uniform percentage of that year's
28 direct written premium for subject lines of business and all
29 accounts of the corporation, excluding National Flood
30 Insurance Program policy premiums, as annually determined by
31 the board and verified by the office. The office shall verify

1 | the arithmetic calculations involved in the board's
2 | determination within 30 days after receipt of the information
3 | on which the determination was based. Notwithstanding any
4 | other provision of law, the corporation and each assessable
5 | insurer that writes subject lines of business shall collect
6 | emergency assessments from its policyholders without such
7 | obligation being affected by any credit, limitation,
8 | exemption, or deferment. Emergency assessments levied by the
9 | corporation on assessable insureds shall be collected by the
10 | surplus lines agent at the time the surplus lines agent
11 | collects the surplus lines tax required by s. 626.932 and
12 | shall be paid to the Florida Surplus Lines Service Office at
13 | the time the surplus lines agent pays the surplus lines tax to
14 | the Florida Surplus Lines Service Office. The emergency
15 | assessments so collected shall be transferred directly to the
16 | corporation on a periodic basis as determined by the
17 | corporation and shall be held by the corporation solely in the
18 | applicable account. The aggregate amount of emergency
19 | assessments levied for an account under this sub-subparagraph
20 | in any calendar year may not exceed the greater of 10 percent
21 | of the amount needed to cover the original deficit, plus
22 | interest, fees, commissions, required reserves, and other
23 | costs associated with financing of the original deficit, or 10
24 | percent of the aggregate statewide direct written premium for
25 | subject lines of business and for all accounts of the
26 | corporation for the prior year, plus interest, fees,
27 | commissions, required reserves, and other costs associated
28 | with financing the original deficit.

29 | e. The corporation may pledge the proceeds of
30 | assessments, projected recoveries from the Florida Hurricane
31 | Catastrophe Fund, other insurance and reinsurance

1 recoverables, policyholder ~~market equalization~~ surcharges and
2 other surcharges, and other funds available to the corporation
3 as the source of revenue for and to secure bonds issued under
4 paragraph (p) ~~(g)~~, bonds or other indebtedness issued under
5 subparagraph (c)3., or lines of credit or other financing
6 mechanisms issued or created under this subsection, or to
7 retire any other debt incurred as a result of deficits or
8 events giving rise to deficits, or in any other way that the
9 board determines will efficiently recover such deficits. The
10 purpose of the lines of credit or other financing mechanisms
11 is to provide additional resources to assist the corporation
12 in covering claims and expenses attributable to a catastrophe.
13 As used in this subsection, the term "assessments" includes
14 regular assessments under sub-subparagraph a.,
15 sub-subparagraph b., or subparagraph (p)1. ~~(g)1.~~ and emergency
16 assessments under sub-subparagraph d. Emergency assessments
17 collected under sub-subparagraph d. are not part of an
18 insurer's rates, are not premium, and are not subject to
19 premium tax, fees, or commissions; however, failure to pay the
20 emergency assessment shall be treated as failure to pay
21 premium. The emergency assessments under sub-subparagraph d.
22 shall continue as long as any bonds issued or other
23 indebtedness incurred with respect to a deficit for which the
24 assessment was imposed remain outstanding, unless adequate
25 provision has been made for the payment of such bonds or other
26 indebtedness pursuant to the documents governing such bonds or
27 other indebtedness.

28 f. As used in this subsection, the term "subject lines
29 of business" means insurance written by assessable insurers or
30 procured by assessable insureds on real or personal property,
31 as defined in s. 624.604, including insurance for fire,

1 industrial fire, allied lines, farmowners multiperil,
2 homeowners multiperil, commercial multiperil, and mobile
3 homes, and including liability coverage on all such insurance,
4 but excluding inland marine as defined in s. 624.607(3) and
5 excluding vehicle insurance as defined in s. 624.605(1) other
6 than insurance on mobile homes used as permanent dwellings.

7 g. The Florida Surplus Lines Service Office shall
8 determine annually the aggregate statewide written premium in
9 subject lines of business procured by assessable insureds and
10 shall report that information to the corporation in a form and
11 at a time the corporation specifies to ensure that the
12 corporation can meet the requirements of this subsection and
13 the corporation's financing obligations.

14 h. The Florida Surplus Lines Service Office shall
15 verify the proper application by surplus lines agents of
16 assessment percentages for regular assessments and emergency
17 assessments levied under this subparagraph on assessable
18 insureds and shall assist the corporation in ensuring the
19 accurate, timely collection and payment of assessments by
20 surplus lines agents as required by the corporation.

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

22 1. Must provide for adoption of residential property
23 and casualty insurance policy forms and commercial residential
24 and nonresidential property insurance forms, which forms must
25 be approved by the office prior to use. The corporation shall
26 adopt the following policy forms:

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

1 b. Basic personal lines policy forms that are policies
2 similar to an HO-8 policy or a dwelling fire policy that
3 provide coverage meeting the requirements of the secondary
4 mortgage market, but which coverage is more limited than the
5 coverage under a standard policy.

6 c. Commercial lines residential policy forms that are
7 generally similar to the basic perils of full coverage
8 obtainable for commercial residential structures in the
9 admitted voluntary market.

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

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

20 2.a. Must provide that the corporation adopt a program
21 in which the corporation and authorized insurers enter into
22 quota share primary insurance agreements for hurricane
23 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
24 and adopt property insurance forms for eligible risks which
25 cover the peril of wind only. As used in this subsection, the
26 term:

27 (I) "Quota share primary insurance" means an
28 arrangement in which the primary hurricane coverage of an
29 eligible risk is provided in specified percentages by the
30 corporation and an authorized insurer. The corporation and
31 authorized insurer are each solely responsible for a specified

1 percentage of hurricane coverage of an eligible risk as set
2 forth in a quota share primary insurance agreement between the
3 corporation and an authorized insurer and the insurance
4 contract. The responsibility of the corporation or authorized
5 insurer to pay its specified percentage of hurricane losses of
6 an eligible risk, as set forth in the quota share primary
7 insurance agreement, may not be altered by the inability of
8 the other party to the agreement to pay its specified
9 percentage of hurricane losses. Eligible risks that are
10 provided hurricane coverage through a quota share primary
11 insurance arrangement must be provided policy forms that set
12 forth the obligations of the corporation and authorized
13 insurer under the arrangement, clearly specify the percentages
14 of quota share primary insurance provided by the corporation
15 and authorized insurer, and conspicuously and clearly state
16 that neither the authorized insurer nor the corporation may be
17 held responsible beyond its specified percentage of coverage
18 of hurricane losses.

19 (II) "Eligible risks" means personal lines residential
20 and commercial lines residential risks that meet the
21 underwriting criteria of the corporation and are located in
22 areas that were eligible for coverage by the Florida Windstorm
23 Underwriting Association on January 1, 2002.

24 b. The corporation may enter into quota share primary
25 insurance agreements with authorized insurers at corporation
26 coverage levels of 90 percent and 50 percent.

27 c. If the corporation determines that additional
28 coverage levels are necessary to maximize participation in
29 quota share primary insurance agreements by authorized
30 insurers, the corporation may establish additional coverage
31

1 | levels. However, the corporation's quota share primary
2 | insurance coverage level may not exceed 90 percent.

3 | d. Any quota share primary insurance agreement entered
4 | into between an authorized insurer and the corporation must
5 | provide for a uniform specified percentage of coverage of
6 | hurricane losses, by county or territory as set forth by the
7 | corporation board, for all eligible risks of the authorized
8 | insurer covered under the quota share primary insurance
9 | agreement.

10 | e. Any quota share primary insurance agreement entered
11 | into between an authorized insurer and the corporation is
12 | subject to review and approval by the office. However, such
13 | agreement shall be authorized only as to insurance contracts
14 | entered into between an authorized insurer and an insured who
15 | is already insured by the corporation for wind coverage.

16 | f. For all eligible risks covered under quota share
17 | primary insurance agreements, the exposure and coverage levels
18 | for both the corporation and authorized insurers shall be
19 | reported by the corporation to the Florida Hurricane
20 | Catastrophe Fund. For all policies of eligible risks covered
21 | under quota share primary insurance agreements, the
22 | corporation and the authorized insurer shall maintain complete
23 | and accurate records for the purpose of exposure and loss
24 | reimbursement audits as required by Florida Hurricane
25 | Catastrophe Fund rules. The corporation and the authorized
26 | insurer shall each maintain duplicate copies of policy
27 | declaration pages and supporting claims documents.

28 | g. The corporation board shall establish in its plan
29 | of operation standards for quota share agreements which ensure
30 | that there is no discriminatory application among insurers as
31 | to the terms of quota share agreements, pricing of quota share

1 | agreements, incentive provisions if any, and consideration
2 | paid for servicing policies or adjusting claims.

3 | h. The quota share primary insurance agreement between
4 | the corporation and an authorized insurer must set forth the
5 | specific terms under which coverage is provided, including,
6 | but not limited to, the sale and servicing of policies issued
7 | under the agreement by the insurance agent of the authorized
8 | insurer producing the business, the reporting of information
9 | concerning eligible risks, the payment of premium to the
10 | corporation, and arrangements for the adjustment and payment
11 | of hurricane claims incurred on eligible risks by the claims
12 | adjuster and personnel of the authorized insurer. Entering
13 | into a quota sharing insurance agreement between the
14 | corporation and an authorized insurer shall be voluntary and
15 | at the discretion of the authorized insurer.

16 | 3. May provide that the corporation may employ or
17 | otherwise contract with individuals or other entities to
18 | provide administrative or professional services that may be
19 | appropriate to effectuate the plan. The corporation shall have
20 | the power to borrow funds, by issuing bonds or by incurring
21 | other indebtedness, and shall have other powers reasonably
22 | necessary to effectuate the requirements of this subsection,
23 | including, without limitation, the power to issue bonds and
24 | incur other indebtedness in order to refinance outstanding
25 | bonds or other indebtedness. The corporation may, but is not
26 | required to, seek judicial validation of its bonds or other
27 | indebtedness under chapter 75. The corporation may issue bonds
28 | or incur other indebtedness, or have bonds issued on its
29 | behalf by a unit of local government pursuant to subparagraph
30 | (g)2., in the absence of a hurricane or other weather-related
31 | event, upon a determination by the corporation, subject to

1 approval by the office, that such action would enable it to
2 efficiently meet the financial obligations of the corporation
3 and that such financings are reasonably necessary to
4 effectuate the requirements of this subsection. The
5 corporation is authorized to take all actions needed to
6 facilitate tax-free status for any such bonds or indebtedness,
7 including formation of trusts or other affiliated entities.
8 The corporation shall have the authority to pledge
9 assessments, projected recoveries from the Florida Hurricane
10 Catastrophe Fund, other reinsurance recoverables, market
11 equalization and other surcharges, and other funds available
12 to the corporation as security for bonds or other
13 indebtedness. In recognition of s. 10, Art. I of the State
14 Constitution, prohibiting the impairment of obligations of
15 contracts, it is the intent of the Legislature that no action
16 be taken whose purpose is to impair any bond indenture or
17 financing agreement or any revenue source committed by
18 contract to such bond or other indebtedness.

19 4.a. Must require that the corporation operate subject
20 to the supervision and approval of a board of governors
21 consisting of 8 individuals who are residents of this state,
22 from different geographical areas of this state. The Governor,
23 the Chief Financial Officer, the President of the Senate, and
24 the Speaker of the House of Representatives shall each appoint
25 two members of the board, ~~effective August 1, 2005~~. At least
26 one of the two members appointed by each appointing officer
27 must have demonstrated expertise in insurance. The Chief
28 Financial Officer shall designate one of the appointees as
29 chair. All board members serve at the pleasure of the
30 appointing officer. All board members, including the chair,
31 must be appointed to serve for 3-year terms beginning annually

1 on a date designated by the plan. Any board vacancy shall be
2 filled for the unexpired term by the appointing officer. The
3 Chief Financial Officer shall appoint a technical advisory
4 group to provide information and advice to the board of
5 governors in connection with the board's duties under this
6 subsection. The executive director and senior managers of the
7 corporation shall be engaged by the board, ~~as recommended by~~
8 ~~the Chief Financial Officer,~~ and serve at the pleasure of the
9 board. Any executive director appointed on or after July 1,
10 2006, is subject to confirmation by the Senate. The executive
11 director is responsible for employing other staff as the
12 corporation may require, subject to review and concurrence by
13 the board ~~and the Chief Financial Officer.~~

14 b. The board shall create a Market Accountability
15 Advisory Committee to assist the corporation in developing
16 awareness of its rates and its customer and agent service
17 levels in relationship to the voluntary market insurers
18 writing similar coverage. The members of the advisory
19 committee shall consist of the following 11 persons, one of
20 whom must be elected chair by the members of the committee:
21 four representatives, one appointed by the Florida Association
22 of Insurance Agents, one by the Florida Association of
23 Insurance and Financial Advisors, one by the Professional
24 Insurance Agents of Florida, and one by the Latin American
25 Association of Insurance Agencies; three representatives
26 appointed by the insurers with the three highest voluntary
27 market share of residential property insurance business in the
28 state; one representative from the Office of Insurance
29 Regulation; one consumer appointed by the board who is insured
30 by the corporation at the time of appointment to the
31 committee; one representative appointed by the Florida

1 Association of Realtors; and one representative appointed by
2 the Florida Bankers Association. All members must serve for
3 3-year terms and may serve for consecutive terms. The
4 committee shall report to the corporation at each board
5 meeting on insurance market issues which may include rates and
6 rate competition with the voluntary market; service, including
7 policy issuance, claims processing, and general responsiveness
8 to policyholders, applicants, and agents; and matters relating
9 to depopulation.

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

12 a. Subject to the provisions of s. 627.3517, with
13 respect to personal lines residential risks, if the risk is
14 offered coverage from an authorized insurer at the insurer's
15 approved rate under either a standard policy including wind
16 coverage or, if consistent with the insurer's underwriting
17 rules as filed with the office, a basic policy including wind
18 coverage, the risk is not eligible for any policy issued by
19 the corporation. If the risk is not able to obtain any such
20 offer, the risk is eligible for either a standard policy
21 including wind coverage or a basic policy including wind
22 coverage issued by the corporation; however, if the risk could
23 not be insured under a standard policy including wind coverage
24 regardless of market conditions, the risk shall be eligible
25 for a basic policy including wind coverage unless rejected
26 under subparagraph 8. The corporation shall determine the type
27 of policy to be provided on the basis of objective standards
28 specified in the underwriting manual and based on generally
29 accepted underwriting practices.

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 to the
5 corporation is not currently appointed by the insurer, the
6 insurer shall:

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

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

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

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

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

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

1 | period of not less than 1 year and offer to pay the agent the
2 | greater of the insurer's or the corporation's usual and
3 | customary commission for the type of policy written.
4 |

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

8 | b. With respect to commercial lines residential risks,
9 | if the risk is offered coverage under a policy including wind
10 | coverage from an authorized insurer at its approved rate, the
11 | risk is not eligible for any policy issued by the corporation.
12 | If the risk is not able to obtain any such offer, the risk is
13 | eligible for a policy including wind coverage issued by the
14 | corporation.

15 | (I) If the risk accepts an offer of coverage through
16 | the market assistance plan or an offer of coverage through a
17 | mechanism established by the corporation before a policy is
18 | issued to the risk by the corporation or during the first 30
19 | days of coverage by the corporation, and the producing agent
20 | who submitted the application to the plan or the corporation
21 | is not currently appointed by the insurer, the 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 6. Must provide by July 1, 2007, that an application
24 for coverage for a new policy is subject to a waiting period
25 of 10 days before coverage is effective, during which time the
26 corporation shall make such application available for review
27 by general lines agents and authorized property and casualty
28 insurers. The board may approve exceptions that allow for
29 coverage to be effective before the end of the 10-day waiting
30 period, for coverage issued in conjunction with a real estate
31

1 closing, and for such other exceptions as the board determines
2 are necessary to prevent lapses in coverage.

3 ~~7.6.~~ Must include rules for classifications of risks
4 and rates therefor.

5 ~~8.7.~~ Must provide that if premium and investment
6 income for an account attributable to a particular calendar
7 year are in excess of projected losses and expenses for the
8 account attributable to that year, such excess shall be held
9 in surplus in the account. Such surplus shall be available to
10 defray deficits in that account as to future years and shall
11 be used for that purpose prior to assessing assessable
12 insurers and assessable insureds as to any calendar year.

13 ~~9.8.~~ Must provide objective criteria and procedures to
14 be uniformly applied for all applicants in determining whether
15 an individual risk is so hazardous as to be uninsurable. In
16 making this determination and in establishing the criteria and
17 procedures, the following shall be considered:

18 a. Whether the likelihood of a loss for the individual
19 risk is substantially higher than for other risks of the same
20 class; and

21 b. Whether the uncertainty associated with the
22 individual risk is such that an appropriate premium cannot be
23 determined.

24
25 The acceptance or rejection of a risk by the corporation shall
26 be construed as the private placement of insurance, and the
27 provisions of chapter 120 shall not apply.

28 ~~10.9.~~ Must provide that the corporation shall make its
29 best efforts to procure catastrophe reinsurance at reasonable
30 rates, to cover its projected 100-year probable maximum loss
31 as determined by the board of governors.

1 ~~11.10-~~ Must provide that in the event of regular
2 deficit assessments under sub-subparagraph (b)3.a. or
3 sub-subparagraph (b)3.b., in the personal lines account, the
4 commercial lines residential account, or the high-risk
5 account, the corporation shall levy upon corporation
6 policyholders in its next rate filing, or by a separate rate
7 filing solely for this purpose, the following surcharges:
8 a. A Citizens policyholder ~~market equalization~~
9 surcharge arising from a regular assessment in such account in
10 a percentage equal to the total amount of such regular
11 assessments divided by the aggregate statewide direct written
12 premium for subject lines of business for the prior calendar
13 year. For purposes of calculating the Citizens policyholder
14 surcharge to be levied under this subparagraph, the total
15 amount of the regular assessment to which this surcharge is
16 related shall be determined as set forth in subparagraph
17 (b)3., without deducting the estimated Citizens policyholder
18 surcharge. Market equalization surcharges under this
19 subparagraph are not considered premium and are not subject to
20 commissions, fees, or premium taxes; however, failure to pay a
21 market equalization surcharge shall be treated as failure to
22 pay premium.
23 b. A deficit surcharge of 25 percent of the total
24 premium on nonhomestead property owned by a nonresident of
25 this state.
26
27 Surcharges under this subparagraph are not considered a
28 premium and are not subject to commissions, fees, or premium
29 taxes; however, failure to pay a surcharge shall be treated in
30 the same manner as failure to pay premium.
31

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

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

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

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

1 | policyholders of \$25 million or less writing 25 percent or
2 | more of its total countrywide property insurance premiums in
3 | this state may petition the office, within the first 90 days
4 | of each calendar year, to qualify as a limited apportionment
5 | company. In no event shall a limited apportionment company be
6 | required to participate in the portion of any assessment,
7 | within the high-risk account, pursuant to sub-subparagraph
8 | (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which
9 | exceeds \$50 million after payment of available high-risk
10 | account funds in any calendar year. However, a limited
11 | apportionment company shall collect from its policyholders any
12 | emergency assessment imposed under sub-subparagraph (b)3.d.
13 | The plan shall provide that, if the office determines that any
14 | regular assessment will result in an impairment of the surplus
15 | of a limited apportionment company, the office may direct that
16 | all or part of such assessment be deferred as provided in
17 | subparagraph (g)4. However, there shall be no limitation or
18 | deferment of an emergency assessment to be collected from
19 | policyholders under sub-subparagraph (b)3.d.

20 | ~~16.15.~~ Must provide that the corporation appoint as
21 | its licensed agents only those agents who also hold an
22 | appointment as defined in s. 626.015(3) with an insurer who at
23 | the time of the agent's initial appointment by the corporation
24 | is authorized to write and is actually writing personal lines
25 | residential property coverage, commercial residential property
26 | coverage, or commercial nonresidential property coverage
27 | within the state.

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

31 |

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

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

27 2. On or before July 1 of each year, employees of the
28 corporation are required to sign and submit a statement
29 attesting that they do not have a conflict of interest, as
30 defined in part III of chapter 112. As a condition of
31

1 employment, all prospective employees are required to sign and
2 submit to the corporation a conflict-of-interest statement.

3 3. Senior managers and members of the board of
4 governors are subject to the provisions of part III of chapter
5 112, including, but not limited to, the code of ethics and
6 public disclosure and reporting of financial interests,
7 pursuant to s. 112.3145. Senior managers and board members are
8 also required to file such disclosures with the Office of
9 Insurance Regulation. The executive director of the
10 corporation or his or her designee shall notify each newly
11 appointed and existing appointed member of the board of
12 governors and senior managers of their duty to comply with the
13 reporting requirements of part III of chapter 112. At least
14 quarterly, the executive director or his or her designee shall
15 submit to the Commission on Ethics a list of names of the
16 senior managers and members of the board of governors that are
17 subject to the public disclosure requirements under s.
18 112.3145.

19 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
20 other provision of law, an employee or board member may not
21 knowingly accept, directly or indirectly, any gift or
22 expenditure from a person or entity, or an employee or
23 representative of such person or entity, that has a
24 contractual relationship with the corporation or who is under
25 consideration for a contract. An employee or board member that
26 fails to comply with this subparagraph is subject to penalties
27 provided under ss. 112.317 and 112.3173.

28 5. Any senior manager of the corporation who is
29 employed on or after January 1, 2007, regardless of the date
30 of hire, who subsequently retires or terminates employment is
31 prohibited from representing another person or entity before

1 the corporation for 2 years after retirement or termination of
2 employment from the corporation.

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

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

22 (f) The board shall determine whether it is more
23 cost-effective and in the best interests of the corporation to
24 use legal services provided by in-house attorneys employed by
25 the corporation rather than contracting with outside counsel.
26 In making such determination, the board shall document its
27 findings and shall consider: the expertise needed; whether
28 time commitments exceed in-house staff resources; whether
29 local representation is needed; the travel, lodging and other
30 costs associated with in-house representation; and such other
31 factors that the board determines are relevant.

1 (g) The corporation may not retain a lobbyist to
2 represent it before the legislative branch or executive
3 branch. However, full-time employees of the corporation may
4 register as lobbyists and represent the corporation before the
5 legislative branch or executive branch.

6 (h)1. The Office of the Internal Auditor is
7 established within the corporation to provide a central point
8 for coordination of and responsibility for activities that
9 promote accountability, integrity, and efficiency to the
10 policyholders and to the taxpayers of this state. The internal
11 auditor shall be appointed by the board of governors, shall
12 report to and be under the general supervision of the board of
13 governors, and is not subject to supervision by any employee
14 of the corporation. Administrative staff and support shall be
15 provided by the corporation. The internal auditor shall be
16 appointed without regard to political affiliation. It is the
17 duty and responsibility of the internal auditor to:

18 a. Provide direction for, supervise, conduct, and
19 coordinate audits, investigations, and management reviews
20 relating to the programs and operations of the corporation.

21 b. Conduct, supervise, or coordinate other activities
22 carried out or financed by the corporation for the purpose of
23 promoting efficiency in the administration of, or preventing
24 and detecting fraud, abuse, and mismanagement in, its programs
25 and operations.

26 c. Submit final audit reports, reviews, or
27 investigative reports to the board of governors, the executive
28 director, the members of the Financial Services Commission,
29 and the President of the Senate and the Speaker of the House
30 of Representatives.

31

1 d. Keep the board of governors informed concerning
2 fraud, abuses, and internal control deficiencies relating to
3 programs and operations administered or financed by the
4 corporation, recommend corrective action, and report on the
5 progress made in implementing corrective action.

6 e. Report expeditiously to the Department of Law
7 Enforcement or other law enforcement agencies, as appropriate,
8 whenever the internal auditor has reasonable grounds to
9 believe there has been a violation of criminal law.

10 2. On or before February 15, the internal auditor
11 shall prepare an annual report evaluating the effectiveness of
12 the internal controls of the corporation and providing
13 recommendations for corrective action, if necessary, and
14 summarizing the audits, reviews, and investigations conducted
15 by the office during the preceding fiscal year. The final
16 report shall be furnished to the board of governors and the
17 executive director, the President of the Senate, the Speaker
18 of the House of Representatives, and the Financial Services
19 Commission.

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

23 (j)1. The corporation shall establish and maintain a
24 unit or division to investigate possible fraudulent claims by
25 insureds or by persons making claims for services or repairs
26 against policies held by insureds; or it may contract with
27 others to investigate possible fraudulent claims for services
28 or repairs against policies held by the corporation pursuant
29 to s. 626.9891. The corporation must comply with reporting
30 requirements of s. 626.9891.

31

1 2. The corporation shall establish a unit or division
2 responsible for receiving and responding to consumer
3 complaints, which unit or division is the sole responsibility
4 of a senior manager of the corporation.

5 (k) The office shall conduct a comprehensive market
6 conduct examination of the corporation every 2 years to
7 determine compliance with its plan of operation and internal
8 operations procedures. The first market conduct examination
9 report shall be submitted to the President of the Senate and
10 the Speaker of the House of Representatives no later than
11 February 1, 2009. Subsequent reports shall be submitted on or
12 before February 1 every 2 years thereafter.

13 (l) The Auditor General shall conduct an operational
14 audit of the corporations every 3 years to evaluate
15 management's performance in administering laws, policies, and
16 procedures governing the operations of the corporation in an
17 efficient and effective manner. The scope of the review shall
18 include, but is not limited to, evaluating claims handling,
19 customer service, take-out programs and bonuses, financing
20 arrangements, procurement of goods and services, internal
21 controls, and the internal audit function.

22 ~~(m)(d)1. It is the intent of the Legislature that the~~
23 Rates for coverage provided by the corporation shall be
24 actuarially sound and not competitive with approved rates
25 charged in the admitted voluntary market, so that the
26 corporation functions as a residual market mechanism to
27 provide insurance only when the insurance cannot be procured
28 in the voluntary market. Rates shall include an appropriate
29 catastrophe loading factor that reflects the actual
30 catastrophic exposure of the corporation.

31

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

14 3. Rates for personal lines residential wind-only
15 policies must be actuarially sound and not competitive with
16 approved rates charged by authorized insurers. Corporation
17 rate manuals shall include a rate surcharge for seasonal
18 occupancy. To ensure that personal lines residential wind-only
19 rates are not competitive with approved rates charged by
20 authorized insurers, the corporation, in conjunction with the
21 office, shall develop a wind-only ratemaking methodology,
22 which methodology shall be contained in each rate filing made
23 by the corporation with the office. If the office determines
24 that the wind-only rates or rating factors filed by the
25 corporation fail to comply with the wind-only ratemaking
26 methodology provided for in this subsection, it shall so
27 notify the corporation and require the corporation to amend
28 its rates or rating factors to come into compliance within 90
29 days of notice from the office.

30 4.a. For policies issued or renewed on or after
31 January 1, 2007, rates for coverage provided by the

1 corporation for nonhomestead property shall include a
2 25-percent surcharge.

3 b. For policies issued or renewed on or after January
4 1, 2007, rates for coverage provided by the corporation in the
5 high-risk account shall include a 25-percent surcharge for a
6 personal lines residential structure with a dwelling
7 replacement cost of \$1 million or more or for a single
8 condominium unit with a combined dwelling and content
9 replacement cost of \$1 million or more.

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

14 ~~6.4.~~ For the purposes of establishing a pilot program
15 to evaluate issues relating to the availability and
16 affordability of insurance in an area where historically there
17 has been little market competition, the provisions of
18 subparagraph 2. do not apply to coverage provided by the
19 corporation in Monroe County if the office determines that a
20 reasonable degree of competition does not exist for personal
21 lines residential policies. The provisions of subparagraph 3.
22 do not apply to coverage provided by the corporation in Monroe
23 County if the office determines that a reasonable degree of
24 competition does not exist for personal lines residential
25 policies in the area of that county which is eligible for
26 wind-only coverage. In this county, the rates for personal
27 lines residential coverage shall be actuarially sound and not
28 excessive, inadequate, or unfairly discriminatory and are
29 subject to the other provisions of the paragraph and s.
30 627.062. The commission shall adopt rules establishing the
31 criteria for determining whether a reasonable degree of

1 competition exists for personal lines residential policies in
2 Monroe County. By March 1, 2006, the office shall submit a
3 report to the Legislature providing an evaluation of the
4 implementation of the pilot program affecting Monroe County.

5 ~~7.5.~~ Rates for commercial lines coverage shall not be
6 subject to the requirements of subparagraph 2., but shall be
7 subject to all other requirements of this paragraph and s.
8 627.062.

9 ~~8.6.~~ Nothing in this paragraph shall require or allow
10 the corporation to adopt a rate that is inadequate under s.
11 627.062.

12 ~~9.7.~~ The corporation shall certify to the office at
13 least twice annually that its personal lines rates comply with
14 the requirements of subparagraphs 1. and 2. If any adjustment
15 in the rates or rating factors of the corporation is necessary
16 to ensure such compliance, the corporation shall make and
17 implement such adjustments and file its revised rates and
18 rating factors with the office. If the office thereafter
19 determines that the revised rates and rating factors fail to
20 comply with the provisions of subparagraphs 1. and 2., it
21 shall notify the corporation and require the corporation to
22 amend its rates or rating factors in conjunction with its next
23 rate filing. The office must notify the corporation by
24 electronic means of any rate filing it approves for any
25 insurer among the insurers referred to in subparagraph 2.

26 ~~10.8.~~ In addition to the rates otherwise determined
27 pursuant to this paragraph, the corporation shall impose and
28 collect an amount equal to the premium tax provided for in s.
29 624.509 to augment the financial resources of the corporation.

30 ~~9.a. To assist the corporation in developing~~
31 ~~additional ratemaking methods to assure compliance with~~

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

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

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

31

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

9 ~~11.10. By January 1, 2004,~~ The corporation shall
10 develop a notice to policyholders or applicants that the rates
11 of Citizens Property Insurance Corporation are intended to be
12 higher than the rates of any admitted carrier and providing
13 other information the corporation deems necessary to assist
14 consumers in finding other voluntary admitted insurers willing
15 to insure their property.

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

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

28 1. If the market assistance plan receives a minimum of
29 100 applications for coverage within a 3-month period, or 200
30 applications for coverage within a 1-year period or less for
31 residential coverage, unless the market assistance plan

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

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

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

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

29 (p)~~(g)~~1. The corporation shall certify to the office
30 its needs for annual assessments as to a particular calendar
31 year, and for any interim assessments that it deems to be

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

21 2. The governing body of any unit of local government,
22 any residents of which are insured by the corporation, may
23 issue bonds as defined in s. 125.013 or s. 166.101 from time
24 to time to fund an assistance program, in conjunction with the
25 corporation, for the purpose of defraying deficits of the
26 corporation. In order to avoid needless and indiscriminate
27 proliferation, duplication, and fragmentation of such
28 assistance programs, any unit of local government, any
29 residents of which are insured by the corporation, may provide
30 for the payment of losses, regardless of whether or not the
31 losses occurred within or outside of the territorial

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

31

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

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

31

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

8 b. Any credit or exemption from regular assessments
9 adopted under this subparagraph shall last no longer than the
10 3 years following the cancellation or expiration of the policy
11 by the corporation. With the approval of the office, the board
12 may extend such credits for an additional year if the insurer
13 guarantees an additional year of renewability for all policies
14 removed from the corporation, or for 2 additional years if the
15 insurer guarantees 2 additional years of renewability for all
16 policies so removed.

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

20 4. The plan shall provide for the deferment, in whole
21 or in part, of the assessment of an assessable insurer, other
22 than an emergency assessment collected from policyholders
23 pursuant to sub-subparagraph (b)3.d., if the office finds that
24 payment of the assessment would endanger or impair the
25 solvency of the insurer. In the event an assessment against an
26 assessable insurer is deferred in whole or in part, the amount
27 by which such assessment is deferred may be assessed against
28 the other assessable insurers in a manner consistent with the
29 basis for assessments set forth in paragraph (b).

30 5. Effective July 1, 2007, in order to evaluate the
31 costs and benefits of approved take-out plans, if the

1 corporation pays a bonus or other payment to an insurer for an
2 approved take-out plan, it shall maintain a record of the
3 address or such other identifying information on the property
4 or risk removed in order to track if and when the property or
5 risk is later insured by the corporation.

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

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

18 1. Any of the foregoing persons or entities for any
19 willful tort;

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

22 3. The corporation with respect to issuance or payment
23 of debt; or

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

27 ~~(s)(j)~~ For the purposes of s. 199.183(1), the
28 corporation shall be considered a political subdivision of the
29 state and shall be exempt from the corporate income tax. The
30 premiums, assessments, investment income, and other revenue of
31 the corporation are funds received for providing property

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

1 every kind by the state and any political subdivision or local
2 unit or other instrumentality thereof; however, this exemption
3 does not apply to any tax imposed by chapter 220 on interest,
4 income, or profits on debt obligations owned by corporations
5 other than the corporation.

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

21 (u)~~(l)~~1. Effective July 1, 2002, policies of the
22 Residential Property and Casualty Joint Underwriting
23 Association shall become policies of the corporation. All
24 obligations, rights, assets and liabilities of the Residential
25 Property and Casualty Joint Underwriting Association,
26 including bonds, note and debt obligations, and the financing
27 documents pertaining to them become those of the corporation
28 as of July 1, 2002. The corporation is not required to issue
29 endorsements or certificates of assumption to insureds during
30 the remaining term of in-force transferred policies.

31

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

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

1 coverage account and the commercial lines residential coverage
2 account of the Residential Property and Casualty Joint
3 Underwriting Association shall be credited to the personal
4 lines account and the commercial lines account, respectively,
5 of the corporation.

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

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

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

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

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

23 2. No such proceeding shall relieve the corporation of
24 its obligation, or otherwise affect its ability to perform its
25 obligation, to continue to collect, or levy and collect,
26 assessments, market equalization or other surcharges under
27 subparagraph (c)10., or any other rights, revenues, or other
28 assets of the corporation pledged pursuant to any financing
29 documents.

30 3. Each such pledge or sale of, lien upon, and
31 security interest in, including the priority of such pledge,

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

19 | 4. Any such pledge or sale of assessments, revenues,
20 | contract rights, or other rights or assets of the corporation
21 | shall constitute a lien and security interest, or sale, as the
22 | case may be, that is immediately effective and attaches to
23 | such assessments, revenues, or contract rights or other rights
24 | or assets, whether or not imposed or collected at the time the
25 | pledge or sale is made. Any such pledge or sale is effective,
26 | valid, binding, and enforceable against the corporation or
27 | other entity making such pledge or sale, and valid and binding
28 | against and superior to any competing claims or obligations
29 | owed to any other person or entity, including policyholders in
30 | this state, asserting rights in any such assessments,
31 | revenues, or contract rights or other rights or assets to the

1 extent set forth in and in accordance with the terms of the
2 pledge or sale contained in the applicable financing
3 documents, whether or not any such person or entity has notice
4 of such pledge or sale and without the need for any physical
5 delivery, recordation, filing, or other action.

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

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)~~~~(o)~~ 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 627.351(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 ~~or~~ ~~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 ~~or and~~ professional
4 geologist shall issue a report and certification to the
5 insurer and the 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 ~~or and~~ a professional geologist issues ~~issue~~ a
9 written report 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 ~~or 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 ~~or and~~
3 professional geologist as to the cause of distress to the
4 property verification or elimination of a sinkhole loss and
5 the findings, opinions, and recommendations of the
6 professional engineer as to land and building stabilization
7 and foundation 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 of
4 | \$50 million is appropriated from nonrecurring funds in the
5 | General Revenue Fund to the Department of Community Affairs as
6 | a nonrecurring appropriation for the purposes of the Home
7 | Retrofit Hardening Program specified in s. 215.558, Florida
8 | Statutes, as created by this act.

9 | Section 32. For the 2006-2007 fiscal year, the sum of
10 | \$5.5 million is appropriated from nonrecurring funds in the
11 | General Revenue Fund to the Department of Community Affairs as
12 | a nonrecurring appropriation for the purposes of wind
13 | certification and hurricane mitigation inspections specified
14 | in s. 215.5586, Florida Statutes, as created by this act.

15 | Section 33. (1) For the 2006-2007 fiscal year the sum
16 | of \$750 million is appropriated to the Department of Financial
17 | Services from nonrecurring funds in the General Revenue Fund.
18 | Such funds shall be transferred to the Citizens Property
19 | Insurance Corporation, established pursuant to s. 627.351(6),
20 | Florida Statutes, to reduce the amount of the regular
21 | assessment for the deficit incurred in calendar year 2005.
22 | This appropriation is not subject to the release restrictions
23 | of s. 216.192, Florida Statutes.

24 | (2) Citizens Property Insurance Corporation shall
25 | include in the notice of assessment to each assessable insurer
26 | the amount by which the assessment has been reduced due to the
27 | appropriation in subsection (1).

28 | (3) Each insurer that recoups an assessment from its
29 | policyholders as allowed by law shall include on the premium
30 | notice sent to policyholders, in 12-point type, the following
31 | statement, with the appropriate dollar amounts shown:

1 "THE \$ SURCHARGE IN YOUR PREMIUM FOR THE ASSESSMENT
2 BY CITIZENS PROPERTY INSURANCE CORPORATION HAS BEEN REDUCED BY
3 \$ DUE TO AN APPROPRIATION BY THE FLORIDA LEGISLATURE."

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

8 (5) For the purposes of this section, the terms
9 "regular assessment," "deficit," and "assessable insurer" have
10 the same meaning as these terms are used in s. 627.351(6),
11 Florida Statutes.

12 Section 34. Effective July 1, 2006, subsection (3) of
13 s. 215.559, Florida Statutes, is repealed.

14 Section 35. Except as otherwise expressly provided in
15 this act, this act shall take effect upon becoming a law.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

4 Appropriates \$750 million dollars from non-recurring funds in
5 the General Revenue Fund to the Department of Financial
6 Services to be transferred to Citizens Property Insurance
7 Corporation, to be applied to reduce the amount of the regular
8 assessment for the 2005 deficit.

9 Appropriates \$50 million from non-recurring funds in the
10 General Revenue Fund to the Department of Community Affairs
11 for the Home Retrofit Hardening Program established by the
12 bill.

13 Appropriates \$5.5 million from non-recurring funds in the
14 General Revenue Fund to the Department of Community Affairs
15 for the wind certification and hurricane mitigation inspection
16 program established by the bill.

17 Clarifies the procedures for background checks by the Office
18 of Insurance Regulation of persons being considered for
19 senior management positions with Citizens.

20 Clarifies that any debt obligations issued by Citizens
21 Property Insurance Corporation ("Citizens") are exempt from
22 state and local taxation.

23 Clarifies that as long as Citizens has any bonds outstanding,
24 it does not have the authority to file a voluntary petition
25 under chapter 9 of the Federal Bankruptcy Code .

26 Repeals subsection (3) of s. 215.559, F.S., which is the
27 requirement for the Department of Community Affairs to develop
28 a low-interest loan program for retrofitting homes.

29 Clarifies that either a professional engineer or professional
30 geologist must conduct testing of sinkhole insurance claims,
31 under certain circumstances.