

By Senator Saunders

37-1564-06

See HB

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 215.555, F.S.; revising a definition; creating
4 s. 215.558, F.S.; creating the Florida
5 Hurricane Damage Prevention Endowment;
6 providing a purpose and legislative intent;
7 providing definitions; providing for
8 administration of the endowment by the State
9 Board of Administration; providing management
10 powers and authority; requiring the Legislature
11 to annually appropriate earnings of the
12 endowment to the board for certain purposes;
13 providing requirements of the board in
14 providing financial incentives for residential
15 hurricane damage prevention activities;
16 providing for an interest-free loan program;
17 providing criteria and requirements; creating
18 an advisory council for certain purposes;
19 providing for appointment of members; requiring
20 members to serve without compensation;
21 providing for per diem and travel expenses;
22 amending s. 627.062, F.S.; providing for orders
23 of the Office of Insurance Regulation to
24 insurers to cease charging excessive rates;
25 deleting a requirement that insurers return
26 portions of excessive rates; specifying certain
27 rate filings as not subject to office
28 determination as excessive or unfairly
29 discriminatory; providing limitations;
30 providing a definition; prohibiting certain
31 rate filings under certain circumstances;

1 preserving the office's authority to disapprove
2 certain rate filings under certain
3 circumstances; providing procedures for
4 insurers submitting certain rate filings;
5 specifying nonapplication to certain types of
6 insurance; requiring the office to provide
7 annual reports on the impact of certain rate
8 regulations; specifying report requirements;
9 amending s. 627.351, F.S., relating to the
10 Citizens Property Insurance Corporation;
11 providing additional legislative intent;
12 specifying application to homestead property;
13 specifying the existing three separate accounts
14 of the corporation as providing coverage only
15 for homestead property; providing a definition;
16 providing for an additional separate account
17 for nonhomestead property; requiring separate
18 maintenance of revenues, assets, liabilities,
19 losses, and expenses attributable to the
20 nonhomestead account; specifying recourse of
21 creditors' claims to such accounts; providing
22 criteria, requirements, and insurer
23 authorizations for issuance of policies for
24 wind peril in the high-risk account; specifying
25 immunity from liability for certain activities
26 of insurers and agents and employees; providing
27 an exception; providing for deficit assessments
28 against nonhomestead account policyholders
29 under certain circumstances; authorizing the
30 board of governors of the corporation to make
31 loans from the homestead accounts to the

1 nonhomestead account under certain
2 circumstances; providing additional
3 requirements of the plan of operation of the
4 corporation; authorizing certain insurers to
5 require arbitration of certain filings;
6 providing additional legislative intent
7 relating to rate adequacy in the residual
8 market; specifying requirements for rates in
9 the high-risk account; specifying criteria for
10 determining inadequacy of certain rates;
11 providing a criterion for calculating reduction
12 or increase in probable maximum loss;
13 specifying additional criteria for
14 ineligibility for certain policies of the
15 corporation for certain dwellings; delaying
16 application of certain high-risk area boundary
17 reduction provisions; providing for application
18 of provisions relating to homestead and
19 nonhomestead accounts to certain policies;
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; amending s. 627.7011, F.S.; limiting
24 certain law and ordinance coverage; deleting
25 application to personal property; creating s.
26 627.7019, F.S.; requiring the Financial
27 Services Commission to adopt rules imposing
28 standardized requirements applicable to
29 insurers after certain natural events;
30 providing criteria; providing requirements of
31 the Office of Insurance Regulation; prohibiting

1 certain conflicting emergency rules; amending
2 s. 817.234, F.S.; providing an additional
3 circumstance that constitutes committing
4 insurance fraud; amending s. 631.181, F.S.;
5 providing an exception to certain requirements
6 for a signed statement for certain claims;
7 providing requirements; amending s. 631.54,
8 F.S.; revising the definition of "covered
9 claim"; amending s. 631.57, F.S.; revising
10 requirements and limitations for obligations of
11 the Florida Insurance Guaranty Association for
12 covered claims; authorizing the association to
13 contract with counties, municipalities, and
14 legal entities to issue revenue bonds for
15 certain purposes; authorizing the Department of
16 Financial Services to levy assessments and
17 emergency assessments on insurers under certain
18 circumstances for certain bond repayment
19 purposes; providing requirements for and
20 limitations on such assessments; providing for
21 payment, collection, and distribution of such
22 assessments; requiring insurers to include an
23 analysis of revenues from such assessments in a
24 required report; providing rate filing
25 requirements for insurers relating to such
26 assessments; providing for continuing annual
27 assessments under certain circumstances;
28 specifying emergency assessments as not premium
29 and not subject to certain taxes, fees, or
30 commissions; specifying insurer liability for
31 emergency assessments; providing an exception;

1 creating s. 631.695, F.S.; providing
2 legislative findings and purposes; providing
3 for issuance of revenue bonds through counties
4 and municipalities to fund assistance programs
5 for paying covered claims for hurricane damage;
6 providing procedures, requirements, and
7 limitations for counties, municipalities, and
8 the Florida Insurance Guaranty Association,
9 Inc., relating to issuance and validation of
10 such bonds; prohibiting pledging the funds,
11 credit, property, and taxing power of the
12 state, counties, and municipalities for payment
13 of bonds; specifying authorized uses of bond
14 proceeds; limiting the term of bonds;
15 specifying a state covenant to protect
16 bondholders from adverse actions relating to
17 such bonds; specifying exemptions for bonds,
18 notes, and other obligations of counties and
19 municipalities from certain taxes or
20 assessments on property and revenues;
21 authorizing counties and municipalities to
22 create a legal entity to exercise certain
23 powers; requiring the association to issue an
24 annual report on the status of certain uses of
25 bond proceeds; providing report requirements;
26 requiring the association to provide a copy of
27 the report to the Legislature and Chief
28 Financial Officer; prohibiting repeal of
29 certain provisions relating to certain bonds
30 under certain circumstances; providing
31 severability; providing an appropriation;

1 providing for retroactive effect of certain
2 provisions; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Paragraph (a) of subsection (2) of section
7 215.555, Florida Statutes, is amended to read:

8 215.555 Florida Hurricane Catastrophe Fund.--

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

10 (a) "Actuarially indicated" means, with respect to
11 premiums paid by insurers for reimbursement provided by the
12 fund, an amount determined according to principles of
13 actuarial science to be adequate, but not excessive, in the
14 aggregate, to pay current and future obligations and expenses
15 of the fund, including additional amounts if needed to pay
16 debt service on revenue bonds issued under this section and to
17 provide required debt service coverage in excess of the
18 amounts required to pay actual debt service on revenue bonds
19 issued under subsection (6), and determined according to
20 principles of actuarial science to reflect each insurer's
21 relative exposure to hurricane losses. The term "actuarially
22 indicated" includes both the anticipated annualized payout
23 from the fund and an appropriate risk load of no less than 25
24 percent of the anticipated annualized payout.

25 Section 2. Section 215.558, Florida Statutes, is
26 created to read:

27 215.558 Florida Hurricane Damage Prevention
28 Endowment.--

29 (1) PURPOSE AND INTENT.--The purpose of this section
30 is to provide a continuing source of funding for financial
31 incentives to encourage residential property owners of this

1 state to retrofit their properties to make them less
2 vulnerable to hurricane damage and to provide matching funds
3 to local governments and nonprofit entities for projects that
4 will reduce hurricane damage to residential properties. It is
5 the intent of the Legislature that this section be construed
6 liberally to effectuate its purpose.

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

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

9 (b) "Corpus" means the money that has been
10 appropriated to the endowment by the 2006 Legislature,
11 together with any amounts subsequently appropriated to the
12 endowment which are specifically designated as contributions
13 to the corpus, together with any grants, gifts, or donations
14 to the endowment which are specifically designated as
15 contributions to the corpus.

16 (c) "Earnings" means any money in the endowment in
17 excess of the corpus, including any income generated by
18 investments, any increase in the market value of investments
19 net of decreases in market value, and any appropriations,
20 grants, gifts, or donations to the endowment not specifically
21 designated as contributions to the corpus.

22 (d) "Endowment" means the Florida Hurricane Damage
23 Prevention Endowment.

24 (3) ADMINISTRATION.--

25 (a) The board shall administer the endowment as
26 provided in this section.

27 (b) The board may invest and reinvest funds of the
28 endowment in accordance with s. 215.47 and consistent with an
29 investment policy statement developed by the executive
30 director and approved by the board.

31

1 (c) The endowment shall be managed as an annuity. The
2 investment objective shall be long-term preservation of the
3 real value of the corpus and a specified regular annual cash
4 outflow for appropriation, as nonrecurring revenue, for the
5 purposes specified in subsection (4).

6 (d) In accordance with s. 215.44, the board shall
7 include separate sections on the financial status of the
8 endowment in its annual investment report to the Legislature.

9 (e) Costs and fees of the board for investment
10 services shall be deducted from the earnings accruing to the
11 endowment. Fees for investment services shall be no greater
12 than fees charged to the Florida Retirement System.

13 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE
14 DAMAGE PREVENTION ACTIVITIES.--

15 (a) The Legislature shall annually appropriate not
16 less than 80 percent of the earnings of the endowment to the
17 board for financial incentives to residential property owners
18 as described in paragraph (b) and shall annually appropriate
19 the remainder of the earnings of the endowment to the board
20 for matching fund grants to local governments and nonprofit
21 entities for projects that will reduce hurricane damage to
22 residential properties as described in paragraph (c) and for
23 operating expenses of the endowment. Any appropriated funds
24 not expended by the board for these purposes shall be returned
25 to the endowment.

26 (b)1. The board, by rule, shall establish a request
27 for a proposal process to annually solicit proposals from
28 lending institutions under which the lending institution will
29 provide interest-free loans to residential property owners to
30 pay for improvements to existing residential properties
31

1 intended to reduce the property's vulnerability to hurricane
2 damage in exchange for funding from the endowment.

3 2. In order to qualify for funding under this
4 paragraph, an interest-free loan program must include a means
5 for verifying that the improvements to be paid for from loan
6 proceeds have been demonstrated to reduce a property's
7 vulnerability to hurricane damage and must include a means for
8 verifying that the proceeds were actually spent on such
9 improvements. The program must include a method for awarding
10 loans according to the following priorities:

11 a. The highest priority must be given to
12 single-family, owner-occupied dwellings located in the areas
13 designated as high-risk areas for purposes of coverage by the
14 Citizens Property Insurance Corporation.

15 b. The next highest priority must be given to
16 single-family, owner-occupied dwellings covered by the
17 Citizens Property Insurance Corporation, wherever located.

18 c. The next highest priority must be given to
19 single-family, owner-occupied dwellings that are more than 40
20 years old.

21 d. The next highest priority must be given to all
22 other single-family, owner-occupied dwellings.

23 e. The next highest priority must be given to all
24 other residential properties.

25 3. The board shall evaluate proposals based on the
26 following factors:

27 a. The degree to which the proposal meets the
28 requirements of subparagraph 2.

29 b. The lending institution's plan for marketing the
30 loans.

31

1 c. The anticipated number of loans to be granted
2 relative to the total amount of funding sought.

3 4. The board shall annually solicit proposals from
4 local governments and nonprofit entities for projects that
5 will reduce hurricane damage to residential properties. The
6 board may provide up to 50 percent of the funding for such a
7 project. The projects may include educational programs, repair
8 services, property inspections, hurricane vulnerability
9 analyses, and such other projects as the board determines to
10 be consistent with the purposes of this section.

11 (5) ADVISORY COUNCIL.--There is created an advisory
12 council to provide advice and assistance to the board with
13 regard to its administration of the endowment. The advisory
14 council shall consist of:

15 (a) A representative of lending institutions, selected
16 by the board from a list of at least three persons recommended
17 by the Florida Bankers Association.

18 (b) A representative of residential property insurers,
19 selected by the board from a list of at least three persons
20 recommended by the Florida Insurance Council.

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

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

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

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

31

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

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

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

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

16 Section 3. Paragraphs (a) and (h) of subsection (2) of
17 section 627.062, Florida Statutes, are amended, and paragraph
18 (j) is added to that subsection, to read:

19 627.062 Rate standards.--

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

21 (a) Insurers or rating organizations shall establish
22 and use rates, rating schedules, or rating manuals to allow
23 the insurer a reasonable rate of return on such classes of
24 insurance written in this state. A copy of rates, rating
25 schedules, rating manuals, premium credits or discount
26 schedules, and surcharge schedules, and changes thereto, shall
27 be filed with the office under one of the following
28 procedures:

29 1. If the filing is made at least 90 days before the
30 proposed effective date and the filing is not implemented
31 during the office's review of the filing and any proceeding

1 and judicial review, then such filing shall be considered a
2 "file and use" filing. In such case, the office shall finalize
3 its review by issuance of a notice of intent to approve or a
4 notice of intent to disapprove within 90 days after receipt of
5 the filing. The notice of intent to approve and the notice of
6 intent to disapprove constitute agency action for purposes of
7 the Administrative Procedure Act. Requests for supporting
8 information, requests for mathematical or mechanical
9 corrections, or notification to the insurer by the office of
10 its preliminary findings shall not toll the 90-day period
11 during any such proceedings and subsequent judicial review.
12 The rate shall be deemed approved if the office does not issue
13 a notice of intent to approve or a notice of intent to
14 disapprove within 90 days after receipt of the filing.

15 2. If the filing is not made in accordance with the
16 provisions of subparagraph 1., such filing shall be made as
17 soon as practicable, but no later than 30 days after the
18 effective date, and shall be considered a "use and file"
19 filing. An insurer making a "use and file" filing is
20 potentially subject to an order by the office to cease
21 charging, within 60 days after such order, the portion of the
22 rate deemed return to policyholders portions of rates found to
23 be excessive, as provided in paragraph (h).

24 (h) In the event the office finds that a rate or rate
25 change is excessive, inadequate, or unfairly discriminatory,
26 the office shall issue an order of disapproval specifying that
27 a new rate or rate schedule which responds to the findings of
28 the office be filed by the insurer. The office shall further
29 order, for any "use and file" filing made in accordance with
30 subparagraph (a)2., that premiums charged each policyholder
31 constituting the portion of the rate above that which was

1 actuarially justified cease being charged within 60 days after
2 issuance of the order ~~be returned to such policyholder in the~~
3 ~~form of a credit or refund.~~ If the office finds that an
4 insurer's rate or rate change is inadequate, the new rate or
5 rate schedule filed with the office in response to such a
6 finding shall be applicable only to new or renewal business of
7 the insurer written on or after the effective date of the
8 responsive filing.

9 (j)1. Effective January 1, 2007, notwithstanding any
10 other provision of this section:

11 a. With respect to any class of insurance subject to
12 regulation under this section, a rate filing with respect to
13 any policy form, including endorsements issued with the form,
14 that results in an overall average statewide premium increase
15 or decrease of no more than 10 percent above or below the
16 premium that would result from the insurer's rates then in
17 effect shall not be subject to a determination by the office
18 that the rate is excessive or unfairly discriminatory except
19 as provided in sub-subparagraph c. or other provision of law,
20 provided all changes specified in the filing do not result in
21 an overall premium increase of more than 25 percent for any
22 one territory, for reasons related solely to the rate change.
23 As used in this subparagraph, the term "insurer's rates then
24 in effect" includes only rates that have been lawfully in
25 effect under this section or rates that have been determined
26 to be lawful through administrative proceedings or judicial
27 proceedings.

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

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

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

26 d. This paragraph does not apply to rate filings for
27 medical malpractice, workers' compensation, or commercial
28 insurance, except this paragraph shall be available to filings
29 applicable to commercial residential insurance.

30 2.a. Beginning January 1, 2007, the office shall
31 annually provide a report to the President of the Senate, the

1 Speaker of the House of Representatives, the minority party
2 leader of each house of the Legislature, and the chairs of the
3 standing committees of each house of the Legislature having
4 jurisdiction over insurance issues, specifying the impact of
5 flexible rate regulation under this paragraph on the degree of
6 competition in insurance markets in this state.

7 b. The report shall include a year-by-year comparison
8 of the number of companies participating in the market for
9 each class of insurance and the relative rate levels. The
10 report shall also specify:

11 (I) The number of rate filings made under this
12 paragraph, the rate levels under those filings, and the market
13 share affected by those filings.

14 (II) The number of filings made on a file and use
15 basis, the rate levels under those filings, and the market
16 share affected by those filings.

17 (III) The number of filings made on a use and file
18 basis, the rate levels under those filings, and the market
19 share affected by those filings.

20 (IV) Recommendations to promote competition in the
21 insurance market and further protect insurance consumers.

22
23 The provisions of this subsection shall not apply to workers'
24 compensation and employer's liability insurance and to motor
25 vehicle insurance.

26 Section 4. Subsection (6) of section 627.351, Florida
27 Statutes, is amended to read:

28 627.351 Insurance risk apportionment plans.--

29 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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

27 | b. The Legislature finds and declares that:

28 | (I) The commitment of the state, as expressed in
29 | sub-subparagraph a., to providing a means of ensuring the
30 | availability of property insurance through a residual market
31 | mechanism is hereby reaffirmed.

1 (II) Despite legislative efforts to ensure that the
2 residual market for property insurance is self-supporting to
3 the greatest reasonable extent, residual market policyholders
4 are to some degree subsidized by the general public through
5 assessments on owners of property insured in the voluntary
6 market and their insurers and through the potential use of
7 general revenues of the state to eliminate or reduce residual
8 market deficits.

9 (III) The degree of such subsidy is a matter of public
10 policy. It is the intent of the Legislature to better control
11 the subsidy through at least the following means:

12 (A) Restructuring the residual market mechanism to
13 provide separate treatment of homestead and nonhomestead
14 properties, with the intent of continuing to provide an
15 insurance program with limited subsidies for homestead
16 properties while providing a nonsubsidized insurance program
17 for nonhomestead properties.

18 (B) Redefining the concept of rate adequacy in the
19 subsidized residual market with the intent of ensuring a rate
20 structure that will enable the subsidized residual market to
21 be self-supporting except in the event of hurricane losses of
22 a legislatively specified magnitude. It is the intent of the
23 Legislature that the funding of the subsidized residual market
24 be structured to be self-supporting up to the point of its
25 50-year probable maximum loss and that the funding be
26 structured to make reliance on assessments or other sources of
27 public funding necessary only in the event of a 50-year
28 probable maximum loss or larger loss.

29 2. The Residential Property and Casualty Joint
30 Underwriting Association originally created by this statute
31 shall be known, as of July 1, 2002, as the Citizens Property

1 Insurance Corporation. The corporation shall provide insurance
2 for homesteaded residential property and may provide insurance
3 for residential and commercial property, for applicants who
4 are in good faith entitled, but are unable, to procure
5 insurance through the voluntary market. The corporation shall
6 operate pursuant to a plan of operation approved by order of
7 the office. The plan is subject to continuous review by the
8 office. The office may, by order, withdraw approval of all or
9 part of a plan if the office determines that conditions have
10 changed since approval was granted and that the purposes of
11 the plan require changes in the plan. For the purposes of this
12 subsection, residential coverage includes both personal lines
13 residential coverage, which consists of the type of coverage
14 provided by homeowner's, mobile home owner's, dwelling,
15 tenant's, condominium unit owner's, and similar policies, and
16 commercial lines residential coverage, which consists of the
17 type of coverage provided by condominium association,
18 apartment building, and similar policies.

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

29 (b)1. All insurers authorized to write one or more
30 subject lines of business in this state are subject to
31 assessment by the corporation and, for the purposes of this

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

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

19 (I) Three separate homestead accounts which may
20 provide coverage only for homestead properties. The term
21 "homestead property" means a residential property which has
22 been granted a homestead exemption under chapter 196. The term
23 also includes a property that is qualified for such exemption
24 but has not applied for the exemption as of the date of
25 issuance of the policy provided the policyholder obtains the
26 exemption within 1 year after initial issuance of the policy.
27 With respect to commercial residential policies, a property is
28 homestead property for purposes of this sub-sub-subparagraph
29 if a majority of the residential units of the property
30 constitute homestead properties as defined in this
31

1 sub-sub-subparagraph. The accounts providing coverage only for
2 homestead properties are:

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

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

23 ~~(C)(III)~~ A high-risk account for personal residential
24 policies and commercial residential and commercial
25 nonresidential property policies issued by the corporation or
26 transferred to the corporation that provide coverage for the
27 peril of wind on risks that are located in areas eligible for
28 coverage in the Florida Windstorm Underwriting Association as
29 those areas were defined on January 1, 2002. The high-risk
30 account must also include quota share primary insurance under
31 subparagraph (c)2. The area eligible for coverage under the

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

19 (II) A separate nonhomestead account for all
20 properties that otherwise meet all of the criteria for
21 eligibility for coverage within one of the three homestead
22 accounts described in sub-sub-subparagraph (I) but that do not
23 meet the definition of homestead property specified in
24 sub-sub-subparagraph (I). The nonhomestead account shall
25 provide the same types of coverage as are provided by the
26 three homestead accounts, including wind-only coverage in the
27 high-risk account area.

28 b. The three separate homestead accounts must be
29 maintained as long as financing obligations entered into by
30 the Florida Windstorm Underwriting Association or Residential
31 Property and Casualty Joint Underwriting Association are

1 outstanding, in accordance with the terms of the corresponding
2 financing documents. When the financing obligations are no
3 longer outstanding, in accordance with the terms of the
4 corresponding financing documents, the corporation may use a
5 single homestead account for all revenues, assets,
6 liabilities, losses, and expenses of the corporation. All
7 revenues, assets, liabilities, losses, and expenses
8 attributable to the nonhomestead account shall be maintained
9 separately.

10 c. Creditors of the Residential Property and Casualty
11 Joint Underwriting Association shall have a claim against, and
12 recourse to, the accounts referred to in
13 ~~sub-sub-sub-subparagraphs sub-sub-subparagraphs~~ a.(I)(A) and
14 ~~(B)(II)~~ and shall have no claim against, or recourse to, the
15 account referred to in sub-sub-sub-subparagraph
16 ~~sub-sub-subparagraph~~ a.(I)(C)~~(III)~~. Creditors of the Florida
17 Windstorm Underwriting Association shall have a claim against,
18 and recourse to, the account referred to in
19 sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~ a.(I)(C)~~(III)~~
20 and shall have no claim against, or recourse to, the accounts
21 referred to in sub-sub-sub-subparagraphs ~~sub-sub-subparagraphs~~
22 a.(I)(A) and~~(B)(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 g. Policies for the peril of wind only in the
2 high-risk account of the corporation on or after January 1,
3 2006, shall be issued by authorized insurers issuing the
4 multiperil policy on the risk in the high-risk account of the
5 corporation. Such insurers are deemed to be acting on a
6 write-your-own basis, performing only servicing functions on
7 behalf of the corporation for a fee and not as risk bearers
8 for the exposure of wind, unless otherwise opting to do so as
9 provided in this sub-subparagraph. The authorized insurer may
10 choose to provide such wind coverage by endorsing its existing
11 multiperil policy with a corporation wind-only policy or by
12 issuing its own approved multiperil policy including coverage
13 for the peril of wind. Authorized insurers issuing policies to
14 policyholders including the peril of wind may not charge a
15 rate for the peril of wind which is higher than the wind-only
16 rate of the high-risk account of the corporation. An
17 authorized insurer may use its own procedures, methodologies,
18 rates, and computer systems to issue policies covering wind in
19 the high-risk account of the corporation. Any filing affecting
20 rates for wind coverage in the high-risk account submitted by
21 any authorized insurer for risks located in areas eligible for
22 the high-risk account of the corporation shall be deemed
23 approved whenever such rate is less than the approved rate for
24 each individual risk of the high-risk account. In the event of
25 a loss incurred by a risk in the high-risk account of the
26 corporation, the authorized insurer shall adjust the claim and
27 submit the claim file to the corporation for payment of the
28 claim by the corporation, or the authorized insurer may choose
29 to pay the claim and seek reimbursement of the amount of the
30 claim from the corporation. Producer commissions for high-risk
31 account policies shall be set and determined by the authorized

1 insurer writing the multiperil policy but shall not be less
2 than the effective rate of commission currently in effect for
3 the high-risk account on new and renewal policies when applied
4 to the full premium.

5 h. Authorized insurers that issue wind coverage for
6 policies insured in the high-risk account of the corporation
7 on or after January 1, 2006, shall be responsible for
8 servicing those policies, including, but not limited to,
9 policy administration and claims administration. Authorized
10 insurers that issue wind coverage for policies insured in the
11 high-risk account of the corporation shall adjust all claims
12 for those high-risk account policies. Authorized insurers that
13 issue wind coverage for policies insured in the high-risk
14 account of the corporation on or after January 1, 2006, shall
15 be paid a fee to service, process, issue, and maintain such
16 policies, including, but not limited to, adjusting claims.
17 Such fee shall be retained by the authorized insurer from the
18 wind portion of the premium collected from the policyholder
19 with the balance forwarded to the corporation for payment of
20 claims. The corporation shall determine the fee paid to the
21 authorized insurer without prior approval of the office, and
22 the amount of the fee shall be subject to binding arbitration,
23 as set forth in s. 627.062.

24 i. There shall be no liability on the part of, and no
25 cause of action of any nature shall arise against, any
26 authorized insurer acting within the scope of its authority
27 under this subsection or its agents or employees for any
28 action taken by them in the performance of their duties or
29 responsibilities under this subsection. Such immunity does not
30 apply to actions for breach of any contract or agreement
31 pertaining to insurance or any willful tort.

1 3. With respect to a deficit in any of the homestead
2 accounts ~~an account~~:

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

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

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

1 a. and b. shall be paid as required by the corporation's plan
2 of operation and paragraph (g). Assessments levied by the
3 corporation on assessable insureds under sub-subparagraphs a.
4 and b. shall be collected by the surplus lines agent at the
5 time the surplus lines agent collects the surplus lines tax
6 required by s. 626.932 and shall be paid to the Florida
7 Surplus Lines Service Office at the time the surplus lines
8 agent pays the surplus lines tax to the Florida Surplus Lines
9 Service Office. Upon receipt of regular assessments from
10 surplus lines agents, the Florida Surplus Lines Service Office
11 shall transfer the assessments directly to the corporation as
12 determined by the corporation.

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

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

25 e. The corporation may pledge the proceeds of
26 assessments, projected recoveries from the Florida Hurricane
27 Catastrophe Fund, other insurance and reinsurance
28 recoverables, market equalization surcharges and other
29 surcharges, and other funds available to the corporation as
30 the source of revenue for and to secure bonds issued under
31 paragraph (g), bonds or other indebtedness issued under

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

24 | f. As used in this subsection, the term "subject lines
25 | of business" means insurance written by assessable insurers or
26 | procured by assessable insureds on real or personal property,
27 | as defined in s. 624.604, including insurance for fire,
28 | industrial fire, allied lines, farmowners multiperil,
29 | homeowners multiperil, commercial multiperil, and mobile
30 | homes, and including liability coverage on all such insurance,
31 | but excluding inland marine as defined in s. 624.607(3) and

1 | excluding vehicle insurance as defined in s. 624.605(1) other
2 | than insurance on mobile homes used as permanent dwellings.

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

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

17 | 4. With respect to a deficit in the nonhomestead
18 | account or to any cash flow shortfall that the board
19 | determines will create an inability for the nonhomestead
20 | account to pay claims when due:

21 | a. The board may levy an immediate assessment against
22 | the premium of each nonhomestead account policyholder,
23 | expressed as a uniform percentage of the premium for the
24 | policy then in effect. The maximum amount of such assessment
25 | is 100 percent of such premium.

26 | b. If the assessment under sub-subparagraph a. is
27 | insufficient to enable the account to pay claims and eliminate
28 | the deficit in the account, the board may levy an additional
29 | assessment to be collected at the time of any issuance or
30 | renewal of a nonhomestead account policy during the 1-year
31 | period following the levy of the assessment under

1 sub-subparagraph a., expressed as a uniform percentage of the
2 premium for the policy for the forthcoming policy period. The
3 maximum amount of such assessment is 100 percent of such
4 premium.

5 c. If the assessments under sub-subparagraphs a. and
6 b. are insufficient to enable the account to pay claims and
7 eliminate the deficit in the account, the board may make a
8 loan from any of the homestead accounts to the nonhomestead
9 account, subject to approval by the office and provided that
10 such loan does not impair the financial status of any of the
11 homestead accounts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

1 other staff as the corporation may require, subject to review
2 and concurrence by the board and the Chief Financial Officer.

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

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

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

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

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

1 (B) 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 greater of
4 the insurer's or the corporation's usual and customary
5 commission for the type of policy written.

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

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

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

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

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

28 b. With respect to commercial lines residential risks,
29 if the risk is offered coverage under a policy including wind
30 coverage from an authorized insurer at its approved rate, the
31 risk is not eligible for any policy issued by the corporation.

1 | If the risk is not able to obtain any such offer, the risk is
2 | eligible for a policy including wind coverage issued by the
3 | corporation.

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

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

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

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

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

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

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

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

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

12 c. With respect to personal lines residential risks,
13 if the risk is a dwelling with an insured value of \$1 million
14 or more, the risk is not eligible for any policy issued by the
15 corporation. Rates for a policy issued by an authorized
16 insurer covering a personal residential property not eligible
17 for coverage by the corporation and eligible for export under
18 s. 626.916 are not subject to s. 627.062.

19 6. Must include rules for classifications of risks and
20 rates therefor.

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

29 8. Must provide objective criteria and procedures to
30 be uniformly applied for all applicants in determining whether
31 an individual risk is so hazardous as to be uninsurable. In

1 making this determination and in establishing the criteria and
2 procedures, the following shall be considered:

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

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

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

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

17 10. Must provide that in the event of regular deficit
18 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
19 (b)3.b., in the personal lines homestead account, the
20 commercial lines residential homestead account, or the
21 high-risk homestead account, the corporation shall levy upon
22 corporation homestead account policyholders in its next rate
23 filing, or by a separate rate filing solely for this purpose,
24 a market equalization surcharge arising from a regular
25 assessment in such account in a percentage equal to the total
26 amount of such regular assessments divided by the aggregate
27 statewide direct written premium for subject lines of business
28 for the prior calendar year. Market equalization surcharges
29 under this subparagraph are not considered premium and are not
30 subject to commissions, fees, or premium taxes; however,

31

1 failure to pay a market equalization surcharge shall be
2 treated as failure to pay premium.

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

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

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

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

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

30 16. Must provide that the hurricane deductible for any
31 property in the nonhomestead account with an insured value of

1 \$250,000 or more must be at least 5 percent of the insured
2 value.

3 17. Must provide that the application for coverage
4 under the nonhomestead account and the declaration page of
5 each nonhomestead account policy include a statement in
6 boldface 12-point type specifying that public subsidies do not
7 support the corporation's coverage of nonhomestead property;
8 that if the nonhomestead account of the corporation sustains a
9 deficit or is unable to pay claims, the nonhomestead
10 policyholder may be subject to an immediate assessment in an
11 amount up to 100 percent of the premium and a further
12 assessment upon renewal of the policy; and that the applicant
13 or policyholder may wish to seek alternative coverage from a
14 nonadmitted insurer in the surplus lines market that will not
15 be subject to such potential assessments.

16 18. Must provide that the application for coverage
17 under any of the homestead accounts and the declaration page
18 of each homestead account policy include a statement in
19 boldface 12-point type specifying that a false declaration of
20 homestead status for purposes of obtaining coverage in any of
21 the homestead accounts may constitute the offense of insurance
22 fraud, as prohibited and punishable as a felony under s.
23 817.234.

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

1 corporation. Any authorized insurer eligible to write
2 insurance policies for wind in the high-risk account areas of
3 the corporation may require arbitration under s. 627.062(6) of
4 any filing of the high-risk account.

5 b. It is the intent of the Legislature to reaffirm the
6 requirement of rate adequacy in the residual market.

7 Recognizing that rates may comply with the intent expressed in
8 sub-subparagraph a. and yet be inadequate and recognizing the
9 public need to limit subsidies within the residual market, it
10 is the further intent of the Legislature to establish
11 statutory standards for rate adequacy. Such standards are
12 intended to supplement the standard specified in s.
13 627.062(2)(e)3., providing that rates are inadequate if they
14 are clearly insufficient to sustain projected losses and
15 expenses in the class of business to which they apply.

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

29 3. Rates for personal lines residential wind-only
30 policies must be actuarially sound and not competitive with
31 approved rates charged by authorized insurers. The rates for

1 the high-risk account shall be no less than rates in effect on
2 March 1, 2006. Corporation rate manuals shall include a rate
3 surcharge for seasonal occupancy. To ensure that personal
4 lines residential wind-only rates are not competitive with
5 approved rates charged by authorized insurers, the
6 corporation, in conjunction with the office, shall develop a
7 wind-only ratemaking methodology, which methodology shall be
8 contained in each rate filing made by the corporation with the
9 office. If the office determines that the wind-only rates or
10 rating factors filed by the corporation fail to comply with
11 the wind-only ratemaking methodology provided for in this
12 subsection, it shall so notify the corporation and require the
13 corporation to amend its rates or rating factors to come into
14 compliance within 90 days of notice from the office.

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

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

6 5. Rates for commercial lines coverage shall not be
7 subject to the requirements of subparagraph 2., but shall be
8 subject to all other requirements of this paragraph and s.
9 627.062.

10 6.a. Nothing in this paragraph shall require or allow
11 the corporation to adopt a rate that is inadequate under s.
12 627.062 or under sub-subparagraph b. or sub-subparagraph c.

13 b. With respect to rates for coverage in any homestead
14 account, a rate is deemed inadequate if the rate is not
15 sufficient to generate, by means of cash flow, procurement of
16 coverage under the Florida Hurricane Catastrophe Fund;
17 procurement of reinsurance; and investment income, moneys
18 sufficient to pay all claims and expenses reasonably expected
19 to result from a 50-year probable maximum loss event without
20 resort to any regular or emergency assessments, long-term
21 debt, state revenues, or other funding sources that reflect
22 any subsidy from persons or entities other than corporation
23 homestead accounts policyholders.

24 c. With respect to rates for coverage in the
25 nonhomestead account, a rate is deemed inadequate if the rate
26 is not sufficient to generate, by means of cash flow,
27 procurement of coverage under the Florida Hurricane
28 Catastrophe Fund; procurement of reinsurance; and investment
29 income, moneys sufficient to pay all claims and expenses
30 reasonably expected to result from a 250-year probable maximum
31 loss event without resort to any assessments, debt, state

1 revenues, or other funding sources that reflect any subsidy
2 from persons or entities other than corporation nonhomestead
3 account policyholders.

4 7. The corporation shall certify to the office at
5 least twice annually that its personal lines rates comply with
6 the requirements of subparagraphs 1., ~~and 2.,~~ and 6. If any
7 adjustment in the rates or rating factors of the corporation
8 is necessary to ensure such compliance, the corporation shall
9 make and implement such adjustments and file its revised rates
10 and rating factors with the office. If the office thereafter
11 determines that the revised rates and rating factors fail to
12 comply with the provisions of subparagraphs 1. and 2., it
13 shall notify the corporation and require the corporation to
14 amend its rates or rating factors in conjunction with its next
15 rate filing. The office must notify the corporation by
16 electronic means of any rate filing it approves for any
17 insurer among the insurers referred to in subparagraph 2. Any
18 authorized insurer eligible to write insurance policies for
19 wind in the high-risk account areas of the corporation may
20 require arbitration under s. 627.062(6) of any filing of the
21 high-risk account.

22 8. In addition to the rates otherwise determined
23 pursuant to this paragraph, the corporation shall impose and
24 collect an amount equal to the premium tax provided for in s.
25 624.509 to augment the financial resources of the corporation.

26 9.a. To assist the corporation in developing
27 additional ratemaking methods to assure compliance with
28 subparagraphs 1. and 4., the corporation shall appoint a rate
29 methodology panel consisting of one person recommended by the
30 Florida Association of Insurance Agents, one person
31 recommended by the Professional Insurance Agents of Florida,

1 | one person recommended by the Florida Association of Insurance
2 | and Financial Advisors, one person recommended by the insurer
3 | with the highest voluntary market share of residential
4 | property insurance business in the state, one person
5 | recommended by the insurer with the second-highest voluntary
6 | market share of residential property insurance business in the
7 | state, one person recommended by an insurer writing commercial
8 | residential property insurance in this state, one person
9 | recommended by the Office of Insurance Regulation, and one
10 | board member designated by the board chairman, who shall serve
11 | as chairman of the panel.

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

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

27 | d. The plan must include a provision that producer
28 | commissions paid by the corporation shall not be calculated in
29 | such a manner as to include any rate equalization surcharge.
30 | However, without regard to the plan to be developed or its
31 | implementation, producer commissions paid by the corporation

1 for each account, other than the quota share primary program,
2 shall remain fixed as to percentage, effective rate,
3 calculation, and payment method until January 1, 2004.

4 10. By January 1, 2004, the corporation shall develop
5 a notice to policyholders or applicants that the rates of
6 Citizens Property Insurance Corporation are intended to be
7 higher than the rates of any admitted carrier and providing
8 other information the corporation deems necessary to assist
9 consumers in finding other voluntary admitted insurers willing
10 to insure their property.

11 (e) If coverage in an account is deactivated pursuant
12 to paragraph (f), coverage through the corporation shall be
13 reactivated by order of the office only under one of the
14 following circumstances:

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

30 2. In response to a state of emergency declared by the
31 Governor under s. 252.36, the office may activate coverage by

1 | order for the period of the emergency upon a finding by the
2 | office that the emergency significantly affects the
3 | availability of residential property insurance.

4 | (f)1. The corporation shall file with the office
5 | quarterly statements of financial condition, an annual
6 | statement of financial condition, and audited financial
7 | statements in the manner prescribed by law. In addition, the
8 | corporation shall report to the office monthly on the types,
9 | premium, exposure, and distribution by county of its policies
10 | in force, and shall submit other reports as the office
11 | requires to carry out its oversight of the corporation.

12 | 2. The activities of the corporation shall be reviewed
13 | at least annually by the office to determine whether coverage
14 | shall be deactivated in an account on the basis that the
15 | conditions giving rise to its activation no longer exist.

16 | (g)1. The corporation shall certify to the office its
17 | needs for annual assessments as to a particular calendar year,
18 | and for any interim assessments that it deems to be necessary
19 | to sustain operations as to a particular year pending the
20 | receipt of annual assessments. Upon verification, the office
21 | shall approve such certification, and the corporation shall
22 | levy such annual or interim assessments. Such assessments
23 | shall be prorated as provided in paragraph (b). The
24 | corporation shall take all reasonable and prudent steps
25 | necessary to collect the amount of assessment due from each
26 | assessable insurer, including, if prudent, filing suit to
27 | collect such assessment. If the corporation is unable to
28 | collect an assessment from any assessable insurer, the
29 | uncollected assessments shall be levied as an additional
30 | assessment against the assessable insurers and any assessable
31 | insurer required to pay an additional assessment as a result

1 of such failure to pay shall have a cause of action against
2 such nonpaying assessable insurer. Assessments shall be
3 included as an appropriate factor in the making of rates. The
4 failure of a surplus lines agent to collect and remit any
5 regular or emergency assessment levied by the corporation is
6 considered to be a violation of s. 626.936 and subjects the
7 surplus lines agent to the penalties provided in that section.

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

1 as are necessary to carry out this paragraph. Any bonds issued
2 under this subparagraph shall be payable from and secured by
3 moneys received by the corporation from emergency assessments
4 under sub-subparagraph (b)3.d., and assigned and pledged to or
5 on behalf of the unit of local government for the benefit of
6 the holders of such bonds. The funds, credit, property, and
7 taxing power of the state or of the unit of local government
8 shall not be pledged for the payment of such bonds. If any of
9 the bonds remain unsold 60 days after issuance, the office
10 shall require all insurers subject to assessment to purchase
11 the bonds, which shall be treated as admitted assets; each
12 insurer shall be required to purchase that percentage of the
13 unsold portion of the bond issue that equals the insurer's
14 relative share of assessment liability under this subsection.
15 An insurer shall not be required to purchase the bonds to the
16 extent that the office determines that the purchase would
17 endanger or impair the solvency of the insurer.

18 3.a. The corporation shall adopt one or more programs
19 subject to approval by the office for the reduction of both
20 new and renewal writings in the corporation. The corporation
21 may consider any prudent and not unfairly discriminatory
22 approach to reducing corporation writings, and may adopt a
23 credit against assessment liability or other liability that
24 provides an incentive for insurers to take risks out of the
25 corporation and to keep risks out of the corporation by
26 maintaining or increasing voluntary writings in counties or
27 areas in which corporation risks are highly concentrated and a
28 program to provide a formula under which an insurer
29 voluntarily taking risks out of the corporation by maintaining
30 or increasing voluntary writings will be relieved wholly or
31 partially from assessments under sub-subparagraphs (b)3.a. and

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

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

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

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

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

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

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

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

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

20 1. Any of the foregoing persons or entities for any
21 willful tort;

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

24 3. The corporation with respect to issuance or payment
25 of debt; or

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

29 (j) For the purposes of s. 199.183(1), the corporation
30 shall be considered a political subdivision of the state and
31 shall be exempt from the corporate income tax. The premiums,

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

1 including any profit made on the sale thereof, shall at all
2 times be free from taxation of every kind by the state and any
3 political subdivision or local unit or other instrumentality
4 thereof; however, this exemption does not apply to any tax
5 imposed by chapter 220 on interest, income, or profits on debt
6 obligations owned by corporations other than the corporation.

7 (k) Upon a determination by the office that the
8 conditions giving rise to the establishment and activation of
9 the corporation no longer exist, the corporation is dissolved.

10 Upon dissolution, the assets of the corporation shall be
11 applied first to pay all debts, liabilities, and obligations
12 of the corporation, including the establishment of reasonable
13 reserves for any contingent liabilities or obligations, and
14 all remaining assets of the corporation shall become property
15 of the state and shall be deposited in the Florida Hurricane
16 Catastrophe Fund. However, no dissolution shall take effect as
17 long as the corporation has bonds or other financial
18 obligations outstanding unless adequate provision has been
19 made for the payment of the bonds or other financial
20 obligations pursuant to the documents authorizing the issuance
21 of the bonds or other financial obligations.

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

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 (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 | (n)1. The following records of the corporation are
7 | confidential and exempt from the provisions of s. 119.07(1)
8 | and s. 24(a), Art. I of the State Constitution:

9 | a. Underwriting files, except that a policyholder or
10 | an applicant shall have access to his or her own underwriting
11 | files.

12 | b. Claims files, until termination of all litigation
13 | and settlement of all claims arising out of the same incident,
14 | although portions of the claims files may remain exempt, as
15 | otherwise provided by law. Confidential and exempt claims file
16 | records may be released to other governmental agencies upon
17 | written request and demonstration of need; such records held
18 | by the receiving agency remain confidential and exempt as
19 | provided for herein.

20 | c. Records obtained or generated by an internal
21 | auditor pursuant to a routine audit, until the audit is
22 | completed, or if the audit is conducted as part of an
23 | investigation, until the investigation is closed or ceases to
24 | be active. An investigation is considered "active" while the
25 | investigation is being conducted with a reasonable, good faith
26 | belief that it could lead to the filing of administrative,
27 | civil, or criminal proceedings.

28 | d. Matters reasonably encompassed in privileged
29 | attorney-client communications.
30 |
31 |

1 e. Proprietary information licensed to the corporation
2 under contract and the contract provides for the
3 confidentiality of such proprietary information.

4 f. All information relating to the medical condition
5 or medical status of a corporation employee which is not
6 relevant to the employee's capacity to perform his or her
7 duties, except as otherwise provided in this paragraph.
8 Information which is exempt shall include, but is not limited
9 to, information relating to workers' compensation, insurance
10 benefits, and retirement or disability benefits.

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

19 h. Information relating to negotiations for financing,
20 reinsurance, depopulation, or contractual services, until the
21 conclusion of the negotiations.

22 i. Minutes of closed meetings regarding underwriting
23 files, and minutes of closed meetings regarding an open claims
24 file until termination of all litigation and settlement of all
25 claims with regard to that claim, except that information
26 otherwise confidential or exempt by law will be redacted.

27
28 When an authorized insurer is considering underwriting a risk
29 insured by the corporation, relevant underwriting files and
30 confidential claims files may be released to the insurer
31 provided the insurer agrees in writing, notarized and under

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

21 | 2. Portions of meetings of the corporation are exempt
22 | from the provisions of s. 286.011 and s. 24(b), Art. I of the
23 | State Constitution wherein confidential underwriting files or
24 | confidential open claims files are discussed. All portions of
25 | corporation meetings which are closed to the public shall be
26 | recorded by a court reporter. The court reporter shall record
27 | the times of commencement and termination of the meeting, all
28 | discussion and proceedings, the names of all persons present
29 | at any time, and the names of all persons speaking. No portion
30 | of any closed meeting shall be off the record. Subject to the
31 | provisions hereof and s. 119.07(1)(b)-(d), the court

1 reporter's notes of any closed meeting shall be retained by
2 the corporation for a minimum of 5 years. A copy of the
3 transcript, less any exempt matters, of any closed meeting
4 wherein claims are discussed shall become public as to
5 individual claims after settlement of the claim.

6 (o) It is the intent of the Legislature that the
7 amendments to this subsection enacted in 2002 should, over
8 time, reduce the probable maximum windstorm losses in the
9 residual markets and should reduce the potential assessments
10 to be levied on property insurers and policyholders statewide.
11 In furtherance of this intent:

12 1. The board shall, on or before February 1 of each
13 year, provide a report to the President of the Senate and the
14 Speaker of the House of Representatives showing the reduction
15 or increase in the 100-year probable maximum loss attributable
16 to wind-only coverages and the quota share program under this
17 subsection combined, as compared to the benchmark 100-year
18 probable maximum loss of the Florida Windstorm Underwriting
19 Association. For purposes of this paragraph, the benchmark
20 100-year probable maximum loss of the Florida Windstorm
21 Underwriting Association shall be the calculation dated
22 February 2001 and based on November 30, 2000, exposures. In
23 order to ensure comparability of data, the board shall use the
24 same methods for calculating its probable maximum loss as were
25 used to calculate the benchmark probable maximum loss. The
26 reduction or increase in probable maximum loss shall be
27 calculated without taking into account the probable maximum
28 loss attributable to the nonhomestead account.

29 2. Beginning February 1, ~~2010~~ 2007, if the report
30 under subparagraph 1. for any year indicates that the 100-year
31 probable maximum loss attributable to wind-only coverages and

1 | the quota share program combined does not reflect a reduction
2 | of at least 25 percent from the benchmark, the board shall
3 | reduce the boundaries of the high-risk area eligible for
4 | wind-only coverages under this subsection in a manner
5 | calculated to reduce such probable maximum loss to an amount
6 | at least 25 percent below the benchmark.

7 | 3. Beginning February 1, 2015 ~~2012~~, if the report
8 | under subparagraph 1. for any year indicates that the 100-year
9 | probable maximum loss attributable to wind-only coverages and
10 | the quota share program combined does not reflect a reduction
11 | of at least 50 percent from the benchmark, the boundaries of
12 | the high-risk area eligible for wind-only coverages under this
13 | subsection shall be reduced by the elimination of any area
14 | that is not seaward of a line 1,000 feet inland from the
15 | Intracoastal Waterway.

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

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

31

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

15 (r) A salaried employee of the corporation who
16 performs policy administration services subsequent to the
17 effectuation of a corporation policy is not required to be
18 licensed as an agent under the provisions of s. 626.112.

19 (s) The transition to homestead and nonhomestead
20 accounts shall begin on October 1, 2006. A policy issued on or
21 after that date shall be issued in the applicable homestead
22 account or the nonhomestead account, based upon whether the
23 property constitutes homestead property as provided in
24 subparagraph (b)2. A policy in effect on October 1, 2006,
25 shall be placed in the applicable homestead account or the
26 nonhomestead account, based upon whether the property
27 constitutes homestead property as provided in subparagraph
28 (b)2., upon the first renewal of such policy after October 1,
29 2006.

30 Section 5. Paragraph (b) of subsection (3) of section
31 627.4035, Florida Statutes, is amended to read:

1 627.4035 Cash payment of premiums; claims.--

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

4 (b) If authorized in writing by the recipient or the
5 recipient's representative, by debit card or any other form of
6 electronic transfer. Any fees or costs to be charged against
7 the recipient must be disclosed in writing to the recipient or
8 the recipient's representative at the time of written
9 authorization. However, the written authorization requirement
10 may be waived by the recipient or the recipient's
11 representative if the insurer verifies the identity of the
12 insured or the insured's recipient and does not charge a fee
13 for the transaction. If the funds are misdirected, the insurer
14 would remain liable for the payment of the claim.

15 Section 6. Subsections (2) and (3) of section
16 627.7011, Florida Statutes, are amended to read:

17 627.7011 Homeowners' policies; offer of replacement
18 cost coverage and law and ordinance coverage.--

19 (2) Unless the insurer obtains the policyholder's
20 written refusal of the policies or endorsements specified in
21 subsection (1), any policy covering the dwelling is deemed to
22 include the law and ordinance coverage specified in paragraph
23 (1)(b), limited to 25 percent of the dwelling limit. The
24 rejection or selection of alternative coverage shall be made
25 on a form approved by the office. The form shall fully advise
26 the applicant of the nature of the coverage being rejected. If
27 this form is signed by a named insured, it will be
28 conclusively presumed that there was an informed, knowing
29 rejection of the coverage or election of the alternative
30 coverage on behalf of all insureds. Unless the policyholder
31 requests in writing the coverage specified in this section, it

1 need not be provided in or supplemental to any other policy
2 that renews, insures, extends, changes, supersedes, or
3 replaces an existing policy when the policyholder has rejected
4 the coverage specified in this section or has selected
5 alternative coverage. The insurer must provide such
6 policyholder with notice of the availability of such coverage
7 in a form approved by the office at least once every 3 years.
8 The failure to provide such notice constitutes a violation of
9 this code, but does not affect the coverage provided under the
10 policy.

11 (3) In the event of a loss for which a dwelling ~~or~~
12 ~~personal property~~ is insured on the basis of replacement
13 costs, the insurer shall pay the replacement cost without
14 reservation or holdback of any depreciation in value, whether
15 or not the insured replaces or repairs the dwelling ~~or~~
16 ~~property~~.

17 Section 7. Section 627.7019, Florida Statutes, is
18 created to read:

19 627.7019 Standardization of requirements applicable to
20 insurers after natural disasters.--

21 (1) The commission shall adopt by rule, pursuant to s.
22 120.54(1)-(3), standardized requirements that may be applied
23 to insurers as a consequence of a hurricane or other natural
24 disaster. The rules shall address the following areas:

25 (a) Claims reporting requirements.

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

28 (c) Temporary postponement of cancellations and
29 nonrenewals.

30 (2) The rules adopted pursuant to this section shall
31 require the office to issue an order within 72 hours after the

1 occurrence of a hurricane or other natural disaster
2 specifying, by line of insurance, which of the standardized
3 requirements apply, the geographic areas in which they apply,
4 the time at which applicability commences, and the time at
5 which applicability terminates.

6 (3) The commission and the office may not adopt an
7 emergency rule under s. 120.54(4) in conflict with any
8 provision of the rules adopted under this section.

9 (4) The commission shall initiate rulemaking under
10 this section no later than June 1, 2006.

11 Section 8. Paragraph (a) of subsection (1) of section
12 817.234, Florida Statutes, is amended to read:

13 817.234 False and fraudulent insurance claims.--

14 (1)(a) A person commits insurance fraud punishable as
15 provided in subsection (11) if that person, with the intent to
16 injure, defraud, or deceive any insurer:

17 1. Presents or causes to be presented any written or
18 oral statement as part of, or in support of, a claim for
19 payment or other benefit pursuant to an insurance policy or a
20 health maintenance organization subscriber or provider
21 contract, knowing that such statement contains any false,
22 incomplete, or misleading information concerning any fact or
23 thing material to such claim;

24 2. Prepares or makes any written or oral statement
25 that is intended to be presented to any insurer in connection
26 with, or in support of, any claim for payment or other benefit
27 pursuant to an insurance policy or a health maintenance
28 organization subscriber or provider contract, knowing that
29 such statement contains any false, incomplete, or misleading
30 information concerning any fact or thing material to such
31 claim; or

1 3.a. Knowingly presents, causes to be presented, or
2 prepares or makes with knowledge or belief that it will be
3 presented to any insurer, purported insurer, servicing
4 corporation, insurance broker, or insurance agent, or any
5 employee or agent thereof, any false, incomplete, or
6 misleading information or written or oral statement as part
7 of, or in support of, an application for the issuance of, or
8 the rating of, any insurance policy, or a health maintenance
9 organization subscriber or provider contract, including any
10 false declaration of homestead status for the purpose of
11 obtaining coverage in a homestead account under s. 627.351(6);
12 or

13 b. Who knowingly conceals information concerning any
14 fact material to such application.

15 Section 9. Paragraph (f) is added to subsection (2) of
16 section 631.181, Florida Statutes, to read:

17 631.181 Filing and proof of claim.--

18 (2)

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

30 Section 10. Subsection (3) of section 631.54, Florida
31 Statutes, is amended to read:

1 631.54 Definitions.--As used in this part:

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

13 "Covered claim" shall not include:

14 (a) Any amount due any reinsurer, insurer, insurance
15 pool, or underwriting association, sought directly or
16 indirectly through a third party, as subrogation,
17 contribution, indemnification, or otherwise; or

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

22 Member insurers shall have no right of subrogation,
23 contribution, indemnification, or otherwise, sought directly
24 or indirectly through a third party, against the insured of
25 any insolvent member.

26 Section 11. Paragraph (a) of subsection (1), paragraph
27 (d) of subsection (2), and paragraph (a) of subsection (3) of
28 section 631.57, Florida Statutes, are amended, and paragraph
29 (e) is added to subsection (3) of that section, to read:

30 631.57 Powers and duties of the association.--

31 (1) The association shall:

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

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

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

7 c. Before the insured replaces the policy or causes
8 its cancellation, if she or he does so within 30 days of the
9 determination.

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

23 b. Notwithstanding sub-subparagraph a., the
24 association has no obligation to pay covered claims that are
25 to be paid from the proceeds of bonds issued under s. 631.695.
26 However, the association shall assign and pledge the first
27 available moneys from all or part of the assessments to be
28 made under paragraph (3)(a) to or on behalf of the issuer of
29 such bonds for the benefit of the holders of such bonds. The
30 association shall administer any such covered claims and
31 present valid covered claims for payment in accordance with

1 the provisions of the assistance program in connection with
2 which such bonds have been issued.

3 3. In no event shall the association be obligated to a
4 policyholder or claimant in an amount in excess of the
5 obligation of the insolvent insurer under the policy from
6 which the claim arises.

7 (2) The association may:

8 (d) Negotiate and become a party to such contracts as
9 are necessary to carry out the purpose of this part.

10 Additionally, the association may enter into such contracts
11 with a municipality, a county, or a legal entity created
12 pursuant to s. 163.01(7)(g) as are necessary in order for the
13 municipality, county, or legal entity to issue bonds under s.
14 631.695. In connection with the issuance of any such bonds and
15 the entering into of any such necessary contracts, the
16 association may agree to such terms and conditions as the
17 association deems necessary and proper.

18 (3)(a) To the extent necessary to secure the funds for
19 the respective accounts for the payment of covered claims, ~~and~~
20 ~~also~~ to pay the reasonable costs to administer the same, and
21 to secure the funds for the account specified in s.
22 631.55(2)(c) or to retire indebtedness, including, without
23 limitation, the principal, redemption premium, if any, and
24 interest on, and related costs of issuance of, bonds issued
25 under s. 631.695 and the funding of any reserves and other
26 payments required under the bond resolution or trust indenture
27 pursuant to which such bonds have been issued, the office,
28 upon certification of the board of directors, shall levy
29 assessments in the proportion that each insurer's net direct
30 written premiums in this state in the classes protected by the
31 account bears to the total of said net direct written premiums

1 received in this state by all such insurers for the preceding
2 calendar year for the kinds of insurance included within such
3 account. Assessments shall be remitted to and administered by
4 the board of directors in the manner specified by the approved
5 plan. Each insurer so assessed shall have at least 30 days'
6 written notice as to the date the assessment is due and
7 payable. Every assessment shall be made as a uniform
8 percentage applicable to the net direct written premiums of
9 each insurer in the kinds of insurance included within the
10 account in which the assessment is made. The assessments
11 levied against any insurer shall not exceed in any one year
12 more than 2 percent of that insurer's net direct written
13 premiums in this state for the kinds of insurance included
14 within such account during the calendar year next preceding
15 the date of such assessments.

16 (e)1.a. In addition to assessments otherwise
17 authorized in paragraph (a) and to the extent necessary to
18 secure the funds for the account specified in s. 631.55(2)(c)
19 or to retire indebtedness, including, without limitation, the
20 principal, redemption premium, if any, and interest on, and
21 related costs of issuance of, bonds issued under s. 631.695
22 and the funding of any reserves and other payments required
23 under the bond resolution or trust indenture pursuant to which
24 such bonds have been issued, the department, upon
25 certification of the board of directors, shall levy emergency
26 assessments as provided in this paragraph upon insurers
27 holding a certificate of authority. The emergency assessments
28 payable under this paragraph by any insurer shall not exceed
29 in any single year more than 2 percent of that insurer's
30 direct written premiums, net of refunds, in this state during
31

1 the preceding calendar year for the kinds of insurance within
2 the account specified in s. 631.55(2)(c).
3 b. Any emergency assessments authorized under this
4 paragraph shall be levied by the department upon insurers
5 holding a certificate of authority, upon certification as to
6 the need for such assessments by the board of directors, in
7 each year that bonds issued under s. 631.695 and secured by
8 such emergency assessments are outstanding, in such amounts up
9 to such 2-percent limit as required in order to provide for
10 the full and timely payment of the principal of, redemption
11 premium, if any, and interest on, and related costs of
12 issuance of, such bonds. The emergency assessments provided
13 for in this paragraph are assigned and pledged to the
14 municipality, county, or legal entity issuing bonds under s.
15 631.695 for the benefit of the holders of such bonds, in order
16 to enable such municipality, county, or legal entity to
17 provide for the payment of the principal of, redemption
18 premium, if any, and interest on such bonds, the cost of
19 issuance of such bonds, and the funding of any reserves and
20 other payments required under the bond resolution or trust
21 indenture pursuant to which such bonds have been issued,
22 without the necessity of any further action by the
23 association, the department, or any other party. To the extent
24 that bonds are issued under s. 631.695 and the association
25 determines to secure such bonds by a pledge of revenues
26 received from the emergency assessments, such bonds, upon such
27 pledge of revenues, shall be secured by and payable from the
28 proceeds of such emergency assessments, and the proceeds of
29 emergency assessments levied under this paragraph shall be
30 remitted directly to and administered by the trustee or
31 custodian appointed for such bonds.

1 c. Emergency assessments under this paragraph may be
2 payable in a single payment or, at the option of the
3 association, may be payable in 12 monthly installments with
4 the first installment being due and payable at the end of the
5 month after an emergency assessment is levied and subsequent
6 installments being due not later than the end of each
7 succeeding month.

8 d. If emergency assessments are imposed, the report
9 required by s. 631.695(7) shall include an analysis of the
10 revenues generated from the emergency assessments imposed
11 under this paragraph.

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

27 3. An annual assessment under this paragraph shall
28 continue while the bonds issued with respect to which the
29 assessment was imposed are outstanding, including any bonds
30 the proceeds of which were used to refund bonds issued
31 pursuant to s. 631.695, unless adequate provision has been

1 made for the payment of the bonds in the documents authorizing
2 the issuance of such bonds.

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

10 Section 12. Section 631.695, Florida Statutes, is
11 created to read:

12 631.695 Revenue bond issuance through counties or
13 municipalities.--

14 (1) The Legislature finds:

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

20 (b) The inability of insureds within this state to
21 receive payment of covered claims or to timely receive such
22 payment creates financial and other hardships for such
23 insureds and places undue burdens on the state, the affected
24 units of local government, and the community at large.

25 (c) In addition, the failure of insurers to pay
26 covered claims or to timely pay such claims due to the
27 insolvency of such insurers can undermine the public's
28 confidence in insurers operating within this state, thereby
29 adversely affecting the stability of the insurance industry in
30 this state.

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1 (d) The state has previously taken action to address
2 these problems by adopting the Florida Insurance Guaranty
3 Association Act, which, among other things, provides a
4 mechanism for the payment of covered claims under certain
5 insurance policies to avoid excessive delay in payment and to
6 avoid financial loss to claimants or policyholders because of
7 the insolvency of an insurer.

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

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

25 (g) To achieve the foregoing purposes, it is proper to
26 authorize municipalities and counties of this state
27 substantially affected by the landfall of a category 1 or
28 greater hurricane to issue bonds to assist the Florida
29 Insurance Guaranty Association in expediting the handling and
30 payment of covered claims of insolvent insurers.

31

1 (h) In order to avoid the needless and indiscriminate
2 proliferation, duplication, and fragmentation of such
3 assistance programs, it is in the best interests of the
4 residents of this state to authorize municipalities and
5 counties severely affected by a category 1 or greater
6 hurricane to provide for the payment of covered claims beyond
7 their territorial limits in the implementation of such
8 programs.

9 (i) It is a paramount public purpose for
10 municipalities and counties substantially affected by the
11 landfall of a category 1 or greater hurricane to be able to
12 issue bonds for the purposes described in this section. Such
13 issuance shall provide assistance to residents of those
14 municipalities and counties as well as to other residents of
15 this state.

16 (2) The governing body of any municipality or county,
17 the residents of which have been substantially affected by a
18 category 1 or greater hurricane, may issue bonds to fund an
19 assistance program in conjunction with, and with the consent
20 of, the Florida Insurance Guaranty Association for the purpose
21 of paying claimants' or policyholders' covered claims, as
22 defined in s. 631.54, arising through the insolvency of an
23 insurer, which insolvency is determined by the Florida
24 Insurance Guaranty Association to have been a result of a
25 category 1 or greater hurricane, regardless of whether the
26 claimants or policyholders are residents of such municipality
27 or county or the property to which the claim relates is
28 located within or outside the territorial jurisdiction of the
29 municipality or county. The power of a municipality or county
30 to issue bonds, as described in this section, is in addition
31 to any powers granted by law and may not be abrogated or

1 restricted by any provisions in such municipality's or
2 county's charter. A municipality or county issuing bonds for
3 this purpose shall enter into such contracts with the Florida
4 Insurance Guaranty Association or any entity acting on behalf
5 of the Florida Insurance Guaranty Association as are necessary
6 to implement the assistance program. Any bonds issued by a
7 municipality or county or a combination thereof under this
8 subsection shall be payable from and secured by moneys
9 received by or on behalf of the municipality or county from
10 assessments levied under s. 631.57(3)(a) and assigned and
11 pledged to or on behalf of the municipality or county for the
12 benefit of the holders of the bonds in connection with the
13 assistance program. The funds, credit, property, and taxing
14 power of the state or any municipality or county shall not be
15 pledged for the payment of such bonds.

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

30 (4) The state covenants with holders of bonds of the
31 assistance program that the state will not take any action

1 that will have a material adverse effect on the holders and
2 will not repeal or abrogate the power of the board of
3 directors of the association to direct the Office of Insurance
4 Regulation to levy the assessments and to collect the proceeds
5 of the revenues pledged to the payment of the bonds as long as
6 any of the bonds remain outstanding, unless adequate provision
7 has been made for the payment of the bonds in the documents
8 authorizing the issuance of the bonds.

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

29 (6) Two or more municipalities or counties, the
30 residents of which have been substantially affected by a
31 category 1 or greater hurricane, may create a legal entity

1 pursuant to s. 163.01(7)(g) to exercise the powers described
2 in this section as well as those powers granted in s.
3 163.01(7)(g). References in this section to a municipality or
4 county includes such legal entity.

5 (7) The association shall issue an annual report on
6 the status of the use of bond proceeds as related to
7 insolvencies caused by hurricanes. The report must contain the
8 number and amount of claims paid. The association shall also
9 include an analysis of the revenue generated from the
10 assessment levied under s. 631.57(3)(a) to pay such bonds. The
11 association shall submit a copy of the report to the President
12 of the Senate, the Speaker of the House of Representatives,
13 and the Chief Financial Officer within 90 days after the end
14 of each calendar year in which bonds were outstanding.

15 Section 13. No provision of s. 631.57 or s. 631.695,
16 Florida Statutes, shall be repealed until such time as the
17 principal, redemption premium, if any, and interest on all
18 bonds issued under s. 631.695, Florida Statutes, payable and
19 secured from assessments levied under s. 631.57(3)(a), Florida
20 Statutes, have been paid in full or adequate provision for
21 such payment has been made in accordance with the bond
22 resolution or trust indenture pursuant to which the bonds were
23 issued.

24 Section 14. If any provision of this act or the
25 application thereof to any person or circumstance is held
26 invalid, the invalidity shall not affect other provisions or
27 applications of the act which can be given effect without the
28 invalid provision or application, and to this end the
29 provisions of this act are declared severable.

30 Section 15. The sum of \$100 million is appropriated
31 from the General Revenue Fund to the Florida Hurricane Damage

1 Prevention Endowment as a nonrecurring appropriation for the
2 purposes specified in s. 215.558, Florida Statutes, as created
3 by this act.

4 Section 16. The provisions applying to issuance of
5 policies for the peril of wind only in the high-risk account
6 of the Citizens Property Insurance Corporation under s.
7 627.351(6)(b)2.g. and h., Florida Statutes, shall operate
8 retroactively to January 1, 2006.

9 Section 17. This act shall take effect upon becoming a
10 law.

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