

By Senator Smith

14-1495B-06

See HB 1209

1                                   A bill to be entitled

2           An act relating to the Florida Hurricane

3           Catastrophe Fund; amending s. 215.555, F.S.;

4           revising findings and purposes; revising

5           definitions; changing the name of the fund to

6           the Florida Hurricane Insurance Fund; revising

7           requirements for reimbursement contracts;

8           providing requirements, procedures, and

9           methodologies for policyholders to pay premiums

10          to insurers, insurers to remit premiums to the

11          fund, insurers to reimburse policyholders for

12          hurricane losses, and the state to reimburse

13          insurers from the fund for payments to

14          policyholders; deleting a required annual

15          appropriation from the investment income of the

16          Florida Hurricane Catastrophe Fund for certain

17          purposes; providing coverage limitations;

18          providing exceptions; providing for discounted

19          premiums to certain insurers under certain

20          circumstances; deleting conflicting provisions;

21          revising reimbursement premium provisions to

22          conform; renaming the Florida Hurricane

23          Catastrophe Fund Finance Corporation as the

24          Florida Hurricane Insurance Fund Finance

25          Corporation; making conforming changes;

26          amending ss. 215.556, 215.559, 624.424,

27          624.5091, 627.062, 627.0628, 627.0629, 627.351,

28          627.701, and 627.7077, F.S., to conform;

29          amending s. 109(3), ch. 2000-141, Laws of

30          Florida; deleting a limitation subjecting

31          certain portions of coastal counties to certain

1 debris requirements adopted by the Florida  
2 Building Commission; providing an effective  
3 date.

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

6  
7 Section 1. Section 215.555, Florida Statutes, is  
8 amended to read:

9 215.555 Florida Hurricane Insurance ~~Catastrophe~~  
10 Fund.--

11 (1) FINDINGS AND PURPOSE.--The Legislature finds and  
12 declares as follows:

13 (a) There is a compelling state interest in  
14 maintaining a viable and orderly private sector market for  
15 property insurance in this state. To the extent that the  
16 private sector is unable to maintain a viable and orderly  
17 market for property insurance in this state, state actions to  
18 maintain such a viable and orderly market are valid and  
19 necessary exercises of the police power.

20 (b) As a result of unprecedented levels of  
21 catastrophic insured losses in recent years, and especially as  
22 a result of Hurricane Andrew and the 2004 and 2005 hurricane  
23 seasons, numerous insurers have determined that in order to  
24 protect their solvency, it is necessary for them to reduce  
25 their exposure to hurricane losses. Also as a result of these  
26 events, world reinsurance capacity has significantly  
27 contracted, increasing the pressure on insurers to reduce  
28 their catastrophic exposures.

29 (c) Mortgages require reliable property insurance, and  
30 the unavailability of reliable property insurance would  
31 therefore make most real estate transactions impossible. In

1 addition, the public health, safety, and welfare demand that  
2 structures damaged or destroyed in a catastrophe be repaired  
3 or reconstructed as soon as possible. Therefore, the inability  
4 of the private sector insurance and reinsurance markets to  
5 maintain sufficient capacity to enable residents of this state  
6 to obtain property insurance coverage in the private sector  
7 endangers the economy of the state and endangers the public  
8 health, safety, and welfare. Accordingly, state action to  
9 correct for this inability of the private sector constitutes a  
10 valid and necessary public and governmental purpose.

11 (d) The insolvencies and financial impairments  
12 resulting from Hurricane Andrew and the 2004 and 2005  
13 hurricane seasons demonstrate that many property insurers are  
14 unable or unwilling to maintain reserves, surplus, and  
15 reinsurance sufficient to enable the insurers to pay all  
16 claims in full in the event of a catastrophe. State action is  
17 therefore necessary to protect the public from an insurer's  
18 unwillingness or inability to maintain sufficient reserves,  
19 surplus, and reinsurance.

20 (e) A state program to provide a stable and ongoing  
21 source of coverage reimbursement to insurers for a substantial  
22 portion of their catastrophic hurricane losses for citizens of  
23 this state will create additional insurance capacity  
24 sufficient to ameliorate the current dangers to the state's  
25 economy and to the public health, safety, and welfare.

26 (f) It is essential to the functioning of a state  
27 program to increase insurance capacity that revenues received  
28 be exempt from federal taxation. It is therefore the intent of  
29 the Legislature that this program be structured as a state  
30 trust fund under the direction and control of the State Board  
31 of Administration and operate exclusively for the purpose of

1 protecting and advancing the state's interest in maintaining  
2 insurance capacity in this state.

3 (g) Hurricane Andrew, which caused insured and  
4 uninsured losses in excess of \$20 billion, and the 2004  
5 hurricane season, which caused insured losses in excess of \$42  
6 billion, will likely not be the last major windstorm to strike  
7 Florida. Recognizing that a future wind catastrophe could  
8 cause damages in excess of \$60 billion, especially if a major  
9 urban area or series of urban areas were hit, it is the intent  
10 of the Legislature to balance equitably its concerns about  
11 mitigation of hurricane impact, insurance affordability and  
12 availability, and the risk of insurer and joint underwriting  
13 association insolvency, as well as assessment and bonding  
14 limitations.

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

16 (a)~~(m)~~ "Actual claims-paying capacity" means the sum  
17 of the balance of the fund as of December 31 of a contract  
18 year, plus any reinsurance purchased by the fund, plus the  
19 amount the board is able to raise through the issuance of  
20 revenue bonds under subsection (6).

21 (b)~~(a)~~ "Actuarially indicated" means, with respect to  
22 premiums paid to ~~by~~ insurers for reimbursement provided by the  
23 fund, an amount determined according to principles of  
24 actuarial science to be adequate, but not excessive, in the  
25 aggregate, to pay current and future obligations and expenses  
26 of the fund, including additional amounts if needed to pay  
27 debt service on revenue bonds issued under this section and to  
28 provide required debt service coverage in excess of the  
29 amounts required to pay actual debt service on revenue bonds  
30 issued under subsection (6), and determined according to

31

1 principles of actuarial science to reflect each insurer's  
2 relative exposure to hurricane losses.

3 ~~(c)(g)~~ "Bond" means any bond, debenture, note, or  
4 other evidence of financial indebtedness issued under this  
5 section.

6 ~~(d)(n)~~ "Corporation" means the Florida Hurricane  
7 Insurance Catastrophe Fund Finance Corporation created in  
8 paragraph (6)(d).

9 ~~(e)(b)~~ "Covered event" means any one storm declared to  
10 be a hurricane by the National Hurricane Center, which storm  
11 causes insured losses in this state.

12 ~~(f)(e)~~ "Covered policy" means any hurricane insurance  
13 policy covering residential property in this state, including,  
14 but not limited to, any homeowner's, mobile home owner's, farm  
15 owner's, condominium association, condominium unit owner's,  
16 tenant's, or apartment building policy, or any other policy  
17 covering a residential structure or its contents issued by any  
18 authorized insurer, including the Citizens Property Insurance  
19 Corporation and any joint underwriting association or similar  
20 entity created pursuant to law. The term "covered policy"  
21 includes any collateral protection insurance policy covering  
22 personal residences which protects both the borrower's and the  
23 lender's financial interests, in an amount at least equal to  
24 the coverage for the dwelling in place under the lapsed  
25 homeowner's policy, if such policy can be accurately reported  
26 as required in subsection (5). Additionally, covered policies  
27 include policies covering the peril of wind removed from the  
28 Florida Residential Property and Casualty Joint Underwriting  
29 Association or from the Citizens Property Insurance  
30 Corporation, created pursuant to s. 627.351(6), or from the  
31 Florida Windstorm Underwriting Association, created pursuant

1 | to s. 627.351(2), by an authorized insurer under the terms and  
2 | conditions of an executed assumption agreement between the  
3 | authorized insurer and such association or Citizens Property  
4 | Insurance Corporation. Each assumption agreement between the  
5 | association and such authorized insurer or Citizens Property  
6 | Insurance Corporation must be approved by the Office of  
7 | Insurance Regulation prior to the effective date of the  
8 | assumption, and the Office of Insurance Regulation must  
9 | provide written notification to the board within 15 working  
10 | days after such approval. "Covered policy" does not include  
11 | any policy that excludes wind coverage or hurricane coverage  
12 | or any reinsurance agreement and does not include any policy  
13 | otherwise meeting this definition which is issued by a surplus  
14 | lines insurer or a reinsurer. All commercial residential  
15 | excess policies and all deductible buy-back policies that,  
16 | based on sound actuarial principles, require individual  
17 | ratemaking shall be excluded by rule if the actuarial  
18 | soundness of the fund is not jeopardized. For this purpose,  
19 | the term "excess policy" means a policy that provides  
20 | insurance protection for large commercial property risks and  
21 | that provides a layer of coverage above a primary layer  
22 | insured by another insurer.

23 |       ~~(g)(h)~~ "Debt service" means the amount required in any  
24 | fiscal year to pay the principal of, redemption premium, if  
25 | any, and interest on revenue bonds and any amounts required by  
26 | the terms of documents authorizing, securing, or providing  
27 | liquidity for revenue bonds necessary to maintain in effect  
28 | any such liquidity or security arrangements.

29 |       ~~(h)(i)~~ "Debt service coverage" means the amount, if  
30 | any, required by the documents under which revenue bonds are  
31 | issued, which amount is to be received in any fiscal year in

1 excess of the amount required to pay debt service for such  
2 fiscal year.

3 (i)~~(l)~~ "Estimated claims-paying capacity" means the  
4 sum of the projected year-end balance of the fund as of  
5 December 31 of a contract year, plus any reinsurance purchased  
6 by the fund, plus the board's estimate of the board's  
7 borrowing capacity.

8 (j) "Local government" means a unit of general purpose  
9 local government as defined in s. 218.31(2).

10 (k)~~(d)~~ "Losses" means direct incurred losses under  
11 covered policies, which shall include losses for additional  
12 living expenses not to exceed 40 percent of the insured value  
13 of a residential structure or its contents and shall exclude  
14 loss adjustment expenses. "Losses" does not include losses for  
15 fair rental value, loss of use, or business interruption  
16 losses.

17 (l)~~(k)~~ "Pledged revenues" means all or any portion of  
18 revenues to be derived from reimbursement premiums under  
19 subsection (5) or from emergency assessments under paragraph  
20 (6)(b), as determined by the board.

21 ~~(e) "Retention" means the amount of losses below which  
22 an insurer is not entitled to reimbursement from the fund. An  
23 insurer's retention shall be calculated as follows:~~

24 ~~1. The board shall calculate and report to each  
25 insurer the retention multiples for that year. For the  
26 contract year beginning June 1, 2005, the retention multiple  
27 shall be equal to \$4.5 billion divided by the total estimated  
28 reimbursement premium for the contract year; for subsequent  
29 years, the retention multiple shall be equal to \$4.5 billion,  
30 adjusted based upon the reported exposure from the prior  
31 contract year to reflect the percentage growth in exposure to~~

1 ~~the fund for covered policies since 2004, divided by the total~~  
2 ~~estimated reimbursement premium for the contract year. Total~~  
3 ~~reimbursement premium for purposes of the calculation under~~  
4 ~~this subparagraph shall be estimated using the assumption that~~  
5 ~~all insurers have selected the 90 percent coverage level.~~

6 ~~2. The retention multiple as determined under~~  
7 ~~subparagraph 1. shall be adjusted to reflect the coverage~~  
8 ~~level elected by the insurer. For insurers electing the~~  
9 ~~90 percent coverage level, the adjusted retention multiple is~~  
10 ~~100 percent of the amount determined under subparagraph 1. For~~  
11 ~~insurers electing the 75 percent coverage level, the retention~~  
12 ~~multiple is 120 percent of the amount determined under~~  
13 ~~subparagraph 1. For insurers electing the 45 percent coverage~~  
14 ~~level, the adjusted retention multiple is 200 percent of the~~  
15 ~~amount determined under subparagraph 1.~~

16 ~~3. An insurer shall determine its provisional~~  
17 ~~retention by multiplying its provisional reimbursement premium~~  
18 ~~by the applicable adjusted retention multiple and shall~~  
19 ~~determine its actual retention by multiplying its actual~~  
20 ~~reimbursement premium by the applicable adjusted retention~~  
21 ~~multiple.~~

22 ~~4. For insurers who experience multiple covered events~~  
23 ~~causing loss during the contract year, beginning June 1, 2005,~~  
24 ~~each insurer's full retention shall be applied to each of the~~  
25 ~~covered events causing the two largest losses for that~~  
26 ~~insurer. For each other covered event resulting in losses, the~~  
27 ~~insurer's retention shall be reduced to one third of the full~~  
28 ~~retention. The reimbursement contract shall provide for the~~  
29 ~~reimbursement of losses for each covered event based on the~~  
30 ~~full retention with adjustments made to reflect the reduced~~  
31 ~~retentions after January 1 of the contract year provided the~~



1 ~~insurer reports its losses as specified in the reimbursement~~  
2 ~~contract.~~

3         ~~(m)~~~~(f)~~ "Workers' compensation" includes both workers'  
4 compensation and excess workers' compensation insurance.

5         (3) FLORIDA HURRICANE INSURANCE ~~CATASTROPHE~~ FUND  
6 CREATED.--There is created the Florida Hurricane Insurance  
7 ~~Catastrophe~~ Fund to be administered by the State Board of  
8 Administration. Moneys in the fund may not be expended,  
9 loaned, or appropriated except to pay obligations of the fund  
10 arising out of reimbursement contracts entered into under  
11 subsection (4), payment of debt service on revenue bonds  
12 issued under subsection (6), costs of the mitigation program  
13 under subsection (7), costs of procuring reinsurance, and  
14 costs of administration of the fund. The board shall invest  
15 the moneys in the fund pursuant to ss. 215.44-215.52. Except  
16 as otherwise provided in this section, earnings from all  
17 investments shall be retained in the fund. The board may  
18 employ or contract with such staff and professionals as the  
19 board deems necessary for the administration of the fund. The  
20 board may adopt such rules as are reasonable and necessary to  
21 implement this section and shall specify interest due on any  
22 delinquent remittances, which interest may not exceed the  
23 fund's rate of return plus 5 percent. Such rules must conform  
24 to the Legislature's specific intent in establishing the fund  
25 as expressed in subsection (1), must enhance the fund's  
26 potential ability to respond to claims for covered events,  
27 must contain general provisions so that the rules can be  
28 applied with reasonable flexibility so as to accommodate  
29 insurers in situations of an unusual nature or where undue  
30 hardship may result, except that such flexibility may not in  
31 any way impair, override, supersede, or constrain the public

1 | purpose of the fund, and must be consistent with sound  
2 | insurance practices. The board may, by rule, provide for the  
3 | exemption from subsections (4) and (5) of insurers writing  
4 | covered policies with less than \$10 million in aggregate  
5 | exposure for covered policies if the exemption does not affect  
6 | the actuarial soundness of the fund.

7 | (4) REIMBURSEMENT CONTRACTS.--

8 | (a) The board shall enter into a contract with each  
9 | insurer writing hurricane-covered ~~covered~~ policies in this  
10 | state to provide to the insurer the reimbursement described in  
11 | paragraphs (b) and (d), in exchange for the reimbursement  
12 | premium paid into the fund under subsection (5). As a  
13 | condition of doing business in this state, each such insurer  
14 | shall enter into such a contract.

15 | (b)1. The contract shall contain a promise by the  
16 | board to reimburse the insurer for losses as provided in this  
17 | paragraph as a result of a covered event 45 percent, 75  
18 | ~~percent, or 90 percent of its losses from each covered event~~  
19 | ~~in excess of the insurer's retention, plus 5 percent of the~~  
20 | ~~reimbursed losses to cover loss adjustment expenses.~~

21 | 2. The insurer shall provide hurricane coverage for  
22 | any policyholder selecting this coverage. The insurer shall  
23 | collect premiums from policyholders as determined by the state  
24 | and remit premium collections to the state to be deposited in  
25 | the Florida Hurricane Insurance Fund ~~must elect one of the~~  
26 | ~~percentage coverage levels specified in this paragraph and~~  
27 | ~~may, upon renewal of a reimbursement contract, elect a lower~~  
28 | ~~percentage coverage level if no revenue bonds issued under~~  
29 | ~~subsection (6) after a covered event are outstanding, or elect~~  
30 | ~~a higher percentage coverage level, regardless of whether or~~  
31 | ~~not revenue bonds are outstanding. All members of an insurer~~

1 ~~group must elect the same percentage coverage level. Any joint~~  
2 ~~underwriting association, risk apportionment plan, or other~~  
3 ~~entity created under s. 627.351 must elect the 90 percent~~  
4 ~~coverage level.~~

5       3. The contract shall provide that reimbursement  
6 coverage for any hurricane loss must be paid to the insurer. A  
7 policyholder shall submit all claims to the insurer for  
8 payment for all related losses.

9       4. A policyholder shall pay hurricane peril premiums  
10 to the insurer, and the insurer shall remit collected premiums  
11 to the state.

12       5. An insurer shall contract with the state to provide  
13 hurricane peril coverage to policyholders and provide coverage  
14 directly to policyholders for losses as a result of a covered  
15 event. The state shall reimburse the insurer from the Florida  
16 Hurricane Insurance Fund for all reimbursements made by the  
17 insurer to policyholders as a result of a covered event.

18       6. Premiums paid by a policyholder must provide,  
19 through the fund, a maximum coverage of \$500,000.

20       7. A policyholder may select hurricane deductibles of  
21 1, 2, 5, or 10 percent.

22       8. An insurer may choose to provide additional  
23 coverage beyond the fund's coverage of \$500,000 for its  
24 policyholders.

25       9. An insurer shall provide claims adjustment and  
26 reimbursement for losses directly to its policyholders. Once  
27 reimbursement amounts have been determined for policyholders,  
28 an insurer shall submit a request for reimbursement through  
29 the fund for payments made to policyholders for hurricane  
30 loss.

31

1           10. The \$500,000 maximum coverage shall be adjusted  
2 every 5 years based on the home rate index.

3           11. Discounted premiums shall be provided by the fund  
4 for an insurer who encourages its policyholders to engage in  
5 loss mitigation following damage to or loss of property  
6 ~~amounts shall not be reduced by reinsurance paid or payable to~~  
7 ~~the insurer from other sources.~~

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

19           ~~2.~~ In May before the start of the upcoming contract  
20 year and in October during the contract year, the board shall  
21 publish in the Florida Administrative Weekly a statement of  
22 the fund's estimated borrowing capacity and the projected  
23 balance of the fund as of December 31. After the end of each  
24 calendar year, the board shall notify insurers of the  
25 estimated borrowing capacity and the balance of the fund as of  
26 December 31 to provide insurers with data necessary to assist  
27 them in determining their actuarially sound premiums retention  
28 and projected payout from the fund for loss reimbursement  
29 purposes. ~~In conjunction with the development of the premium~~  
30 ~~formula, as provided for in subsection (5), the board shall~~  
31 ~~publish factors or multiples that assist insurers in~~

1 ~~determining their retention and projected payout for the next~~  
2 ~~contract year. For all regulatory and reinsurance purposes, an~~  
3 ~~insurer may calculate its projected payout from the fund as~~  
4 ~~its share of the total fund premium for the current contract~~  
5 ~~year multiplied by the sum of the projected balance of the~~  
6 ~~fund as of December 31 and the estimated borrowing capacity~~  
7 ~~for that contract year as reported under this subparagraph.~~

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

23 2. In determining reimbursements pursuant to this  
24 subsection, the contract shall provide that the board shall+

25 ~~a. First~~ reimburse insurers within 90 days after  
26 reporting policyholder-paid losses as a result of a covered  
27 event writing covered policies, which insurers are in full  
28 compliance with this section and have petitioned the Office of  
29 Insurance Regulation and qualified as limited apportionment  
30 companies under s. 627.351(2)(b)3. ~~The amount of such~~  
31 ~~reimbursement shall be the lesser of \$10 million or an amount~~

1 ~~equal to 10 times the insurer's reimbursement premium for the~~  
2 ~~current year. The amount of reimbursement paid under this~~  
3 ~~sub-subparagraph may not exceed the full amount of~~  
4 ~~reimbursement promised in the reimbursement contract. This~~  
5 ~~sub-subparagraph does not apply with respect to any contract~~  
6 ~~year in which the year end projected cash balance of the fund,~~  
7 ~~exclusive of any bonding capacity of the fund, exceeds \$2~~  
8 ~~billion. Only one member of any insurer group may receive~~  
9 ~~reimbursement under this sub-subparagraph.~~

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

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

23 ~~(c)1. Except as provided in subparagraphs 2. and 3.,~~  
24 ~~the contract shall provide that if an insurer demonstrates to~~  
25 ~~the board that it is likely to qualify for reimbursement under~~  
26 ~~the contract, and demonstrates to the board that the immediate~~  
27 ~~receipt of moneys from the board is likely to prevent the~~  
28 ~~insurer from becoming insolvent, the board shall advance the~~  
29 ~~insurer, at market interest rates, the amounts necessary to~~  
30 ~~maintain the solvency of the insurer, up to 50 percent of the~~  
31 ~~board's estimate of the reimbursement due the insurer. The~~

1 ~~insurer's reimbursement shall be reduced by an amount equal to~~  
2 ~~the amount of the advance and interest thereon.~~

3 ~~2. With respect only to an entity created under s.~~  
4 ~~627.351, the contract shall also provide that the board may,~~  
5 ~~upon application by such entity, advance to such entity, at~~  
6 ~~market interest rates, up to 90 percent of the lesser of:~~

7 ~~a. The board's estimate of the amount of reimbursement~~  
8 ~~due to such entity; or~~

9 ~~b. The entity's share of the actual reimbursement~~  
10 ~~premium paid for that contract year, multiplied by the~~  
11 ~~currently available liquid assets of the fund. In order for~~  
12 ~~the entity to qualify for an advance under this subparagraph,~~  
13 ~~the entity must demonstrate to the board that the advance is~~  
14 ~~essential to allow the entity to pay claims for a covered~~  
15 ~~event and the board must determine that the fund's assets are~~  
16 ~~sufficient and are sufficiently liquid to allow the board to~~  
17 ~~make an advance to the entity and still fulfill the board's~~  
18 ~~reimbursement obligations to other insurers. The entity's~~  
19 ~~final reimbursement for any contract year in which an advance~~  
20 ~~has been made under this subparagraph must be reduced by an~~  
21 ~~amount equal to the amount of the advance and any interest on~~  
22 ~~such advance. In order to determine what amounts, if any, are~~  
23 ~~due the entity, the board may require the entity to report its~~  
24 ~~exposure and its losses at any time to determine retention~~  
25 ~~levels and reimbursements payable.~~

26 ~~3. The contract shall also provide specifically and~~  
27 ~~solely with respect to any limited apportionment company under~~  
28 ~~s. 627.351(2)(b)3. that the board may, upon application by~~  
29 ~~such company, advance to such company the amount of the~~  
30 ~~estimated reimbursement payable to such company as calculated~~  
31 ~~pursuant to paragraph (d), at market interest rates, if the~~

1 ~~board determines that the fund's assets are sufficient and are~~  
2 ~~sufficiently liquid to permit the board to make an advance to~~  
3 ~~such company and at the same time fulfill its reimbursement~~  
4 ~~obligations to the insurers that are participants in the fund.~~  
5 ~~Such company's final reimbursement for any contract year in~~  
6 ~~which an advance pursuant to this subparagraph has been made~~  
7 ~~shall be reduced by an amount equal to the amount of the~~  
8 ~~advance and interest thereon. In order to determine what~~  
9 ~~amounts, if any, are due to such company, the board may~~  
10 ~~require such company to report its exposure and its losses at~~  
11 ~~such times as may be required to determine retention levels~~  
12 ~~and loss reimbursements payable.~~

13       ~~(e)(f)~~ In order to ensure that insurers have properly  
14 reported the insured values on which the reimbursement premium  
15 is based and to ensure that insurers have properly reported  
16 the losses for which reimbursements have been made, the board  
17 shall inspect, examine, and verify the records of each  
18 insurer's covered policies at such times as the board deems  
19 appropriate and according to standards established by rule for  
20 the specific purpose of validating the accuracy of exposures  
21 and losses required to be reported under the terms and  
22 conditions of the reimbursement contract. The costs of the  
23 examinations shall be borne by the board. However, in order to  
24 remove any incentive for an insurer to delay preparations for  
25 an examination, the board shall be reimbursed by the insurer  
26 for any examination expenses incurred in addition to the usual  
27 and customary costs of the examination, which additional  
28 expenses were incurred as a result of an insurer's failure,  
29 despite proper notice, to be prepared for the examination or  
30 as a result of an insurer's failure to provide requested  
31 information while the examination is in progress. If the board



1 finds any insurer's records or other necessary information to  
2 be inadequate or inadequately posted, recorded, or maintained,  
3 the board may employ experts to reconstruct, rewrite, record,  
4 post, or maintain such records or information, at the expense  
5 of the insurer being examined, if such insurer has failed to  
6 maintain, complete, or correct such records or deficiencies  
7 after the board has given the insurer notice and a reasonable  
8 opportunity to do so. Any information contained in an  
9 examination report, which information is described in s.  
10 215.557, is confidential and exempt from the provisions of s.  
11 119.07(1) and s. 24(a), Art. I of the State Constitution, as  
12 provided in s. 215.557. Nothing in this paragraph expands the  
13 exemption in s. 215.557.

14 (f)~~(g)~~ The contract shall provide that in the event of  
15 the insolvency of an insurer, the fund shall pay directly to  
16 the Florida Insurance Guaranty Association for the benefit of  
17 Florida policyholders of the insurer the net amount of all  
18 reimbursement moneys owed to the insurer. As used in this  
19 paragraph, the term "net amount of all reimbursement moneys"  
20 means that amount which remains after reimbursement for:

21 1. Preliminary or duplicate payments owed to private  
22 reinsurers or other inuring reinsurance payments to private  
23 reinsurers that satisfy statutory or contractual obligations  
24 of the insolvent insurer attributable to covered events to  
25 such reinsurers; or

26 2. Funds owed to a bank or other financial institution  
27 to cover obligations of the insolvent insurer under a credit  
28 agreement that assists the insolvent insurer in paying claims  
29 attributable to covered events.  
30  
31

1 The private reinsurers, banks, or other financial institutions  
2 shall be reimbursed or otherwise paid prior to payment to the  
3 Florida Insurance Guaranty Association, notwithstanding any  
4 law to the contrary. The guaranty association shall pay all  
5 claims up to the maximum amount permitted by chapter 631;  
6 thereafter, any remaining moneys shall be paid pro rata to  
7 claims not fully satisfied. This paragraph does not apply to a  
8 joint underwriting association, risk apportionment plan, or  
9 other entity created under s. 627.351.

10 (5) REIMBURSEMENT PREMIUMS.--

11 (a) Each reimbursement contract shall require the  
12 insurer to ~~annually~~ pay to the fund an actuarially indicated  
13 premium for the reimbursement of hurricane losses.

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

1 ~~year, taking into consideration when the insurer starts~~  
2 ~~writing covered policies, the potential exposure of the~~  
3 ~~insurer, the potential exposure of the fund, the~~  
4 ~~administrative costs to the insurer and to the fund, and any~~  
5 ~~other factors deemed appropriate by the board. The formula~~  
6 ~~must be approved by unanimous vote of the board. The board~~  
7 ~~may, at any time, revise the formula pursuant to the procedure~~  
8 ~~provided in this paragraph.~~

9 (c) No later than September 1 of each year, each  
10 insurer shall notify the board of its insured values under  
11 covered policies by zip code, as of June 30 of that year. On  
12 the basis of these reports, the board shall calculate the  
13 premium due from the insurer, based on the formula adopted  
14 under paragraph (b). ~~The insurer shall pay the required annual~~  
15 ~~premium pursuant to a periodic payment plan specified in the~~  
16 ~~contract. The board shall provide for payment of reimbursement~~  
17 ~~premium in periodic installments and for the adjustment of~~  
18 ~~provisional premium installments collected prior to submission~~  
19 ~~of the exposure report to reflect data in the exposure report.~~  
20 ~~The board shall collect interest on late reimbursement premium~~  
21 ~~payments consistent with the assumptions made in developing~~  
22 ~~the premium formula in accordance with paragraph (b).~~

23 ~~(d) All premiums paid to the fund under reimbursement~~  
24 ~~contracts shall be treated as premium for approved reinsurance~~  
25 ~~for all accounting and regulatory purposes.~~

26 (6) REVENUE BONDS.--

27 (a) General provisions.--

28 1. Upon the occurrence of a hurricane and a  
29 determination that the moneys in the fund are or will be  
30 insufficient to pay reimbursement at the levels promised in  
31 the reimbursement contracts, the board may take the necessary

1 | steps under paragraph (c) or paragraph (d) for the issuance of  
2 | revenue bonds for the benefit of the fund. The proceeds of  
3 | such revenue bonds may be used to make reimbursement payments  
4 | under reimbursement contracts; to refinance or replace  
5 | previously existing borrowings or financial arrangements; to  
6 | pay interest on bonds; to fund reserves for the bonds; to pay  
7 | expenses incident to the issuance or sale of any bond issued  
8 | under this section, including costs of validating, printing,  
9 | and delivering the bonds, costs of printing the official  
10 | statement, costs of publishing notices of sale of the bonds,  
11 | and related administrative expenses; or for such other  
12 | purposes related to the financial obligations of the fund as  
13 | the board may determine. The term of the bonds may not exceed  
14 | 30 years. The board may pledge or authorize the corporation to  
15 | pledge all or a portion of all revenues under subsection (5)  
16 | and under paragraph (b) to secure such revenue bonds and the  
17 | board may execute such agreements between the board and the  
18 | issuer of any revenue bonds and providers of other financing  
19 | arrangements under paragraph (7)(b) as the board deems  
20 | necessary to evidence, secure, preserve, and protect such  
21 | pledge. If reimbursement premiums received under subsection  
22 | (5) or earnings on such premiums are used to pay debt service  
23 | on revenue bonds, such premiums and earnings shall be used  
24 | only after the use of the moneys derived from assessments  
25 | under paragraph (b). The funds, credit, property, or taxing  
26 | power of the state or political subdivisions of the state  
27 | shall not be pledged for the payment of such bonds. The board  
28 | may also enter into agreements under paragraph (c) or  
29 | paragraph (d) for the purpose of issuing revenue bonds in the  
30 | absence of a hurricane upon a determination that such action  
31 |

1 | would maximize the ability of the fund to meet future  
2 | obligations.

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

16 |         (b) Emergency assessments.--

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

1 authorized insurers by s. 624.424 and any rule adopted under  
2 this section, except for those lines identified as accident  
3 and health insurance and except for policies written under the  
4 National Flood Insurance Program. The assessment shall be  
5 specified as a percentage of future premium collections and is  
6 subject to annual adjustments by the board to reflect changes  
7 in premiums subject to assessments collected under this  
8 subparagraph in order to meet debt obligations. The same  
9 percentage shall apply to all policies in lines of business  
10 subject to the assessment issued or renewed during the  
11 12-month period beginning on the effective date of the  
12 assessment.

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

25           3. With respect to each insurer collecting premiums  
26 that are subject to the assessment, the insurer shall collect  
27 the assessment at the same time as it collects the premium  
28 payment for each policy and shall remit the assessment  
29 collected to the fund or corporation as provided in the order  
30 issued by the Office of Insurance Regulation. The office shall  
31 verify the accurate and timely collection and remittance of

1 emergency assessments and shall report the information to the  
2 board in a form and at a time specified by the board. Each  
3 insurer collecting assessments shall provide the information  
4 with respect to premiums and collections as may be required by  
5 the office to enable the office to monitor and verify  
6 compliance with this paragraph.

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

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

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

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



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

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

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

20           (c) Revenue bond issuance through counties or  
21 municipalities.--

22           1. If the board elects to enter into agreements with  
23 local governments for the issuance of revenue bonds for the  
24 benefit of the fund, the board shall enter into such contracts  
25 with one or more local governments, including agreements  
26 providing for the pledge of revenues, as are necessary to  
27 effect such issuance. The governing body of a county or  
28 municipality is authorized to issue bonds as defined in s.  
29 125.013 or s. 166.101 from time to time to fund an assistance  
30 program, in conjunction with the Florida Hurricane Insurance  
31 ~~Catastrophe~~ Fund, for the purposes set forth in this section

1 or for the purpose of paying the costs of construction,  
2 reconstruction, repair, restoration, and other costs  
3 associated with damage to properties of policyholders of  
4 covered policies due to the occurrence of a hurricane by  
5 assuring that policyholders located in this state are able to  
6 recover claims under property insurance policies after a  
7 covered event.

8           2. In order to avoid needless and indiscriminate  
9 proliferation, duplication, and fragmentation of such  
10 assistance programs, any local government may provide for the  
11 payment of fund reimbursements, regardless of whether or not  
12 the losses for which reimbursement is made occurred within or  
13 outside of the territorial jurisdiction of the local  
14 government.

15           3. The state hereby covenants with holders of bonds  
16 issued under this paragraph that the state will not repeal or  
17 abrogate the power of the board to direct the Office of  
18 Insurance Regulation to levy the assessments and to collect  
19 the proceeds of the revenues pledged to the payment of such  
20 bonds as long as any such bonds remain outstanding unless  
21 adequate provision has been made for the payment of such bonds  
22 pursuant to the documents authorizing the issuance of such  
23 bonds.

24           4. There shall be no liability on the part of, and no  
25 cause of action shall arise against any members or employees  
26 of the governing body of a local government for any actions  
27 taken by them in the performance of their duties under this  
28 paragraph.

29           (d) Florida Hurricane Insurance ~~Catastrophe~~ Fund  
30 Finance Corporation.--

31

1           1. In addition to the findings and declarations in  
2 subsection (1), the Legislature also finds and declares that:

3           a. The public benefits corporation created under this  
4 paragraph will provide a mechanism necessary for the  
5 cost-effective and efficient issuance of bonds. This mechanism  
6 will eliminate unnecessary costs in the bond issuance process,  
7 thereby increasing the amounts available to pay reimbursement  
8 for losses to property sustained as a result of hurricane  
9 damage.

10           b. The purpose of such bonds is to fund reimbursements  
11 through the Florida Hurricane Insurance ~~Catastrophe~~ Fund to  
12 pay for the costs of construction, reconstruction, repair,  
13 restoration, and other costs associated with damage to  
14 properties of policyholders of covered policies due to the  
15 occurrence of a hurricane.

16           c. The efficacy of the financing mechanism will be  
17 enhanced by the corporation's ownership of the assessments, by  
18 the insulation of the assessments from possible bankruptcy  
19 proceedings, and by covenants of the state with the  
20 corporation's bondholders.

21           2.a. There is created a public benefits corporation,  
22 which is an instrumentality of the state, to be known as the  
23 Florida Hurricane Insurance ~~Catastrophe~~ Fund Finance  
24 Corporation.

25           b. The corporation shall operate under a five-member  
26 board of directors consisting of the Governor or a designee,  
27 the Chief Financial Officer or a designee, the Attorney  
28 General or a designee, the director of the Division of Bond  
29 Finance of the State Board of Administration, and the senior  
30 employee of the State Board of Administration responsible for  
31

1 operations of the Florida Hurricane ~~Insurance Catastrophe~~  
2 Fund.

3 c. The corporation has all of the powers of  
4 corporations under chapter 607 and under chapter 617, subject  
5 only to the provisions of this subsection.

6 d. The corporation may issue bonds and engage in such  
7 other financial transactions as are necessary to provide  
8 sufficient funds to achieve the purposes of this section.

9 e. The corporation may invest in any of the  
10 investments authorized under s. 215.47.

11 f. There shall be no liability on the part of, and no  
12 cause of action shall arise against, any board members or  
13 employees of the corporation for any actions taken by them in  
14 the performance of their duties under this paragraph.

15 3.a. In actions under chapter 75 to validate any bonds  
16 issued by the corporation, the notice required by s. 75.06  
17 shall be published only in Leon County and in two newspapers  
18 of general circulation in the state, and the complaint and  
19 order of the court shall be served only on the State Attorney  
20 of the Second Judicial Circuit.

21 b. The state hereby covenants with holders of bonds of  
22 the corporation that the state will not repeal or abrogate the  
23 power of the board to direct the Office of Insurance  
24 Regulation to levy the assessments and to collect the proceeds  
25 of the revenues pledged to the payment of such bonds as long  
26 as any such bonds remain outstanding unless adequate provision  
27 has been made for the payment of such bonds pursuant to the  
28 documents authorizing the issuance of such bonds.

29 4. The bonds of the corporation are not a debt of the  
30 state or of any political subdivision, and neither the state  
31 nor any political subdivision is liable on such bonds. The

1 corporation does not have the power to pledge the credit, the  
2 revenues, or the taxing power of the state or of any political  
3 subdivision. The credit, revenues, or taxing power of the  
4 state or of any political subdivision shall not be deemed to  
5 be pledged to the payment of any bonds of the corporation.

6 5.a. The property, revenues, and other assets of the  
7 corporation; the transactions and operations of the  
8 corporation and the income from such transactions and  
9 operations; and all bonds issued under this paragraph and  
10 interest on such bonds are exempt from taxation by the state  
11 and any political subdivision, including the intangibles tax  
12 under chapter 199 and the income tax under chapter 220. This  
13 exemption does not apply to any tax imposed by chapter 220 on  
14 interest, income, or profits on debt obligations owned by  
15 corporations other than the Florida Hurricane Insurance  
16 ~~Catastrophe~~ Fund Finance Corporation.

17 b. All bonds of the corporation shall be and  
18 constitute legal investments without limitation for all public  
19 bodies of this state; for all banks, trust companies, savings  
20 banks, savings associations, savings and loan associations,  
21 and investment companies; for all administrators, executors,  
22 trustees, and other fiduciaries; for all insurance companies  
23 and associations and other persons carrying on an insurance  
24 business; and for all other persons who are now or may  
25 hereafter be authorized to invest in bonds or other  
26 obligations of the state and shall be and constitute eligible  
27 securities to be deposited as collateral for the security of  
28 any state, county, municipal, or other public funds. This  
29 sub-subparagraph shall be considered as additional and  
30 supplemental authority and shall not be limited without  
31 specific reference to this sub-subparagraph.

1           6. The corporation and its corporate existence shall  
2 continue until terminated by law; however, no such law shall  
3 take effect as long as the corporation has bonds outstanding  
4 unless adequate provision has been made for the payment of  
5 such bonds pursuant to the documents authorizing the issuance  
6 of such bonds. Upon termination of the existence of the  
7 corporation, all of its rights and properties in excess of its  
8 obligations shall pass to and be vested in the state.

9           (e) Protection of bondholders.--

10           1. As long as the corporation has any bonds  
11 outstanding, neither the fund nor the corporation shall have  
12 the authority to file a voluntary petition under chapter 9 of  
13 the federal Bankruptcy Code or such corresponding chapter or  
14 sections as may be in effect, from time to time, and neither  
15 any public officer nor any organization, entity, or other  
16 person shall authorize the fund or the corporation to be or  
17 become a debtor under chapter 9 of the federal Bankruptcy Code  
18 or such corresponding chapter or sections as may be in effect,  
19 from time to time, during any such period.

20           2. The state hereby covenants with holders of bonds of  
21 the corporation that the state will not limit or alter the  
22 denial of authority under this paragraph or the rights under  
23 this section vested in the fund or the corporation to fulfill  
24 the terms of any agreements made with such bondholders or in  
25 any way impair the rights and remedies of such bondholders as  
26 long as any such bonds remain outstanding unless adequate  
27 provision has been made for the payment of such bonds pursuant  
28 to the documents authorizing the issuance of such bonds.

29           3. Notwithstanding any other provision of law, any  
30 pledge of or other security interest in revenue, money,  
31 accounts, contract rights, general intangibles, or other

1 | personal property made or created by the fund or the  
2 | corporation shall be valid, binding, and perfected from the  
3 | time such pledge is made or other security interest attaches  
4 | without any physical delivery of the collateral or further act  
5 | and the lien of any such pledge or other security interest  
6 | shall be valid, binding, and perfected against all parties  
7 | having claims of any kind in tort, contract, or otherwise  
8 | against the fund or the corporation irrespective of whether or  
9 | not such parties have notice of such claims. No instrument by  
10 | which such a pledge or security interest is created nor any  
11 | financing statement need be recorded or filed.

12 |         (7) ADDITIONAL POWERS AND DUTIES.--

13 |         (a) The board may procure reinsurance from reinsurers  
14 | acceptable to the Office of Insurance Regulation for the  
15 | purpose of maximizing the capacity of the fund.

16 |         (b) In addition to borrowing under subsection (6), the  
17 | board may also borrow from, or enter into other financing  
18 | arrangements with, any market sources at prevailing interest  
19 | rates.

20 |         ~~(c) Each fiscal year, the Legislature shall~~  
21 | ~~appropriate from the investment income of the Florida~~  
22 | ~~Hurricane Catastrophe Fund an amount no less than \$10 million~~  
23 | ~~and no more than 35 percent of the investment income based~~  
24 | ~~upon the most recent fiscal year end audited financial~~  
25 | ~~statements for the purpose of providing funding for local~~  
26 | ~~governments, state agencies, public and private educational~~  
27 | ~~institutions, and nonprofit organizations to support programs~~  
28 | ~~intended to improve hurricane preparedness, reduce potential~~  
29 | ~~losses in the event of a hurricane, provide research into~~  
30 | ~~means to reduce such losses, educate or inform the public as~~  
31 | ~~to means to reduce hurricane losses, assist the public in~~

1 ~~determining the appropriateness of particular upgrades to~~  
2 ~~structures or in the financing of such upgrades, or protect~~  
3 ~~local infrastructure from potential damage from a hurricane.~~  
4 ~~Moneys shall first be available for appropriation under this~~  
5 ~~paragraph in fiscal year 1997 1998. Moneys in excess of the~~  
6 ~~\$10 million specified in this paragraph shall not be available~~  
7 ~~for appropriation under this paragraph if the State Board of~~  
8 ~~Administration finds that an appropriation of investment~~  
9 ~~income from the fund would jeopardize the actuarial soundness~~  
10 ~~of the fund.~~

11       ~~(c)(d)~~ The board may allow insurers to comply with  
12 reporting requirements and reporting format requirements by  
13 using alternative methods of reporting if the proper  
14 administration of the fund is not thereby impaired and if the  
15 alternative methods produce data which is consistent with the  
16 purposes of this section.

17       ~~(d)(e)~~ In order to assure the equitable operation of  
18 the fund, the board may impose a reasonable fee on an insurer  
19 to recover costs involved in reprocessing inaccurate,  
20 incomplete, or untimely exposure data submitted by the  
21 insurer.

22       (8) ADVISORY COUNCIL.--The State Board of  
23 Administration shall appoint a nine-member Florida Hurricane  
24 Insurance Fund Advisory Council that consists of an actuary, a  
25 meteorologist, an engineer, a representative of insurers, a  
26 representative of insurance agents, a representative of  
27 reinsurers, and three consumers who shall also be  
28 representatives of other affected professions and industries,  
29 to provide the board with information and advice in connection  
30 with its duties under this section. Members of the advisory  
31



1 council shall serve at the pleasure of the board and are  
2 eligible for per diem and travel expenses under s. 112.061.

3 (9) APPLICABILITY OF S. 19, ART. III OF THE STATE  
4 CONSTITUTION.--The Legislature finds that the Florida  
5 Hurricane Insurance ~~Catastrophe~~ Fund created by this section  
6 is a trust fund established for bond covenants, indentures, or  
7 resolutions within the meaning of s. 19(f)(3), Art. III of the  
8 State Constitution.

9 (10) VIOLATIONS.--Any violation of this section or of  
10 rules adopted under this section constitutes a violation of  
11 the insurance code.

12 (11) LEGAL PROCEEDINGS.--The board is authorized to  
13 take any action necessary to enforce the rules, and the  
14 provisions and requirements of the reimbursement contract,  
15 required by and adopted pursuant to this section.

16 (12) FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon  
17 the creation of a federal or multistate catastrophic insurance  
18 or reinsurance program intended to serve purposes similar to  
19 the purposes of the fund created by this section, the State  
20 Board of Administration shall promptly make recommendations to  
21 the Legislature for coordination with the federal or  
22 multistate program, for termination of the fund, or for such  
23 other actions as the board finds appropriate in the  
24 circumstances.

25 (13) REVERSION OF FUND ASSETS UPON TERMINATION.--The  
26 fund and the duties of the board under this section may be  
27 terminated only by law. Upon termination of the fund, all  
28 assets of the fund shall revert to the General Revenue Fund.

29 (14) SEVERABILITY.--If any provision of this section  
30 or its application to any person or circumstance is held  
31 invalid, the invalidity does not affect other provisions or

1 applications of the section which can be given effect without  
2 the invalid provision or application, and to this end the  
3 provisions of this section are declared severable.

4 (15) COLLATERAL PROTECTION INSURANCE.--As used in this  
5 section and ss. 627.311 and 627.351, the term "collateral  
6 protection insurance" means commercial property insurance of  
7 which a creditor is the primary beneficiary and policyholder  
8 and which protects or covers an interest of the creditor  
9 arising out of a credit transaction secured by real or  
10 personal property. Initiation of such coverage is triggered by  
11 the mortgagor's failure to maintain insurance coverage as  
12 required by the mortgage or other lending document. Collateral  
13 protection insurance is not residential coverage.

14 Section 2. Section 215.556, Florida Statutes, is  
15 amended to read:

16 215.556 Exemption.--The Florida Hurricane Insurance  
17 ~~Catastrophe~~ Fund created by s. 215.555 is exempt from the  
18 deduction required by s. 215.20(1).

19 Section 3. Subsection (1) of section 215.559, Florida  
20 Statutes, is amended to read:

21 215.559 Hurricane Loss Mitigation Program.--

22 (1) There is created a Hurricane Loss Mitigation  
23 Program. The Legislature shall annually appropriate \$10  
24 million ~~of the moneys authorized for appropriation under s.~~  
25 ~~215.555(7)(c)~~ from the Florida Hurricane Insurance ~~Catastrophe~~  
26 Fund to the Department of Community Affairs for the purposes  
27 set forth in this section.

28 Section 4. Subsection (10) of section 624.424, Florida  
29 Statutes, is amended to read:

30 624.424 Annual statement and other information.--

31

1           (10) Each insurer or insurer group doing business in  
2 this state shall file on a quarterly basis in conjunction with  
3 financial reports required by paragraph (1)(a) a supplemental  
4 report on an individual and group basis on a form prescribed  
5 by the commission with information on personal lines and  
6 commercial lines residential property insurance policies in  
7 this state. The supplemental report shall include separate  
8 information for personal lines property policies and for  
9 commercial lines property policies and totals for each item  
10 specified, including premiums written for each of the property  
11 lines of business as described in ss. 215.555(2)(~~f~~)(~~e~~) and  
12 627.351(6)(a). The report shall include the following  
13 information for each county on a monthly basis:

- 14           (a) Total number of policies in force at the end of  
15 each month.
- 16           (b) Total number of policies canceled.
- 17           (c) Total number of policies nonrenewed.
- 18           (d) Number of policies canceled due to hurricane risk.
- 19           (e) Number of policies nonrenewed due to hurricane  
20 risk.
- 21           (f) Number of new policies written.
- 22           (g) Total dollar value of structure exposure under  
23 policies that include wind coverage.
- 24           (h) Number of policies that exclude wind coverage.

25           Section 5. Subsection (3) of section 624.5091, Florida  
26 Statutes, is amended to read:

27           624.5091 Retaliatory provision, insurers.--

28           (3) This section does not apply as to personal income  
29 taxes, nor as to sales or use taxes, nor as to ad valorem  
30 taxes on real or personal property, nor as to reimbursement  
31 premiums paid to the Florida Hurricane Insurance ~~Catastrophe~~

1 Fund, nor as to emergency assessments paid to the Florida  
2 Hurricane Insurance ~~Catastrophe~~ Fund, nor as to special  
3 purpose obligations or assessments imposed in connection with  
4 particular kinds of insurance other than property insurance,  
5 except that deductions, from premium taxes or other taxes  
6 otherwise payable, allowed on account of real estate or  
7 personal property taxes paid shall be taken into consideration  
8 by the department in determining the propriety and extent of  
9 retaliatory action under this section.

10 Section 6. Subsection (5) of section 627.062, Florida  
11 Statutes, is amended to read:

12 627.062 Rate standards.--

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

27 Section 7. Paragraph (c) of subsection (1), paragraphs  
28 (b) and (f) of subsection (2), and paragraph (b) of subsection  
29 (3) of section 627.0628, Florida Statutes, are amended to  
30 read:

31

1           627.0628 Florida Commission on Hurricane Loss  
2 Projection Methodology; public records exemption; public  
3 meetings exemption.--

4           (1) LEGISLATIVE FINDINGS AND INTENT.--

5           (c) It is the intent of the Legislature to create the  
6 Florida Commission on Hurricane Loss Projection Methodology as  
7 a panel of experts to provide the most actuarially  
8 sophisticated guidelines and standards for projection of  
9 hurricane losses possible, given the current state of  
10 actuarial science. It is the further intent of the Legislature  
11 that such standards and guidelines must be used by the State  
12 Board of Administration in developing reimbursement premium  
13 rates for the Florida Hurricane Insurance Catastrophe Fund,  
14 and, subject to paragraph (3)(c), may be used by insurers in  
15 rate filings under s. 627.062 unless the way in which such  
16 standards and guidelines were applied by the insurer was  
17 erroneous, as shown by a preponderance of the evidence.

18           (2) COMMISSION CREATED.--

19           (b) The commission shall consist of the following 11  
20 members:

- 21           1. The insurance consumer advocate.
- 22           2. The senior employee of the State Board of  
23 Administration responsible for operations of the Florida  
24 Hurricane Insurance Catastrophe Fund.
- 25           3. The Executive Director of the Citizens Property  
26 Insurance Corporation.
- 27           4. The Director of the Division of Emergency  
28 Management of the Department of Community Affairs.
- 29           5. The actuary member of the Florida Hurricane  
30 Insurance Catastrophe Fund Advisory Council.

31

1           6. An employee of the office who is an actuary  
2 responsible for property insurance rate filings and who is  
3 appointed by the director of the office.

4           7. Five members appointed by the Chief Financial  
5 Officer, as follows:

6           a. An actuary who is employed full time by a property  
7 and casualty insurer which was responsible for at least 1  
8 percent of the aggregate statewide direct written premium for  
9 homeowner's insurance in the calendar year preceding the  
10 member's appointment to the commission.

11           b. An expert in insurance finance who is a full-time  
12 member of the faculty of the State University System and who  
13 has a background in actuarial science.

14           c. An expert in statistics who is a full-time member  
15 of the faculty of the State University System and who has a  
16 background in insurance.

17           d. An expert in computer system design who is a  
18 full-time member of the faculty of the State University  
19 System.

20           e. An expert in meteorology who is a full-time member  
21 of the faculty of the State University System and who  
22 specializes in hurricanes.

23           (f) The State Board of Administration shall, as a cost  
24 of administration of the Florida Hurricane Insurance  
25 ~~Catastrophe~~ Fund, provide for travel, expenses, and staff  
26 support for the commission.

27           (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

28           (b) In establishing reimbursement premiums for the  
29 Florida Hurricane Insurance ~~Catastrophe~~ Fund, the State Board  
30 of Administration must, to the extent feasible, employ  
31

1 actuarial methods, principles, standards, models, or output  
2 ranges found by the commission to be accurate or reliable.

3 Section 8. Subsection (10) of section 627.0629,  
4 Florida Statutes, is amended to read:

5 627.0629 Residential property insurance; rate  
6 filings.--

7 (10) A property insurance rate filing that includes  
8 any adjustments related to premiums paid to the Florida  
9 Hurricane Insurance ~~Catastrophe~~ Fund must include a complete  
10 calculation of the insurer's catastrophe load, and the  
11 information in the filing may not be limited solely to  
12 recovery of moneys paid to the fund.

13 Section 9. Paragraph (b) of subsection (2) and  
14 paragraphs (b), (c), (k), and (l) of subsection (6) of section  
15 627.351, Florida Statutes, are amended to read:

16 627.351 Insurance risk apportionment plans.--

17 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

18 (b) The department shall require all insurers holding  
19 a certificate of authority to transact property insurance on a  
20 direct basis in this state, other than joint underwriting  
21 associations and other entities formed pursuant to this  
22 section, to provide windstorm coverage to applicants from  
23 areas determined to be eligible pursuant to paragraph (c) who  
24 in good faith are entitled to, but are unable to procure, such  
25 coverage through ordinary means; or it shall adopt a  
26 reasonable plan or plans for the equitable apportionment or  
27 sharing among such insurers of windstorm coverage, which may  
28 include formation of an association for this purpose. As used  
29 in this subsection, the term "property insurance" means  
30 insurance on real or personal property, as defined in s.  
31 624.604, including insurance for fire, industrial fire, allied

1 | lines, farmowners multiperil, homeowners' multiperil,  
2 | commercial multiperil, and mobile homes, and including  
3 | liability coverages on all such insurance, but excluding  
4 | inland marine as defined in s. 624.607(3) and excluding  
5 | vehicle insurance as defined in s. 624.605(1)(a) other than  
6 | insurance on mobile homes used as permanent dwellings. The  
7 | department shall adopt rules that provide a formula for the  
8 | recovery and repayment of any deferred assessments.

9 |         1. For the purpose of this section, properties  
10 | eligible for such windstorm coverage are defined as dwellings,  
11 | buildings, and other structures, including mobile homes which  
12 | are used as dwellings and which are tied down in compliance  
13 | with mobile home tie-down requirements prescribed by the  
14 | Department of Highway Safety and Motor Vehicles pursuant to s.  
15 | 320.8325, and the contents of all such properties. An  
16 | applicant or policyholder is eligible for coverage only if an  
17 | offer of coverage cannot be obtained by or for the applicant  
18 | or policyholder from an admitted insurer at approved rates.

19 |         2.a.(I) All insurers required to be members of such  
20 | association shall participate in its writings, expenses, and  
21 | losses. Surplus of the association shall be retained for the  
22 | payment of claims and shall not be distributed to the member  
23 | insurers. Such participation by member insurers shall be in  
24 | the proportion that the net direct premiums of each member  
25 | insurer written for property insurance in this state during  
26 | the preceding calendar year bear to the aggregate net direct  
27 | premiums for property insurance of all member insurers, as  
28 | reduced by any credits for voluntary writings, in this state  
29 | during the preceding calendar year. For the purposes of this  
30 | subsection, the term "net direct premiums" means direct  
31 | written premiums for property insurance, reduced by premium



1 for liability coverage and for the following if included in  
2 allied lines: rain and hail on growing crops; livestock;  
3 association direct premiums booked; National Flood Insurance  
4 Program direct premiums; and similar deductions specifically  
5 authorized by the plan of operation and approved by the  
6 department. A member's participation shall begin on the first  
7 day of the calendar year following the year in which it is  
8 issued a certificate of authority to transact property  
9 insurance in the state and shall terminate 1 year after the  
10 end of the calendar year during which it no longer holds a  
11 certificate of authority to transact property insurance in the  
12 state. The commissioner, after review of annual statements,  
13 other reports, and any other statistics that the commissioner  
14 deems necessary, shall certify to the association the  
15 aggregate direct premiums written for property insurance in  
16 this state by all member insurers.

17 (II) Effective July 1, 2002, the association shall  
18 operate subject to the supervision and approval of a board of  
19 governors who are the same individuals that have been  
20 appointed by the Treasurer to serve on the board of governors  
21 of the Citizens Property Insurance Corporation.

22 (III) The plan of operation shall provide a formula  
23 whereby a company voluntarily providing windstorm coverage in  
24 affected areas will be relieved wholly or partially from  
25 apportionment of a regular assessment pursuant to  
26 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

27 (IV) A company which is a member of a group of  
28 companies under common management may elect to have its  
29 credits applied on a group basis, and any company or group may  
30 elect to have its credits applied to any other company or  
31 group.

1 (V) There shall be no credits or relief from  
2 apportionment to a company for emergency assessments collected  
3 from its policyholders under sub-sub-subparagraph d.(III).

4 (VI) The plan of operation may also provide for the  
5 award of credits, for a period not to exceed 3 years, from a  
6 regular assessment pursuant to sub-sub-subparagraph d.(I) or  
7 sub-sub-subparagraph d.(II) as an incentive for taking  
8 policies out of the Residential Property and Casualty Joint  
9 Underwriting Association. In order to qualify for the  
10 exemption under this sub-sub-subparagraph, the take-out plan  
11 must provide that at least 40 percent of the policies removed  
12 from the Residential Property and Casualty Joint Underwriting  
13 Association cover risks located in Dade, Broward, and Palm  
14 Beach Counties or at least 30 percent of the policies so  
15 removed cover risks located in Dade, Broward, and Palm Beach  
16 Counties and an additional 50 percent of the policies so  
17 removed cover risks located in other coastal counties, and  
18 must also provide that no more than 15 percent of the policies  
19 so removed may exclude windstorm coverage. With the approval  
20 of the department, the association may waive these geographic  
21 criteria for a take-out plan that removes at least the lesser  
22 of 100,000 Residential Property and Casualty Joint  
23 Underwriting Association policies or 15 percent of the total  
24 number of Residential Property and Casualty Joint Underwriting  
25 Association policies, provided the governing board of the  
26 Residential Property and Casualty Joint Underwriting  
27 Association certifies that the take-out plan will materially  
28 reduce the Residential Property and Casualty Joint  
29 Underwriting Association's 100-year probable maximum loss from  
30 hurricanes. With the approval of the department, the board may  
31 extend such credits for an additional year if the insurer

1 | guarantees an additional year of renewability for all policies  
2 | removed from the Residential Property and Casualty Joint  
3 | Underwriting Association, or for 2 additional years if the  
4 | insurer guarantees 2 additional years of renewability for all  
5 | policies removed from the Residential Property and Casualty  
6 | Joint Underwriting Association.

7 |         b. Assessments to pay deficits in the association  
8 | under this subparagraph shall be included as an appropriate  
9 | factor in the making of rates as provided in s. 627.3512.

10 |         c. The Legislature finds that the potential for  
11 | unlimited deficit assessments under this subparagraph may  
12 | induce insurers to attempt to reduce their writings in the  
13 | voluntary market, and that such actions would worsen the  
14 | availability problems that the association was created to  
15 | remedy. It is the intent of the Legislature that insurers  
16 | remain fully responsible for paying regular assessments and  
17 | collecting emergency assessments for any deficits of the  
18 | association; however, it is also the intent of the Legislature  
19 | to provide a means by which assessment liabilities may be  
20 | amortized over a period of years.

21 |         d.(I) When the deficit incurred in a particular  
22 | calendar year is 10 percent or less of the aggregate statewide  
23 | direct written premium for property insurance for the prior  
24 | calendar year for all member insurers, the association shall  
25 | levy an assessment on member insurers in an amount equal to  
26 | the deficit.

27 |         (II) When the deficit incurred in a particular  
28 | calendar year exceeds 10 percent of the aggregate statewide  
29 | direct written premium for property insurance for the prior  
30 | calendar year for all member insurers, the association shall  
31 | levy an assessment on member insurers in an amount equal to

1 | the greater of 10 percent of the deficit or 10 percent of the  
2 | aggregate statewide direct written premium for property  
3 | insurance for the prior calendar year for member insurers. Any  
4 | remaining deficit shall be recovered through emergency  
5 | assessments under sub-sub-subparagraph (III).

6 |           (III) Upon a determination by the board of directors  
7 | that a deficit exceeds the amount that will be recovered  
8 | through regular assessments on member insurers, pursuant to  
9 | sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the  
10 | board shall levy, after verification by the department,  
11 | emergency assessments to be collected by member insurers and  
12 | by underwriting associations created pursuant to this section  
13 | which write property insurance, upon issuance or renewal of  
14 | property insurance policies other than National Flood  
15 | Insurance policies in the year or years following levy of the  
16 | regular assessments. The amount of the emergency assessment  
17 | collected in a particular year shall be a uniform percentage  
18 | of that year's direct written premium for property insurance  
19 | for all member insurers and underwriting associations,  
20 | excluding National Flood Insurance policy premiums, as  
21 | annually determined by the board and verified by the  
22 | department. The department shall verify the arithmetic  
23 | calculations involved in the board's determination within 30  
24 | days after receipt of the information on which the  
25 | determination was based. Notwithstanding any other provision  
26 | of law, each member insurer and each underwriting association  
27 | created pursuant to this section shall collect emergency  
28 | assessments from its policyholders without such obligation  
29 | being affected by any credit, limitation, exemption, or  
30 | deferment. The emergency assessments so collected shall be  
31 | transferred directly to the association on a periodic basis as

1 | determined by the association. The aggregate amount of  
2 | emergency assessments levied under this sub-sub-subparagraph  
3 | in any calendar year may not exceed the greater of 10 percent  
4 | of the amount needed to cover the original deficit, plus  
5 | interest, fees, commissions, required reserves, and other  
6 | costs associated with financing of the original deficit, or 10  
7 | percent of the aggregate statewide direct written premium for  
8 | property insurance written by member insurers and underwriting  
9 | associations for the prior year, plus interest, fees,  
10 | commissions, required reserves, and other costs associated  
11 | with financing the original deficit. The board may pledge the  
12 | proceeds of the emergency assessments under this  
13 | sub-sub-subparagraph as the source of revenue for bonds, to  
14 | retire any other debt incurred as a result of the deficit or  
15 | events giving rise to the deficit, or in any other way that  
16 | the board determines will efficiently recover the deficit. The  
17 | emergency assessments under this sub-sub-subparagraph shall  
18 | continue as long as any bonds issued or other indebtedness  
19 | incurred with respect to a deficit for which the assessment  
20 | was imposed remain outstanding, unless adequate provision has  
21 | been made for the payment of such bonds or other indebtedness  
22 | pursuant to the document governing such bonds or other  
23 | indebtedness. Emergency assessments collected under this  
24 | sub-sub-subparagraph are not part of an insurer's rates, are  
25 | not premium, and are not subject to premium tax, fees, or  
26 | commissions; however, failure to pay the emergency assessment  
27 | shall be treated as failure to pay premium.

28 |       (IV) Each member insurer's share of the total regular  
29 | assessments under sub-sub-subparagraph (I) or  
30 | sub-sub-subparagraph (II) shall be in the proportion that the  
31 | insurer's net direct premium for property insurance in this

1 state, for the year preceding the assessment bears to the  
2 aggregate statewide net direct premium for property insurance  
3 of all member insurers, as reduced by any credits for  
4 voluntary writings for that year.

5 (V) If regular deficit assessments are made under  
6 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by  
7 the Residential Property and Casualty Joint Underwriting  
8 Association under sub-subparagraph (6)(b)3.a. or  
9 sub-subparagraph (6)(b)3.b., the association shall levy upon  
10 the association's policyholders, as part of its next rate  
11 filing, or by a separate rate filing solely for this purpose,  
12 a market equalization surcharge in a percentage equal to the  
13 total amount of such regular assessments divided by the  
14 aggregate statewide direct written premium for property  
15 insurance for member insurers for the prior calendar year.  
16 Market equalization surcharges under this sub-sub-subparagraph  
17 are not considered premium and are not subject to commissions,  
18 fees, or premium taxes; however, failure to pay a market  
19 equalization surcharge shall be treated as failure to pay  
20 premium.

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

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

1 | endanger or impair the solvency of the insurer. The authority  
2 | granted by this sub-subparagraph is additional to any bonding  
3 | authority granted by subparagraph 6.

4 |         3. The plan shall also provide that any member with a  
5 | surplus as to policyholders of \$20 million or less writing 25  
6 | percent or more of its total countrywide property insurance  
7 | premiums in this state may petition the department, within the  
8 | first 90 days of each calendar year, to qualify as a limited  
9 | apportionment company. The apportionment of such a member  
10 | company in any calendar year for which it is qualified shall  
11 | not exceed its gross participation, which shall not be  
12 | affected by the formula for voluntary writings. In no event  
13 | shall a limited apportionment company be required to  
14 | participate in any apportionment of losses pursuant to  
15 | sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)  
16 | in the aggregate which exceeds \$50 million after payment of  
17 | available plan funds in any calendar year. However, a limited  
18 | apportionment company shall collect from its policyholders any  
19 | emergency assessment imposed under sub-sub-subparagraph  
20 | 2.d.(III). The plan shall provide that, if the department  
21 | determines that any regular assessment will result in an  
22 | impairment of the surplus of a limited apportionment company,  
23 | the department may direct that all or part of such assessment  
24 | be deferred. However, there shall be no limitation or  
25 | deferment of an emergency assessment to be collected from  
26 | policyholders under sub-sub-subparagraph 2.d.(III).

27 |         4. The plan shall provide for the deferment, in whole  
28 | or in part, of a regular assessment of a member insurer under  
29 | sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),  
30 | but not for an emergency assessment collected from  
31 | policyholders under sub-sub-subparagraph 2.d.(III), if, in the



1 opinion of the commissioner, payment of such regular  
2 assessment would endanger or impair the solvency of the member  
3 insurer. In the event a regular assessment against a member  
4 insurer is deferred in whole or in part, the amount by which  
5 such assessment is deferred may be assessed against the other  
6 member insurers in a manner consistent with the basis for  
7 assessments set forth in sub-sub-subparagraph 2.d.(I) or  
8 sub-sub-subparagraph 2.d.(II).

9           5.a. The plan of operation may include deductibles and  
10 rules for classification of risks and rate modifications  
11 consistent with the objective of providing and maintaining  
12 funds sufficient to pay catastrophe losses.

13           b. The association may require arbitration of a rate  
14 filing under s. 627.062(6). It is the intent of the  
15 Legislature that the rates for coverage provided by the  
16 association be actuarially sound and not competitive with  
17 approved rates charged in the admitted voluntary market such  
18 that the association functions as a residual market mechanism  
19 to provide insurance only when the insurance cannot be  
20 procured in the voluntary market. The plan of operation shall  
21 provide a mechanism to assure that, beginning no later than  
22 January 1, 1999, the rates charged by the association for each  
23 line of business are reflective of approved rates in the  
24 voluntary market for hurricane coverage for each line of  
25 business in the various areas eligible for association  
26 coverage.

27           c. The association shall provide for windstorm  
28 coverage on residential properties in limits up to \$10 million  
29 for commercial lines residential risks and up to \$1 million  
30 for personal lines residential risks. If coverage with the  
31 association is sought for a residential risk valued in excess

1 of these limits, coverage shall be available to the risk up to  
2 the replacement cost or actual cash value of the property, at  
3 the option of the insured, if coverage for the risk cannot be  
4 located in the authorized market. The association must accept  
5 a commercial lines residential risk with limits above \$10  
6 million or a personal lines residential risk with limits above  
7 \$1 million if coverage is not available in the authorized  
8 market. The association may write coverage above the limits  
9 specified in this subparagraph with or without facultative or  
10 other reinsurance coverage, as the association determines  
11 appropriate.

12 d. The plan of operation must provide objective  
13 criteria and procedures, approved by the department, to be  
14 uniformly applied for all applicants in determining whether an  
15 individual risk is so hazardous as to be uninsurable. In  
16 making this determination and in establishing the criteria and  
17 procedures, the following shall be considered:

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

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

24  
25 The acceptance or rejection of a risk by the association  
26 pursuant to such criteria and procedures must be construed as  
27 the private placement of insurance, and the provisions of  
28 chapter 120 do not apply.

29 e. If the risk accepts an offer of coverage through  
30 the market assistance program or through a mechanism  
31 established by the association, either before the policy is

1 issued by the association or during the first 30 days of  
2 coverage by the association, and the producing agent who  
3 submitted the application to the association is not currently  
4 appointed by the insurer, the insurer shall:

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

15  
16 If the producing agent is unwilling or unable to accept  
17 appointment, the new insurer shall pay the agent in accordance  
18 with sub-sub-subparagraph (I). Subject to the provisions of s.  
19 627.3517, the policies issued by the association must provide  
20 that if the association obtains an offer from an authorized  
21 insurer to cover the risk at its approved rates under either a  
22 standard policy including wind coverage or, if consistent with  
23 the insurer's underwriting rules as filed with the department,  
24 a basic policy including wind coverage, the risk is no longer  
25 eligible for coverage through the association. Upon  
26 termination of eligibility, the association shall provide  
27 written notice to the policyholder and agent of record stating  
28 that the association policy must be canceled as of 60 days  
29 after the date of the notice because of the offer of coverage  
30 from an authorized insurer. Other provisions of the insurance  
31

1 code relating to cancellation and notice of cancellation do  
2 not apply to actions under this sub-subparagraph.

3 f. When the association enters into a contractual  
4 agreement for a take-out plan, the producing agent of record  
5 of the association policy is entitled to retain any unearned  
6 commission on the policy, and the insurer shall:

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

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

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

21 6.a. The plan of operation may authorize the formation  
22 of a private nonprofit corporation, a private nonprofit  
23 unincorporated association, a partnership, a trust, a limited  
24 liability company, or a nonprofit mutual company which may be  
25 empowered, among other things, to borrow money by issuing  
26 bonds or by incurring other indebtedness and to accumulate  
27 reserves or funds to be used for the payment of insured  
28 catastrophe losses. The plan may authorize all actions  
29 necessary to facilitate the issuance of bonds, including the  
30 pledging of assessments or other revenues.

31

1           b. Any entity created under this subsection, or any  
2 entity formed for the purposes of this subsection, may sue and  
3 be sued, may borrow money; issue bonds, notes, or debt  
4 instruments; pledge or sell assessments, market equalization  
5 surcharges and other surcharges, rights, premiums, contractual  
6 rights, projected recoveries from the Florida Hurricane  
7 Insurance Catastrophe Fund, other reinsurance recoverables,  
8 and other assets as security for such bonds, notes, or debt  
9 instruments; enter into any contracts or agreements necessary  
10 or proper to accomplish such borrowings; and take other  
11 actions necessary to carry out the purposes of this  
12 subsection. The association may issue bonds or incur other  
13 indebtedness, or have bonds issued on its behalf by a unit of  
14 local government pursuant to subparagraph (6)(g)2., in the  
15 absence of a hurricane or other weather-related event, upon a  
16 determination by the association subject to approval by the  
17 department that such action would enable it to efficiently  
18 meet the financial obligations of the association and that  
19 such financings are reasonably necessary to effectuate the  
20 requirements of this subsection. Any such entity may  
21 accumulate reserves and retain surpluses as of the end of any  
22 association year to provide for the payment of losses incurred  
23 by the association during that year or any future year. The  
24 association shall incorporate and continue the plan of  
25 operation and articles of agreement in effect on the effective  
26 date of chapter 76-96, Laws of Florida, to the extent that it  
27 is not inconsistent with chapter 76-96, and as subsequently  
28 modified consistent with chapter 76-96. The board of directors  
29 and officers currently serving shall continue to serve until  
30 their successors are duly qualified as provided under the  
31 plan. The assets and obligations of the plan in effect

1 | immediately prior to the effective date of chapter 76-96 shall  
2 | be construed to be the assets and obligations of the successor  
3 | plan created herein.

4 |         c. 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 issued or incurred  
10 | by the association or any other entity created under this  
11 | subsection.

12 |         7. On such coverage, an agent's remuneration shall be  
13 | that amount of money payable to the agent by the terms of his  
14 | or her contract with the company with which the business is  
15 | placed. However, no commission will be paid on that portion of  
16 | the premium which is in excess of the standard premium of that  
17 | company.

18 |         8. Subject to approval by the department, the  
19 | association may establish different eligibility requirements  
20 | and operational procedures for any line or type of coverage  
21 | for any specified eligible area or portion of an eligible area  
22 | if the board determines that such changes to the eligibility  
23 | requirements and operational procedures are justified due to  
24 | the voluntary market being sufficiently stable and competitive  
25 | in such area or for such line or type of coverage and that  
26 | consumers who, in good faith, are unable to obtain insurance  
27 | through the voluntary market through ordinary methods would  
28 | continue to have access to coverage from the association. When  
29 | coverage is sought in connection with a real property  
30 | transfer, such requirements and procedures shall not provide  
31 | for an effective date of coverage later than the date of the

1 closing of the transfer as established by the transferor, the  
2 transferee, and, if applicable, the lender.

3 9. Notwithstanding any other provision of law:

4 a. The pledge or sale of, the lien upon, and the  
5 security interest in any rights, revenues, or other assets of  
6 the association created or purported to be created pursuant to  
7 any financing documents to secure any bonds or other  
8 indebtedness of the association shall be and remain valid and  
9 enforceable, notwithstanding the commencement of and during  
10 the continuation of, and after, any rehabilitation,  
11 insolvency, liquidation, bankruptcy, receivership,  
12 conservatorship, reorganization, or similar proceeding against  
13 the association under the laws of this state or any other  
14 applicable laws.

15 b. No such proceeding shall relieve the association of  
16 its obligation, or otherwise affect its ability to perform its  
17 obligation, to continue to collect, or levy and collect,  
18 assessments, market equalization or other surcharges,  
19 projected recoveries from the Florida Hurricane Insurance  
20 ~~Catastrophe~~ Fund, reinsurance recoverables, or any other  
21 rights, revenues, or other assets of the association pledged.

22 c. Each such pledge or sale of, lien upon, and  
23 security interest in, including the priority of such pledge,  
24 lien, or security interest, any such assessments, emergency  
25 assessments, market equalization or renewal surcharges,  
26 projected recoveries from the Florida Hurricane Insurance  
27 ~~Catastrophe~~ Fund, reinsurance recoverables, or other rights,  
28 revenues, or other assets which are collected, or levied and  
29 collected, after the commencement of and during the pendency  
30 of or after any such proceeding shall continue unaffected by  
31 such proceeding.

1           d. As used in this subsection, the term "financing  
2 documents" means any agreement, instrument, or other document  
3 now existing or hereafter created evidencing any bonds or  
4 other indebtedness of the association or pursuant to which any  
5 such bonds or other indebtedness has been or may be issued and  
6 pursuant to which any rights, revenues, or other assets of the  
7 association are pledged or sold to secure the repayment of  
8 such bonds or indebtedness, together with the payment of  
9 interest on such bonds or such indebtedness, or the payment of  
10 any other obligation of the association related to such bonds  
11 or indebtedness.

12           e. Any such pledge or sale of assessments, revenues,  
13 contract rights or other rights or assets of the association  
14 shall constitute a lien and security interest, or sale, as the  
15 case may be, that is immediately effective and attaches to  
16 such assessments, revenues, contract, or other rights or  
17 assets, whether or not imposed or collected at the time the  
18 pledge or sale is made. Any such pledge or sale is effective,  
19 valid, binding, and enforceable against the association or  
20 other entity making such pledge or sale, and valid and binding  
21 against and superior to any competing claims or obligations  
22 owed to any other person or entity, including policyholders in  
23 this state, asserting rights in any such assessments,  
24 revenues, contract, or other rights or assets to the extent  
25 set forth in and in accordance with the terms of the pledge or  
26 sale contained in the applicable financing documents, whether  
27 or not any such person or entity has notice of such pledge or  
28 sale and without the need for any physical delivery,  
29 recordation, filing, or other action.

30           f. There shall be no liability on the part of, and no  
31 cause of action of any nature shall arise against, any member



1 insurer or its agents or employees, agents or employees of the  
2 association, members of the board of directors of the  
3 association, or the department or its representatives, for any  
4 action taken by them in the performance of their duties or  
5 responsibilities under this subsection. Such immunity does not  
6 apply to actions for breach of any contract or agreement  
7 pertaining to insurance, or any willful tort.

8 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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

30 (I) A personal lines account for personal residential  
31 policies issued by the corporation or issued by the

1 Residential Property and Casualty Joint Underwriting  
2 Association and renewed by the corporation that provide  
3 comprehensive, multiperil coverage on risks that are not  
4 located in areas eligible for coverage in the Florida  
5 Windstorm Underwriting Association as those areas were defined  
6 on January 1, 2002, and for such policies that do not provide  
7 coverage for the peril of wind on risks that are located in  
8 such areas;

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

19 (III) A high-risk account for personal residential  
20 policies and commercial residential and commercial  
21 nonresidential property policies issued by the corporation or  
22 transferred to the corporation that provide coverage for the  
23 peril of wind on risks that are located in areas eligible for  
24 coverage in the Florida Windstorm Underwriting Association as  
25 those areas were defined on January 1, 2002. The high-risk  
26 account must also include quota share primary insurance under  
27 subparagraph (c)2. The area eligible for coverage under the  
28 high-risk account also includes the area within Port  
29 Canaveral, which is bordered on the south by the City of Cape  
30 Canaveral, bordered on the west by the Banana River, and  
31 bordered on the north by Federal Government property. The

1 office may remove territory from the area eligible for  
2 wind-only and quota share coverage if, after a public hearing,  
3 the office finds that authorized insurers in the voluntary  
4 market are willing and able to write sufficient amounts of  
5 personal and commercial residential coverage for all perils in  
6 the territory, including coverage for the peril of wind, such  
7 that risks covered by wind-only policies in the removed  
8 territory could be issued a policy by the corporation in  
9 either the personal lines or commercial lines account without  
10 a significant increase in the corporation's probable maximum  
11 loss in such account. Removal of territory from the area  
12 eligible for wind-only or quota share coverage does not alter  
13 the assignment of wind coverage written in such areas to the  
14 high-risk account.

15         b. The three separate accounts must be maintained as  
16 long as financing obligations entered into by the Florida  
17 Windstorm Underwriting Association or Residential Property and  
18 Casualty Joint Underwriting Association are outstanding, in  
19 accordance with the terms of the corresponding financing  
20 documents. When the financing obligations are no longer  
21 outstanding, in accordance with the terms of the corresponding  
22 financing documents, the corporation may use a single account  
23 for all revenues, assets, liabilities, losses, and expenses of  
24 the corporation.

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

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

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

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

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

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

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

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

1           c. Each assessable insurer's share of the amount being  
2 assessed under sub-subparagraph a. or sub-subparagraph b.  
3 shall be in the proportion that the assessable insurer's  
4 direct written premium for the subject lines of business for  
5 the year preceding the assessment bears to the aggregate  
6 statewide direct written premium for the subject lines of  
7 business for that year. The assessment percentage applicable  
8 to each assessable insured is the ratio of the amount being  
9 assessed under sub-subparagraph a. or sub-subparagraph b. to  
10 the aggregate statewide direct written premium for the subject  
11 lines of business for the prior year. Assessments levied by  
12 the corporation on assessable insurers under sub-subparagraphs  
13 a. and b. shall be paid as required by the corporation's plan  
14 of operation and paragraph (g). Assessments levied by the  
15 corporation on assessable insureds under sub-subparagraphs a.  
16 and b. shall be collected by the surplus lines agent at the  
17 time the surplus lines agent collects the surplus lines tax  
18 required by s. 626.932 and shall be paid to the Florida  
19 Surplus Lines Service Office at the time the surplus lines  
20 agent pays the surplus lines tax to the Florida Surplus Lines  
21 Service Office. Upon receipt of regular assessments from  
22 surplus lines agents, the Florida Surplus Lines Service Office  
23 shall transfer the assessments directly to the corporation as  
24 determined by the corporation.

25           d. Upon a determination by the board of governors that  
26 a deficit in an account exceeds the amount that will be  
27 recovered through regular assessments under sub-subparagraph  
28 a. or sub-subparagraph b., the board shall levy, after  
29 verification by the office, emergency assessments, for as many  
30 years as necessary to cover the deficits, to be collected by  
31 assessable insurers and the corporation and collected from

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

1 | percent of the aggregate statewide direct written premium for  
2 | subject lines of business and for all accounts of the  
3 | corporation for the prior year, plus interest, fees,  
4 | commissions, required reserves, and other costs associated  
5 | with financing the original deficit.

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

1 | assessment was imposed remain outstanding, unless adequate  
2 | provision has been made for the payment of such bonds or other  
3 | indebtedness pursuant to the documents governing such bonds or  
4 | other indebtedness.

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

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

22 |         h. The Florida Surplus Lines Service Office shall  
23 | verify the proper application by surplus lines agents of  
24 | assessment percentages for regular assessments and emergency  
25 | assessments levied under this subparagraph on assessable  
26 | insureds and shall assist the corporation in ensuring the  
27 | accurate, timely collection and payment of assessments by  
28 | surplus lines agents as required by the corporation.

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

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



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

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

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

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

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

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

28 2.a. Must provide that the corporation adopt a program  
29 in which the corporation and authorized insurers enter into  
30 quota share primary insurance agreements for hurricane  
31 coverage, as defined in s. 627.4025(2)(a), for eligible risks,

1 and adopt property insurance forms for eligible risks which  
2 cover the peril of wind only. As used in this subsection, the  
3 term:

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

27 (II) "Eligible risks" means personal lines residential  
28 and commercial lines residential risks that meet the  
29 underwriting criteria of the corporation and are located in  
30 areas that were eligible for coverage by the Florida Windstorm  
31 Underwriting Association on January 1, 2002.

1           b. The corporation may enter into quota share primary  
2 insurance agreements with authorized insurers at corporation  
3 coverage levels of 90 percent and 50 percent.

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

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

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

23          f. For all eligible risks covered under quota share  
24 primary insurance agreements, the exposure and coverage levels  
25 for both the corporation and authorized insurers shall be  
26 reported by the corporation to the Florida Hurricane Insurance  
27 ~~Catastrophe~~ Fund. For all policies of eligible risks covered  
28 under quota share primary insurance agreements, the  
29 corporation and the authorized insurer shall maintain complete  
30 and accurate records for the purpose of exposure and loss  
31 reimbursement audits as required by Florida Hurricane

1 ~~Insurance Catastrophe~~ Fund rules. The corporation and the  
2 authorized insurer shall each maintain duplicate copies of  
3 policy declaration pages and supporting claims documents.

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

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

23 3. May provide that the corporation may employ or  
24 otherwise contract with individuals or other entities to  
25 provide administrative or professional services that may be  
26 appropriate to effectuate the plan. The corporation shall have  
27 the power to borrow funds, by issuing bonds or by incurring  
28 other indebtedness, and shall have other powers reasonably  
29 necessary to effectuate the requirements of this subsection,  
30 including, without limitation, the power to issue bonds and  
31 incur other indebtedness in order to refinance outstanding

1 | bonds or other indebtedness. The corporation may, but is not  
2 | required to, seek judicial validation of its bonds or other  
3 | indebtedness under chapter 75. The corporation may issue bonds  
4 | or incur other indebtedness, or have bonds issued on its  
5 | behalf by a unit of local government pursuant to subparagraph  
6 | (g)2., in the absence of a hurricane or other weather-related  
7 | event, upon a determination by the corporation, subject to  
8 | approval by the office, that such action would enable it to  
9 | efficiently meet the financial obligations of the corporation  
10 | and that such financings are reasonably necessary to  
11 | effectuate the requirements of this subsection. The  
12 | corporation is authorized to take all actions needed to  
13 | facilitate tax-free status for any such bonds or indebtedness,  
14 | including formation of trusts or other affiliated entities.  
15 | The corporation shall have the authority to pledge  
16 | assessments, projected recoveries from the Florida Hurricane  
17 | Insurance ~~Catastrophe~~ Fund, other reinsurance recoverables,  
18 | market equalization and other surcharges, and other funds  
19 | available to the corporation as security for bonds or other  
20 | indebtedness. In recognition of s. 10, Art. I of the State  
21 | Constitution, prohibiting the impairment of obligations of  
22 | contracts, it is the intent of the Legislature that no action  
23 | be taken whose purpose is to impair any bond indenture or  
24 | financing agreement or any revenue source committed by  
25 | contract to such bond or other indebtedness.

26 |       4.a. Must require that the corporation operate subject  
27 | to the supervision and approval of a board of governors  
28 | consisting of 8 individuals who are residents of this state,  
29 | from different geographical areas of this state. The Governor,  
30 | the Chief Financial Officer, the President of the Senate, and  
31 | the Speaker of the House of Representatives shall each appoint

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

19 |       b. The board shall create a Market Accountability  
20 | Advisory Committee to assist the corporation in developing  
21 | awareness of its rates and its customer and agent service  
22 | levels in relationship to the voluntary market insurers  
23 | writing similar coverage. The members of the advisory  
24 | committee shall consist of the following 11 persons, one of  
25 | whom must be elected chair by the members of the committee:  
26 | four representatives, one appointed by the Florida Association  
27 | of Insurance Agents, one by the Florida Association of  
28 | Insurance and Financial Advisors, one by the Professional  
29 | Insurance Agents of Florida, and one by the Latin American  
30 | Association of Insurance Agencies; three representatives  
31 | appointed by the insurers with the three highest voluntary

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

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

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

1 of policy to be provided on the basis of objective standards  
2 specified in the underwriting manual and based on generally  
3 accepted underwriting practices.

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 to the  
10 corporation is not currently appointed by the insurer, the  
11 insurer shall:

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

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

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

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

30 (A) Pay to the producing agent of record of the  
31 corporation policy, for the first year, an amount that is the



1 greater of the insurer's usual and customary commission for  
2 the type of policy written or a fee equal to the usual and  
3 customary commission of the corporation; or

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

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

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

20 (I) If the risk accepts an offer of coverage through  
21 the market assistance plan or an offer of coverage through a  
22 mechanism established by the corporation before a policy is  
23 issued to the risk by the corporation or during the first 30  
24 days of coverage by the corporation, and the producing agent  
25 who submitted the application to the plan or the corporation  
26 is not currently appointed by the insurer, the 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 6. Must include rules for classifications of risks and  
29 rates therefor.

30 7. Must provide that if premium and investment income  
31 for an account attributable to a particular calendar year are

1 | in excess of projected losses and expenses for the account  
2 | attributable to that year, such excess shall be held in  
3 | surplus in the account. Such surplus shall be available to  
4 | defray deficits in that account as to future years and shall  
5 | be used for that purpose prior to assessing assessable  
6 | insurers and assessable insureds as to any calendar year.

7 |         8. Must provide objective criteria and procedures to  
8 | be uniformly applied for all applicants in determining whether  
9 | an individual risk is so hazardous as to be uninsurable. In  
10 | making this determination and in establishing the criteria and  
11 | procedures, the following shall be considered:

12 |             a. Whether the likelihood of a loss for the individual  
13 | risk is substantially higher than for other risks of the same  
14 | class; and

15 |             b. Whether the uncertainty associated with the  
16 | individual risk is such that an appropriate premium cannot be  
17 | determined.

18 |  
19 | The acceptance or rejection of a risk by the corporation shall  
20 | be construed as the private placement of insurance, and the  
21 | provisions of chapter 120 shall not apply.

22 |         9. Must provide that the corporation shall make its  
23 | best efforts to procure catastrophe reinsurance at reasonable  
24 | rates, to cover its projected 100-year probable maximum loss  
25 | as determined by the board of governors.

26 |         10. Must provide that in the event of regular deficit  
27 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
28 | (b)3.b., in the personal lines account, the commercial lines  
29 | residential account, or the high-risk account, the corporation  
30 | shall levy upon corporation policyholders in its next rate  
31 | filing, or by a separate rate filing solely for this purpose,

1 a market equalization surcharge arising from a regular  
2 assessment in such account in a percentage equal to the total  
3 amount of such regular assessments divided by the aggregate  
4 statewide direct written premium for subject lines of business  
5 for the prior calendar year. Market equalization surcharges  
6 under this subparagraph are not considered premium and are not  
7 subject to commissions, fees, or premium taxes; however,  
8 failure to pay a market equalization surcharge shall be  
9 treated as failure to pay premium.

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

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

23           13. May establish, subject to approval by the office,  
24 different eligibility requirements and operational procedures  
25 for any line or type of coverage for any specified county or  
26 area if the board determines that such changes to the  
27 eligibility requirements and operational procedures are  
28 justified due to the voluntary market being sufficiently  
29 stable and competitive in such area or for such line or type  
30 of coverage and that consumers who, in good faith, are unable  
31 to obtain insurance through the voluntary market through

1 ordinary methods would continue to have access to coverage  
2 from the corporation. When coverage is sought in connection  
3 with a real property transfer, such requirements and  
4 procedures shall not provide for an effective date of coverage  
5 later than the date of the closing of the transfer as  
6 established by the transferor, the transferee, and, if  
7 applicable, the lender.

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

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

1 the agent's initial appointment by the corporation is  
2 authorized to write and is actually writing personal lines  
3 residential property coverage, commercial residential property  
4 coverage, or commercial nonresidential property coverage  
5 within the state.

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

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

31

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

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

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

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

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



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

13 |       Section 10. Paragraph (d) of subsection (6) of section  
14 | 627.701, Florida Statutes, is amended to read:

15 |       627.701 Liability of insureds; coinsurance;  
16 | deductibles.--

17 |       (6)

18 |       (d) The office shall draft and formally propose as a  
19 | rule the form for the certificate of security. The certificate  
20 | of security may be issued in any of the following  
21 | circumstances:

22 |       1. A mortgage lender or other financial institution  
23 | may issue a certificate of security after granting the  
24 | applicant a line of credit, secured by equity in real property  
25 | or other reasonable security, which line of credit may be  
26 | drawn on only to pay for the deductible portion of insured  
27 | construction or reconstruction after a hurricane loss. In the  
28 | sole discretion of the mortgage lender or other financial  
29 | institution, the line of credit may be issued to an applicant  
30 | on an unsecured basis.

31 |

1           2. A licensed insurance agent may issue a certificate  
2 of security after obtaining for an applicant a line of credit,  
3 secured by equity in real property or other reasonable  
4 security, which line of credit may be drawn on only to pay for  
5 the deductible portion of insured construction or  
6 reconstruction after a hurricane loss. The Florida Hurricane  
7 Insurance Catastrophe Fund shall negotiate agreements creating  
8 a financing consortium to serve as an additional source of  
9 lines of credit to secure deductibles. Any licensed insurance  
10 agent may act as the agent of such consortium.

11           3. Any person qualified to act as a trustee for any  
12 purpose may issue a certificate of security secured by a  
13 pledge of assets, with the restriction that the assets may be  
14 drawn on only to pay for the deductible portion of insured  
15 construction or reconstruction after a hurricane loss.

16           4. Any insurer, including any admitted insurer or any  
17 surplus lines insurer, may issue a certificate of security  
18 after issuing the applicant a policy of supplemental insurance  
19 that will pay for 100 percent of the deductible portion of  
20 insured construction or reconstruction after a hurricane loss.

21           5. Any other method approved by the office upon  
22 finding that such other method provides a similar level of  
23 security as the methods specified in this paragraph and that  
24 such other method has no negative impact on residential  
25 property insurance catastrophic capacity. The legislative  
26 intent of this subparagraph is to provide the flexibility  
27 needed to achieve the public policy of expanding property  
28 insurance capacity while improving the affordability of  
29 property insurance.

30           Section 11. Paragraph (a) of subsection (3) of section  
31 627.7077, Florida Statutes, is amended to read:

1           627.7077 Florida Sinkhole Insurance Facility and other  
2 matters related to affordability and availability of sinkhole  
3 insurance; feasibility study.--

4           (3) The feasibility study shall, at a minimum, address  
5 the following issues:

6           (a) Where the facility should be housed, including,  
7 but not limited to, the options of creating a separate  
8 facility or using the Citizens Property Insurance Corporation  
9 or the Florida Hurricane Insurance ~~Catastrophe~~ Fund.

10           Section 12. Subsection (3) of section 109 of chapter  
11 2000-141, Laws of Florida, is amended to read:

12           Section 109. The Legislature has reviewed the Florida  
13 Building Code that was adopted by action of the Florida  
14 Building Commission on February 15, 2000, and that was noticed  
15 for rule adoption by reference in Rule 9B-3.047, F.A.C., on  
16 February 18, 2000, in the Florida Administrative Weekly on  
17 page 731. The Florida Building Commission is directed to  
18 continue the process to adopt the code, pursuant to section  
19 120.54(3), Florida Statutes, and to incorporate the following  
20 provisions or standards for the State of Florida:

21           (3) For areas of the state not within the high  
22 velocity hurricane zone, the commission shall adopt, pursuant  
23 to s. 553.73, Florida Statutes, the wind protection  
24 requirements of the American Society of Civil Engineers,  
25 Standard 7, 1998 edition as implemented by the International  
26 Building Code, 2000 edition, and as modified by the commission  
27 in its February 15, 2000, adoption of the Florida Building  
28 Code for rule adoption by reference in Rule 9B-3.047, Florida  
29 Administrative Code. ~~However, from the eastern border of~~  
30 ~~Franklin County to the Florida Alabama line, only land within~~  
31 ~~1 mile of the coast shall be subject to the windborne debris~~

1 ~~requirements adopted by the commission.~~ The exact location of  
2 wind speed lines shall be established by local ordinance,  
3 using recognized physical landmarks such as major roads,  
4 canals, rivers, and lake shores, wherever possible. Buildings  
5 constructed in the windborne debris region must be either  
6 designed for internal pressures that may result inside a  
7 building when a window or door is broken or a hole is created  
8 in its walls or roof by large debris, or be designed with  
9 protected openings. Except in the high velocity hurricane  
10 zone, local governments may not prohibit the option of  
11 designing buildings to resist internal pressures.

12  
13 The Legislature declares that changes made to the proposed  
14 Rule 9B-3.047, Florida Administrative Code, to implement the  
15 requirements of this act prior to October 1, 2000, are not  
16 subject to rule challenges under section 120.56, Florida  
17 Statutes. However, the entire rule, adopted pursuant to s.  
18 120.54(3), Florida Statutes, as amended after October 1, 2000,  
19 is subject to rule challenges under s. 120.56, Florida  
20 Statutes.

21 Section 13. This act shall take effect July 1, 2006.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31