

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative(s) Ross offered the following:

2
3 **Amendment (with directory and title amendments)**

4 Remove everything after the enacting clause, and insert:

5 Section 1. Paragraph (d) of subsection (2), paragraphs
6 (b), (c), and (d) of subsection (4), paragraph (b) of subsection
7 (5), and paragraphs (a) and (b) of subsection (6) of section
8 215.555, Florida Statutes, are amended, and paragraph (e) is
9 added to subsection (5) of that section, to read:

10 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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17 rental value, loss of rent or rental income ~~use~~, or business
18 interruption losses.

19 (4) REIMBURSEMENT CONTRACTS.--

20 (b)1. The contract shall contain a promise by the board to
21 reimburse the insurer for 45 percent, 75 percent, or 90 percent
22 of its losses from each covered event in excess of the insurer's
23 retention, plus 5 percent of the reimbursed losses to cover loss
24 adjustment expenses.

25 2. The insurer must elect one of the percentage coverage
26 levels specified in this paragraph and may, upon renewal of a
27 reimbursement contract, elect a lower percentage coverage level
28 if no revenue bonds issued under subsection (6) after a covered
29 event are outstanding, or elect a higher percentage coverage
30 level, regardless of whether or not revenue bonds are
31 outstanding. All members of an insurer group must elect the same
32 percentage coverage level. Any joint underwriting association,
33 risk apportionment plan, or other entity created under s.
34 627.351 must elect the 90-percent coverage level.

35 3. The contract shall provide that reimbursement amounts
36 shall not be reduced by reinsurance paid or payable to the
37 insurer from other sources.

38 4. Notwithstanding any other provision contained in this
39 section, the board shall make available to insurers qualifying
40 as limited apportionment companies under s. 627.351(6)(c)14. a
41 contract which cedes to the fund, after retention, an amount of
42 up to \$1 million. The rate to be charged for this coverage shall
43 be 50 percent rate-on-line which includes one prepaid
44 reinstatement. The minimum retention level that a carrier must
45 retain is 30 percent of surplus as of June 1, 2006. This

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46 coverage shall be in addition to all other coverage which may be
47 provided under this section. This provision shall expire May 31,
48 2007.

49 (c)1. The contract shall also provide that the obligation
50 of the board with respect to all contracts covering a particular
51 contract year shall not exceed the actual claims-paying capacity
52 of the fund up to a limit of \$15 billion for that contract year
53 adjusted based upon the reported exposure from the prior
54 contract year to reflect the percentage growth in exposure to
55 the fund for covered policies since 2003, provided the dollar
56 growth in the limit may not increase in any year by an amount
57 greater than the dollar growth of the ~~cash~~ balance of the fund
58 as of December 31 as defined by rule which occurred over the
59 prior calendar year.

60 2. In May before the start of the upcoming contract year
61 and in October during the contract year, the board shall publish
62 in the Florida Administrative Weekly a statement of the fund's
63 estimated borrowing capacity and the projected balance of the
64 fund as of December 31. After the end of each calendar year, the
65 board shall notify insurers of the estimated borrowing capacity
66 and the balance of the fund as of December 31 to provide
67 insurers with data necessary to assist them in determining their
68 retention and projected payout from the fund for loss
69 reimbursement purposes. In conjunction with the development of
70 the premium formula, as provided for in subsection (5), the
71 board shall publish factors or multiples that assist insurers in
72 determining their retention and projected payout for the next
73 contract year. For all regulatory and reinsurance purposes, an
74 insurer may calculate its projected payout from the fund as its
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75 | share of the total fund premium for the current contract year
76 | multiplied by the sum of the projected balance of the fund as of
77 | December 31 and the estimated borrowing capacity for that
78 | contract year as reported under this subparagraph.

79 | (d)1. For purposes of determining potential liability and
80 | to aid in the sound administration of the fund, the contract
81 | shall require each insurer to report such insurer's losses from
82 | each covered event on an interim basis, as directed by the
83 | board. The contract shall require the insurer to report to the
84 | board no later than December 31 of each year, and quarterly
85 | thereafter, its reimbursable losses from covered events for the
86 | year. The contract shall require the board to determine and pay,
87 | as soon as practicable after receiving these reports of
88 | reimbursable losses, the initial amount of reimbursement due and
89 | adjustments to this amount based on later loss information. The
90 | adjustments to reimbursement amounts shall require the board to
91 | pay, or the insurer to return, amounts reflecting the most
92 | recent calculation of losses.

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

95 | ~~a. First reimburse insurers writing covered policies,~~
96 | ~~which insurers are in full compliance with this section and have~~
97 | ~~petitioned the Office of Insurance Regulation and qualified as~~
98 | ~~limited apportionment companies under s. 627.351(2)(b)3. The~~
99 | ~~amount of such reimbursement shall be the lesser of \$10 million~~
100 | ~~or an amount equal to 10 times the insurer's reimbursement~~
101 | ~~premium for the current year. The amount of reimbursement paid~~
102 | ~~under this sub-subparagraph may not exceed the full amount of~~
103 | ~~reimbursement promised in the reimbursement contract. This sub-~~
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104 ~~subparagraph does not apply with respect to any contract year in~~
105 ~~which the year end projected cash balance of the fund, exclusive~~
106 ~~of any bonding capacity of the fund, exceeds \$2 billion. Only~~
107 ~~one member of any insurer group may receive reimbursement under~~
108 ~~this sub-subparagraph.~~

109 ~~a.b.~~ Next Pay to each insurer such insurer's projected
110 payout, which is the amount of reimbursement it is owed, up to
111 an amount equal to the insurer's share of the actual premium
112 paid for that contract year, multiplied by the actual claims-
113 paying capacity available for that contract year; provided,
114 entities created pursuant to s. 627.351 shall be further
115 reimbursed in accordance with sub-subparagraph b. ~~e.~~

116 ~~b.e.~~ Thereafter, establish the prorated reimbursement
117 level at the highest level for which any remaining fund balance
118 or bond proceeds are sufficient to reimburse entities created
119 pursuant to s. 627.351 based on reimbursable losses exceeding
120 the amounts payable pursuant to sub-subparagraph a. ~~b.~~ for the
121 current contract year.

122 (5) REIMBURSEMENT PREMIUMS.--

123 (b) The State Board of Administration shall select an
124 independent consultant to develop a formula for determining the
125 actuarially indicated premium to be paid to the fund. The
126 formula shall specify, for each zip code or other limited
127 geographical area, the amount of premium to be paid by an
128 insurer for each \$1,000 of insured value under covered policies
129 in that zip code or other area. In establishing premiums, the
130 board shall consider the coverage elected under paragraph (4) (b)
131 and any factors that tend to enhance the actuarial
132 sophistication of ratemaking for the fund, including

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133 deductibles, type of construction, type of coverage provided,
134 relative concentration of risks, ~~a factor providing for more~~
135 ~~rapid cash buildup in the fund until the fund capacity for a~~
136 ~~single hurricane season is fully funded,~~ and other such factors
137 deemed by the board to be appropriate. The formula may provide
138 for a procedure to determine the premiums to be paid by new
139 insurers that begin writing covered policies after the beginning
140 of a contract year, taking into consideration when the insurer
141 starts writing covered policies, the potential exposure of the
142 insurer, the potential exposure of the fund, the administrative
143 costs to the insurer and to the fund, and any other factors
144 deemed appropriate by the board. The formula shall include a
145 factor of 25 percent of the fund's actuarially indicated premium
146 in order to provide for more rapid cash buildup in the fund. The
147 formula must be approved by unanimous vote of the board. The
148 board may, at any time, revise the formula pursuant to the
149 procedure provided in this paragraph.

150 (e) For purposes of paragraph (c), if the corporation
151 assumes or otherwise provides coverage for policies of insurers
152 placed in liquidation under chapter 631 pursuant to s.
153 627.351(6)(m)5., the corporation shall notify the board of its
154 insured values with respect to such policies within 60 days
155 after such assumption or other coverage transaction and the fund
156 shall treat such policies as having been in effect as of June 30
157 of that year. For purposes of subsection (4), Citizens Property
158 Insurance Corporation may enter into a separate reimbursement
159 contract with respect to such policies and, if so, shall be
160 treated by the fund as a separate insurer with respect to such
161 policies until their first renewal effective date.

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162 (6) REVENUE BONDS.--

163 (a) General provisions.--

164 1. Upon the occurrence of a hurricane and a determination
165 that the moneys in the fund are or will be insufficient to pay
166 reimbursement at the levels promised in the reimbursement
167 contracts, the board may take the necessary steps under
168 paragraph (c) or paragraph (d) for the issuance of revenue bonds
169 for the benefit of the fund. The proceeds of such revenue bonds
170 may be used to make reimbursement payments under reimbursement
171 contracts; to refinance or replace previously existing
172 borrowings or financial arrangements; to pay interest on bonds;
173 to fund reserves for the bonds; to pay expenses incident to the
174 issuance or sale of any bond issued under this section,
175 including costs of validating, printing, and delivering the
176 bonds, costs of printing the official statement, costs of
177 publishing notices of sale of the bonds, and related
178 administrative expenses; or for such other purposes related to
179 the financial obligations of the fund as the board may
180 determine. The term of the bonds may not exceed 30 years. The
181 board may pledge or authorize the corporation to pledge all or a
182 portion of all revenues under subsection (5) and under paragraph
183 (b) to secure such revenue bonds and the board may execute such
184 agreements between the board and the issuer of any revenue bonds
185 and providers of other financing arrangements under paragraph
186 (7) (b) as the board deems necessary to evidence, secure,
187 preserve, and protect such pledge. If reimbursement premiums
188 received under subsection (5) or earnings on such premiums are
189 used to pay debt service on revenue bonds, such premiums and
190 earnings shall be used only after the use of the moneys derived

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191 from assessments under paragraph (b). The funds, credit,
192 property, or taxing power of the state or political subdivisions
193 of the state shall not be pledged for the payment of such bonds.
194 The board may also enter into agreements under paragraph (c) or
195 paragraph (d) for the purpose of issuing revenue bonds in the
196 absence of a hurricane upon a determination that such action
197 would maximize the ability of the fund to meet future
198 obligations.

199 2. The Legislature finds and declares that the issuance of
200 bonds under this subsection is for the public purpose of paying
201 the proceeds of the bonds to insurers, thereby enabling insurers
202 to pay the claims of policyholders to assure that policyholders
203 are able to pay the cost of construction, reconstruction,
204 repair, restoration, and other costs associated with damage to
205 property of policyholders of covered policies after the
206 occurrence of a hurricane. ~~Revenue bonds may not be issued under
207 this subsection until validated under chapter 75. The validation
208 of at least the first obligations incurred pursuant to this
209 subsection shall be appealed to the Supreme Court, to be handled
210 on an expedited basis.~~

211 (b) Emergency assessments.--

212 1. If the board determines that the amount of revenue
213 produced under subsection (5) is insufficient to fund the
214 obligations, costs, and expenses of the fund and the
215 corporation, including repayment of revenue bonds and that
216 portion of the debt service coverage not met by reimbursement
217 premiums, the board shall direct the Office of Insurance
218 Regulation to levy, by order, an emergency assessment on direct
219 premiums for all property and casualty lines of business in this

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220 state, including property and casualty business of surplus lines
221 insurers regulated under part VIII of chapter 626, but not
222 including any workers' compensation premiums or medical
223 malpractice premiums. As used in this subsection, the term
224 "property and casualty business" includes all lines of business
225 identified on Form 2, Exhibit of Premiums and Losses, in the
226 annual statement required of authorized insurers by s. 624.424
227 and any rule adopted under this section, except for those lines
228 identified as accident and health insurance and except for
229 policies written under the National Flood Insurance Program. The
230 assessment shall be specified as a percentage of direct written
231 ~~future premium collections~~ and is subject to annual adjustments
232 by the board ~~to reflect changes in premiums subject to~~
233 ~~assessments collected under this subparagraph~~ in order to meet
234 debt obligations. The same percentage shall apply to all
235 policies in lines of business subject to the assessment issued
236 or renewed during the 12-month period beginning on the effective
237 date of the assessment.

238 2. A premium is not subject to an annual assessment under
239 this paragraph in excess of 6 percent of premium with respect to
240 obligations arising out of losses attributable to any one
241 contract year, and a premium is not subject to an aggregate
242 annual assessment under this paragraph in excess of 10 percent
243 of premium. An annual assessment under this paragraph shall
244 continue for as long as ~~until~~ the revenue bonds issued with
245 respect to which the assessment was imposed are outstanding,
246 including any bonds the proceeds of which were used to refund
247 the revenue bonds, unless adequate provision has been made for

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248 the payment of the bonds under the documents authorizing
249 issuance of the bonds.

250 3. Emergency assessments shall be collected from
251 policyholders. Emergency assessments shall be remitted by
252 insurers as a percentage of direct written premium for the
253 preceding calendar quarter as specified in the order from ~~With~~
254 ~~respect to each insurer collecting premiums that are subject to~~
255 ~~the assessment, the insurer shall collect the assessment at the~~
256 ~~same time as it collects the premium payment for each policy and~~
257 ~~shall remit the assessment collected to the fund or corporation~~
258 ~~as provided in the order issued by the Office of Insurance~~
259 Regulation. The office shall verify the accurate and timely
260 collection and remittance of emergency assessments and shall
261 report the information to the board in a form and at a time
262 specified by the board. Each insurer collecting assessments
263 shall provide the information with respect to premiums and
264 collections as may be required by the office to enable the
265 office to monitor and verify compliance with this paragraph.

266 4. With respect to assessments of surplus lines premiums,
267 each surplus lines agent shall collect the assessment at the
268 same time as the agent collects the surplus lines tax required
269 by s. 626.932, and the surplus lines agent shall remit the
270 assessment to the Florida Surplus Lines Service Office created
271 by s. 626.921 at the same time as the agent remits the surplus
272 lines tax to the Florida Surplus Lines Service Office. The
273 emergency assessment on each insured procuring coverage and
274 filing under s. 626.938 shall be remitted by the insured to the
275 Florida Surplus Lines Service Office at the time the insured
276 pays the surplus lines tax to the Florida Surplus Lines Service
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277 Office. The Florida Surplus Lines Service Office shall remit the
278 collected assessments to the fund or corporation as provided in
279 the order levied by the Office of Insurance Regulation. The
280 Florida Surplus Lines Service Office shall verify the proper
281 application of such emergency assessments and shall assist the
282 board in ensuring the accurate and timely collection and
283 remittance of assessments as required by the board. The Florida
284 Surplus Lines Service Office shall annually calculate the
285 aggregate written premium on property and casualty business,
286 other than workers' compensation and medical malpractice,
287 procured through surplus lines agents and insureds procuring
288 coverage and filing under s. 626.938 and shall report the
289 information to the board in a form and at a time specified by
290 the board.

291 5. Any assessment authority not used for a particular
292 contract year may be used for a subsequent contract year. If,
293 for a subsequent contract year, the board determines that the
294 amount of revenue produced under subsection (5) is insufficient
295 to fund the obligations, costs, and expenses of the fund and the
296 corporation, including repayment of revenue bonds and that
297 portion of the debt service coverage not met by reimbursement
298 premiums, the board shall direct the Office of Insurance
299 Regulation to levy an emergency assessment up to an amount not
300 exceeding the amount of unused assessment authority from a
301 previous contract year or years, plus an additional 4 percent
302 provided that the assessments in the aggregate do not exceed the
303 limits specified in subparagraph 2.

304 6. The assessments otherwise payable to the corporation
305 under this paragraph shall be paid to the fund unless and until
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306 the Office of Insurance Regulation and the Florida Surplus Lines
307 Service Office have received from the corporation and the fund a
308 notice, which shall be conclusive and upon which they may rely
309 without further inquiry, that the corporation has issued bonds
310 and the fund has no agreements in effect with local governments
311 under paragraph (c). On or after the date of the notice and
312 until the date the corporation has no bonds outstanding, the
313 fund shall have no right, title, or interest in or to the
314 assessments, except as provided in the fund's agreement with the
315 corporation.

316 7. Emergency assessments are not premium and are not
317 subject to the premium tax, to the surplus lines tax, to any
318 fees, or to any commissions. An insurer is liable for all
319 assessments that it collects and must treat the failure of an
320 insured to pay an assessment as a failure to pay the premium. An
321 insurer is not liable for uncollectible assessments.

322 8. When an insurer is required to return an unearned
323 premium, it shall also return any collected assessment
324 attributable to the unearned premium. A credit adjustment to the
325 collected assessment may be made by the insurer with regard to
326 future remittances that are payable to the fund or corporation,
327 but the insurer is not entitled to a refund.

328 9. When a surplus lines insured or an insured who has
329 procured coverage and filed under s. 626.938 is entitled to the
330 return of an unearned premium, the Florida Surplus Lines Service
331 Office shall provide a credit or refund to the agent or such
332 insured for the collected assessment attributable to the
333 unearned premium prior to remitting the emergency assessment
334 collected to the fund or corporation.

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335 10. The exemption of medical malpractice insurance
336 premiums from emergency assessments under this paragraph is
337 repealed May 31, 2010 ~~2007~~, and medical malpractice insurance
338 premiums shall be subject to emergency assessments attributable
339 to loss events occurring in the contract years commencing on
340 June 1, 2010 ~~2007~~.

341 Section 2. Section 215.558, Florida Statutes, is created
342 to read:

343 215.558 Florida Hurricane Damage Prevention Endowment.--

344 (1) PURPOSE AND INTENT.--The purpose of this section is to
345 provide a continuing source of funding for financial incentives
346 to encourage residential property owners of this state to
347 retrofit their properties to make them less vulnerable to
348 hurricane damage, to help decrease the cost of residential
349 property and casualty insurance, and to provide matching funds
350 to local governments and nonprofit entities for projects that
351 will reduce hurricane damage to residential properties. It is
352 the intent of the Legislature that this section be construed
353 liberally to effectuate its purpose.

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

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

356 (b) "Corpus" means the money that has been appropriated to
357 the endowment by the 2006 Legislature, together with any amounts
358 subsequently appropriated to the endowment that are specifically
359 designated as contributions to the corpus and any grants, gifts,
360 or donations to the endowment that are specifically designated
361 as contributions to the corpus.

362 (c) "Earnings" means any money in the endowment in excess
363 of the corpus, including any income generated by investments,
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364 any increase in the market value of investments net of decreases
365 in market value, and any appropriations, grants, gifts, or
366 donations to the endowment not specifically designated as
367 contributions to the corpus.

368 (d) "Endowment" means the Florida Hurricane Damage
369 Prevention Endowment created by this section.

370 (e) "Program administrator" means the Department of
371 Financial Services.

372 (3) ADMINISTRATION.--

373 (a) The board shall invest endowment assets as provided in
374 this section.

375 (b) The board may invest and reinvest funds of the
376 endowment in accordance with s. 215.47 and consistent with board
377 policy.

378 (c) The investment objective shall be long-term
379 preservation of the value of the corpus and a specified regular
380 annual cash outflow for appropriation, as nonrecurring revenue,
381 for the purposes specified in subsection (4).

382 (d) In accordance with s. 215.44, the board shall report
383 on the financial status of the endowment in its annual
384 investment report to the Legislature.

385 (e) Costs and fees of the board for investment services
386 shall be deducted from the assets of the endowment.

387 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE
388 PREVENTION ACTIVITIES.--

389 (a) Not less than 80 percent of the net earnings of the
390 endowment shall be expended for financial incentives to
391 residential property owners as described in paragraph (b), and
392 no more than the remainder of the net earnings of the endowment

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393 shall be expended for matching fund grants to local governments
394 and nonprofit entities for projects that will reduce hurricane
395 damage to residential properties as described in paragraph (c).
396 Any funds authorized for expenditure but not expended for these
397 purposes shall be returned to the endowment.

398 (b)1. The program administrator, by rule, shall establish
399 a request for a proposal process to annually solicit proposals
400 from lending institutions under which the lending institution
401 will provide interest-free loans to homestead property owners to
402 pay for inspections of homestead property to determine what
403 mitigation measures are needed and for improvements to existing
404 residential properties intended to reduce the homestead
405 property's vulnerability to hurricane damage, in exchange for
406 funding from the endowment.

407 2. In order to qualify for funding under this paragraph,
408 an interest-free loan program must include an inspection of
409 homestead property to determine what mitigation measures are
410 needed, a means for verifying that the improvements to be paid
411 for from loan proceeds have been demonstrated to reduce a
412 homestead property's vulnerability to hurricane damage, and a
413 means for verifying that the proceeds were actually spent on
414 such improvements. The program must include a method for
415 awarding loans according to the following priorities:

416 a. The highest priority must be given to single-family
417 owner-occupied homestead dwellings, insured at \$500,000 or less,
418 located in the areas designated as high-risk areas for purposes
419 of coverage by the Citizens Property Insurance Corporation.

420 b. The next highest priority must be given to single-
421 family owner-occupied homestead dwellings, insured at \$500,000

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422 or less, covered by the Citizens Property Insurance Corporation,
423 wherever located.

424 c. The next highest priority must be given to single-
425 family owner-occupied homestead dwellings, insured at \$500,000
426 or less, that are more than 40 years old.

427 d. The next highest priority must be given to all other
428 single-family owner-occupied homestead dwellings insured at
429 \$500,000 or less.

430 3. The program administrator shall evaluate proposals
431 based on the following factors:

432 a. The degree to which the proposal meets the requirements
433 of subparagraph 2.

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

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

437 4. The program administrator shall annually solicit
438 proposals from local governments and nonprofit entities for
439 projects that will reduce hurricane damage to homestead
440 properties. The program administrator may provide up to 50
441 percent of the funding for such projects. The projects may
442 include educational programs, repair services, property
443 inspections, and hurricane vulnerability analyses and such other
444 projects as the program administrator determines to be
445 consistent with the purposes of this section.

446 (5) ADVISORY COUNCIL.--There is created an advisory
447 council to provide advice and assistance to the program
448 administrator with regard to its administration of the
449 endowment. The advisory council shall consist of:

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450 (a) A representative of lending institutions, selected by
451 the Financial Services Commission from a list of at least three
452 persons recommended by the Florida Bankers Association.

453 (b) A representative of residential property insurers,
454 selected by the Financial Services Commission from a list of at
455 least three persons recommended by the Florida Insurance
456 Council.

457 (c) A representative of home builders, selected by the
458 Financial Services Commission from a list of at least three
459 persons recommended by the Florida Home Builders Association.

460 (d) A faculty member of a state university selected by the
461 Financial Services Commission who is an expert in hurricane-
462 resistant construction methodologies and materials.

463 (e) Two members of the House of Representatives selected
464 by the Speaker of the House of Representatives.

465 (f) Two members of the Senate selected by the President of
466 the Senate.

467 (g) The senior officer of the Florida Hurricane
468 Catastrophe Fund.

469 (h) The executive director of Citizens Property Insurance
470 Corporation.

471 (i) The director of the Division of Emergency Management
472 of the Department of Community Affairs.

473
474 Members appointed under paragraphs (a)-(d) shall serve at the
475 pleasure of the Financial Services Commission. Members appointed
476 under paragraphs (e) and (f) shall serve at the pleasure of the
477 appointing officer. All other members shall serve ex officio.

478 Members of the advisory council shall serve without compensation

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479 but may receive reimbursement as provided in s. 112.061 for per
480 diem and travel expenses incurred in the performance of their
481 official duties.

482 Section 3. Section 215.5586, Florida Statutes, is created
483 to read:

484 215.5586 Florida Comprehensive Hurricane Damage Mitigation
485 Program.--There is established within the Department of
486 Financial Services the Florida Comprehensive Hurricane Damage
487 Mitigation Program. The program shall be administered by an
488 individual with prior executive experience in the private sector
489 in the areas of insurance, business, or construction. The
490 program shall develop and implement a comprehensive and
491 coordinated approach for hurricane damage mitigation that shall
492 include the following:

493 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
494 INSPECTIONS.--

495 (a) Free home-retrofit inspections of site-built,
496 residential property, including single-family, two-family,
497 three-family, or four-family residential units, shall be offered
498 to determine what mitigation measures are needed and what
499 improvements to existing residential properties are needed to
500 reduce the property's vulnerability to hurricane damage. The
501 Department of Financial Services shall establish a request for
502 proposals to solicit proposals from wind certification entities
503 to provide at no cost to homeowners wind certification and
504 hurricane mitigation inspections. The inspections provided to
505 homeowners, at a minimum, must include:

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506 1. A home inspection and report that summarizes the
507 results and identifies corrective actions a homeowner may take
508 to mitigate hurricane damage.

509 2. A range of cost estimates regarding the mitigation
510 features.

511 3. Insurer-specific information regarding premium
512 discounts correlated to recommended mitigation features
513 identified by the inspection.

514 4. A hurricane resistance rating scale specifying the
515 home's current as well as projected wind resistance
516 capabilities.

517 (b) To qualify for selection by the department as a
518 provider of wind certification and hurricane mitigation
519 inspections, the entity shall, at a minimum:

520 1. Use wind certification and hurricane mitigation
521 inspectors who:

522 a. Have prior experience in residential construction or
523 inspection and have received specialized training in hurricane
524 mitigation procedures.

525 b. Have undergone drug testing and background checks.

526 c. Have been certified, in a manner satisfactory to the
527 department, to conduct the inspections.

528 2. Provide a quality assurance program including a
529 reinspection component.

530 (2) GRANTS.--Financial grants shall be used to encourage
531 single-family, site-built, owner-occupied, residential property
532 owners to retrofit their properties to make them less vulnerable
533 to hurricane damage.

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534 (a) To be eligible for a grant, a residential property
535 must:

536 1. Have been granted a homestead exemption under chapter
537 196.

538 2. Be a dwelling with an insured value of \$500,000 or
539 less.

540 3. Have undergone an acceptable wind certification and
541 hurricane mitigation inspection.

542

543 A residential property which is part of a multi-family
544 residential unit may receive a grant only if all homeowners
545 participate and the total number of units does not exceed four.

546 (b) All grants must be matched on a dollar-for-dollar
547 basis for a total of \$10,000 for the mitigation project with the
548 state's contribution not to exceed \$5,000.

549 (c) The program shall create a process in which mitigation
550 contractors agree to participate and seek reimbursement from the
551 state and homeowners select from a list of participating
552 contractors. All mitigation must be based upon the securing of
553 all required local permits and inspections. Mitigation projects
554 are subject to random reinspection of up to at least 10 percent
555 of all projects.

556 (d) Matching fund grants shall also be made available to
557 local governments and nonprofit entities for projects that will
558 reduce hurricane damage to single-family, site-built, owner-
559 occupied, residential property.

560 (3) LOANS.--Financial incentives shall be provided as
561 authorized by s. 215.558.

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562 (4) EDUCATION AND CONSUMER AWARENESS.--Multimedia public
563 education, awareness, and advertising efforts designed to
564 specifically address mitigation techniques shall be employed, as
565 well as a component to support ongoing consumer resources and
566 referral services.

567 (5) MANUFACTURED HOUSING AND MOBILE HOME HURRICANE
568 MITIGATION PROGRAM.--The Manufactured Housing and Mobile Home
569 Hurricane Mitigation Program shall be also be implemented under
570 the Florida Comprehensive Hurricane Damage Mitigation Program.

571 (a) The program shall require the mitigation of damage to
572 homes for the areas of concern raised by the Department of
573 Highway Safety and Motor Vehicles in the 2004-2005 Hurricane
574 Reports on the effects of the 2004 and 2005 hurricanes on
575 manufactured and mobile homes in this state. The mitigation
576 shall include, but not be limited to, problems associated with
577 weakened trusses, studs, and other structural components, site-
578 built additions, or tie-down systems and may also address any
579 other issues deemed appropriate by the Department of Financial
580 Services upon consultation with the Department of Community
581 Affairs, Tallahassee Community College, the Federation of
582 Manufactured Home Owners of Florida, Inc., the Florida
583 Manufactured Housing Association, and the Department of Highway
584 Safety and Motor Vehicles. The program may include an education
585 and outreach component to ensure that owners of manufactured and
586 mobile homes are aware of the benefits of participation.

587 (b) The program shall include the offering of a matching
588 grant to owners of manufactured and mobile homes manufactured
589 after 1993 only. Homeowners accepted for the program shall be
590 eligible to qualify for a \$5,000 dollar-for-dollar matching

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591 grant in which the homeowner may receive up to \$2,500 in state
592 moneys. The moneys appropriated for this program shall be
593 distributed directly to the Department of Financial Services for
594 the uses set forth under this paragraph.

595 (c) Upon evidence of completion of the program, the
596 Citizens Property Insurance Corporation shall grant, on a pro
597 rata basis, actuarially reasonable discounts, credits, or other
598 rate differentials or appropriate reductions in deductibles for
599 the properties of owners of manufactured homes or mobile homes
600 on which fixtures or construction techniques that have been
601 demonstrated to reduce the amount of loss in a windstorm have
602 been installed or implemented. The discount on the premium shall
603 be applied to subsequent renewal premium amounts. Premiums of
604 the Citizens Property Insurance Corporation shall reflect the
605 location of the home and the fact that the home has been
606 installed in compliance with building codes adopted after
607 Hurricane Andrew.

608 (d) On or before January 1 of each year, the Department of
609 Financial Services shall provide a report of activities under
610 this subsection to the Governor, the President of the Senate,
611 and the Speaker of the House of Representatives. The report
612 shall set forth the number of manufactured homes and mobile
613 homes that have taken advantage of the program, the types of
614 enhancements and improvements made to the manufactured homes or
615 mobile homes and attachments to such homes, and whether there
616 has been an increase of availability of insurance products to
617 owners of manufactured homes or mobile homes.

618 (6) ADVISORY COUNCIL.--There is created an advisory
619 council to provide advice and assistance to the program

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620 administrator with regard to his or her administration of the
621 program. The advisory council shall consist of:

622 (a) A representative of lending institutions, selected by
623 the Financial Services Commission from a list of at least three
624 persons recommended by the Florida Bankers Association.

625 (b) A representative of residential property insurers,
626 selected by the Financial Services Commission from a list of at
627 least three persons recommended by the Florida Insurance
628 Council.

629 (c) A representative of home builders, selected by the
630 Financial Services Commission from a list of at least three
631 persons recommended by the Florida Home Builders Association.

632 (d) A faculty member of a state university, selected by
633 the Financial Services Commission, who is an expert in
634 hurricane-resistant construction methodologies and materials.

635 (e) Two members of the House of Representatives, selected
636 by the Speaker of the House of Representatives.

637 (f) Two members of the Senate, selected by the President
638 of the Senate.

639 (g) The Chief Executive Officer of the Federal Alliance
640 for Safe Homes, Inc., or his or her designee.

641 (h) The senior officer of the Florida Hurricane
642 Catastrophe Fund.

643 (i) The executive director of Citizens Property Insurance
644 Corporation.

645 (j) The director of the Division of Emergency Management
646 of the Department of Community Affairs.

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648 Members appointed under paragraphs (a)-(d) shall serve at the
649 pleasure of the Financial Services Commission. Members appointed
650 under paragraphs (e) and (f) shall serve at the pleasure of the
651 appointing officer. All other members shall serve voting ex
652 officio. Members of the advisory council shall serve without
653 compensation but may receive reimbursement as provided in s.
654 112.061 for per diem and travel expenses incurred in the
655 performance of their official duties.

656 (7) FEDERAL FUNDING.--The department shall use its best
657 efforts to obtain grants or funds from the federal government to
658 supplement the financial resources of the program.

659 (8) RULES.--The Department of Financial Services shall
660 adopt rules pursuant to ss. 120.536(1) and 120.54 governing the
661 Florida Comprehensive Hurricane Damage Mitigation Program.

662 Section 4. Section 215.559, Florida Statutes, is amended
663 to read:

664 215.559 Hurricane Loss Mitigation Program.--

665 (1) There is created a Hurricane Loss Mitigation Program.
666 The Legislature shall annually appropriate \$10 million of the
667 moneys authorized for appropriation under s. 215.555(7)(c) from
668 the Florida Hurricane Catastrophe Fund to the Department of
669 Community Affairs for the purposes set forth in this section.

670 (2)(a) Seven million dollars in funds provided in
671 subsection (1) shall be used for programs to improve the wind
672 resistance of residences and mobile homes, including loans,
673 subsidies, grants, demonstration projects, and direct
674 assistance; cooperative programs with local governments and the
675 Federal Government; and other efforts to prevent or reduce
676 losses or reduce the cost of rebuilding after a disaster.

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677 (b) Three million dollars in funds provided in subsection
678 (1) shall be used to retrofit existing facilities used as public
679 hurricane shelters. The department must prioritize the use of
680 these funds for projects included in the September 1, 2000,
681 version of the Shelter Retrofit Report prepared in accordance
682 with s. 252.385(3), and each annual report thereafter. The
683 department must give funding priority to projects in regional
684 planning council regions that have shelter deficits and to
685 projects that maximize use of state funds.

686 ~~(3) By the 2006-2007 fiscal year, the Department of~~
687 ~~Community Affairs shall develop a low-interest loan program for~~
688 ~~homeowners and mobile home owners to retrofit their homes with~~
689 ~~fixtures or apply construction techniques that have been~~
690 ~~demonstrated to reduce the amount of damage or loss due to a~~
691 ~~hurricane. Funding for the program shall be used to subsidize or~~
692 ~~guaranty private-sector loans for this purpose to qualified~~
693 ~~homeowners by financial institutions chartered by the state or~~
694 ~~Federal Government. The department may enter into contracts with~~
695 ~~financial institutions for this purpose. The department shall~~
696 ~~establish criteria for determining eligibility for the loans and~~
697 ~~selecting recipients, standards for retrofitting homes or mobile~~
698 ~~homes, limitations on loan subsidies and loan guaranties, and~~
699 ~~other terms and conditions of the program, which must be~~
700 ~~specified in the department's report to the Legislature on~~
701 ~~January 1, 2006, required by subsection (8). For the 2005-2006~~
702 ~~fiscal year, the Department of Community Affairs may use up to~~
703 ~~\$1 million of the funds appropriated pursuant to paragraph~~
704 ~~(2)(a) to begin the low-interest loan program as a pilot project~~
705 ~~in one or more counties. The Department of Financial Services,~~
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706 ~~the Office of Financial Regulation, the Florida Housing Finance~~
707 ~~Corporation, and the Office of Tourism, Trade, and Economic~~
708 ~~Development shall assist the Department of Community Affairs in~~
709 ~~establishing the program and pilot project. The department may~~
710 ~~use up to 2.5 percent of the funds appropriated in any given~~
711 ~~fiscal year for administering the loan program. The department~~
712 ~~may adopt rules to implement the program.~~

713 (3)~~(4)~~ Forty percent of the total appropriation in
714 paragraph (2) (a) shall be used to inspect and improve tie-downs
715 for mobile homes. Within 30 days after the effective date of
716 that appropriation, the department shall contract with a public
717 higher educational institution in this state which has previous
718 experience in administering the programs set forth in this
719 subsection to serve as the administrative entity and fiscal
720 agent pursuant to s. 216.346 for the purpose of administering
721 the programs set forth in this subsection in accordance with
722 established policy and procedures. The administrative entity
723 working with the advisory council set up under subsection (6)
724 shall develop a list of mobile home parks and counties that may
725 be eligible to participate in the tie-down program.

726 (4)~~(5)~~ Of moneys provided to the Department of Community
727 Affairs in paragraph (2) (a), 10 percent shall be allocated to a
728 Type I Center within the State University System dedicated to
729 hurricane research. The Type I Center shall develop a
730 preliminary work plan approved by the advisory council set forth
731 in subsection (6) to eliminate the state and local barriers to
732 upgrading existing mobile homes and communities, research and
733 develop a program for the recycling of existing older mobile
734 homes, and support programs of research and development relating

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735 | to hurricane loss reduction devices and techniques for site-
736 | built residences. The State University System also shall consult
737 | with the Department of Community Affairs and assist the
738 | department with the report required under subsection (8).

739 | ~~(5)~~~~(6)~~ The Department of Community Affairs shall develop
740 | the programs set forth in this section in consultation with an
741 | advisory council consisting of a representative designated by
742 | the Chief Financial Officer, a representative designated by the
743 | Florida Home Builders Association, a representative designated
744 | by the Florida Insurance Council, a representative designated by
745 | the Federation of Manufactured Home Owners, a representative
746 | designated by the Florida Association of Counties, and a
747 | representative designated by the Florida Manufactured Housing
748 | Association.

749 | ~~(6)~~~~(7)~~ Moneys provided to the Department of Community
750 | Affairs under this section are intended to supplement other
751 | funding sources of the Department of Community Affairs and may
752 | not supplant other funding sources of the Department of
753 | Community Affairs.

754 | ~~(7)~~~~(8)~~ On January 1st of each year, the Department of
755 | Community Affairs shall provide a full report and accounting of
756 | activities under this section and an evaluation of such
757 | activities to the Speaker of the House of Representatives, the
758 | President of the Senate, and the Majority and Minority Leaders
759 | of the House of Representatives and the Senate.

760 | ~~(8)~~~~(9)~~ This section is repealed June 30, 2011.

761 | Section 5. Section 252.63, Florida Statutes, is created to
762 | read:

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763 252.63 Commissioner of Insurance Regulation; powers in a
764 state of emergency.--

765 (1) When the Governor declares a state of emergency
766 pursuant to s. 252.36, the commissioner may issue one or more
767 general orders applicable to all insurance companies, entities,
768 and persons, as defined in s. 624.04, that are subject to the
769 Florida Insurance Code and that serve any portion of the area of
770 the state under the state of emergency.

771 (2) An order issued by the commissioner under this section
772 becomes effective upon issuance and continues for 120 days
773 unless terminated sooner by the commissioner. The commissioner
774 may extend an order for one additional period of 120 days if he
775 or she determines that the emergency conditions that gave rise
776 to the initial order still exist. By concurrent resolution, the
777 Legislature may terminate any order issued under this section.

778 (3) The commissioner shall publish in the next available
779 publication of the Florida Administrative Weekly a copy of the
780 text of any order issued under this section, together with a
781 statement describing the modification or suspension and
782 explaining how the modification or suspension will facilitate
783 recovery from the emergency.

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

786 626.918 Eligible surplus lines insurers.--

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

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

794 (a) Eligibility of the insurer must be requested in
795 writing by the Florida Surplus Lines Service Office.†

796 (b) The insurer must be currently an authorized insurer in
797 the state or country of its domicile as to the kind or kinds of
798 insurance proposed to be so placed and must have been such an
799 insurer for not less than the 3 years next preceding or must be
800 the wholly owned subsidiary of such authorized insurer or must
801 be the wholly owned subsidiary of an already eligible surplus
802 lines insurer as to the kind or kinds of insurance proposed for
803 a period of not less than the 3 years next preceding. However,
804 the office may waive the 3-year requirement if the insurer
805 provides a product or service not readily available to the
806 consumers of this state or has operated successfully for a
807 period of at least 1 year next preceding and has capital and
808 surplus of not less than \$25 million.†

809 (c) Before granting eligibility, the requesting surplus
810 lines agent or the insurer shall furnish the office with a duly
811 authenticated copy of its current annual financial statement in
812 the English language and with all monetary values therein
813 expressed in United States dollars, at an exchange rate (in the
814 case of statements originally made in the currencies of other
815 countries) then-current and shown in the statement, and with
816 such additional information relative to the insurer as the
817 office may request.†

818 (d) 1.a. The insurer must have and maintain surplus as to
819 policyholders of not less than \$15 million; in addition, an
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820 alien insurer must also have and maintain in the United States a
821 trust fund for the protection of all its policyholders in the
822 United States under terms deemed by the office to be reasonably
823 adequate, in an amount not less than \$5.4 million. Any such
824 surplus as to policyholders or trust fund shall be represented
825 by investments consisting of eligible investments for like funds
826 of like domestic insurers under part II of chapter 625 provided,
827 however, that in the case of an alien insurance company, any
828 such surplus as to policyholders may be represented by
829 investments permitted by the domestic regulator of such alien
830 insurance company if such investments are substantially similar
831 in terms of quality, liquidity, and security to eligible
832 investments for like funds of like domestic insurers under part
833 II of chapter 625. Clean, irrevocable, unconditional, and
834 evergreen letters of credit issued or confirmed by a qualified
835 United States financial institution, as defined in subparagraph
836 2., may be used to fund the trust.†

837 b.2. For those surplus lines insurers that were eligible
838 on January 1, 1994, and that maintained their eligibility
839 thereafter, the required surplus as to policyholders shall be:

840 (I)a. On December 31, 1994, and until December 30, 1995,
841 \$2.5 million.

842 (II)b. On December 31, 1995, and until December 30, 1996,
843 \$3.5 million.

844 (III)c. On December 31, 1996, and until December 30, 1997,
845 \$4.5 million.

846 (IV)d. On December 31, 1997, and until December 30, 1998,
847 \$5.5 million.

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848 ~~(V)e.~~ On December 31, 1998, and until December 30, 1999,
849 \$6.5 million.

850 ~~(VI)f.~~ On December 31, 1999, and until December 30, 2000,
851 \$8 million.

852 ~~(VII)g.~~ On December 31, 2000, and until December 30, 2001,
853 \$9.5 million.

854 ~~(VIII)h.~~ On December 31, 2001, and until December 30,
855 2002, \$11 million.

856 ~~(IX)i.~~ On December 31, 2002, and until December 30, 2003,
857 \$13 million.

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

859 ~~c.3.~~ The capital and surplus requirements as set forth in
860 sub-subparagraph b. subparagraph 2. do not apply in the case of
861 an insurance exchange created by the laws of individual states,
862 where the exchange maintains capital and surplus pursuant to the
863 requirements of that state, or maintains capital and surplus in
864 an amount not less than \$50 million in the aggregate. For an
865 insurance exchange which maintains funds in the amount of at
866 least \$12 million for the protection of all insurance exchange
867 policyholders, each individual syndicate shall maintain minimum
868 capital and surplus in an amount not less than \$3 million. If
869 the insurance exchange does not maintain funds in the amount of
870 at least \$12 million for the protection of all insurance
871 exchange policyholders, each individual syndicate shall meet the
872 minimum capital and surplus requirements set forth in sub-
873 subparagraph b. subparagraph 2.

874 ~~d.4.~~ A surplus lines insurer which is a member of an
875 insurance holding company that includes a member which is a
876 Florida domestic insurer as set forth in its holding company
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877 registration statement, as set forth in s. 628.801 and rules
878 adopted thereunder, may elect to maintain surplus as to
879 policyholders in an amount equal to the requirements of s.
880 624.408, subject to the requirement that the surplus lines
881 insurer shall at all times be in compliance with the
882 requirements of chapter 625.

883
884 The election shall be submitted to the office and shall be
885 effective upon the office's being satisfied that the
886 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
887 met. The initial date of election shall be the date of office
888 approval. The election approval application shall be on a form
889 adopted by commission rule. The office may approve an election
890 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
891 only if it was on file with the former Department of Insurance
892 before February 28, 1998.

893 2. For purposes of letters of credit under subparagraph
894 1., the term "qualified United States financial institution"
895 means an institution that:

896 a. Is organized or, in the case of a United States office
897 of a foreign banking organization, is licensed under the laws of
898 the United States or any state.

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

902 c. Has been determined by the office or the Securities
903 Valuation Office of the National Association of Insurance
904 Commissioners to meet such standards of financial condition and
905 standing as are considered necessary and appropriate to regulate

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906 the quality of financial institutions whose letters of credit
907 are acceptable to the office.

908 (e) The insurer must be of good reputation as to the
909 providing of service to its policyholders and the payment of
910 losses and claims.†

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

913 (g) This subsection does not apply as to unauthorized
914 insurers made eligible under s. 626.917 as to wet marine and
915 aviation risks.

916 Section 7. Paragraph (j) is added to subsection (2) of
917 section 627.062, Florida Statutes, subsection (5) of that
918 section is amended, and subsections (9) and (10) are added to
919 that section, to read:

920 627.062 Rate standards.--

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

922 (j) Effective January 1, 2007, notwithstanding any other
923 provision of this section:

924 1. With respect to any residential property insurance
925 subject to regulation under this section, a rate filing,
926 including, but not limited to, any rate changes, rating factors,
927 territories, classification, discounts, and credits, with
928 respect to any policy form, including endorsements issued with
929 the form, that results in an overall average statewide premium
930 increase or decrease of no more than 5 percent above or below
931 the premium that would result from the insurer's rates then in
932 effect shall not be subject to a determination by the office
933 that the rate is excessive or unfairly discriminatory except as
934 provided in subparagraph 3., or any other provision of law,

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935 provided all changes specified in the filing do not result in an
936 overall premium increase of more than 10 percent for any one
937 territory, for reasons related solely to the rate change. As
938 used in this subparagraph, the term "insurer's rates then in
939 effect" includes only rates that have been lawfully in effect
940 under this section or rates that have been determined to be
941 lawful through administrative proceedings or judicial
942 proceedings.

943 2. An insurer may not make filings under this paragraph
944 with respect to any policy form, including endorsements issued
945 with the form, if the overall premium changes resulting from
946 such filings exceed the amounts specified in this paragraph in
947 any 12-month period. An insurer may proceed under other
948 provisions of this section or other provisions of law if the
949 insurer seeks to exceed the premium or rate limitations of this
950 paragraph.

951 3. This paragraph does not affect the authority of the
952 office to disapprove a rate as inadequate or to disapprove a
953 filing for the unlawful use of unfairly discriminatory rating
954 factors that are prohibited by the laws of this state. An
955 insurer electing to implement a rate change under this paragraph
956 shall submit a filing to the office at least 30 days prior to
957 the effective date of the rate change. The office shall have 30
958 days after the filing's submission to review the filing and
959 determine if the rate is inadequate or uses unfairly
960 discriminatory rating factors. Absent a finding by the office
961 within such 30-day period that the rate is inadequate or that
962 the insurer has used unfairly discriminatory rating factors, the
963 filing is deemed approved. If the office finds during the 30-day

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964 period that the filing will result in inadequate premiums or
965 otherwise endanger the insurer's solvency, the office shall
966 suspend the rate decrease. If the insurer is implementing an
967 overall rate increase, the results of which continue to produce
968 an inadequate rate, such increase shall proceed pending
969 additional action by the office to ensure the adequacy of the
970 rate.

971 4. This paragraph does not apply to rate filings for any
972 insurance other than residential property insurance.

973
974 The provisions of this subsection shall not apply to workers'
975 compensation and employer's liability insurance and to motor
976 vehicle insurance.

977 (5) With respect to a rate filing involving coverage of
978 the type for which the insurer is required to pay a
979 reimbursement premium to the Florida Hurricane Catastrophe Fund,
980 the insurer may fully recoup in its property insurance premiums
981 any reimbursement premiums paid to the Florida Hurricane
982 Catastrophe Fund, together with ~~reasonable~~ costs of other
983 reinsurance consistent with prudent business practices and sound
984 actuarial principles, but may not recoup reinsurance costs that
985 duplicate coverage provided by the Florida Hurricane Catastrophe
986 Fund. The burden is on the office to establish that any costs of
987 other reinsurance are in excess of amounts consistent with
988 prudent business practices and sound actuarial principles. An
989 insurer may not recoup more than 1 year of reimbursement premium
990 at a time. Any under-recoupment from the prior year may be added
991 to the following year's reimbursement premium and any over-

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992 recoupment shall be subtracted from the following year's
993 reimbursement premium.

994 (9) Notwithstanding any other provision of this section,
995 any rate filing or applicable portion of the rate filing that
996 includes the peril of wind within the boundary of the area
997 covered by the high-risk account of the Citizens Property
998 Insurance Corporation shall be deemed approved upon submission
999 to the office if the filing or the applicable portion of the
1000 filing requests approval of a rate that is less than the
1001 approved rate for similar risks insured in the high-risk account
1002 of the corporation unless the office determines that such rate
1003 is inadequate or unfairly discriminatory as provided in
1004 subsection (2).

1005 (10) (a) Beginning January 1, 2007, the office shall
1006 annually provide a report to the President of the Senate, the
1007 Speaker of the House of Representatives, the minority party
1008 leader of each house of the Legislature, and the chairs of the
1009 standing committees of each house of the Legislature having
1010 jurisdiction over insurance issues, specifying the impact of
1011 flexible rate regulation under paragraph (2) (j) on the degree of
1012 competition in insurance markets in this state.

1013 (b) The report shall include a year-by-year comparison of
1014 the number of companies participating in the market for each
1015 class of insurance and the relative rate levels. The report
1016 shall also specify:

1017 1. The number of rate filings made under paragraph (2) (j),
1018 the rate levels under those filings, and the market share
1019 affected by those filings.

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1020 2. The number of filings made on a file and use basis, the
1021 rate levels under those filings, and the market share affected
1022 by those filings.

1023 3. The number of filings made on a use and file basis, the
1024 rate levels under those filings, and the market share affected
1025 by those filings.

1026 4. Recommendations to promote competition in the insurance
1027 market and further protect insurance consumers.

1028 Section 8. Paragraph (c) of subsection (3) of section
1029 627.0628, Florida Statutes, is amended to read:

1030 627.0628 Florida Commission on Hurricane Loss Projection
1031 Methodology; public records exemption; public meetings
1032 exemption.--

1033 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1034 (c) With respect to a rate filing under s. 627.062, an
1035 insurer may employ actuarial methods, principles, standards,
1036 models, or output ranges found by the commission to be accurate
1037 or reliable to determine hurricane loss factors for use in a
1038 rate filing under s. 627.062. Such findings and factors are
1039 admissible and relevant in consideration of a rate filing by the
1040 office or in any arbitration or administrative or judicial
1041 review only if the office and the consumer advocate appointed
1042 pursuant to s. 627.0613 have a reasonable opportunity to review
1043 access to all of the basic assumptions and factors that were
1044 used in developing the actuarial methods, principles, standards,
1045 models, or output ranges. After review of the specific models by
1046 the commission, the office and the consumer advocate may not
1047 pose any questions generated from their respective reviews that
1048 duplicate or compromise the conclusions of the commission

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1049 relative to the accuracy or reliability of the models in
1050 producing hurricane loss factors for use in a rate filing under
1051 s. 627.062, and are not precluded from disclosing such
1052 information in a rate proceeding.

1053 Section 9. Section 627.06281, Florida Statutes, is amended
1054 to read:

1055 627.06281 Public hurricane loss projection model;
1056 reporting of data by insurers.--

1057 (1) Within 30 days after a written request for loss data
1058 and associated exposure data by the office or a type I center
1059 within the State University System established to study
1060 mitigation, residential property insurers and licensed rating
1061 and advisory organizations that compile residential property
1062 insurance loss data shall provide loss data and associated
1063 exposure data for residential property insurance policies to the
1064 office or to a type I center within the State University System
1065 established to study mitigation, as directed by the office, for
1066 the purposes of developing, maintaining, and updating a public
1067 model for hurricane loss projections. The loss data and
1068 associated exposure data provided shall be in writing.

1069 (2) The office may not use the public model for hurricane
1070 loss projection referred to in subsection (1) for any purpose
1071 under s. 627.062 or s. 627.351 until the model has been
1072 submitted to the Florida Commission on Hurricane Loss Projection
1073 Methodology for review under s. 627.0628 and the commission has
1074 found the model to be accurate and reliable pursuant to the same
1075 process and standards as the commission uses for the review of
1076 other hurricane loss projection models.

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1077 Section 10. Subsection (2) of section 627.0645, Florida
1078 Statutes, is amended to read:

1079 627.0645 Annual filings.--

1080 (2)(a) Deviations filed by an insurer to any rating
1081 organization's base rate filing are not subject to this section.

1082 (b) The office, after receiving a request to be exempted
1083 from the provisions of this section, may, for good cause due to
1084 insignificant numbers of policies in force or insignificant
1085 premium volume, exempt a company, by line of coverage, from
1086 filing rates or rate certification as required by this section.

1087 (c) The office, after receiving a request to be exempted
1088 from the provisions of this section, shall exempt a company with
1089 less than 500 residential homeowner or mobile homeowner policies
1090 from filing rates or rate certification as required by this
1091 section.

1092 Section 11. Subsection (6) of section 627.351, Florida
1093 Statutes, is amended to read:

1094 627.351 Insurance risk apportionment plans.--

1095 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1096 (a)1.a. The Legislature finds that actual and threatened
1097 catastrophic losses to property in this state from hurricanes
1098 have caused insurers to be unwilling or unable to provide
1099 property insurance coverage to the extent sought and needed. It
1100 is in the public interest and a public purpose to assist in
1101 ensuring ~~assuring~~ that homestead property in the state is
1102 insured so as to facilitate the remediation, reconstruction, and
1103 replacement of damaged or destroyed property in order to reduce
1104 or avoid the negative effects otherwise resulting to the public
1105 health, safety, and welfare; to the economy of the state; and to
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1106 the revenues of the state and local governments needed to
1107 provide for the public welfare. It is necessary, therefore, to
1108 provide property insurance to applicants who are in good faith
1109 entitled to procure insurance through the voluntary market but
1110 are unable to do so. The Legislature intends by this subsection
1111 that property insurance be provided and that it continues, as
1112 long as necessary, through an entity organized to achieve
1113 efficiencies and economies, while providing service to
1114 policyholders, applicants, and agents that is no less than the
1115 quality generally provided in the voluntary market, all toward
1116 the achievement of the foregoing public purposes. Because it is
1117 essential for the corporation to have the maximum financial
1118 resources to pay claims following a catastrophic hurricane, it
1119 is the intent of the Legislature that the income of the
1120 corporation be exempt from federal income taxation and that
1121 interest on the debt obligations issued by the corporation be
1122 exempt from federal income taxation.

1123 b. The Legislature finds and declares that:

1124 (I) The commitment of the state, as expressed in sub-
1125 subparagraph a., to providing a means of ensuring the
1126 availability of property insurance through a residual market
1127 mechanism is hereby reaffirmed.

1128 (II) Despite legislative efforts to ensure that the
1129 residual market for property insurance is self-supporting to the
1130 greatest reasonable extent, residual market policyholders are to
1131 some degree subsidized by the general public through assessments
1132 on owners of property insured in the voluntary market and their
1133 insurers and through the potential use of general revenues of
1134 the state to eliminate or reduce residual market deficits.

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1135 (III) The degree of such subsidy is a matter of public
1136 policy. It is the intent of the Legislature to better control
1137 the subsidy through at least the following means:

1138 (A) Restructuring the residual market mechanism to provide
1139 separate treatment of homestead and nonhomestead properties,
1140 with the intent of continuing to provide an insurance program
1141 with limited subsidies for homestead properties while providing
1142 a nonsubsidized insurance program for nonhomestead properties.

1143 (B) Redefining the concept of rate adequacy in the
1144 subsidized residual market with the intent of ensuring a rate
1145 structure that will enable the subsidized residual market to be
1146 self-supporting except in the event of hurricane losses of a
1147 legislatively specified magnitude. It is the intent of the
1148 Legislature that the funding of the subsidized residual market
1149 be structured to be self-supporting up to the point of its 100-
1150 year probable maximum loss and that the funding be structured to
1151 make reliance on assessments or other sources of public funding
1152 necessary only in the event of a 100-year probable maximum loss
1153 or larger loss.

1154 2. The Residential Property and Casualty Joint
1155 Underwriting Association originally created by this statute
1156 shall be known, as of July 1, 2002, as the Citizens Property
1157 Insurance Corporation. The corporation shall provide insurance
1158 for residential and commercial property, for applicants who are
1159 in good faith entitled, but are unable, to procure insurance
1160 through the voluntary market. The corporation shall operate
1161 pursuant to a plan of operation approved by order of the
1162 commission ~~office~~. The plan is subject to continuous review by
1163 the commission ~~office~~. The commission ~~office~~ may, by order,

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1164 withdraw approval of all or part of a plan if the commission
1165 ~~office~~ determines that conditions have changed since approval
1166 was granted and that the purposes of the plan require changes in
1167 the plan. The corporation shall continue to operate pursuant to
1168 the plan of operation approved by the commission until October
1169 1, 2006. For the purposes of this subsection, residential
1170 coverage includes both personal lines residential coverage,
1171 which consists of the type of coverage provided by homeowner's,
1172 mobile home owner's, dwelling, tenant's, condominium unit
1173 owner's, and similar policies, and commercial lines residential
1174 coverage, which consists of the type of coverage provided by
1175 condominium association, apartment building, and similar
1176 policies.

1177 3. It is the intent of the Legislature that policyholders,
1178 applicants, and agents of the corporation receive service and
1179 treatment of the highest possible level but never less than that
1180 generally provided in the voluntary market. It also is intended
1181 that the corporation be held to service standards no less than
1182 those applied to insurers in the voluntary market by the office
1183 with respect to responsiveness, timeliness, customer courtesy,
1184 and overall dealings with policyholders, applicants, or agents
1185 of the corporation.

1186 (b)1. All insurers authorized to write one or more subject
1187 lines of business in this state are subject to assessment by the
1188 corporation and, for the purposes of this subsection, are
1189 referred to collectively as "assessable insurers." Insurers
1190 writing one or more subject lines of business in this state
1191 pursuant to part VIII of chapter 626 are not assessable
1192 insurers, but insureds who procure one or more subject lines of
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1193 business in this state pursuant to part VIII of chapter 626 are
1194 subject to assessment by the corporation and are referred to
1195 collectively as "assessable insureds." An authorized insurer's
1196 assessment liability shall begin on the first day of the
1197 calendar year following the year in which the insurer was issued
1198 a certificate of authority to transact insurance for subject
1199 lines of business in this state and shall terminate 1 year after
1200 the end of the first calendar year during which the insurer no
1201 longer holds a certificate of authority to transact insurance
1202 for subject lines of business in this state.

1203 2.a. All revenues, assets, liabilities, losses, and
1204 expenses of the corporation shall be divided into four ~~three~~
1205 separate accounts as follows:

1206 (I) Three separate homestead accounts that may provide
1207 coverage only for homestead properties. The term "homestead
1208 property" means a residential property that has been granted a
1209 homestead exemption under chapter 196. The term also includes a
1210 property that is qualified for such exemption but has not
1211 applied for the exemption as of the date of issuance of the
1212 policy, provided the policyholder obtains the exemption within 1
1213 year after initial issuance of the policy. The term also
1214 includes an owner-occupied mobile or manufactured home as
1215 defined in s. 320.01 permanently affixed to real property
1216 regardless of whether the owner of the mobile or manufactured
1217 home is also the owner of the land on which the mobile or
1218 manufactured home is permanently affixed. However, the term does
1219 not include a mobile home that is being held for display by a
1220 licensed mobile home dealer or a licensed mobile home
1221 manufacturer and is not owner-occupied. For the purposes of this

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1222 sub-sub-subparagraph, the term "homestead property" also
1223 includes property covered by tenant's insurance; commercial
1224 lines residential policies; any county, district, or municipal
1225 hospital, or hospital licensed by any not-for-profit corporation
1226 that is qualified under s. 501(c)(3) of the United State
1227 Internal Revenue Code; and continuing care retirement
1228 communities certified under chapter 651 that receives an ad
1229 valorem tax exemption under chapter 196. The accounts providing
1230 coverage only for homestead properties are:

1231 (A)-(I) A personal lines account for personal residential
1232 policies issued by the corporation or issued by the Residential
1233 Property and Casualty Joint Underwriting Association and renewed
1234 by the corporation that provide comprehensive, multiperil
1235 coverage on risks that are not located in areas eligible for
1236 coverage in the Florida Windstorm Underwriting Association as
1237 those areas were defined on January 1, 2002, and for such
1238 policies that do not provide coverage for the peril of wind on
1239 risks that are located in such areas;

1240 (B)-(II) A commercial lines account for commercial
1241 residential policies issued by the corporation or issued by the
1242 Residential Property and Casualty Joint Underwriting Association
1243 and renewed by the corporation that provide coverage for basic
1244 property perils on risks that are not located in areas eligible
1245 for coverage in the Florida Windstorm Underwriting Association
1246 as those areas were defined on January 1, 2002, and for such
1247 policies that do not provide coverage for the peril of wind on
1248 risks that are located in such areas; and

1249 (C)-(III) A high-risk account for personal residential
1250 policies and commercial residential ~~and commercial~~

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1251 ~~nonresidential~~ property policies issued by the corporation or
1252 transferred to the corporation that provide coverage for the
1253 peril of wind on risks that are located in areas eligible for
1254 coverage in the Florida Windstorm Underwriting Association as
1255 those areas were defined on January 1, 2002. The high-risk
1256 account must also include quota share primary insurance under
1257 subparagraph (c)2. The area eligible for coverage under the
1258 high-risk account also includes the area within Port Canaveral,
1259 which is bordered on the south by the City of Cape Canaveral,
1260 bordered on the west by the Banana River, and bordered on the
1261 north by Federal Government property. The office may remove
1262 territory from the area eligible for wind-only and quota share
1263 coverage if, after a public hearing, the office finds that
1264 authorized insurers in the voluntary market are willing and able
1265 to write sufficient amounts of personal and commercial
1266 residential coverage for all perils in the territory, including
1267 coverage for the peril of wind, such that risks covered by wind-
1268 only policies in the removed territory could be issued a policy
1269 by the corporation in either the personal lines or commercial
1270 lines account without a significant increase in the
1271 corporation's probable maximum loss in such account. Removal of
1272 territory from the area eligible for wind-only or quota share
1273 coverage does not alter the assignment of wind coverage written
1274 in such areas to the high-risk account.

1275 (II) (A) A separate nonhomestead account for commercial
1276 nonresidential property policies and for all properties that
1277 otherwise meet all of the criteria for eligibility for coverage
1278 within one of the three homestead accounts described in sub-sub-
1279 subparagraph (I) but that do not meet the definition of

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1280 homestead property specified in sub-sub-subparagraph (I). The
1281 nonhomestead account shall provide the same types of coverage as
1282 are provided by the three homestead accounts, including wind-
1283 only coverage in the high-risk account area. In order to be
1284 eligible for coverage in the nonhomestead account, at the
1285 initial issuance of the policy and at renewal the property owner
1286 shall provide the corporation with a sworn affidavit stating
1287 that the property has been rejected for coverage by at least
1288 three authorized insurers and at least three surplus lines
1289 insurers.

1290 (B) An authorized insurer or approved insurer as defined
1291 in s. 626.914(2) may provide coverage to a nonhomestead property
1292 owner on an individual risk rate basis. Rates and forms of an
1293 authorized insurer for nonhomestead properties are not subject
1294 to ss. 627.062 and 627.0629, except s. 627.0629(2)(b). Such
1295 rates and forms are subject to all other applicable provisions
1296 of this code and rules adopted under this code. During the
1297 course of an insurer's market conduct examination, the office
1298 may review the rate for any nonhomestead property to determine
1299 if such rate is inadequate or unfairly discriminatory. Rates on
1300 nonhomestead property may be found inadequate by the office if
1301 they are clearly insufficient, together with the investment
1302 income attributable to the insurer, to sustain projected losses
1303 and expenses in the class of business to which such rates apply.
1304 Rates on nonhomestead property may also be found inadequate as
1305 to the premium charged to a risk or group of risks if discounts
1306 or credits are allowed that exceed a reasonable reflection of
1307 expense savings and reasonably expected loss experience from the
1308 risk or group of risks. Rates on nonhomestead property may be

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1309 found to be unfairly discriminatory as to a risk or group of
1310 risks by the office if the application of premium discounts,
1311 credits, or surcharges among such risks does not bear a
1312 reasonable relationship to the expected loss and expense
1313 experience among the various risks. A rating plan, including
1314 discounts, credits, or surcharges on nonhomestead property, may
1315 also be found to be unfairly discriminatory if the plan fails to
1316 clearly and equitably reflect consideration of the
1317 policyholder's participation in a risk management program
1318 adjusted pursuant to s. 627.0625. The office may order an
1319 insurer to discontinue using a rate for new policies or upon
1320 renewal of a policy if the office finds the rate to be
1321 inadequate or unfairly discriminatory. Insurers shall maintain
1322 records and documentation relating to rates and forms subject to
1323 this sub-sub-sub-subparagraph for a period of at least 5 years
1324 after the effective date of the policy.

1325 b. The three separate homestead accounts must be
1326 maintained as long as financing obligations entered into by the
1327 Florida Windstorm Underwriting Association or Residential
1328 Property and Casualty Joint Underwriting Association are
1329 outstanding, in accordance with the terms of the corresponding
1330 financing documents. When the financing obligations are no
1331 longer outstanding, in accordance with the terms of the
1332 corresponding financing documents, the corporation may use a
1333 single homestead account for all revenues, assets, liabilities,
1334 losses, and expenses of the corporation. All revenues, assets,
1335 liabilities, losses, and expenses attributable to the
1336 nonhomestead account shall be maintained separately.

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1337 c. Creditors of the Residential Property and Casualty
1338 Joint Underwriting Association shall have a claim against, and
1339 recourse to, the accounts referred to in sub-sub-sub-
1340 subparagraphs ~~sub-sub-subparagraphs~~ a.(I) (A) and (B) ~~(II)~~ and
1341 shall have no claim against, or recourse to, the account
1342 referred to in sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~
1343 a.(I) (C) ~~(III)~~. Creditors of the Florida Windstorm Underwriting
1344 Association shall have a claim against, and recourse to, the
1345 account referred to in sub-sub-sub-subparagraph ~~sub-sub-~~
1346 ~~subparagraph~~ a.(I) (C) ~~(III)~~ and shall have no claim against, or
1347 recourse to, the accounts referred to in sub-sub-sub-
1348 subparagraphs ~~sub-sub-subparagraphs~~ a.(I) (A) and (B) ~~(II)~~.

1349 d. Revenues, assets, liabilities, losses, and expenses not
1350 attributable to particular accounts shall be prorated among the
1351 accounts.

1352 e. The Legislature finds that the revenues of the
1353 corporation are revenues that are necessary to meet the
1354 requirements set forth in documents authorizing the issuance of
1355 bonds under this subsection.

1356 f. No part of the income of the corporation may inure to
1357 the benefit of any private person.

1358 3. With respect to a deficit in any of the homestead
1359 accounts ~~an account~~:

1360 a. When the deficit incurred in a particular calendar year
1361 is not greater than 10 percent of the aggregate statewide direct
1362 written premium for the subject lines of business for the prior
1363 calendar year, the entire deficit shall be recovered through
1364 regular assessments of assessable insurers under paragraph (g)
1365 and assessable insureds.

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1366 b. When the deficit incurred in a particular calendar year
1367 exceeds 10 percent of the aggregate statewide direct written
1368 premium for the subject lines of business for the prior calendar
1369 year, the corporation shall levy regular assessments on
1370 assessable insurers under paragraph (g) and on assessable
1371 insureds in an amount equal to the greater of 10 percent of the
1372 deficit or 10 percent of the aggregate statewide direct written
1373 premium for the subject lines of business for the prior calendar
1374 year. Any remaining deficit shall be recovered through emergency
1375 assessments under sub-subparagraph d.

1376 c. Each assessable insurer's share of the amount being
1377 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1378 be in the proportion that the assessable insurer's direct
1379 written premium for the subject lines of business for the year
1380 preceding the year in which the deficit is incurred ~~assessment~~
1381 bears to the aggregate statewide direct written premium for the
1382 subject lines of business for that year. The assessment
1383 percentage applicable to each assessable insured is the ratio of
1384 the amount being assessed under sub-subparagraph a. or sub-
1385 subparagraph b. to the aggregate statewide direct written
1386 premium for the subject lines of business for the prior year.
1387 Assessments levied by the corporation on assessable insurers
1388 under sub-subparagraphs a. and b. shall be paid as required by
1389 the corporation's plan of operation and paragraph (g). Any
1390 assessment levied by the corporation on limited apportionment
1391 companies may be paid to the corporation by such companies on a
1392 monthly basis as the assessment are collected from insureds for
1393 a time period not to exceed 18 months. Notwithstanding any other
1394 provision in this subsection, the aggregate amount of a regular

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1395 assessment levied in connection with a deficit incurred in a
1396 particular calendar year shall be reduced by the aggregate
1397 amount of the Citizens Property Insurance Corporation
1398 policyholder surcharge imposed under subparagraph (c)10.
1399 Assessments levied by the corporation on assessable insureds
1400 under sub-subparagraphs a. and b. shall be collected by the
1401 surplus lines agent at the time the surplus lines agent collects
1402 the surplus lines tax required by s. 626.932 and shall be paid
1403 to the Florida Surplus Lines Service Office at the time the
1404 surplus lines agent pays the surplus lines tax to the Florida
1405 Surplus Lines Service Office. Upon receipt of regular
1406 assessments from surplus lines agents, the Florida Surplus Lines
1407 Service Office shall transfer the assessments directly to the
1408 corporation as determined by the corporation.

1409 d. Upon a determination by the board of governors that a
1410 deficit in an account exceeds the amount that will be recovered
1411 through regular assessments under sub-subparagraph a. or sub-
1412 subparagraph b., the board shall levy, after verification by the
1413 office, emergency assessments, for as many years as necessary to
1414 cover the deficits, to be collected by assessable insurers and
1415 the corporation and collected from assessable insureds upon
1416 issuance or renewal of policies for subject lines of business,
1417 excluding National Flood Insurance policies. The amount of the
1418 emergency assessment collected in a particular year shall be a
1419 uniform percentage of that year's direct written premium for
1420 subject lines of business and all accounts of the corporation,
1421 excluding National Flood Insurance Program policy premiums, as
1422 annually determined by the board and verified by the office. The
1423 office shall verify the arithmetic calculations involved in the
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1424 board's determination within 30 days after receipt of the
1425 information on which the determination was based.
1426 Notwithstanding any other provision of law, the corporation and
1427 each assessable insurer that writes subject lines of business
1428 shall collect emergency assessments from its policyholders
1429 without such obligation being affected by any credit,
1430 limitation, exemption, or deferment. Emergency assessments
1431 levied by the corporation on assessable insureds shall be
1432 collected by the surplus lines agent at the time the surplus
1433 lines agent collects the surplus lines tax required by s.
1434 626.932 and shall be paid to the Florida Surplus Lines Service
1435 Office at the time the surplus lines agent pays the surplus
1436 lines tax to the Florida Surplus Lines Service Office. The
1437 emergency assessments so collected shall be transferred directly
1438 to the corporation on a periodic basis as determined by the
1439 corporation and shall be held by the corporation solely in the
1440 applicable account. The aggregate amount of emergency
1441 assessments levied for an account under this sub-subparagraph in
1442 any calendar year may not exceed the greater of 10 percent of
1443 the amount needed to cover the original deficit, plus interest,
1444 fees, commissions, required reserves, and other costs associated
1445 with financing of the original deficit, or 10 percent of the
1446 aggregate statewide direct written premium for subject lines of
1447 business and for all accounts of the corporation for the prior
1448 year, plus interest, fees, commissions, required reserves, and
1449 other costs associated with financing the original deficit.

1450 e. The corporation may pledge the proceeds of assessments,
1451 projected recoveries from the Florida Hurricane Catastrophe
1452 Fund, other insurance and reinsurance recoverables, Citizens

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1453 policyholder ~~market equalization~~ surcharges and other
1454 surcharges, and other funds available to the corporation as the
1455 source of revenue for and to secure bonds issued under paragraph
1456 (g), bonds or other indebtedness issued under subparagraph
1457 (c)3., or lines of credit or other financing mechanisms issued
1458 or created under this subsection, or to retire any other debt
1459 incurred as a result of deficits or events giving rise to
1460 deficits, or in any other way that the board determines will
1461 efficiently recover such deficits. The purpose of the lines of
1462 credit or other financing mechanisms is to provide additional
1463 resources to assist the corporation in covering claims and
1464 expenses attributable to a catastrophe. As used in this
1465 subsection, the term "assessments" includes regular assessments
1466 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1467 (g)1. and emergency assessments under sub-subparagraph d.
1468 Emergency assessments collected under sub-subparagraph d. are
1469 not part of an insurer's rates, are not premium, and are not
1470 subject to premium tax, fees, or commissions; however, failure
1471 to pay the emergency assessment shall be treated as failure to
1472 pay premium. The emergency assessments under sub-subparagraph d.
1473 shall continue as long as any bonds issued or other indebtedness
1474 incurred with respect to a deficit for which the assessment was
1475 imposed remain outstanding, unless adequate provision has been
1476 made for the payment of such bonds or other indebtedness
1477 pursuant to the documents governing such bonds or other
1478 indebtedness.

1479 f. As used in this subsection, the term "subject lines of
1480 business" means insurance written by assessable insurers or
1481 procured by assessable insureds on real or personal property, as
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1482 defined in s. 624.604, including insurance for fire, industrial
1483 fire, allied lines, farmowners multiperil, homeowners
1484 multiperil, commercial multiperil, and mobile homes, and
1485 including liability coverage on all such insurance, but
1486 excluding inland marine as defined in s. 624.607(3) and
1487 excluding vehicle insurance as defined in s. 624.605(1) other
1488 than insurance on mobile homes used as permanent dwellings.

1489 g. The Florida Surplus Lines Service Office shall
1490 determine annually the aggregate statewide written premium in
1491 subject lines of business procured by assessable insureds and
1492 shall report that information to the corporation in a form and
1493 at a time the corporation specifies to ensure that the
1494 corporation can meet the requirements of this subsection and the
1495 corporation's financing obligations.

1496 h. The Florida Surplus Lines Service Office shall verify
1497 the proper application by surplus lines agents of assessment
1498 percentages for regular assessments and emergency assessments
1499 levied under this subparagraph on assessable insureds and shall
1500 assist the corporation in ensuring the accurate, timely
1501 collection and payment of assessments by surplus lines agents as
1502 required by the corporation.

1503 4. With respect to a deficit in the nonhomestead account
1504 or to any cash flow shortfall that the board determines will
1505 create an inability for the nonhomestead account to pay claims
1506 when due:

1507 a. The board shall levy an immediate assessment against
1508 the premium of each nonhomestead account policyholder, expressed
1509 as a uniform percentage of the premium for the policy then in

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1510 effect. The maximum amount of such assessment is 100 percent of
1511 such premium.

1512 b. If the assessment under sub-subparagraph a. is
1513 insufficient to enable the account to pay claims and eliminate
1514 the deficit in the account, the board may levy an additional
1515 assessment to be collected at the time of any issuance or
1516 renewal of a nonhomestead account policy during the 1-year
1517 period following the levy of the assessment under sub-
1518 paragraph a., expressed as a uniform percentage of the
1519 premium for the policy for the forthcoming policy period. The
1520 maximum amount of such assessment is 100 percent of such
1521 premium.

1522 c. If the assessments under sub-subparagraphs a. and b.
1523 are insufficient to enable the account to pay claims and
1524 eliminate the deficit in the account, the board may make a loan
1525 from any of the homestead accounts to the nonhomestead account,
1526 subject to approval by the office and provided that such loan
1527 does not impair the financial status of any of the homestead
1528 accounts.

1529 5. A policyholder in a nonhomestead account who has not
1530 paid a deficit assessment levied by the corporation shall be
1531 ineligible for coverage by a surplus lines insurer or authorized
1532 insurer.

1533 (c) The plan of operation of the corporation:

1534 1. Must provide for adoption of residential property and
1535 casualty insurance policy forms and commercial residential and
1536 nonresidential property insurance forms, which forms must be
1537 approved by the office prior to use. The corporation shall adopt
1538 the following policy forms:

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1539 a. Standard personal lines policy forms that are
1540 comprehensive multiperil policies providing full coverage of a
1541 residential property equivalent to the coverage provided in the
1542 private insurance market under an HO-3, HO-4, or HO-6 policy.

1543 b. Basic personal lines policy forms that are policies
1544 similar to an HO-8 policy or a dwelling fire policy that provide
1545 coverage meeting the requirements of the secondary mortgage
1546 market, but which coverage is more limited than the coverage
1547 under a standard policy.

1548 c. Commercial lines residential policy forms that are
1549 generally similar to the basic perils of full coverage
1550 obtainable for commercial residential structures in the admitted
1551 voluntary market.

1552 d. Personal lines and commercial lines residential
1553 property insurance forms that cover the peril of wind only. The
1554 forms are applicable only to residential properties located in
1555 areas eligible for coverage under the high-risk account referred
1556 to in sub-subparagraph (b)2.a.

1557 e. Commercial lines nonresidential property insurance
1558 forms that cover the peril of wind only. The forms are
1559 applicable only to nonresidential properties located in areas
1560 eligible for coverage under the high-risk account referred to in
1561 sub-subparagraph (b)2.a.

1562 f. The corporation may adopt variations of the policy
1563 forms listed in sub-subparagraphs a.-e. that contain more
1564 restrictive coverage.

1565 2.a. Must provide that the corporation adopt a program in
1566 which the corporation and authorized insurers enter into quota
1567 share primary insurance agreements for hurricane coverage, as
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1568 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1569 property insurance forms for eligible risks which cover the
1570 peril of wind only. As used in this subsection, the term:

1571 (I) "Quota share primary insurance" means an arrangement
1572 in which the primary hurricane coverage of an eligible risk is
1573 provided in specified percentages by the corporation and an
1574 authorized insurer. The corporation and authorized insurer are
1575 each solely responsible for a specified percentage of hurricane
1576 coverage of an eligible risk as set forth in a quota share
1577 primary insurance agreement between the corporation and an
1578 authorized insurer and the insurance contract. The
1579 responsibility of the corporation or authorized insurer to pay
1580 its specified percentage of hurricane losses of an eligible
1581 risk, as set forth in the quota share primary insurance
1582 agreement, may not be altered by the inability of the other
1583 party to the agreement to pay its specified percentage of
1584 hurricane losses. Eligible risks that are provided hurricane
1585 coverage through a quota share primary insurance arrangement
1586 must be provided policy forms that set forth the obligations of
1587 the corporation and authorized insurer under the arrangement,
1588 clearly specify the percentages of quota share primary insurance
1589 provided by the corporation and authorized insurer, and
1590 conspicuously and clearly state that neither the authorized
1591 insurer nor the corporation may be held responsible beyond its
1592 specified percentage of coverage of hurricane losses.

1593 (II) "Eligible risks" means personal lines residential and
1594 commercial lines residential risks that meet the underwriting
1595 criteria of the corporation and are located in areas that were

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1596 eligible for coverage by the Florida Windstorm Underwriting
1597 Association on January 1, 2002.

1598 b. The corporation may enter into quota share primary
1599 insurance agreements with authorized insurers at corporation
1600 coverage levels of 90 percent and 50 percent.

1601 c. If the corporation determines that additional coverage
1602 levels are necessary to maximize participation in quota share
1603 primary insurance agreements by authorized insurers, the
1604 corporation may establish additional coverage levels. However,
1605 the corporation's quota share primary insurance coverage level
1606 may not exceed 90 percent.

1607 d. Any quota share primary insurance agreement entered
1608 into between an authorized insurer and the corporation must
1609 provide for a uniform specified percentage of coverage of
1610 hurricane losses, by county or territory as set forth by the
1611 corporation board, for all eligible risks of the authorized
1612 insurer covered under the quota share primary insurance
1613 agreement.

1614 e. Any quota share primary insurance agreement entered
1615 into between an authorized insurer and the corporation is
1616 subject to review and approval by the office. However, such
1617 agreement shall be authorized only as to insurance contracts
1618 entered into between an authorized insurer and an insured who is
1619 already insured by the corporation for wind coverage.

1620 f. For all eligible risks covered under quota share
1621 primary insurance agreements, the exposure and coverage levels
1622 for both the corporation and authorized insurers shall be
1623 reported by the corporation to the Florida Hurricane Catastrophe
1624 Fund. For all policies of eligible risks covered under quota

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1625 share primary insurance agreements, the corporation and the
1626 authorized insurer shall maintain complete and accurate records
1627 for the purpose of exposure and loss reimbursement audits as
1628 required by Florida Hurricane Catastrophe Fund rules. The
1629 corporation and the authorized insurer shall each maintain
1630 duplicate copies of policy declaration pages and supporting
1631 claims documents.

1632 g. The corporation board shall establish in its plan of
1633 operation standards for quota share agreements which ensure that
1634 there is no discriminatory application among insurers as to the
1635 terms of quota share agreements, pricing of quota share
1636 agreements, incentive provisions if any, and consideration paid
1637 for servicing policies or adjusting claims.

1638 h. The quota share primary insurance agreement between the
1639 corporation and an authorized insurer must set forth the
1640 specific terms under which coverage is provided, including, but
1641 not limited to, the sale and servicing of policies issued under
1642 the agreement by the insurance agent of the authorized insurer
1643 producing the business, the reporting of information concerning
1644 eligible risks, the payment of premium to the corporation, and
1645 arrangements for the adjustment and payment of hurricane claims
1646 incurred on eligible risks by the claims adjuster and personnel
1647 of the authorized insurer. Entering into a quota sharing
1648 insurance agreement between the corporation and an authorized
1649 insurer shall be voluntary and at the discretion of the
1650 authorized insurer.

1651 3. May provide that the corporation may employ or
1652 otherwise contract with individuals or other entities to provide
1653 administrative or professional services that may be appropriate

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1654 | to effectuate the plan. The corporation shall have the power to
1655 | borrow funds, by issuing bonds or by incurring other
1656 | indebtedness, and shall have other powers reasonably necessary
1657 | to effectuate the requirements of this subsection, including,
1658 | without limitation, the power to issue bonds and incur other
1659 | indebtedness in order to refinance outstanding bonds or other
1660 | indebtedness. The corporation may, but is not required to, seek
1661 | judicial validation of its bonds or other indebtedness under
1662 | chapter 75. The corporation may issue bonds or incur other
1663 | indebtedness, or have bonds issued on its behalf by a unit of
1664 | local government pursuant to subparagraph (g)2., in the absence
1665 | of a hurricane or other weather-related event, upon a
1666 | determination by the corporation, subject to approval by the
1667 | office, that such action would enable it to efficiently meet the
1668 | financial obligations of the corporation and that such
1669 | financings are reasonably necessary to effectuate the
1670 | requirements of this subsection. The corporation is authorized
1671 | to take all actions needed to facilitate tax-free status for any
1672 | such bonds or indebtedness, including formation of trusts or
1673 | other affiliated entities. The corporation shall have the
1674 | authority to pledge assessments, projected recoveries from the
1675 | Florida Hurricane Catastrophe Fund, other reinsurance
1676 | recoverables, market equalization and other surcharges, and
1677 | other funds available to the corporation as security for bonds
1678 | or other indebtedness. In recognition of s. 10, Art. I of the
1679 | State Constitution, prohibiting the impairment of obligations of
1680 | contracts, it is the intent of the Legislature that no action be
1681 | taken whose purpose is to impair any bond indenture or financing

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1682 agreement or any revenue source committed by contract to such
1683 bond or other indebtedness.

1684 4.a. Must require that the corporation operate subject to
1685 the supervision and approval of a board of governors consisting
1686 of 8 individuals who are residents of this state, from different
1687 geographical areas of this state. The Governor, the Chief
1688 Financial Officer, the President of the Senate, and the Speaker
1689 of the House of Representatives shall each appoint two members
1690 of the board, effective August 1, 2005. At least one of the two
1691 members appointed by each appointing officer must have
1692 demonstrated expertise in insurance. The Chief Financial Officer
1693 shall designate one of the appointees as chair. All board
1694 members serve at the pleasure of the appointing officer. All
1695 board members, including the chair, must be appointed to serve
1696 for 3-year terms beginning annually on a date designated by the
1697 plan. Any board vacancy shall be filled for the unexpired term
1698 by the appointing officer. The Chief Financial Officer shall
1699 appoint a technical advisory group to provide information and
1700 advice to the board of governors in connection with the board's
1701 duties under this subsection. The executive director and senior
1702 managers of the corporation shall be engaged by the board, as
1703 recommended by the Chief Financial Officer, and serve at the
1704 pleasure of the board. The executive director is responsible for
1705 employing other staff as the corporation may require, subject to
1706 review and concurrence by the board and the Chief Financial
1707 Officer.

1708 b. The board shall create a Market Accountability Advisory
1709 Committee to assist the corporation in developing awareness of
1710 its rates and its customer and agent service levels in

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1711 relationship to the voluntary market insurers writing similar
1712 coverage. The members of the advisory committee shall consist of
1713 the following 11 persons, one of whom must be elected chair by
1714 the members of the committee: four representatives, one
1715 appointed by the Florida Association of Insurance Agents, one by
1716 the Florida Association of Insurance and Financial Advisors, one
1717 by the Professional Insurance Agents of Florida, and one by the
1718 Latin American Association of Insurance Agencies; three
1719 representatives appointed by the insurers with the three highest
1720 voluntary market share of residential property insurance
1721 business in the state; one representative from the Office of
1722 Insurance Regulation; one consumer appointed by the board who is
1723 insured by the corporation at the time of appointment to the
1724 committee; one representative appointed by the Florida
1725 Association of Realtors; and one representative appointed by the
1726 Florida Bankers Association. All members must serve for 3-year
1727 terms and may serve for consecutive terms. The committee shall
1728 report to the corporation at each board meeting on insurance
1729 market issues which may include rates and rate competition with
1730 the voluntary market; service, including policy issuance, claims
1731 processing, and general responsiveness to policyholders,
1732 applicants, and agents; and matters relating to depopulation.

1733 5. Must provide a procedure for determining the
1734 eligibility of a risk for coverage, as follows:

1735 a. Subject to the provisions of s. 627.3517, with respect
1736 to personal lines residential risks, if the risk is offered
1737 coverage from an authorized insurer at the insurer's approved
1738 rate under either a standard policy including wind coverage or,
1739 if consistent with the insurer's underwriting rules as filed

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1740 with the office, a basic policy including wind coverage, the
1741 risk is not eligible for any policy issued by the corporation.
1742 If the risk is not able to obtain any such offer, the risk is
1743 eligible for either a standard policy including wind coverage or
1744 a basic policy including wind coverage issued by the
1745 corporation; however, if the risk could not be insured under a
1746 standard policy including wind coverage regardless of market
1747 conditions, the risk shall be eligible for a basic policy
1748 including wind coverage unless rejected under subparagraph 8.
1749 The corporation shall determine the type of policy to be
1750 provided on the basis of objective standards specified in the
1751 underwriting manual and based on generally accepted underwriting
1752 practices.

1753 (I) If the risk accepts an offer of coverage through the
1754 market assistance plan or an offer of coverage through a
1755 mechanism established by the corporation before a policy is
1756 issued to the risk by the corporation or during the first 30
1757 days of coverage by the corporation, and the producing agent who
1758 submitted the application to the plan or to the corporation is
1759 not currently appointed by the insurer, the insurer shall:

1760 (A) Pay to the producing agent of record of the policy,
1761 for the first year, an amount that is the greater of the
1762 insurer's usual and customary commission for the type of policy
1763 written or a fee equal to the usual and customary commission of
1764 the corporation; or

1765 (B) Offer to allow the producing agent of record of the
1766 policy to continue servicing the policy for a period of not less
1767 than 1 year and offer to pay the agent the greater of the

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1768 insurer's or the corporation's usual and customary commission
1769 for the type of policy written.

1770

1771 If the producing agent is unwilling or unable to accept
1772 appointment, the new insurer shall pay the agent in accordance
1773 with sub-sub-sub-subparagraph (A).

1774 (II) When the corporation enters into a contractual
1775 agreement for a take-out plan, the producing agent of record of
1776 the corporation policy is entitled to retain any unearned
1777 commission on the policy, and the insurer shall:

1778 (A) Pay to the producing agent of record of the
1779 corporation policy, for the first year, an amount that is the
1780 greater of the insurer's usual and customary commission for the
1781 type of policy written or a fee equal to the usual and customary
1782 commission of the corporation; or

1783 (B) Offer to allow the producing agent of record of the
1784 corporation policy to continue servicing the policy for a period
1785 of not less than 1 year and offer to pay the agent the greater
1786 of the insurer's or the corporation's usual and customary
1787 commission for the type of policy written.

1788

1789 If the producing agent is unwilling or unable to accept
1790 appointment, the new insurer shall pay the agent in accordance
1791 with sub-sub-sub-subparagraph (A).

1792 b. With respect to commercial lines residential risks, if
1793 the risk is offered coverage under a policy including wind
1794 coverage from an authorized insurer at its approved rate, the
1795 risk is not eligible for any policy issued by the corporation.
1796 If the risk is not able to obtain any such offer, the risk is

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1797 eligible for a policy including wind coverage issued by the
1798 corporation.

1799 (I) If the risk accepts an offer of coverage through the
1800 market assistance plan or an offer of coverage through a
1801 mechanism established by the corporation before a policy is
1802 issued to the risk by the corporation or during the first 30
1803 days of coverage by the corporation, and the producing agent who
1804 submitted the application to the plan or the corporation is not
1805 currently appointed by the insurer, the insurer shall:

1806 (A) Pay to the producing agent of record of the policy,
1807 for the first year, an amount that is the greater of the
1808 insurer's usual and customary commission for the type of policy
1809 written or a fee equal to the usual and customary commission of
1810 the corporation; or

1811 (B) Offer to allow the producing agent of record of the
1812 policy to continue servicing the policy for a period of not less
1813 than 1 year and offer to pay the agent the greater of the
1814 insurer's or the corporation's usual and customary commission
1815 for the type of policy written.

1816
1817 If the producing agent is unwilling or unable to accept
1818 appointment, the new insurer shall pay the agent in accordance
1819 with sub-sub-sub-subparagraph (A).

1820 (II) When the corporation enters into a contractual
1821 agreement for a take-out plan, the producing agent of record of
1822 the corporation policy is entitled to retain any unearned
1823 commission on the policy, and the insurer shall:

1824 (A) Pay to the producing agent of record of the
1825 corporation policy, for the first year, an amount that is the
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1826 greater of the insurer's usual and customary commission for the
1827 type of policy written or a fee equal to the usual and customary
1828 commission of the corporation; or

1829 (B) Offer to allow the producing agent of record of the
1830 corporation policy to continue servicing the policy for a period
1831 of not less than 1 year and offer to pay the agent the greater
1832 of the insurer's or the corporation's usual and customary
1833 commission for the type of policy written.

1834
1835 If the producing agent is unwilling or unable to accept
1836 appointment, the new insurer shall pay the agent in accordance
1837 with sub-sub-sub-subparagraph (A).

1838 c. To preserve existing incentives for carriers to write
1839 dwelling in the voluntary market and not in the corporation,
1840 the corporation shall continue to offer authorized insurers,
1841 including insurers writing dwellings valued at \$1 million or
1842 more, the same voluntary writing credits that were available on
1843 January 1, 2006, to carriers writing wind coverage for dwellings
1844 in the areas eligible for coverage in the high-risk account.

1845 d. With respect to personal lines residential risks, if
1846 the risk is a dwelling with an insured value of \$1 million or
1847 more, or if the risk is one that is excluded from the coverage
1848 to be provided by the condominium association under s.
1849 718.111(11)(b) and that is insured by the condominium unit owner
1850 for a combined dwelling and contents replacement cost of \$1
1851 million or more, the risk is not eligible for any policy issued
1852 by the corporation. Rates and forms for personal lines
1853 residential risks not eligible for coverage by the corporation
1854 specified by this sub-subparagraph are not subject to ss.

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1855 627.062 and 627.0629. Such rates and forms are subject to all
1856 other applicable provisions of this code and rules adopted under
1857 this code. During the course of an insurer's market conduct
1858 examination, the office may review the rate for any risk to
1859 which the provisions of this sub-subparagraph are applicable to
1860 determine if such rate is inadequate or unfairly discriminatory.
1861 Rates on personal lines residential risks not eligible for
1862 coverage by the corporation may be found inadequate by the
1863 office if they are clearly insufficient, together with the
1864 investment income attributable to such risks, to sustain
1865 projected losses and expenses in the class of business to which
1866 such rates apply. Rates on personal lines residential risks not
1867 eligible for coverage by the corporation may also be found
1868 inadequate as to the premium charged to a risk or group of risks
1869 if discounts or credits are allowed that exceed a reasonable
1870 reflection of expense savings and reasonably expected loss
1871 experience from the risk or group of risks. Rates on personal
1872 lines residential risks not eligible for coverage by the
1873 corporation may be found to be unfairly discriminatory as to a
1874 risk or group of risks by the office if the application of
1875 premium discounts, credits, or surcharges among such risks does
1876 not bear a reasonable relationship to the expected loss and
1877 expense experience among the various risks. A rating plan,
1878 including discounts, credits, or surcharges on personal lines
1879 residential risks not eligible for coverage by the corporation
1880 may also be found to be unfairly discriminatory if the plan
1881 fails to clearly and equitably reflect consideration of the
1882 policyholder's participation in a risk management program
1883 adjusted pursuant to s. 627.0625. The office may order an
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1884 insurer to discontinue using a rate for new policies or upon
1885 renewal of a policy if the office finds the rate to be
1886 inadequate or unfairly discriminatory. Insurers must maintain
1887 records and documentation relating to rates and forms subject to
1888 this sub-subparagraph for a period of at least 5 years after the
1889 effective date of the policy.

1890 e. For policies subject to nonrenewal as a result of the
1891 risk being no longer eligible for coverage pursuant to sub-
1892 paragraph d., the corporation shall, directly or through the
1893 market assistance plan, make information from confidential
1894 underwriting and claims files of policyholders available only to
1895 licensed general lines agents who register with the corporation
1896 to receive such information according to the following
1897 procedures:

1898 (I) By August 1, 2006, the corporation shall provide
1899 policyholders who are not eligible for renewal pursuant to sub-
1900 paragraph d. the opportunity to request in writing, within 30
1901 days after the notification is sent, that information from their
1902 confidential underwriting and claims files not be released to
1903 licensed general lines agents registered pursuant to sub-sub-
1904 paragraph e. (II);

1905 (II) By August 1, 2006, the corporation shall make
1906 available to licensed general lines agents the registration
1907 procedures to be used to obtain confidential information from
1908 underwriting and claims files for policies not eligible for
1909 renewal pursuant to sub-subparagraph d. As a condition of
1910 registration, the corporation shall require the licensed general
1911 lines agent to attest that the agent has the experience and
1912 relationships with authorized or surplus lines carriers to

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1913 attempt to offer replacement coverage for policies not eligible
1914 for renewal pursuant to sub-subparagraph d.

1915 (III) By September 1, 2006, the corporation shall make
1916 available through a secured website to licensed general lines
1917 agents registered pursuant to sub-sub-subparagraph e. (II)
1918 application, rating, loss history, mitigation, and policy type
1919 information relating to all policies not eligible for renewal
1920 pursuant to sub-subparagraph d. and for which the policyholder
1921 has not requested the corporation withhold such information
1922 pursuant to sub-sub-subparagraph e. (I). The licensed general
1923 lines agent registered pursuant to sub-sub-subparagraph e. (II)
1924 may use such information to contact and assist the policyholder
1925 in securing replacement policies and the agent may disclose to
1926 the policyholder such information was obtained from the
1927 corporation.

1928 f. With respect to nonhomestead property, eligibility must
1929 be determined in accordance with sub-sub-sub-subparagraph
1930 (b) 2.a. (II) (A).

1931 6. Must provide by July 1, 2007, that an application for
1932 coverage for a new policy is subject to a waiting period of 10
1933 days before coverage is effective, during which time the
1934 corporation shall make such application available for review by
1935 general lines agents and authorized property and casualty
1936 insurers. The board may approve exceptions that allow for
1937 coverage to be effective before the end of the 10-day waiting
1938 period, for coverage issued in conjunction with a real estate
1939 closing, and for such other exceptions as the board determines
1940 are necessary to prevent lapses in coverage.

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1941 ~~7.6-~~ Must include rules for classifications of risks and
1942 rates therefor.

1943 ~~8.7-~~ Must provide that if premium and investment income
1944 for an account attributable to a particular calendar year are in
1945 excess of projected losses and expenses for the account
1946 attributable to that year, such excess shall be held in surplus
1947 in the account. Such surplus shall be available to defray
1948 deficits in that account as to future years and shall be used
1949 for that purpose prior to assessing assessable insurers and
1950 assessable insureds as to any calendar year.

1951 ~~9.8-~~ Must provide objective criteria and procedures to be
1952 uniformly applied for all applicants in determining whether an
1953 individual risk is so hazardous as to be uninsurable. In making
1954 this determination and in establishing the criteria and
1955 procedures, the following shall be considered:

1956 a. Whether the likelihood of a loss for the individual
1957 risk is substantially higher than for other risks of the same
1958 class; and

1959 b. Whether the uncertainty associated with the individual
1960 risk is such that an appropriate premium cannot be determined.

1961
1962 The acceptance or rejection of a risk by the corporation shall
1963 be construed as the private placement of insurance, and the
1964 provisions of chapter 120 shall not apply.

1965 ~~10.9-~~ Must provide that the corporation shall make its
1966 best efforts to procure catastrophe reinsurance at reasonable
1967 rates, to cover its projected 100-year probable maximum loss in
1968 the homestead accounts as determined by the board of governors.

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1969 ~~11.10.~~ Must provide that in the event of regular deficit
1970 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
1971 (b)3.b., in the personal lines homestead account, the commercial
1972 lines residential homestead account, or the high-risk homestead
1973 account, the corporation shall levy upon corporation homestead
1974 account policyholders in its next rate filing, or by a separate
1975 rate filing solely for this purpose, a Citizens policyholder
1976 ~~market equalization~~ surcharge arising from a regular assessment
1977 in such account in a percentage equal to the total amount of
1978 such regular assessments divided by the aggregate statewide
1979 direct written premium for subject lines of business for the
1980 ~~prior calendar~~ year preceding the year in which the deficit to
1981 which the regular assessment related is incurred. Citizens
1982 policyholder ~~Market equalization~~ surcharges under this
1983 subparagraph are not considered premium and are not subject to
1984 commissions, fees, or premium taxes; however, failure to pay the
1985 Citizens policyholder ~~a market equalization~~ surcharge shall be
1986 treated as failure to pay premium. Notwithstanding any other
1987 provision of this section, for purposes of the Citizens
1988 policyholder surcharges to be levied pursuant to this
1989 subparagraph, the total amount of the regular assessment to
1990 which such Citizens policyholder surcharge relates shall be
1991 determined as set forth in sub-subparagraphs (b)3.a., b., and c.

1992 ~~12.11.~~ The policies issued by the corporation must provide
1993 that, if the corporation or the market assistance plan obtains
1994 an offer from an authorized insurer to cover the risk at its
1995 approved rates, the risk is no longer eligible for renewal
1996 through the corporation.

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1997 | ~~13.12.~~ Corporation policies and applications must include
1998 | a notice that the corporation policy could, under this section,
1999 | be replaced with a policy issued by an authorized insurer that
2000 | does not provide coverage identical to the coverage provided by
2001 | the corporation or an insurer writing coverage pursuant to part
2002 | VIII of chapter 626. The notice shall also specify that
2003 | acceptance of corporation coverage creates a conclusive
2004 | presumption that the applicant or policyholder is aware of this
2005 | potential.

2006 | ~~14.13.~~ May establish, subject to approval by the office,
2007 | different eligibility requirements and operational procedures
2008 | for any line or type of coverage for any specified county or
2009 | area if the board determines that such changes to the
2010 | eligibility requirements and operational procedures are
2011 | justified due to the voluntary market being sufficiently stable
2012 | and competitive in such area or for such line or type of
2013 | coverage and that consumers who, in good faith, are unable to
2014 | obtain insurance through the voluntary market through ordinary
2015 | methods would continue to have access to coverage from the
2016 | corporation. When coverage is sought in connection with a real
2017 | property transfer, such requirements and procedures shall not
2018 | provide for an effective date of coverage later than the date of
2019 | the closing of the transfer as established by the transferor,
2020 | the transferee, and, if applicable, the lender.

2021 | ~~15.14.~~ Must provide that, with respect to the high-risk
2022 | homestead account, any assessable insurer with a surplus as to
2023 | policyholders of \$25 million or less writing 25 percent or more
2024 | of its total countrywide property insurance premiums in this
2025 | state may petition the office, within the first 90 days of each
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2026 calendar year, to qualify as a limited apportionment company. In
2027 no event shall a limited apportionment company be required to
2028 participate in the portion of any assessment, within the high-
2029 risk account, pursuant to sub-subparagraph (b)3.a. or sub-
2030 subparagraph (b)3.b. in the aggregate which exceeds \$50 million
2031 after payment of available high-risk account funds in any
2032 calendar year. However, a limited apportionment company shall
2033 collect from its policyholders any emergency assessment imposed
2034 under sub-subparagraph (b)3.d. The plan shall provide that, if
2035 the office determines that any regular assessment will result in
2036 an impairment of the surplus of a limited apportionment company,
2037 the office may direct that all or part of such assessment be
2038 deferred as provided in subparagraph (g)4. However, there shall
2039 be no limitation or deferment of an emergency assessment to be
2040 collected from policyholders under sub-subparagraph (b)3.d.

2041 ~~16.15.~~ Must provide that the corporation appoint as its
2042 licensed agents only those agents who also hold an appointment
2043 as defined in s. 626.015(3) with an insurer who at the time of
2044 the agent's initial appointment by the corporation is authorized
2045 to write and is actually writing personal lines residential
2046 property coverage, commercial residential property coverage, or
2047 commercial nonresidential property coverage within the state.

2048 17. Must provide, by July 1, 2007, a premium payment plan
2049 option to its policyholders which allows for quarterly and
2050 semiannual payment of premiums.

2051 18. Must provide that the hurricane deductible for any
2052 property in the nonhomestead account with an insured value of
2053 \$250,000 or more must be at least 5 percent of the insured
2054 value.

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2055 19. Must provide that the application for coverage under
2056 the nonhomestead account and the declaration page of each
2057 nonhomestead account policy include a statement in boldface 12-
2058 point type specifying that public subsidies do not support the
2059 corporation's coverage of nonhomestead property; that if the
2060 nonhomestead account of the corporation sustains a deficit or is
2061 unable to pay claims, the nonhomestead policyholder shall be
2062 subject to an immediate assessment in an amount up to 100
2063 percent of the premium and a further assessment upon renewal of
2064 the policy; and that the applicant or policyholder may wish to
2065 seek alternative coverage from an authorized insurer or surplus
2066 lines insurer that will not be subject to such potential
2067 assessments.

2068 20. Must provide that the application for coverage under
2069 any of the homestead accounts and the declaration page of each
2070 homestead account policy include a statement in boldface 12-
2071 point type specifying that a false declaration of homestead
2072 status for purposes of obtaining coverage in any of the
2073 homestead accounts may constitute the offense of insurance
2074 fraud, as prohibited and punishable as a felony under s.
2075 817.234.

2076 21. Must limit coverage on mobile homes or manufactured
2077 homes built prior to 1994 to actual cash value of the dwelling
2078 rather than replacement costs of the dwelling.

2079 (d)1. All prospective employees for senior management
2080 positions, as defined by the plan of operation, are subject to
2081 background checks as a prerequisite for employment. The office
2082 shall conduct background checks on such prospective employees
2083 pursuant to ss. 624.404(3), 624.34, and 628.261.

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2084 2. On or before July 1 of each year, employees of the
2085 corporation are required to sign and submit a statement
2086 attesting that they do not have a conflict of interest, as
2087 defined in part III of chapter 112. As a condition of
2088 employment, all prospective employees are required to sign and
2089 submit to the corporation a conflict-of-interest statement.

2090 3. Senior managers and members of the board of governors
2091 are subject to the provisions of part III of chapter 112,
2092 including, but not limited to, the code of ethics and public
2093 disclosure and reporting of financial interests, pursuant to s.
2094 112.3145. Senior managers and board members are also required to
2095 file such disclosures with the Office of Insurance Regulation.
2096 The executive director of the corporation or his or her designee
2097 shall notify each newly appointed and existing appointed member
2098 of the board of governors and senior managers of his or her duty
2099 to comply with the reporting requirements of part III of chapter
2100 112. At least quarterly, the executive director or his or her
2101 designee shall submit to the Commission on Ethics a list of
2102 names of the senior managers and members of the board of
2103 governors that are subject to the public disclosure requirements
2104 under s. 112.3145.

2105 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
2106 other provision of law, an employee or board member may not
2107 knowingly accept, directly or indirectly, any gift or
2108 expenditure from a person or entity, or an employee or
2109 representative of such person or entity, that has a contractual
2110 relationship with the corporation or who is under consideration
2111 for a contract. An employee or board member that fails to comply

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2112 with this subparagraph is subject to penalties provided under
2113 ss. 112.317 and 112.3173.

2114 5. Any senior manager of the corporation who is employed
2115 on or after January 1, 2007, regardless of the date of hire, who
2116 subsequently retires or terminates employment is prohibited from
2117 representing another person or entity before the corporation for
2118 2 years after retirement or termination of employment from the
2119 corporation.

2120 6. Any employee of the corporation who is employed on or
2121 after January 1, 2007, regardless of the date of hire, who
2122 subsequently retires or terminates employment is prohibited from
2123 having any employment or contractual relationship for 2 years
2124 with an insurer that has received a take-out bonus from the
2125 corporation.

2126 (e) Purchases that equal or exceed \$2,500, but are less
2127 than \$25,000, shall be made by receipt of written quotes,
2128 written record of telephone quotes, or informal bids, whenever
2129 practical. The procurement of goods or services valued at or
2130 over \$25,000 shall be subject to competitive solicitation,
2131 except in situations where the goods or services are provided by
2132 a sole source or are deemed an emergency purchase; the services
2133 are exempted from competitive solicitation requirements under s.
2134 287.057(5)(f); or the procurement of services is subject to s.
2135 627.3513. Justification for the sole-sourcing or emergency
2136 procurement must be documented. Contracts for goods or services
2137 valued at or over \$100,000 are subject to approval by the board.

2138 (f) The board shall determine whether it is more cost-
2139 effective and in the best interests of the corporation to use
2140 legal services provided by in-house attorneys employed by the
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2141 corporation rather than contracting with outside counsel. In
2142 making such determination, the board shall document its findings
2143 and shall consider: the expertise needed; whether time
2144 commitments exceed in-house staff resources; whether local
2145 representation is needed; the travel, lodging and other costs
2146 associated with in-house representation; and such other factors
2147 that the board determines are relevant.

2148 (g) The corporation may not retain a lobbyist to represent
2149 it before the legislative branch or executive branch. However,
2150 full-time employees of the corporation may register as lobbyists
2151 and represent the corporation before the legislative branch or
2152 executive branch.

2153 (h)1. The Office of the Internal Auditor is established
2154 within the corporation to provide a central point for
2155 coordination of and responsibility for activities that promote
2156 accountability, integrity, and efficiency to the policyholders
2157 and to the taxpayers of this state. The internal auditor shall
2158 be appointed by the board of governors, shall report to and be
2159 under the general supervision of the board of governors, and is
2160 not subject to supervision by any employee of the corporation.
2161 Administrative staff and support shall be provided by the
2162 corporation. The internal auditor shall be appointed without
2163 regard to political affiliation. It is the duty and
2164 responsibility of the internal auditor to:

2165 a. Provide direction for, supervise, conduct, and
2166 coordinate audits, investigations, and management reviews
2167 relating to the programs and operations of the corporation.

2168 b. Conduct, supervise, or coordinate other activities
2169 carried out or financed by the corporation for the purpose of
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2170 promoting efficiency in the administration of, or preventing and
2171 detecting fraud, abuse, and mismanagement in, its programs and
2172 operations.

2173 c. Submit final audit reports, reviews, or investigative
2174 reports to the board of governors, the executive director, the
2175 members of the Financial Services Commission, the President of
2176 the Senate, and the Speaker of the House of Representatives.

2177 d. Keep the board of governors informed concerning fraud,
2178 abuses, and internal control deficiencies relating to programs
2179 and operations administered or financed by the corporation,
2180 recommend corrective action, and report on the progress made in
2181 implementing corrective action.

2182 e. Report expeditiously to the Department of Law
2183 Enforcement or other law enforcement agencies, as appropriate,
2184 whenever the internal auditor has reasonable grounds to believe
2185 there has been a violation of criminal law.

2186 2. On or before February 15, the internal auditor shall
2187 prepare an annual report evaluating the effectiveness of the
2188 internal controls of the corporation and providing
2189 recommendations for corrective action, if necessary, and
2190 summarizing the audits, reviews, and investigations conducted by
2191 the office during the preceding fiscal year. The final report
2192 shall be furnished to the board of governors and the executive
2193 director, the President of the Senate, the Speaker of the House
2194 of Representatives, and the Financial Services Commission.

2195 (i) The corporation shall establish a unit or division
2196 responsible for receiving and responding to consumer complaints,
2197 which unit or division is the sole responsibility of a senior
2198 manager of the corporation.

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2199 (j) The office shall conduct a comprehensive market
2200 conduct examination of the corporation every 2 years to
2201 determine compliance with its plan of operation and internal
2202 operations procedures. The first market conduct examination
2203 report shall be submitted to the President of the Senate and the
2204 Speaker of the House of Representatives no later than February
2205 1, 2009. Subsequent reports shall be submitted on or before
2206 February 1 every 2 years thereafter.

2207 (k) The Auditor General shall conduct an operational audit
2208 of the corporations every 3 years to evaluate management's
2209 performance in administering laws, policies, and procedures
2210 governing the operations of the corporation in an efficient and
2211 effective manner. The scope of the review shall include, but is
2212 not limited to, evaluating claims handling, customer service,
2213 take-out programs and bonuses, financing arrangements,
2214 procurement of goods and services, internal controls, and the
2215 internal audit function.

2216 (l)-(d)1.a. It is the intent of the Legislature that the
2217 rates for coverage provided by the corporation be actuarially
2218 adequate ~~sound~~ and not competitive with approved rates charged
2219 in the admitted voluntary market, so that the corporation
2220 functions as a residual market mechanism to provide insurance
2221 only when the insurance cannot be procured in the voluntary
2222 market. Rates shall include a residual market risk load that
2223 reflects the concentrated exposure of the corporation and the
2224 impact of adverse selection as well as an appropriate
2225 catastrophe loading factor that reflects the actual catastrophic
2226 exposure of the corporation.

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2227 b. It is the intent of the Legislature to reaffirm the
2228 requirement of rate adequacy in the residual market. Recognizing
2229 that rates may comply with the intent expressed in sub-
2230 subparagraph a. and yet be inadequate and recognizing the public
2231 need to limit subsidies within the residual market, it is the
2232 further intent of the Legislature to establish statutory
2233 standards for rate adequacy. Such standards are intended to
2234 supplement the standard specified in s. 627.062(2)(e)3.,
2235 providing that rates are inadequate if they are clearly
2236 insufficient to sustain projected losses and expenses in the
2237 class of business to which they apply.

2238 2. For each county, the average rates of the corporation
2239 for each line of business for personal lines residential
2240 policies excluding rates for wind-only policies shall be no
2241 lower than the average rates charged by the insurer that had the
2242 highest average rate in that county among the 20 insurers with
2243 the greatest total direct written premium in the state for that
2244 line of business in the preceding year, except that with respect
2245 to mobile home coverages, the average rates of the corporation
2246 shall be no lower than the average rates charged by the insurer
2247 that had the highest average rate in that county among the 5
2248 insurers with the greatest total written premium for mobile home
2249 owner's policies in the state in the preceding year.

2250 3. Rates for personal lines residential wind-only policies
2251 must be actuarially adequate ~~sound~~ and not competitive with
2252 approved rates charged by authorized insurers. If the filing
2253 under this paragraph is made at least 90 days before the
2254 proposed effective date and the filing is not implemented during
2255 the office's review of the filing and any proceeding and

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2256 judicial review, such filing shall be considered a file and use
2257 filing. In such case, the office shall finalize its review by
2258 issuance of a notice of intent to approve or a notice of intent
2259 to disapprove within 90 days after receipt of the filing. The
2260 notice of intent to approve and the notice of intent to
2261 disapprove constitute agency action for purposes of the
2262 Administrative Procedure Act. Requests for supporting
2263 information, requests for mathematical or mechanical
2264 corrections, or notification to the insurer by the office of its
2265 preliminary findings shall not toll the 90-day period during any
2266 such proceedings and subsequent judicial review. The rate shall
2267 be deemed approved if the office does not issue a notice of
2268 intent to approve or a notice of intent to disapprove within 90
2269 days after receipt of the filing. Corporation rate manuals shall
2270 include a rate surcharge for seasonal occupancy. To ensure that
2271 personal lines residential wind-only rates are not competitive
2272 with approved rates charged by authorized insurers, the
2273 corporation, in conjunction with the office, shall develop a
2274 wind-only ratemaking methodology, which methodology shall be
2275 contained in each rate filing made by the corporation with the
2276 office. If the office determines that the wind-only rates or
2277 rating factors filed by the corporation fail to comply with the
2278 wind-only ratemaking methodology provided for in this
2279 subsection, it shall so notify the corporation and require the
2280 corporation to amend its rates or rating factors to come into
2281 compliance within 90 days of notice from the office.

2282 4. For the purposes of establishing a pilot program to
2283 evaluate issues relating to the availability and affordability
2284 of insurance in an area where historically there has been little
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2285 market competition, the provisions of subparagraph 2. do not
2286 apply to coverage provided by the corporation in Monroe County
2287 if the office determines that a reasonable degree of competition
2288 does not exist for personal lines residential policies. The
2289 provisions of subparagraph 3. do not apply to coverage provided
2290 by the corporation in Monroe County if the office determines
2291 that a reasonable degree of competition does not exist for
2292 personal lines residential policies in the area of that county
2293 which is eligible for wind-only coverage. In this county, the
2294 rates for personal lines residential coverage shall be
2295 actuarially adequate ~~sound~~ and not excessive, inadequate, or
2296 unfairly discriminatory and are subject to the other provisions
2297 of the paragraph and s. 627.062. The commission shall adopt
2298 rules establishing the criteria for determining whether a
2299 reasonable degree of competition exists for personal lines
2300 residential policies in Monroe County. Any proposed rate
2301 increase filed by the corporation after May 1, 2006, but before
2302 October 1, 2006, for Monroe County based upon actuarial adequacy
2303 shall be implemented in equal amounts over a period of 3 years.
2304 By March 1, 2006, the office shall submit a report to the
2305 Legislature providing an evaluation of the implementation of the
2306 pilot program affecting Monroe County.

2307 5. Rates for commercial lines coverage shall not be
2308 subject to the requirements of subparagraph 2., but shall be
2309 subject to all other requirements of this paragraph and s.
2310 627.062.

2311 6.a. Nothing in this paragraph shall require or allow the
2312 corporation to adopt a rate that is inadequate under s. 627.062
2313 or under sub-subparagraph b. or sub-subparagraph c.

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2314 b. With respect to rates for coverage in any homestead
2315 account, a rate is deemed inadequate if the rate is not
2316 sufficient to generate, by means of cash flow, procurement of
2317 coverage under the Florida Hurricane Catastrophe Fund,
2318 reinsurance costs whether or not reinsurance is procured, and
2319 investment income, moneys sufficient to pay all claims and
2320 expenses reasonably expected to result from a 100-year probable
2321 maximum loss event without resort to any regular or emergency
2322 assessments, long-term debt, state revenues, or other funding
2323 sources that reflect any subsidy from persons or entities other
2324 than corporation homestead accounts policyholders.

2325 c.(I) With respect to rates for coverage in the
2326 nonhomestead account, a rate is deemed inadequate if the rate is
2327 not sufficient to generate, by means of cash flow, procurement
2328 of coverage under the Florida Hurricane Catastrophe Fund,
2329 reinsurance costs, whether or not reinsurance is procured, and
2330 investment income and moneys sufficient to pay all claims and
2331 expenses reasonably expected to result from a 125-year probable
2332 maximum loss event without resort to any assessments, debt,
2333 state revenues, or other funding sources that reflect any
2334 subsidy from persons or entities other than corporation
2335 nonhomestead account policyholders. The rate initially filed by
2336 the corporation to comply with this sub-sub-subparagraph shall
2337 only be effective for 1 year.

2338 (II) For the year following the initial year under sub-
2339 sub-subparagraph (I), the rate is deemed inadequate if the rate
2340 is not sufficient to generate moneys sufficient to pay all
2341 claims and expenses reasonably expected to result from a 150-

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2342 year probable maximum loss event using the same criteria
2343 provided in sub-sub-subparagraph (I).

2344 (III) For the 2 years following the year under sub-sub-
2345 subparagraph (II), the rate shall be based upon a 175-year and
2346 200-year probable maximum loss event, respectively.

2347 7. The corporation shall certify to the office at least
2348 twice annually that its personal lines rates comply with the
2349 requirements of subparagraphs 1., ~~and 2.~~, and 6. If any
2350 adjustment in the rates or rating factors of the corporation is
2351 necessary to ensure such compliance, the corporation shall make
2352 and implement such adjustments and file its revised rates and
2353 rating factors with the office. If the office thereafter
2354 determines that the revised rates and rating factors fail to
2355 comply with the provisions of subparagraphs 1. and 2., it shall
2356 notify the corporation and require the corporation to amend its
2357 rates or rating factors in conjunction with its next rate
2358 filing. The office must notify the corporation by electronic
2359 means of any rate filing it approves for any insurer among the
2360 insurers referred to in subparagraph 2.

2361 8. In addition to the rates otherwise determined pursuant
2362 to this paragraph, the corporation shall impose and collect an
2363 amount equal to the premium tax provided for in s. 624.509 to
2364 augment the financial resources of the corporation.

2365 ~~9.a. To assist the corporation in developing additional~~
2366 ~~ratemaking methods to assure compliance with subparagraphs 1.~~
2367 ~~and 4., the corporation shall appoint a rate methodology panel~~
2368 ~~consisting of one person recommended by the Florida Association~~
2369 ~~of Insurance Agents, one person recommended by the Professional~~
2370 ~~Insurance Agents of Florida, one person recommended by the~~
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2371 ~~Florida Association of Insurance and Financial Advisors, one~~
2372 ~~person recommended by the insurer with the highest voluntary~~
2373 ~~market share of residential property insurance business in the~~
2374 ~~state, one person recommended by the insurer with the second-~~
2375 ~~highest voluntary market share of residential property insurance~~
2376 ~~business in the state, one person recommended by an insurer~~
2377 ~~writing commercial residential property insurance in this state,~~
2378 ~~one person recommended by the Office of Insurance Regulation,~~
2379 ~~and one board member designated by the board chairman, who shall~~
2380 ~~serve as chairman of the panel.~~

2381 ~~b. By January 1, 2004, the rate methodology panel shall~~
2382 ~~provide a report to the corporation of its findings and~~
2383 ~~recommendations for the use of additional ratemaking methods and~~
2384 ~~procedures, including the use of a rate equalization surcharge~~
2385 ~~in an amount sufficient to assure that the total cost of~~
2386 ~~coverage for policyholders or applicants to the corporation is~~
2387 ~~sufficient to comply with subparagraph 1.~~

2388 ~~e. Within 30 days after such report, the corporation shall~~
2389 ~~present to the President of the Senate, the Speaker of the House~~
2390 ~~of Representatives, the minority party leaders of each house of~~
2391 ~~the Legislature, and the chairs of the standing committees of~~
2392 ~~each house of the Legislature having jurisdiction of insurance~~
2393 ~~issues, a plan for implementing the additional ratemaking~~
2394 ~~methods and an outline of any legislation needed to facilitate~~
2395 ~~use of the new methods.~~

2396 ~~d. The plan must include a provision that producer~~
2397 ~~commissions paid by the corporation shall not be calculated in~~
2398 ~~such a manner as to include any rate equalization surcharge.~~

2399 ~~However, without regard to the plan to be developed or its~~
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2400 ~~implementation, producer commissions paid by the corporation for~~
2401 ~~each account, other than the quota share primary program, shall~~
2402 ~~remain fixed as to percentage, effective rate, calculation, and~~
2403 ~~payment method until January 1, 2004.~~

2404 9.10. ~~By January 1, 2004,~~ The corporation shall provide
2405 ~~develop~~ a notice to policyholders or applicants that the rates
2406 of Citizens Property Insurance Corporation are intended to be
2407 higher than the rates of any admitted carrier and providing
2408 other information the corporation deems necessary to assist
2409 consumers in finding other voluntary admitted insurers willing
2410 to insure their property.

2411 (m)(e) If coverage in an account is deactivated pursuant
2412 to paragraph (f), coverage through the corporation shall be
2413 reactivated by order of the office only under one of the
2414 following circumstances:

2415 1. If the market assistance plan receives a minimum of 100
2416 applications for coverage within a 3-month period, or 200
2417 applications for coverage within a 1-year period or less for
2418 residential coverage, unless the market assistance plan provides
2419 a quotation from admitted carriers at their filed rates for at
2420 least 90 percent of such applicants. Any market assistance plan
2421 application that is rejected because an individual risk is so
2422 hazardous as to be uninsurable using the criteria specified in
2423 subparagraph (c)8. shall not be included in the minimum
2424 percentage calculation provided herein. In the event that there
2425 is a legal or administrative challenge to a determination by the
2426 office that the conditions of this subparagraph have been met
2427 for eligibility for coverage in the corporation, any eligible
2428 risk may obtain coverage during the pendency of such challenge.

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2429 2. In response to a state of emergency declared by the
2430 Governor under s. 252.36, the office may activate coverage by
2431 order for the period of the emergency upon a finding by the
2432 office that the emergency significantly affects the availability
2433 of residential property insurance.

2434 ~~(n)~~(n)1. The corporation shall file with the office
2435 quarterly statements of financial condition, an annual statement
2436 of financial condition, and audited financial statements in the
2437 manner prescribed by law. In addition, the corporation shall
2438 report to the office monthly on the types, premium, exposure,
2439 and distribution by county of its policies in force, and shall
2440 submit other reports as the office requires to carry out its
2441 oversight of the corporation.

2442 2. The activities of the corporation shall be reviewed at
2443 least annually by the office to determine whether coverage shall
2444 be deactivated in an account on the basis that the conditions
2445 giving rise to its activation no longer exist.

2446 ~~(o)~~(o)1. The corporation shall certify to the office its
2447 needs for annual assessments as to a particular calendar year,
2448 and for any interim assessments that it deems to be necessary to
2449 sustain operations as to a particular year pending the receipt
2450 of annual assessments. Upon verification, the office shall
2451 approve such certification, and the corporation shall levy such
2452 annual or interim assessments. Such assessments shall be
2453 prorated as provided in paragraph (b). The corporation shall
2454 take all reasonable and prudent steps necessary to collect the
2455 amount of assessment due from each assessable insurer,
2456 including, if prudent, filing suit to collect such assessment.
2457 If the corporation is unable to collect an assessment from any

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2458 assessable insurer, the uncollected assessments shall be levied
2459 as an additional assessment against the assessable insurers and
2460 any assessable insurer required to pay an additional assessment
2461 as a result of such failure to pay shall have a cause of action
2462 against such nonpaying assessable insurer. Assessments shall be
2463 included as an appropriate factor in the making of rates. The
2464 failure of a surplus lines agent to collect and remit any
2465 regular or emergency assessment levied by the corporation is
2466 considered to be a violation of s. 626.936 and subjects the
2467 surplus lines agent to the penalties provided in that section.

2468 2. The governing body of any unit of local government, any
2469 residents of which are insured by the corporation, may issue
2470 bonds as defined in s. 125.013 or s. 166.101 from time to time
2471 to fund an assistance program, in conjunction with the
2472 corporation, for the purpose of defraying deficits of the
2473 corporation. In order to avoid needless and indiscriminate
2474 proliferation, duplication, and fragmentation of such assistance
2475 programs, any unit of local government, any residents of which
2476 are insured by the corporation, may provide for the payment of
2477 losses, regardless of whether or not the losses occurred within
2478 or outside of the territorial jurisdiction of the local
2479 government. Revenue bonds under this subparagraph may not be
2480 issued until validated pursuant to chapter 75, unless a state of
2481 emergency is declared by executive order or proclamation of the
2482 Governor pursuant to s. 252.36 making such findings as are
2483 necessary to determine that it is in the best interests of, and
2484 necessary for, the protection of the public health, safety, and
2485 general welfare of residents of this state and declaring it an
2486 essential public purpose to permit certain municipalities or
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2487 counties to issue such bonds as will permit relief to claimants
2488 and policyholders of the corporation. Any such unit of local
2489 government may enter into such contracts with the corporation
2490 and with any other entity created pursuant to this subsection as
2491 are necessary to carry out this paragraph. Any bonds issued
2492 under this subparagraph shall be payable from and secured by
2493 moneys received by the corporation from emergency assessments
2494 under sub-subparagraph (b)3.d., and assigned and pledged to or
2495 on behalf of the unit of local government for the benefit of the
2496 holders of such bonds. The funds, credit, property, and taxing
2497 power of the state or of the unit of local government shall not
2498 be pledged for the payment of such bonds. If any of the bonds
2499 remain unsold 60 days after issuance, the office shall require
2500 all insurers subject to assessment to purchase the bonds, which
2501 shall be treated as admitted assets; each insurer shall be
2502 required to purchase that percentage of the unsold portion of
2503 the bond issue that equals the insurer's relative share of
2504 assessment liability under this subsection. An insurer shall not
2505 be required to purchase the bonds to the extent that the office
2506 determines that the purchase would endanger or impair the
2507 solvency of the insurer.

2508 3.a. The corporation shall adopt one or more programs
2509 subject to approval by the office for the reduction of both new
2510 and renewal writings in the corporation. Beginning January 1,
2511 2008, any program the corporation adopts for the payment of
2512 bonuses to an insurer for each risk the insurer removes from the
2513 corporation shall comply with s. 627.3511(2) and may not exceed
2514 the amount referenced in s. 627.3511(2) for each risk removed.

2515 The corporation may consider any prudent and not unfairly

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2516 discriminatory approach to reducing corporation writings, and
2517 may adopt a credit against assessment liability or other
2518 liability that provides an incentive for insurers to take risks
2519 out of the corporation and to keep risks out of the corporation
2520 by maintaining or increasing voluntary writings in counties or
2521 areas in which corporation risks are highly concentrated and a
2522 program to provide a formula under which an insurer voluntarily
2523 taking risks out of the corporation by maintaining or increasing
2524 voluntary writings will be relieved wholly or partially from
2525 assessments under sub-subparagraphs (b)3.a. and b. When the
2526 corporation enters into a contractual agreement for a take-out
2527 plan, the producing agent of record of the corporation policy is
2528 entitled to retain any unearned commission on such policy, and
2529 the insurer shall either:

2530 (I) Pay to the producing agent of record of the policy,
2531 for the first year, an amount which is the greater of the
2532 insurer's usual and customary commission for the type of policy
2533 written or a policy fee equal to the usual and customary
2534 commission of the corporation; or

2535 (II) Offer to allow the producing agent of record of the
2536 policy to continue servicing the policy for a period of not less
2537 than 1 year and offer to pay the agent the insurer's usual and
2538 customary commission for the type of policy written. If the
2539 producing agent is unwilling or unable to accept appointment by
2540 the new insurer, the new insurer shall pay the agent in
2541 accordance with sub-sub-subparagraph (I).

2542 b. Any credit or exemption from regular assessments
2543 adopted under this subparagraph shall last no longer than the 3
2544 years following the cancellation or expiration of the policy by
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2545 the corporation. With the approval of the office, the board may
2546 extend such credits for an additional year if the insurer
2547 guarantees an additional year of renewability for all policies
2548 removed from the corporation, or for 2 additional years if the
2549 insurer guarantees 2 additional years of renewability for all
2550 policies so removed.

2551 c. There shall be no credit, limitation, exemption, or
2552 deferment from emergency assessments to be collected from
2553 policyholders pursuant to sub-subparagraph (b)3.d.

2554 4. The plan shall provide for the deferment, in whole or
2555 in part, of the assessment of an assessable insurer, other than
2556 an emergency assessment collected from policyholders pursuant to
2557 sub-subparagraph (b)3.d., if the office finds that payment of
2558 the assessment would endanger or impair the solvency of the
2559 insurer. In the event an assessment against an assessable
2560 insurer is deferred in whole or in part, the amount by which
2561 such assessment is deferred may be assessed against the other
2562 assessable insurers in a manner consistent with the basis for
2563 assessments set forth in paragraph (b).

2564 ~~(p)(h)~~ Nothing in this subsection shall be construed to
2565 preclude the issuance of residential property insurance coverage
2566 pursuant to part VIII of chapter 626.

2567 ~~(q)(i)~~ There shall be no liability on the part of, and no
2568 cause of action of any nature shall arise against, any
2569 assessable insurer or its agents or employees, the corporation
2570 or its agents or employees, members of the board of governors or
2571 their respective designees at a board meeting, corporation
2572 committee members, or the office or its representatives, for any
2573 action taken by them in the performance of their duties or

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2574 responsibilities under this subsection. Such immunity does not
2575 apply to:

2576 1. Any of the foregoing persons or entities for any
2577 willful tort;

2578 2. The corporation or its producing agents for breach of
2579 any contract or agreement pertaining to insurance coverage;

2580 3. The corporation with respect to issuance or payment of
2581 debt; or

2582 4. Any assessable insurer with respect to any action to
2583 enforce an assessable insurer's obligations to the corporation
2584 under this subsection.

2585 (r)~~(j)~~ For the purposes of s. 199.183(1), the corporation
2586 shall be considered a political subdivision of the state and
2587 shall be exempt from the corporate income tax. The premiums,
2588 assessments, investment income, and other revenue of the
2589 corporation are funds received for providing property insurance
2590 coverage as required by this subsection, paying claims for
2591 Florida citizens insured by the corporation, securing and
2592 repaying debt obligations issued by the corporation, and
2593 conducting all other activities of the corporation, and shall
2594 not be considered taxes, fees, licenses, or charges for services
2595 imposed by the Legislature on individuals, businesses, or
2596 agencies outside state government. Bonds and other debt
2597 obligations issued by or on behalf of the corporation are not to
2598 be considered "state bonds" within the meaning of s. 215.58(8).
2599 The corporation is not subject to the procurement provisions of
2600 chapter 287, and policies and decisions of the corporation
2601 relating to incurring debt, levying of assessments and the sale,
2602 issuance, continuation, terms and claims under corporation

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2603 policies, and all services relating thereto, are not subject to
2604 the provisions of chapter 120. The corporation is not required
2605 to obtain or to hold a certificate of authority issued by the
2606 office, nor is it required to participate as a member insurer of
2607 the Florida Insurance Guaranty Association. However, the
2608 corporation is required to pay, in the same manner as an
2609 authorized insurer, assessments pledged by the Florida Insurance
2610 Guaranty Association to secure bonds issued or other
2611 indebtedness incurred to pay covered claims arising from insurer
2612 insolvencies caused by, or proximately related to, hurricane
2613 losses. It is the intent of the Legislature that the tax
2614 exemptions provided in this paragraph will augment the financial
2615 resources of the corporation to better enable the corporation to
2616 fulfill its public purposes. Any debt obligations ~~bonds~~ issued
2617 by the corporation, their transfer, and the income therefrom,
2618 including any profit made on the sale thereof, shall at all
2619 times be free from taxation of every kind by the state and any
2620 political subdivision or local unit or other instrumentality
2621 thereof; however, this exemption does not apply to any tax
2622 imposed by chapter 220 on interest, income, or profits on debt
2623 obligations owned by corporations other than the corporation.

2624 (s) ~~(*)~~ Upon a determination by the office that the
2625 conditions giving rise to the establishment and activation of
2626 the corporation no longer exist, the corporation is dissolved.
2627 Upon dissolution, the assets of the corporation shall be applied
2628 first to pay all debts, liabilities, and obligations of the
2629 corporation, including the establishment of reasonable reserves
2630 for any contingent liabilities or obligations, and all remaining
2631 assets of the corporation shall become property of the state and
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2632 shall be deposited in the Florida Hurricane Catastrophe Fund.
2633 However, no dissolution shall take effect as long as the
2634 corporation has bonds or other financial obligations outstanding
2635 unless adequate provision has been made for the payment of the
2636 bonds or other financial obligations pursuant to the documents
2637 authorizing the issuance of the bonds or other financial
2638 obligations.

2639 (t)~~(1)~~1. Effective July 1, 2002, policies of the
2640 Residential Property and Casualty Joint Underwriting Association
2641 shall become policies of the corporation. All obligations,
2642 rights, assets and liabilities of the Residential Property and
2643 Casualty Joint Underwriting Association, including bonds, note
2644 and debt obligations, and the financing documents pertaining to
2645 them become those of the corporation as of July 1, 2002. The
2646 corporation is not required to issue endorsements or
2647 certificates of assumption to insureds during the remaining term
2648 of in-force transferred policies.

2649 2. Effective July 1, 2002, policies of the Florida
2650 Windstorm Underwriting Association are transferred to the
2651 corporation and shall become policies of the corporation. All
2652 obligations, rights, assets, and liabilities of the Florida
2653 Windstorm Underwriting Association, including bonds, note and
2654 debt obligations, and the financing documents pertaining to them
2655 are transferred to and assumed by the corporation on July 1,
2656 2002. The corporation is not required to issue endorsement or
2657 certificates of assumption to insureds during the remaining term
2658 of in-force transferred policies.

2659 3. The Florida Windstorm Underwriting Association and the
2660 Residential Property and Casualty Joint Underwriting Association
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2661 shall take all actions as may be proper to further evidence the
2662 transfers and shall provide the documents and instruments of
2663 further assurance as may reasonably be requested by the
2664 corporation for that purpose. The corporation shall execute
2665 assumptions and instruments as the trustees or other parties to
2666 the financing documents of the Florida Windstorm Underwriting
2667 Association or the Residential Property and Casualty Joint
2668 Underwriting Association may reasonably request to further
2669 evidence the transfers and assumptions, which transfers and
2670 assumptions, however, are effective on the date provided under
2671 this paragraph whether or not, and regardless of the date on
2672 which, the assumptions or instruments are executed by the
2673 corporation. Subject to the relevant financing documents
2674 pertaining to their outstanding bonds, notes, indebtedness, or
2675 other financing obligations, the moneys, investments,
2676 receivables, choses in action, and other intangibles of the
2677 Florida Windstorm Underwriting Association shall be credited to
2678 the high-risk account of the corporation, and those of the
2679 personal lines residential coverage account and the commercial
2680 lines residential coverage account of the Residential Property
2681 and Casualty Joint Underwriting Association shall be credited to
2682 the personal lines account and the commercial lines account,
2683 respectively, of the corporation.

2684 ~~4. Effective July 1, 2002, a new applicant for property~~
2685 ~~insurance coverage who would otherwise have been eligible for~~
2686 ~~coverage in the Florida Windstorm Underwriting Association is~~
2687 ~~eligible for coverage from the corporation as provided in this~~
2688 ~~subsection.~~

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2689 ~~4.5.~~ The transfer of all policies, obligations, rights,
2690 assets, and liabilities from the Florida Windstorm Underwriting
2691 Association to the corporation and the renaming of the
2692 Residential Property and Casualty Joint Underwriting Association
2693 as the corporation shall in no way affect the coverage with
2694 respect to covered policies as defined in s. 215.555(2)(c)
2695 provided to these entities by the Florida Hurricane Catastrophe
2696 Fund. The coverage provided by the Florida Hurricane Catastrophe
2697 Fund to the Florida Windstorm Underwriting Association based on
2698 its exposures as of June 30, 2002, and each June 30 thereafter
2699 shall be redesignated as coverage for the high-risk account of
2700 the corporation. Notwithstanding any other provision of law, the
2701 coverage provided by the Florida Hurricane Catastrophe Fund to
2702 the Residential Property and Casualty Joint Underwriting
2703 Association based on its exposures as of June 30, 2002, and each
2704 June 30 thereafter shall be transferred to the personal lines
2705 account and the commercial lines account of the corporation.
2706 Notwithstanding any other provision of law, the high-risk
2707 account shall be treated, for all Florida Hurricane Catastrophe
2708 Fund purposes, as if it were a separate participating insurer
2709 with its own exposures, reimbursement premium, and loss
2710 reimbursement. Likewise, the personal lines and commercial lines
2711 accounts shall be viewed together, for all Florida Hurricane
2712 Catastrophe Fund purposes, as if the two accounts were one and
2713 represent a single, separate participating insurer with its own
2714 exposures, reimbursement premium, and loss reimbursement. The
2715 coverage provided by the Florida Hurricane Catastrophe Fund to
2716 the corporation shall constitute and operate as a full transfer
2717 of coverage from the Florida Windstorm Underwriting Association
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2718 and Residential Property and Casualty Joint Underwriting to the
2719 corporation.

2720 (u)~~(m)~~ Notwithstanding any other provision of law:

2721 1. The pledge or sale of, the lien upon, and the security
2722 interest in any rights, revenues, or other assets of the
2723 corporation created or purported to be created pursuant to any
2724 financing documents to secure any bonds or other indebtedness of
2725 the corporation shall be and remain valid and enforceable,
2726 notwithstanding the commencement of and during the continuation
2727 of, and after, any rehabilitation, insolvency, liquidation,
2728 bankruptcy, receivership, conservatorship, reorganization, or
2729 similar proceeding against the corporation under the laws of
2730 this state.

2731 2. No such proceeding shall relieve the corporation of its
2732 obligation, or otherwise affect its ability to perform its
2733 obligation, to continue to collect, or levy and collect,
2734 assessments, Citizens Property Insurance Corporation
2735 policyholder ~~market equalization~~ or other surcharges under
2736 subparagraph (c)10., or any other rights, revenues, or other
2737 assets of the corporation pledged pursuant to any financing
2738 documents.

2739 3. Each such pledge or sale of, lien upon, and security
2740 interest in, including the priority of such pledge, lien, or
2741 security interest, any such assessments, market equalization or
2742 other surcharges, or other rights, revenues, or other assets
2743 which are collected, or levied and collected, after the
2744 commencement of and during the pendency of, or after, any such
2745 proceeding shall continue unaffected by such proceeding. As used
2746 in this subsection, the term "financing documents" means any

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2747 agreement or agreements, instrument or instruments, or other
2748 document or documents now existing or hereafter created
2749 evidencing any bonds or other indebtedness of the corporation or
2750 pursuant to which any such bonds or other indebtedness has been
2751 or may be issued and pursuant to which any rights, revenues, or
2752 other assets of the corporation are pledged or sold to secure
2753 the repayment of such bonds or indebtedness, together with the
2754 payment of interest on such bonds or such indebtedness, or the
2755 payment of any other obligation or financial product, as defined
2756 in the plan of operation of the corporation related to such
2757 bonds or indebtedness.

2758 4. Any such pledge or sale of assessments, revenues,
2759 contract rights, or other rights or assets of the corporation
2760 shall constitute a lien and security interest, or sale, as the
2761 case may be, that is immediately effective and attaches to such
2762 assessments, revenues, or contract rights or other rights or
2763 assets, whether or not imposed or collected at the time the
2764 pledge or sale is made. Any such pledge or sale is effective,
2765 valid, binding, and enforceable against the corporation or other
2766 entity making such pledge or sale, and valid and binding against
2767 and superior to any competing claims or obligations owed to any
2768 other person or entity, including policyholders in this state,
2769 asserting rights in any such assessments, revenues, or contract
2770 rights or other rights or assets to the extent set forth in and
2771 in accordance with the terms of the pledge or sale contained in
2772 the applicable financing documents, whether or not any such
2773 person or entity has notice of such pledge or sale and without
2774 the need for any physical delivery, recordation, filing, or
2775 other action.

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2776 5. As long as the corporation has any bonds outstanding,
2777 the corporation may not file a voluntary petition under chapter
2778 9 of the federal Bankruptcy Code, or such corresponding chapter
2779 or sections as may be in effect from time to time, and any
2780 public officer and any organization, entity, or other person may
2781 not authorize the corporation to be or become a debtor under
2782 chapter 9 of the federal Bankruptcy Code, or such corresponding
2783 chapter or sections as may be in effect from time to time,
2784 during any such period.

2785 6. If ordered by a court of competent jurisdiction, the
2786 corporation may assume policies or otherwise provide coverage
2787 for policyholders of an insurer placed in liquidation under
2788 chapter 631, under such forms, rates, terms, and conditions as
2789 the corporation deems appropriate, subject to approval by the
2790 office.

2791 (v)~~(n)~~1. The following records of the corporation are
2792 confidential and exempt from the provisions of s. 119.07(1) and
2793 s. 24(a), Art. I of the State Constitution:

2794 a. Underwriting files, except that a policyholder or an
2795 applicant shall have access to his or her own underwriting
2796 files.

2797 b. Claims files, until termination of all litigation and
2798 settlement of all claims arising out of the same incident,
2799 although portions of the claims files may remain exempt, as
2800 otherwise provided by law. Confidential and exempt claims file
2801 records may be released to other governmental agencies upon
2802 written request and demonstration of need; such records held by
2803 the receiving agency remain confidential and exempt as provided
2804 for herein.

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2805 c. Records obtained or generated by an internal auditor
2806 pursuant to a routine audit, until the audit is completed, or if
2807 the audit is conducted as part of an investigation, until the
2808 investigation is closed or ceases to be active. An investigation
2809 is considered "active" while the investigation is being
2810 conducted with a reasonable, good faith belief that it could
2811 lead to the filing of administrative, civil, or criminal
2812 proceedings.

2813 d. Matters reasonably encompassed in privileged attorney-
2814 client communications.

2815 e. Proprietary information licensed to the corporation
2816 under contract and the contract provides for the confidentiality
2817 of such proprietary information.

2818 f. All information relating to the medical condition or
2819 medical status of a corporation employee which is not relevant
2820 to the employee's capacity to perform his or her duties, except
2821 as otherwise provided in this paragraph. Information which is
2822 exempt shall include, but is not limited to, information
2823 relating to workers' compensation, insurance benefits, and
2824 retirement or disability benefits.

2825 g. Upon an employee's entrance into the employee
2826 assistance program, a program to assist any employee who has a
2827 behavioral or medical disorder, substance abuse problem, or
2828 emotional difficulty which affects the employee's job
2829 performance, all records relative to that participation shall be
2830 confidential and exempt from the provisions of s. 119.07(1) and
2831 s. 24(a), Art. I of the State Constitution, except as otherwise
2832 provided in s. 112.0455(11).

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2833 h. Information relating to negotiations for financing,
2834 reinsurance, depopulation, or contractual services, until the
2835 conclusion of the negotiations.

2836 i. Minutes of closed meetings regarding underwriting
2837 files, and minutes of closed meetings regarding an open claims
2838 file until termination of all litigation and settlement of all
2839 claims with regard to that claim, except that information
2840 otherwise confidential or exempt by law will be redacted.

2841
2842 When an authorized insurer is considering underwriting a risk
2843 insured by the corporation, relevant underwriting files and
2844 confidential claims files may be released to the insurer
2845 provided the insurer agrees in writing, notarized and under
2846 oath, to maintain the confidentiality of such files. When a file
2847 is transferred to an insurer that file is no longer a public
2848 record because it is not held by an agency subject to the
2849 provisions of the public records law. Underwriting files and
2850 confidential claims files may also be released to staff of and
2851 the board of governors of the market assistance plan established
2852 pursuant to s. 627.3515, who must retain the confidentiality of
2853 such files, except such files may be released to authorized
2854 insurers that are considering assuming the risks to which the
2855 files apply, provided the insurer agrees in writing, notarized
2856 and under oath, to maintain the confidentiality of such files.
2857 Finally, the corporation or the board or staff of the market
2858 assistance plan may make the following information obtained from
2859 underwriting files and confidential claims files available to
2860 licensed general lines insurance agents: name, address, and
2861 telephone number of the residential property owner or insured;
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2862 location of the risk; rating information; loss history; and
2863 policy type. The receiving licensed general lines insurance
2864 agent must retain the confidentiality of the information
2865 received.

2866 2. Portions of meetings of the corporation are exempt from
2867 the provisions of s. 286.011 and s. 24(b), Art. I of the State
2868 Constitution wherein confidential underwriting files or
2869 confidential open claims files are discussed. All portions of
2870 corporation meetings which are closed to the public shall be
2871 recorded by a court reporter. The court reporter shall record
2872 the times of commencement and termination of the meeting, all
2873 discussion and proceedings, the names of all persons present at
2874 any time, and the names of all persons speaking. No portion of
2875 any closed meeting shall be off the record. Subject to the
2876 provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
2877 notes of any closed meeting shall be retained by the corporation
2878 for a minimum of 5 years. A copy of the transcript, less any
2879 exempt matters, of any closed meeting wherein claims are
2880 discussed shall become public as to individual claims after
2881 settlement of the claim.

2882 ~~(w)(e)~~ It is the intent of the Legislature that the
2883 amendments to this subsection enacted in 2002 should, over time,
2884 reduce the probable maximum windstorm losses in the residual
2885 markets and should reduce the potential assessments to be levied
2886 on property insurers and policyholders statewide. In furtherance
2887 of this intent:

2888 1. The board shall, on or before February 1 of each year,
2889 provide a report to the President of the Senate and the Speaker
2890 of the House of Representatives showing the reduction or

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2891 increase in the 100-year probable maximum loss attributable to
2892 wind-only coverages and the quota share program under this
2893 subsection combined, as compared to the benchmark 100-year
2894 probable maximum loss of the Florida Windstorm Underwriting
2895 Association. For purposes of this paragraph, the benchmark 100-
2896 year probable maximum loss of the Florida Windstorm Underwriting
2897 Association shall be the calculation dated February 2001 and
2898 based on November 30, 2000, exposures. In order to ensure
2899 comparability of data, the board shall use the same methods for
2900 calculating its probable maximum loss as were used to calculate
2901 the benchmark probable maximum loss. The reduction or increase
2902 in probable maximum loss shall be calculated without taking into
2903 account the probable maximum loss attributable to the
2904 nonhomestead account.

2905 2. Beginning February 1, 2013 ~~2007~~, if the report under
2906 subparagraph 1. for any year indicates that the 100-year
2907 probable maximum loss attributable to wind-only coverages and
2908 the quota share program combined does not reflect a reduction of
2909 at least 25 percent from the benchmark, the board shall reduce
2910 the boundaries of the high-risk area eligible for wind-only
2911 coverages under this subsection in a manner calculated to reduce
2912 such probable maximum loss to an amount at least 25 percent
2913 below the benchmark.

2914 3. Beginning February 1, 2018 ~~2012~~, if the report under
2915 subparagraph 1. for any year indicates that the 100-year
2916 probable maximum loss attributable to wind-only coverages and
2917 the quota share program combined does not reflect a reduction of
2918 at least 50 percent from the benchmark, the boundaries of the
2919 high-risk area eligible for wind-only coverages under this

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2920 subsection shall be reduced by the elimination of any area that
2921 is not seaward of a line 1,000 feet inland from the Intracoastal
2922 Waterway.

2923 ~~(x)~~~~(p)~~ In enacting the provisions of this section, the
2924 Legislature recognizes that both the Florida Windstorm
2925 Underwriting Association and the Residential Property and
2926 Casualty Joint Underwriting Association have entered into
2927 financing arrangements that obligate each entity to service its
2928 debts and maintain the capacity to repay funds secured under
2929 these financing arrangements. It is the intent of the
2930 Legislature that nothing in this section be construed to
2931 compromise, diminish, or interfere with the rights of creditors
2932 under such financing arrangements. It is further the intent of
2933 the Legislature to preserve the obligations of the Florida
2934 Windstorm Underwriting Association and Residential Property and
2935 Casualty Joint Underwriting Association with regard to
2936 outstanding financing arrangements, with such obligations
2937 passing entirely and unchanged to the corporation and,
2938 specifically, to the applicable account of the corporation. So
2939 long as any bonds, notes, indebtedness, or other financing
2940 obligations of the Florida Windstorm Underwriting Association or
2941 the Residential Property and Casualty Joint Underwriting
2942 Association are outstanding, under the terms of the financing
2943 documents pertaining to them, the governing board of the
2944 corporation shall have and shall exercise the authority to levy,
2945 charge, collect, and receive all premiums, assessments,
2946 surcharges, charges, revenues, and receipts that the
2947 associations had authority to levy, charge, collect, or receive
2948 under the provisions of subsection (2) and this subsection,

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2949 respectively, as they existed on January 1, 2002, to provide
2950 moneys, without exercise of the authority provided by this
2951 subsection, in at least the amounts, and by the times, as would
2952 be provided under those former provisions of subsection (2) or
2953 this subsection, respectively, so that the value, amount, and
2954 collectability of any assets, revenues, or revenue source
2955 pledged or committed to, or any lien thereon securing such
2956 outstanding bonds, notes, indebtedness, or other financing
2957 obligations will not be diminished, impaired, or adversely
2958 affected by the amendments made by this act and to permit
2959 compliance with all provisions of financing documents pertaining
2960 to such bonds, notes, indebtedness, or other financing
2961 obligations, or the security or credit enhancement for them, and
2962 any reference in this subsection to bonds, notes, indebtedness,
2963 financing obligations, or similar obligations, of the
2964 corporation shall include like instruments or contracts of the
2965 Florida Windstorm Underwriting Association and the Residential
2966 Property and Casualty Joint Underwriting Association to the
2967 extent not inconsistent with the provisions of the financing
2968 documents pertaining to them.

2969 ~~(y)~~ (e) The corporation shall not require the securing of
2970 flood insurance as a condition of coverage if the insured or
2971 applicant executes a form approved by the office affirming that
2972 flood insurance is not provided by the corporation and that if
2973 flood insurance is not secured by the applicant or insured in
2974 addition to coverage by the corporation, the risk will not be
2975 covered for flood damage. A corporation policyholder electing
2976 not to secure flood insurance and executing a form as provided
2977 herein making a claim for water damage against the corporation

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2978 shall have the burden of proving the damage was not caused by
2979 flooding. Notwithstanding other provisions of this subsection,
2980 the corporation may deny coverage to an applicant or insured who
2981 refuses to execute the form described herein.

2982 (z)~~(r)~~ A salaried employee of the corporation who performs
2983 policy administration services subsequent to the effectuation of
2984 a corporation policy is not required to be licensed as an agent
2985 under the provisions of s. 626.112.

2986 (aa)~~(s)~~ The transition to homestead and nonhomestead
2987 accounts shall begin on October 1, 2006. A policy issued on or
2988 after that date shall be issued in the applicable homestead
2989 account or the nonhomestead account, based upon whether the
2990 property constitutes homestead property as provided in
2991 subparagraph (b)2. A policy in effect on October 1, 2006, shall
2992 be placed in the applicable homestead account or the
2993 nonhomestead account, based upon whether the property
2994 constitutes homestead property as provided in subparagraph
2995 (b)2., upon the first renewal of such policy after October 1,
2996 2006.

2997 (bb)~~(u)~~ An employee of the corporation shall notify the
2998 Division of Insurance Fraud within 48 hours after having
2999 information that would lead a reasonable person to suspect that
3000 fraud may have been committed by any employee of the
3001 corporation.

3002 (cc)~~(v)~~ By February 1, 2007, the corporation shall submit
3003 a report to the President of the Senate, the Speaker of the
3004 House of Representatives, the minority party leaders of the
3005 Senate and the House of Representatives, and the chairs of the
3006 standing committees of the Senate and the House of

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3007 Representatives having jurisdiction over matters relating to
3008 property and casualty insurance. In preparing the report, the
3009 corporation shall consult with the Office of Insurance
3010 Regulation, the Department of Financial Services, and any other
3011 party the corporation determines is appropriate. The report
3012 shall include findings and recommendations on the feasibility of
3013 requiring authorized insurers that issue and service personal
3014 and commercial residential policies and commercial
3015 nonresidential policies that provide coverage for basic property
3016 perils except for the peril of wind to issue and service for a
3017 fee personal and commercial residential policies and commercial
3018 nonresidential policies providing coverage for the peril of wind
3019 issued by the corporation. The report shall include:

3020 1. The expense savings to the corporation of issuing and
3021 servicing such policies as determined through a cost benefit
3022 analysis.

3023 2. The expenses and liability to authorized insurers
3024 associated with issuing and servicing such policies.

3025 3. The impact on service to policyholders of the
3026 corporation relating to issuing and servicing such policies.

3027 4. The impact on the producing agent of the corporation of
3028 issuing and servicing such policies.

3029 5. Recommendations as to the amount of the fee that should
3030 be paid to authorized insurers for issuing and servicing such
3031 policies.

3032 6. The impact issuing and servicing such policies will
3033 have on the corporation's number of policies, total insured
3034 value, and probable maximum loss.

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3035 (dd)-(w) There shall be no liability on the part of, and no
3036 cause of action of any nature shall arise against, producing
3037 agents of record of the corporation or employees of such agents
3038 for insolvency of any take-out insurer.

3039 (ee)-(x) The Legislature finds that the total area eligible
3040 for the high-risk account of the corporation has a material
3041 impact on the availability of wind coverage from the voluntary
3042 admitted market, deficits of the corporation, assessments to be
3043 levied on property insurers and policyholders statewide, the
3044 ability and willingness of authorized insurers to write wind
3045 coverage in the high-risk areas, the probable maximum windstorm
3046 losses of the corporation, general commerce in coastal areas,
3047 and the overall financial condition of the state. Therefore, in
3048 furtherance of these findings and intent:

- 3049 1. The High Risk Eligibility Panel is created.
3050 2. The members of the panel shall be appointed as follows:
3051 a. The board shall appoint two board members.
3052 b. The Governor shall appoint one member.
3053 c. The Chief Financial Officer shall appoint one member.
3054 d. The Commissioner of Insurance Regulation shall appoint
3055 a representative of the office to serve as a member.
3056 e. The President of the Senate shall appoint one member.
3057 f. The Speaker of the House of Representatives shall
3058 appoint one member.

3059
3060 Members of the panel must be residents of this state with
3061 insurance expertise. Members shall elect a chair and shall serve
3062 3-year terms each. The panel shall operate independently of any
3063 state agency and shall be administered by the corporation. The

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3064 panel shall make an annual report to the President of the Senate
3065 and the Speaker of the House of Representatives on or before
3066 February 1 of each year recommending the areas that should be
3067 eligible for the high-risk account of the corporation. Members
3068 shall not receive compensation and are not entitled to receive
3069 reimbursement for per diem and travel expenses as provided in s.
3070 112.061, except for any panel member who is a state employee.

3071 3. The Legislature's intent provided in subparagraphs
3072 (a)1. and 2. shall provide guidance for the panel to use in the
3073 panel's recommendations to the Legislature required in
3074 subparagraph 1. The panel shall consider the following factors
3075 in fulfilling its responsibilities under this paragraph:

3076 a. The number of commercial risks in a given area that are
3077 unable to find wind coverage from the voluntary admitted market.

3078 b. Reports from members of the mortgage industry
3079 indicating difficulty in finding forced placed policies for
3080 commercial wind coverage.

3081 c. The number of approved excess and surplus lines
3082 carriers certifying an unwillingness to provide commercial wind
3083 coverage similar to that approved for use by the office for the
3084 voluntary admitted market.

3085 d. Other relevant factors.

3086
3087 The office and the corporation shall provide the panel with any
3088 information the panel considers necessary to determine areas
3089 eligible for the high-risk account of the corporation. For the
3090 purpose of making accurate determinations for areas eligible for
3091 the high-risk account of the corporation, the panel may
3092 interview and request and receive information from residents of
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3093 this state in areas impacted by this paragraph, including, but
3094 not limited to, insurance agents, insurance companies,
3095 actuaries, and other insurance professionals. Upon request of
3096 the panel, the office may conduct public hearings in areas that
3097 may be impacted by the panel's recommendations.

3098 4. Notwithstanding other provisions of this paragraph, the
3099 panel shall conduct an analysis to determine the areas to be
3100 eligible for the high-risk account of the corporation for any
3101 county that contains an eligible area extending more than 2
3102 miles from the coast, any coastal county that does not have
3103 areas designated as eligible for the high-risk account, and
3104 counties with barrier islands whether or not such islands or
3105 portions of such islands are currently eligible for the high
3106 risk account. The panel shall submit a report, including its
3107 analysis, to the office and to the corporation by November 30,
3108 2006. The report shall specify changes to the areas eligible for
3109 the high-risk account for such affected counties based on its
3110 analysis.

3111 Section 12. Effective January 1, 2007, paragraph (c) of
3112 subsection (6) of section 627.351, Florida Statutes, as amended
3113 by this act, is amended to read:

3114 627.351 Insurance risk apportionment plans.--

3115 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

3116 (c) The plan of operation of the corporation:

3117 1. Must provide for adoption of residential property and
3118 casualty insurance policy forms and commercial residential and
3119 nonresidential property insurance forms, which forms must be
3120 approved by the office prior to use. The corporation shall adopt
3121 the following policy forms:

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3122 a. Standard personal lines policy forms that are
3123 comprehensive multiperil policies providing full coverage of a
3124 residential property equivalent to the coverage provided in the
3125 private insurance market under an HO-3, HO-4, or HO-6 policy.

3126 b. Basic personal lines policy forms that are policies
3127 similar to an HO-8 policy or a dwelling fire policy that provide
3128 coverage meeting the requirements of the secondary mortgage
3129 market, but which coverage is more limited than the coverage
3130 under a standard policy.

3131 c. Commercial lines residential policy forms that are
3132 generally similar to the basic perils of full coverage
3133 obtainable for commercial residential structures in the admitted
3134 voluntary market.

3135 d. Personal lines and commercial lines residential
3136 property insurance forms that cover the peril of wind only. The
3137 forms are applicable only to residential properties located in
3138 areas eligible for coverage under the high-risk account referred
3139 to in sub-subparagraph (b)2.a.

3140 e. Commercial lines nonresidential property insurance
3141 forms that cover the peril of wind only. The forms are
3142 applicable only to nonresidential properties located in areas
3143 eligible for coverage under the high-risk account referred to in
3144 sub-subparagraph (b)2.a.

3145 f. The corporation may adopt variations of the policy
3146 forms listed in sub-subparagraphs a.-e. that contain more
3147 restrictive coverage.

3148 2.a. Must provide that the corporation adopt a program in
3149 which the corporation and authorized insurers enter into quota
3150 share primary insurance agreements for hurricane coverage, as

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3151 defined in s. 627.4025(2)(a), for eligible risks, and adopt
3152 property insurance forms for eligible risks which cover the
3153 peril of wind only. As used in this subsection, the term:

3154 (I) "Quota share primary insurance" means an arrangement
3155 in which the primary hurricane coverage of an eligible risk is
3156 provided in specified percentages by the corporation and an
3157 authorized insurer. The corporation and authorized insurer are
3158 each solely responsible for a specified percentage of hurricane
3159 coverage of an eligible risk as set forth in a quota share
3160 primary insurance agreement between the corporation and an
3161 authorized insurer and the insurance contract. The
3162 responsibility of the corporation or authorized insurer to pay
3163 its specified percentage of hurricane losses of an eligible
3164 risk, as set forth in the quota share primary insurance
3165 agreement, may not be altered by the inability of the other
3166 party to the agreement to pay its specified percentage of
3167 hurricane losses. Eligible risks that are provided hurricane
3168 coverage through a quota share primary insurance arrangement
3169 must be provided policy forms that set forth the obligations of
3170 the corporation and authorized insurer under the arrangement,
3171 clearly specify the percentages of quota share primary insurance
3172 provided by the corporation and authorized insurer, and
3173 conspicuously and clearly state that neither the authorized
3174 insurer nor the corporation may be held responsible beyond its
3175 specified percentage of coverage of hurricane losses.

3176 (II) "Eligible risks" means personal lines residential and
3177 commercial lines residential risks that meet the underwriting
3178 criteria of the corporation and are located in areas that were

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3179 eligible for coverage by the Florida Windstorm Underwriting
3180 Association on January 1, 2002.

3181 b. The corporation may enter into quota share primary
3182 insurance agreements with authorized insurers at corporation
3183 coverage levels of 90 percent and 50 percent.

3184 c. If the corporation determines that additional coverage
3185 levels are necessary to maximize participation in quota share
3186 primary insurance agreements by authorized insurers, the
3187 corporation may establish additional coverage levels. However,
3188 the corporation's quota share primary insurance coverage level
3189 may not exceed 90 percent.

3190 d. Any quota share primary insurance agreement entered
3191 into between an authorized insurer and the corporation must
3192 provide for a uniform specified percentage of coverage of
3193 hurricane losses, by county or territory as set forth by the
3194 corporation board, for all eligible risks of the authorized
3195 insurer covered under the quota share primary insurance
3196 agreement.

3197 e. Any quota share primary insurance agreement entered
3198 into between an authorized insurer and the corporation is
3199 subject to review and approval by the office. However, such
3200 agreement shall be authorized only as to insurance contracts
3201 entered into between an authorized insurer and an insured who is
3202 already insured by the corporation for wind coverage.

3203 f. For all eligible risks covered under quota share
3204 primary insurance agreements, the exposure and coverage levels
3205 for both the corporation and authorized insurers shall be
3206 reported by the corporation to the Florida Hurricane Catastrophe
3207 Fund. For all policies of eligible risks covered under quota

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3208 share primary insurance agreements, the corporation and the
3209 authorized insurer shall maintain complete and accurate records
3210 for the purpose of exposure and loss reimbursement audits as
3211 required by Florida Hurricane Catastrophe Fund rules. The
3212 corporation and the authorized insurer shall each maintain
3213 duplicate copies of policy declaration pages and supporting
3214 claims documents.

3215 g. The corporation board shall establish in its plan of
3216 operation standards for quota share agreements which ensure that
3217 there is no discriminatory application among insurers as to the
3218 terms of quota share agreements, pricing of quota share
3219 agreements, incentive provisions if any, and consideration paid
3220 for servicing policies or adjusting claims.

3221 h. The quota share primary insurance agreement between the
3222 corporation and an authorized insurer must set forth the
3223 specific terms under which coverage is provided, including, but
3224 not limited to, the sale and servicing of policies issued under
3225 the agreement by the insurance agent of the authorized insurer
3226 producing the business, the reporting of information concerning
3227 eligible risks, the payment of premium to the corporation, and
3228 arrangements for the adjustment and payment of hurricane claims
3229 incurred on eligible risks by the claims adjuster and personnel
3230 of the authorized insurer. Entering into a quota sharing
3231 insurance agreement between the corporation and an authorized
3232 insurer shall be voluntary and at the discretion of the
3233 authorized insurer.

3234 3. May provide that the corporation may employ or
3235 otherwise contract with individuals or other entities to provide
3236 administrative or professional services that may be appropriate

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3237 | to effectuate the plan. The corporation shall have the power to
3238 | borrow funds, by issuing bonds or by incurring other
3239 | indebtedness, and shall have other powers reasonably necessary
3240 | to effectuate the requirements of this subsection, including,
3241 | without limitation, the power to issue bonds and incur other
3242 | indebtedness in order to refinance outstanding bonds or other
3243 | indebtedness. The corporation may, but is not required to, seek
3244 | judicial validation of its bonds or other indebtedness under
3245 | chapter 75. The corporation may issue bonds or incur other
3246 | indebtedness, or have bonds issued on its behalf by a unit of
3247 | local government pursuant to subparagraph (g)2., in the absence
3248 | of a hurricane or other weather-related event, upon a
3249 | determination by the corporation, subject to approval by the
3250 | office, that such action would enable it to efficiently meet the
3251 | financial obligations of the corporation and that such
3252 | financings are reasonably necessary to effectuate the
3253 | requirements of this subsection. The corporation is authorized
3254 | to take all actions needed to facilitate tax-free status for any
3255 | such bonds or indebtedness, including formation of trusts or
3256 | other affiliated entities. The corporation shall have the
3257 | authority to pledge assessments, projected recoveries from the
3258 | Florida Hurricane Catastrophe Fund, other reinsurance
3259 | recoverables, market equalization and other surcharges, and
3260 | other funds available to the corporation as security for bonds
3261 | or other indebtedness. In recognition of s. 10, Art. I of the
3262 | State Constitution, prohibiting the impairment of obligations of
3263 | contracts, it is the intent of the Legislature that no action be
3264 | taken whose purpose is to impair any bond indenture or financing

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3265 agreement or any revenue source committed by contract to such
3266 bond or other indebtedness.

3267 4.a. Must require that the corporation operate subject to
3268 the supervision and approval of a board of governors consisting
3269 of 8 individuals who are residents of this state, from different
3270 geographical areas of this state. The Governor, the Chief
3271 Financial Officer, the President of the Senate, and the Speaker
3272 of the House of Representatives shall each appoint two members
3273 of the board, effective August 1, 2005. At least one of the two
3274 members appointed by each appointing officer must have
3275 demonstrated expertise in insurance. The Chief Financial Officer
3276 shall designate one of the appointees as chair. All board
3277 members serve at the pleasure of the appointing officer. All
3278 board members, including the chair, must be appointed to serve
3279 for 3-year terms beginning annually on a date designated by the
3280 plan. Any board vacancy shall be filled for the unexpired term
3281 by the appointing officer. The Chief Financial Officer shall
3282 appoint a technical advisory group to provide information and
3283 advice to the board of governors in connection with the board's
3284 duties under this subsection. The executive director and senior
3285 managers of the corporation shall be engaged by the board, as
3286 recommended by the Chief Financial Officer, and serve at the
3287 pleasure of the board. The executive director is responsible for
3288 employing other staff as the corporation may require, subject to
3289 review and concurrence by the board and the Chief Financial
3290 Officer.

3291 b. The board shall create a Market Accountability Advisory
3292 Committee to assist the corporation in developing awareness of
3293 its rates and its customer and agent service levels in

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3294 relationship to the voluntary market insurers writing similar
3295 coverage. The members of the advisory committee shall consist of
3296 the following 11 persons, one of whom must be elected chair by
3297 the members of the committee: four representatives, one
3298 appointed by the Florida Association of Insurance Agents, one by
3299 the Florida Association of Insurance and Financial Advisors, one
3300 by the Professional Insurance Agents of Florida, and one by the
3301 Latin American Association of Insurance Agencies; three
3302 representatives appointed by the insurers with the three highest
3303 voluntary market share of residential property insurance
3304 business in the state; one representative from the Office of
3305 Insurance Regulation; one consumer appointed by the board who is
3306 insured by the corporation at the time of appointment to the
3307 committee; one representative appointed by the Florida
3308 Association of Realtors; and one representative appointed by the
3309 Florida Bankers Association. All members must serve for 3-year
3310 terms and may serve for consecutive terms. The committee shall
3311 report to the corporation at each board meeting on insurance
3312 market issues which may include rates and rate competition with
3313 the voluntary market; service, including policy issuance, claims
3314 processing, and general responsiveness to policyholders,
3315 applicants, and agents; and matters relating to depopulation.

3316 5. Must provide a procedure for determining the
3317 eligibility of a risk for coverage, as follows:

3318 a. Subject to the provisions of s. 627.3517, with respect
3319 to personal lines residential risks, if the risk is offered
3320 coverage from an authorized insurer at the insurer's approved
3321 rate under either a standard policy including wind coverage or,
3322 if consistent with the insurer's underwriting rules as filed

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3323 with the office, a basic policy including wind coverage, the
3324 risk is not eligible for any policy issued by the corporation.
3325 If the risk is not able to obtain any such offer, the risk is
3326 eligible for either a standard policy including wind coverage or
3327 a basic policy including wind coverage issued by the
3328 corporation; however, if the risk could not be insured under a
3329 standard policy including wind coverage regardless of market
3330 conditions, the risk shall be eligible for a basic policy
3331 including wind coverage unless rejected under subparagraph 8.
3332 The corporation shall determine the type of policy to be
3333 provided on the basis of objective standards specified in the
3334 underwriting manual and based on generally accepted underwriting
3335 practices.

3336 (I) If the risk accepts an offer of coverage through the
3337 market assistance plan or an offer of coverage through a
3338 mechanism established by the corporation before a policy is
3339 issued to the risk by the corporation or during the first 30
3340 days of coverage by the corporation, and the producing agent who
3341 submitted the application to the plan or to the corporation is
3342 not currently appointed by the insurer, the insurer shall:

3343 (A) Pay to the producing agent of record of the policy,
3344 for the first year, an amount that is the greater of the
3345 insurer's usual and customary commission for the type of policy
3346 written or a fee equal to the usual and customary commission of
3347 the corporation; or

3348 (B) Offer to allow the producing agent of record of the
3349 policy to continue servicing the policy for a period of not less
3350 than 1 year and offer to pay the agent the greater of the

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3351 insurer's or the corporation's usual and customary commission
3352 for the type of policy written.

3353
3354 If the producing agent is unwilling or unable to accept
3355 appointment, the new insurer shall pay the agent in accordance
3356 with sub-sub-sub-subparagraph (A).

3357 (II) When the corporation enters into a contractual
3358 agreement for a take-out plan, the producing agent of record of
3359 the corporation policy is entitled to retain any unearned
3360 commission on the policy, and the insurer shall:

3361 (A) Pay to the producing agent of record of the
3362 corporation policy, for the first year, an amount that is the
3363 greater of the insurer's usual and customary commission for the
3364 type of policy written or a fee equal to the usual and customary
3365 commission of the corporation; or

3366 (B) Offer to allow the producing agent of record of the
3367 corporation policy to continue servicing the policy for a period
3368 of not less than 1 year and offer to pay the agent the greater
3369 of the insurer's or the corporation's usual and customary
3370 commission for the type of policy written.

3371
3372 If the producing agent is unwilling or unable to accept
3373 appointment, the new insurer shall pay the agent in accordance
3374 with sub-sub-sub-subparagraph (A).

3375 b. With respect to commercial lines residential risks, if
3376 the risk is offered coverage under a policy including wind
3377 coverage from an authorized insurer at its approved rate, the
3378 risk is not eligible for any policy issued by the corporation.

3379 If the risk is not able to obtain any such offer, the risk is
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3380 eligible for a policy including wind coverage issued by the
3381 corporation.

3382 (I) If the risk accepts an offer of coverage through the
3383 market assistance plan or an offer of coverage through a
3384 mechanism established by the corporation before a policy is
3385 issued to the risk by the corporation or during the first 30
3386 days of coverage by the corporation, and the producing agent who
3387 submitted the application to the plan or the corporation is not
3388 currently appointed by the insurer, the insurer shall:

3389 (A) Pay to the producing agent of record of the policy,
3390 for the first year, an amount that is the greater of the
3391 insurer's usual and customary commission for the type of policy
3392 written or a fee equal to the usual and customary commission of
3393 the corporation; or

3394 (B) Offer to allow the producing agent of record of the
3395 policy to continue servicing the policy for a period of not less
3396 than 1 year and offer to pay the agent the greater of the
3397 insurer's or the corporation's usual and customary commission
3398 for the type of policy written.

3399
3400 If the producing agent is unwilling or unable to accept
3401 appointment, the new insurer shall pay the agent in accordance
3402 with sub-sub-sub-subparagraph (A).

3403 (II) When the corporation enters into a contractual
3404 agreement for a take-out plan, the producing agent of record of
3405 the corporation policy is entitled to retain any unearned
3406 commission on the policy, and the insurer shall:

3407 (A) Pay to the producing agent of record of the
3408 corporation policy, for the first year, an amount that is the
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3409 greater of the insurer's usual and customary commission for the
3410 type of policy written or a fee equal to the usual and customary
3411 commission of the corporation; or

3412 (B) Offer to allow the producing agent of record of the
3413 corporation policy to continue servicing the policy for a period
3414 of not less than 1 year and offer to pay the agent the greater
3415 of the insurer's or the corporation's usual and customary
3416 commission for the type of policy written.

3417
3418 If the producing agent is unwilling or unable to accept
3419 appointment, the new insurer shall pay the agent in accordance
3420 with sub-sub-sub-subparagraph (A).

3421 c. To preserve existing incentives for carriers to write
3422 dwellings in the voluntary market and not in the corporation,
3423 the corporation shall continue to offer authorized insurers,
3424 including insurers writing dwellings valued at \$1 million or
3425 more, the same voluntary writing credits that were available on
3426 January 1, 2006, to carriers writing wind coverage for dwellings
3427 in the areas eligible for coverage in the high-risk account.

3428 d. With respect to personal lines residential risks, if
3429 the risk is a dwelling with an insured value of \$1 million or
3430 more, or if the risk is one that is excluded from the coverage
3431 to be provided by the condominium association under s.
3432 718.111(11)(b) and that is insured by the condominium unit owner
3433 for a combined dwelling and contents replacement cost of \$1
3434 million or more, the risk is not eligible for any policy issued
3435 by the corporation. Rates and forms for personal lines
3436 residential risks not eligible for coverage by the corporation
3437 specified by this sub-subparagraph are not subject to ss.

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3438 627.062 and 627.0629. Such rates and forms are subject to all
3439 other applicable provisions of this code and rules adopted under
3440 this code. During the course of an insurer's market conduct
3441 examination, the office may review the rate for any risk to
3442 which the provisions of this sub-subparagraph are applicable to
3443 determine if such rate is inadequate or unfairly discriminatory.
3444 Rates on personal lines residential risks not eligible for
3445 coverage by the corporation may be found inadequate by the
3446 office if they are clearly insufficient, together with the
3447 investment income attributable to such risks, to sustain
3448 projected losses and expenses in the class of business to which
3449 such rates apply. Rates on personal lines residential risks not
3450 eligible for coverage by the corporation may also be found
3451 inadequate as to the premium charged to a risk or group of risks
3452 if discounts or credits are allowed that exceed a reasonable
3453 reflection of expense savings and reasonably expected loss
3454 experience from the risk or group of risks. Rates on personal
3455 lines residential risks not eligible for coverage by the
3456 corporation may be found to be unfairly discriminatory as to a
3457 risk or group of risks by the office if the application of
3458 premium discounts, credits, or surcharges among such risks does
3459 not bear a reasonable relationship to the expected loss and
3460 expense experience among the various risks. A rating plan,
3461 including discounts, credits, or surcharges on personal lines
3462 residential risks not eligible for coverage by the corporation
3463 may also be found to be unfairly discriminatory if the plan
3464 fails to clearly and equitably reflect consideration of the
3465 policyholder's participation in a risk management program
3466 adjusted pursuant to s. 627.0625. The office may order an
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3467 insurer to discontinue using a rate for new policies or upon
3468 renewal of a policy if the office finds the rate to be
3469 inadequate or unfairly discriminatory. Insurers must maintain
3470 records and documentation relating to rates and forms subject to
3471 this sub-subparagraph for a period of at least 5 years after the
3472 effective date of the policy.

3473 e. For policies subject to nonrenewal as a result of the
3474 risk being no longer eligible for coverage pursuant to sub-
3475 subparagraph d., the corporation shall, directly or through the
3476 market assistance plan, make information from confidential
3477 underwriting and claims files of policyholders available only to
3478 licensed general lines agents who register with the corporation
3479 to receive such information according to the following
3480 procedures:

3481 (I) By August 1, 2006, the corporation shall provide
3482 policyholders who are not eligible for renewal pursuant to sub-
3483 subparagraph d. the opportunity to request in writing, within 30
3484 days after the notification is sent, that information from their
3485 confidential underwriting and claims files not be released to
3486 licensed general lines agents registered pursuant to sub-sub-
3487 subparagraph e. (II);

3488 (II) By August 1, 2006, the corporation shall make
3489 available to licensed general lines agents the registration
3490 procedures to be used to obtain confidential information from
3491 underwriting and claims files for policies not eligible for
3492 renewal pursuant to sub-subparagraph d. As a condition of
3493 registration, the corporation shall require the licensed general
3494 lines agent to attest that the agent has the experience and
3495 relationships with authorized or surplus lines carriers to

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3496 attempt to offer replacement coverage for policies not eligible
3497 for renewal pursuant to sub-subparagraph d.

3498 (III) By September 1, 2006, the corporation shall make
3499 available through a secured website to licensed general lines
3500 agents registered pursuant to sub-sub-subparagraph e.(II)
3501 application, rating, loss history, mitigation, and policy type
3502 information relating to all policies not eligible for renewal
3503 pursuant to sub-subparagraph d. and for which the policyholder
3504 has not requested the corporation withhold such information
3505 pursuant to sub-sub-subparagraph e.(I). The licensed general
3506 lines agent registered pursuant to sub-sub-subparagraph e.(II)
3507 may use such information to contact and assist the policyholder
3508 in securing replacement policies and the agent may disclose to
3509 the policyholder such information was obtained from the
3510 corporation.

3511 f. With respect to nonhomestead property, eligibility must
3512 be determined in accordance with sub-sub-sub-subparagraph
3513 (b)2.a.(II)(A).

3514 6. Must provide by July 1, 2007, that an application for
3515 coverage for a new policy is subject to a waiting period of 10
3516 days before coverage is effective, during which time the
3517 corporation shall make such application available for review by
3518 general lines agents and authorized property and casualty
3519 insurers. The board may approve exceptions that allow for
3520 coverage to be effective before the end of the 10-day waiting
3521 period, for coverage issued in conjunction with a real estate
3522 closing, and for such other exceptions as the board determines
3523 are necessary to prevent lapses in coverage.

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3524 7. Must include rules for classifications of risks and
3525 rates therefor.

3526 8. Must provide that if premium and investment income for
3527 an account attributable to a particular calendar year are in
3528 excess of projected losses and expenses for the account
3529 attributable to that year, such excess shall be held in surplus
3530 in the account. Such surplus shall be available to defray
3531 deficits in that account as to future years and shall be used
3532 for that purpose prior to assessing assessable insurers and
3533 assessable insureds as to any calendar year.

3534 9. Must provide objective criteria and procedures to be
3535 uniformly applied for all applicants in determining whether an
3536 individual risk is so hazardous as to be uninsurable. In making
3537 this determination and in establishing the criteria and
3538 procedures, the following shall be considered:

3539 a. Whether the likelihood of a loss for the individual
3540 risk is substantially higher than for other risks of the same
3541 class; and

3542 b. Whether the uncertainty associated with the individual
3543 risk is such that an appropriate premium cannot be determined.

3544
3545 The acceptance or rejection of a risk by the corporation shall
3546 be construed as the private placement of insurance, and the
3547 provisions of chapter 120 shall not apply.

3548 10. Must provide that the corporation shall make its best
3549 efforts to procure catastrophe reinsurance at reasonable rates,
3550 to cover its projected 100-year probable maximum loss in the
3551 homestead accounts as determined by the board of governors.

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3552 11. Must provide that in the event of regular deficit
3553 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
3554 (b)3.b., in the personal lines homestead account, the commercial
3555 lines residential homestead account, or the high-risk homestead
3556 account, the corporation shall levy upon corporation homestead
3557 account policyholders in its next rate filing, or by a separate
3558 rate filing solely for this purpose, a Citizens policyholder
3559 surcharge arising from a regular assessment in such account in a
3560 percentage equal to the total amount of such regular assessments
3561 divided by the aggregate statewide direct written premium for
3562 subject lines of business for the year preceding the year in
3563 which the deficit to which the regular assessment related is
3564 incurred. Citizens policyholder surcharges under this
3565 subparagraph are not considered premium and are not subject to
3566 commissions, fees, or premium taxes; however, failure to pay the
3567 Citizens policyholder a market equalization surcharge shall be
3568 treated as failure to pay premium. Notwithstanding any other
3569 provision of this section, for purposes of the Citizens
3570 policyholder surcharges to be levied pursuant to this
3571 subparagraph, the total amount of the regular assessment to
3572 which such Citizens policyholder surcharge relates shall be
3573 determined as set forth in sub-subparagraphs (b)3.a., b., and c.

3574 12. The policies issued by the corporation must provide
3575 that, if the corporation or the market assistance plan obtains
3576 an offer from an authorized insurer to cover the risk at its
3577 approved rates, the risk is no longer eligible for renewal
3578 through the corporation.

3579 13. Corporation policies and applications must include a
3580 notice that the corporation policy could, under this section, be
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3581 replaced with a policy issued by an authorized insurer that does
3582 not provide coverage identical to the coverage provided by the
3583 corporation or an insurer writing coverage pursuant to part VIII
3584 of chapter 626. The notice shall also specify that acceptance of
3585 corporation coverage creates a conclusive presumption that the
3586 applicant or policyholder is aware of this potential.

3587 14. May establish, subject to approval by the office,
3588 different eligibility requirements and operational procedures
3589 for any line or type of coverage for any specified county or
3590 area if the board determines that such changes to the
3591 eligibility requirements and operational procedures are
3592 justified due to the voluntary market being sufficiently stable
3593 and competitive in such area or for such line or type of
3594 coverage and that consumers who, in good faith, are unable to
3595 obtain insurance through the voluntary market through ordinary
3596 methods would continue to have access to coverage from the
3597 corporation. When coverage is sought in connection with a real
3598 property transfer, such requirements and procedures shall not
3599 provide for an effective date of coverage later than the date of
3600 the closing of the transfer as established by the transferor,
3601 the transferee, and, if applicable, the lender.

3602 15. Must provide that, with respect to the high-risk
3603 homestead account, any assessable insurer with a surplus as to
3604 policyholders of \$25 million or less writing 25 percent or more
3605 of its total countrywide property insurance premiums in this
3606 state may petition the office, within the first 90 days of each
3607 calendar year, to qualify as a limited apportionment company. ~~In~~
3608 ~~no event shall a limited apportionment company be required to~~
3609 ~~participate in the portion of any assessment, within the high-~~
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3610 ~~risk account, pursuant to sub-subparagraph (b)3.a. or sub-~~
3611 ~~subparagraph (b)3.b. in the aggregate which exceeds \$50 million~~
3612 ~~after payment of available high-risk account funds in any~~
3613 ~~calendar year. However, A limited apportionment company shall~~
3614 collect from its policyholders any emergency assessment imposed
3615 under sub-subparagraph (b)3.d. The plan shall provide that, if
3616 the office determines that any regular assessment will result in
3617 an impairment of the surplus of a limited apportionment company,
3618 the office may direct that all or part of such assessment be
3619 deferred as provided in subparagraph (g)4. However, there shall
3620 be no limitation or deferment of an emergency assessment to be
3621 collected from policyholders under sub-subparagraph (b)3.d.

3622 16. Must provide that the corporation appoint as its
3623 licensed agents only those agents who also hold an appointment
3624 as defined in s. 626.015(3) with an insurer who at the time of
3625 the agent's initial appointment by the corporation is authorized
3626 to write and is actually writing personal lines residential
3627 property coverage, commercial residential property coverage, or
3628 commercial nonresidential property coverage within the state.

3629 17. Must provide, by July 1, 2007, a premium payment plan
3630 option to its policyholders which allows for quarterly and
3631 semiannual payment of premiums.

3632 18. Must provide that the hurricane deductible for any
3633 property in the nonhomestead account with an insured value of
3634 \$250,000 or more must be at least 5 percent of the insured
3635 value.

3636 19. Must provide that the application for coverage under
3637 the nonhomestead account and the declaration page of each
3638 nonhomestead account policy include a statement in boldface 12-
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3639 point type specifying that public subsidies do not support the
3640 corporation's coverage of nonhomestead property; that if the
3641 nonhomestead account of the corporation sustains a deficit or is
3642 unable to pay claims, the nonhomestead policyholder shall be
3643 subject to an immediate assessment in an amount up to 100
3644 percent of the premium and a further assessment upon renewal of
3645 the policy; and that the applicant or policyholder may wish to
3646 seek alternative coverage from an authorized insurer or surplus
3647 lines insurer that will not be subject to such potential
3648 assessments.

3649 20. Must provide that the application for coverage under
3650 any of the homestead accounts and the declaration page of each
3651 homestead account policy include a statement in boldface 12-
3652 point type specifying that a false declaration of homestead
3653 status for purposes of obtaining coverage in any of the
3654 homestead accounts may constitute the offense of insurance
3655 fraud, as prohibited and punishable as a felony under s.
3656 817.234.

3657 21. Must limit coverage on mobile homes or manufactured
3658 homes built prior to 1994 to actual cash value of the dwelling
3659 rather than replacement costs of the dwelling.

3660 Section 13. Effective July 1, 2006, section 627.3517,
3661 Florida Statutes, is amended to read:

3662 627.3517 Consumer choice.--

3663 (1) Except as provided in subsection (2), no provision of
3664 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to
3665 impair the right of any insurance risk apportionment plan
3666 policyholder, upon receipt of any keepout or take-out offer, to
3667 retain his or her current agent, so long as that agent is duly
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3668 licensed and appointed by the insurance risk apportionment plan
3669 or otherwise authorized to place business with the insurance
3670 risk apportionment plan. This right shall not be canceled,
3671 suspended, impeded, abridged, or otherwise compromised by any
3672 rule, plan of operation, or depopulation plan, whether through
3673 keepout, take-out, midterm assumption, or any other means, of
3674 any insurance risk apportionment plan or depopulation plan,
3675 including, but not limited to, those described in s. 627.351, s.
3676 627.3511, or s. 627.3515. The commission shall adopt any rules
3677 necessary to cause any insurance risk apportionment plan or
3678 market assistance plan under such sections to demonstrate that
3679 the operations of the plan do not interfere with, promote, or
3680 allow interference with the rights created under this section.
3681 If the policyholder's current agent is unable or unwilling to be
3682 appointed with the insurer making the take-out or keepout offer,
3683 the policyholder shall not be disqualified from participation in
3684 the appropriate insurance risk apportionment plan because of an
3685 offer of coverage in the voluntary market. An offer of full
3686 property insurance coverage by the insurer currently insuring
3687 either the ex-wind or wind-only coverage on the policy to which
3688 the offer applies shall not be considered a take-out or keepout
3689 offer. Any rule, plan of operation, or plan of depopulation,
3690 through keepout, take-out, midterm assumption, or any other
3691 means, of any property insurance risk apportionment plan under
3692 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
3693 and 627.3511(4).

3694 (2) This section does not apply during the first 10 days
3695 after a new application for coverage has been submitted to

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3696 Citizens Property Insurance Corporation under s. 627.351(6),
3697 whether or not coverage is bound during this period.

3698 Section 14. Section 627.3519, Florida Statutes, is created
3699 to read:

3700 627.3519 Annual report of aggregate net probable maximum
3701 losses, financing options, and potential assessments.--No later
3702 than February 1 of each year, the Financial Services Commission
3703 shall provide to the Legislature a report of the aggregate net
3704 probable maximum losses, financing options, and potential
3705 assessments of the Florida Hurricane Catastrophe Fund and
3706 Citizens Property Insurance Corporation. The report must include
3707 the respective 50-year, 100-year, and 250-year probable maximum
3708 losses of the fund and the corporation; analysis of all
3709 reasonable financing strategies for each such probable maximum
3710 loss, including the amount and term of debt instruments;
3711 specification of the percentage assessments that would be needed
3712 to support each of the financing strategies; and calculations of
3713 the aggregate assessment burden on Florida property and casualty
3714 policyholders for each of the probable maximum losses. The
3715 commission shall require the fund and the corporation to provide
3716 the commission with such data and analysis as the commission
3717 considers necessary to prepare the report.

3718 Section 15. Paragraph (b) of subsection (3) of section
3719 627.4035, Florida Statutes, is amended to read:

3720 627.4035 Cash payment of premiums; claims.--

3721 (3) All payments of claims made in this state under any
3722 contract of insurance shall be paid:

3723 (b) If authorized in writing by the recipient or the
3724 recipient's representative, by debit card or any other form of
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3725 | electronic transfer. Any fees or costs to be charged against the
3726 | recipient must be disclosed in writing to the recipient or the
3727 | recipient's representative at the time of written authorization.
3728 | However, the written authorization requirement may be waived by
3729 | the recipient or the recipient's representative if the insurer
3730 | verifies the identity of the insured or the insured's recipient
3731 | and does not charge a fee for the transaction. If the funds are
3732 | misdirected, the insurer would remain liable for the payment of
3733 | the claim.

3734 | Section 16. Paragraph (b) of subsection (3) of section
3735 | 627.701, Florida Statutes, is amended to read:

3736 | 627.701 Liability of insureds; coinsurance; deductibles.--

3737 | (3)

3738 | (b)1. Except as otherwise provided in this paragraph,
3739 | prior to issuing a personal lines residential property insurance
3740 | policy on or after January 1, 2006, or prior to the first
3741 | renewal of a residential property insurance policy on or after
3742 | January 1, 2006, the insurer must offer alternative deductible
3743 | amounts applicable to hurricane losses equal to \$500, 2 percent,
3744 | 5 percent, and 10 percent of the policy dwelling limits, unless
3745 | the specific percentage deductible is less than \$500. The
3746 | written notice of the offer shall specify the hurricane or wind
3747 | deductible to be applied in the event that the applicant or
3748 | policyholder fails to affirmatively choose a hurricane
3749 | deductible. The insurer must provide such policyholder with
3750 | notice of the availability of the deductible amounts specified
3751 | in this paragraph in a form approved by the office in
3752 | conjunction with each renewal of the policy. The failure to

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3753 provide such notice constitutes a violation of this code but
3754 does not affect the coverage provided under the policy.

3755 2. This paragraph does not apply with respect to a
3756 deductible program lawfully in effect on June 14, 1995, or to
3757 any similar deductible program, if the deductible program
3758 requires a minimum deductible amount of no less than 2 percent
3759 of the policy limits.

3760 3. With respect to a policy covering a risk with dwelling
3761 limits of at least \$100,000, ~~but less than \$250,000~~, the insurer
3762 may, in lieu of offering a policy with a ~~\$500 hurricane or~~ wind
3763 deductible as required by subparagraph 1., offer a policy that
3764 the insurer guarantees it will not nonrenew for reasons of
3765 reducing hurricane loss for one renewal period and that contains
3766 up to a 2 percent hurricane deductible, for two renewal periods
3767 and that contains up to a 5 percent hurricane deductible, or for
3768 three renewal periods and that contains up to a 10 percent
3769 hurricane deductible. Notwithstanding the requirements of this
3770 paragraph, the Office of Insurance Regulation may approve the
3771 nonrenewal of such policies if the guarantee renewal of the
3772 policies may jeopardize the financial ratings of an insurer or
3773 wind deductible as required by subparagraph 1.

3774 4. With respect to a policy covering a risk with dwelling
3775 limits of \$250,000 or more, the insurer need not offer the \$500
3776 hurricane deductible as required by subparagraph 1., but must,
3777 except as otherwise provided in this subsection, offer the other
3778 hurricane deductibles as required by subparagraph 1.

3779 Section 17. Effective January 1, 2007, subsection (9) is
3780 added to section 627.701, Florida Statutes, to read:

3781 627.701 Liability of insureds; coinsurance; deductibles.--
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3782 (9) With respect to hurricane coverage provided in a
3783 policy of residential coverage, when the policyholder has taken
3784 appropriate hurricane mitigation measures regarding the
3785 residence covered under the policy, the insurer may provide the
3786 insured the option of selecting an appropriate reduction in the
3787 policy's hurricane deductible in lieu of selecting the
3788 appropriate discount credit or other rate differential as
3789 provided in s. 627.0629. If made available by the insurer, the
3790 insurer must provide the policyholder with notice of the options
3791 available under this subsection on a form approved by the
3792 office.

3793 Section 18. Subsections (2) and (3) of section 627.7011,
3794 Florida Statutes, are amended, and subsections (6) and (7) are
3795 added to that section, to read:

3796 627.7011 Homeowners' policies; offer of replacement cost
3797 coverage and law and ordinance coverage.--

3798 (2) Unless the insurer obtains the policyholder's written
3799 refusal of the policies or endorsements specified in subsection
3800 (1), any policy covering the dwelling is deemed to include the
3801 law and ordinance coverage limited to 25 percent of the dwelling
3802 limit ~~specified in paragraph (1)(b)~~. The rejection or selection
3803 of alternative coverage shall be made on a form approved by the
3804 office. The form shall fully advise the applicant of the nature
3805 of the coverage being rejected. If this form is signed by a
3806 named insured, it will be conclusively presumed that there was
3807 an informed, knowing rejection of the coverage or election of
3808 the alternative coverage on behalf of all insureds. Unless the
3809 policyholder requests in writing the coverage specified in this
3810 section, it need not be provided in or supplemental to any other

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3811 policy that renews, insures, extends, changes, supersedes, or
3812 replaces an existing policy when the policyholder has rejected
3813 the coverage specified in this section or has selected
3814 alternative coverage. The insurer must provide such policyholder
3815 with notice of the availability of such coverage in a form
3816 approved by the office at least once every 3 years. The failure
3817 to provide such notice constitutes a violation of this code, but
3818 does not affect the coverage provided under the policy.

3819 (3) In the event of a loss for which a dwelling ~~or~~
3820 ~~personal property~~ is insured on the basis of replacement costs,
3821 the insurer shall pay the replacement cost without reservation
3822 or holdback of any depreciation in value, whether or not the
3823 insured replaces or repairs the dwelling ~~or property~~.

3824 (6) Insurers shall issue separate checks for living
3825 expenses, contents, and casualty proceeds. Checks for living
3826 expenses and contents should be issued directly to the
3827 policyholder.

3828 (7) Nothing in this section shall be construed as
3829 prohibiting an insurer from limiting its liability under a
3830 policy or endorsement providing that loss will be adjusted on
3831 the basis of replacement costs to the lesser of:

3832 (a) The limit of liability shown on the policy
3833 declarations page;

3834 (b) The reasonable and necessary cost to repair the
3835 damaged, destroyed, or stolen covered property; or

3836 (c) The reasonable and necessary cost to replace the
3837 damaged, destroyed, or stolen covered property.

3838 Section 19. Effective upon this act becoming a law,
3839 section 627.7019, Florida Statutes, is created to read:

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3840 627.7019 Standardization of requirements applicable to
3841 insurers after natural disasters.--

3842 (1) The commission shall adopt by rule, pursuant to s.
3843 120.54(1)-(3), standardized requirements that may be applied to
3844 insurers as a consequence of a hurricane or other natural
3845 disaster. The rules shall address the following areas:

3846 (a) Claims reporting requirements.

3847 (b) Grace periods for payment of premiums and performance
3848 of other duties by insureds.

3849 (c) Temporary postponement of cancellations and
3850 nonrenewals.

3851 (2) The rules adopted pursuant to this section shall
3852 require the office to issue an order within 72 hours after the
3853 occurrence of a hurricane or other natural disaster specifying,
3854 by line of insurance, which of the standardized requirements
3855 apply, the geographic areas in which they apply, the time at
3856 which applicability commences, and the time at which
3857 applicability terminates.

3858 (3) The commission and the office may not adopt an
3859 emergency rule under s. 120.54(4) in conflict with any provision
3860 of the rules adopted under this section.

3861 (4) The commission shall initiate rulemaking under this
3862 section no later than June 1, 2006.

3863 Section 20. Paragraph (f) is added to subsection (2) of
3864 section 627.706, Florida Statutes, to read:

3865 627.706 Sinkhole insurance; definitions.--

3866 (2) As used in ss. 627.706-627.7074, and as used in
3867 connection with any policy providing coverage for sinkhole
3868 losses:

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3869 (f) "Structural damage" means damage that has affected the
3870 ability of the structure to carry the loads for which it was
3871 designed or that it was capable of carrying when the structure
3872 was originally constructed.

3873 Section 21. Subsection (5) of section 627.727, Florida
3874 Statutes, is amended to read:

3875 627.727 Motor vehicle insurance; uninsured and
3876 underinsured vehicle coverage; insolvent insurer protection.--

3877 (5) Any person having a claim against an insolvent insurer
3878 as defined in s. 631.54~~(6)~~~~(5)~~ under the provisions of this
3879 section shall present such claim for payment to the Florida
3880 Insurance Guaranty Association only. In the event of a payment
3881 to any person in settlement of a claim arising under the
3882 provisions of this section, the association is not subrogated or
3883 entitled to any recovery against the claimant's insurer. The
3884 association, however, has the rights of recovery as set forth in
3885 chapter 631 in the proceeds recoverable from the assets of the
3886 insolvent insurer.

3887 Section 22. Paragraph (f) is added to subsection (2) of
3888 section 631.181, Florida Statutes, to read:

3889 631.181 Filing and proof of claim.--

3890 (2)

3891 (f) The signed statement required by this section shall
3892 not be required on claims for which adequate claims file
3893 documentation exists within the records of the insolvent
3894 insurer. Claims for payment of unearned premium shall not be
3895 required to use the signed statement required by this section if
3896 the receiver certifies to the guaranty fund that the records of
3897 the insolvent insurer are sufficient to determine the amount of

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3898 unearned premium owed to each policyholder of the insurer and
3899 such information is remitted to the guaranty fund by the
3900 receiver in electronic or other mutually agreed-upon format.

3901 Section 23. Subsections (5), (6), (7), and (8) of section
3902 631.54, Florida Statutes, are renumbered as subsections (6),
3903 (7), (8), and (9), respectively, and a new subsection (5) is
3904 added to that section, to read:

3905 631.54 Definitions.--As used in this part:

3906 (5) "Homeowner's insurance" means personal lines
3907 residential property insurance coverage that consists of the
3908 type of coverage provided under homeowner's, dwelling, and
3909 similar policies for repair or replacement of the insured
3910 structure and contents, which policies are written directly to
3911 the individual homeowner. Residential coverage for personal
3912 lines as set forth in this section includes policies that
3913 provide coverage for particular perils such as windstorm and
3914 hurricane coverage but excludes all coverage for mobile homes,
3915 renter's insurance, or tenant's coverage. The term "homeowner's
3916 insurance" excludes commercial residential policies covering
3917 condominium associations or homeowners' associations, which
3918 associations have a responsibility to provide insurance coverage
3919 on residential units within the association, and also excludes
3920 coverage for the common elements of a homeowners' association.

3921 Section 24. Subsection (1) of section 631.55, Florida
3922 Statutes, is amended to read:

3923 631.55 Creation of the association.--

3924 (1) There is created a nonprofit corporation to be known
3925 as the "Florida Insurance Guaranty Association, Incorporated."

3926 All insurers defined as member insurers in s. 631.54(7)(6) shall
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3927 be members of the association as a condition of their authority
3928 to transact insurance in this state, and, further, as a
3929 condition of such authority, an insurer shall agree to reimburse
3930 the association for all claim payments the association makes on
3931 said insurer's behalf if such insurer is subsequently
3932 rehabilitated. The association shall perform its functions under
3933 a plan of operation established and approved under s. 631.58 and
3934 shall exercise its powers through a board of directors
3935 established under s. 631.56. The corporation shall have all
3936 those powers granted or permitted nonprofit corporations, as
3937 provided in chapter 617.

3938 Section 25. Paragraph (a) of subsection (1), paragraph (d)
3939 of subsection (2), and paragraph (a) of subsection (3) of
3940 section 631.57, Florida Statutes, are amended, and paragraph (e)
3941 is added to subsection (3) of that section, to read:

3942 631.57 Powers and duties of the association.--

3943 (1) The association shall:

3944 (a)1. Be obligated to the extent of the covered claims
3945 existing:

3946 a. Prior to adjudication of insolvency and arising within
3947 30 days after the determination of insolvency;

3948 b. Before the policy expiration date if less than 30 days
3949 after the determination; or

3950 c. Before the insured replaces the policy or causes its
3951 cancellation, if she or he does so within 30 days of the
3952 determination.

3953 2. The obligation under subparagraph 1. shall include only
3954 the amount of each covered claim that is in excess of \$100 and
3955 is less than \$300,000, except policies providing coverage for
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3956 homeowner's insurance shall provide for an additional \$200,000
3957 for the portion of a covered claim that relates only to the
3958 damage to the structure and contents.

3959 3.a.2- Notwithstanding subparagraph 2., the obligation
3960 under subparagraph 1. for shall include only that amount of each
3961 covered claim which is in excess of \$100 and is less than
3962 \$300,000, except with respect to policies covering condominium
3963 associations or homeowners' associations, which associations
3964 have a responsibility to provide insurance coverage on
3965 residential units within the association, the obligation shall
3966 include that amount of each covered property insurance claim
3967 which is less than \$100,000 multiplied by the number of
3968 condominium units or other residential units; however, as to
3969 homeowners' associations, this sub-subparagraph subparagraph
3970 applies only to claims for damage or loss to residential units
3971 and structures attached to residential units.

3972 b. Notwithstanding sub-subparagraph a., the association
3973 has no obligation to pay covered claims that are to be paid from
3974 the proceeds of bonds issued under s. 631.695. However, the
3975 association shall assign and pledge the first available moneys
3976 from all or part of the assessments to be made under paragraph
3977 (3) (a) to or on behalf of the issuer of such bonds for the
3978 benefit of the holders of such bonds. The association shall
3979 administer any such covered claims and present valid covered
3980 claims for payment in accordance with the provisions of the
3981 assistance program in connection with which such bonds have been
3982 issued.

3983 3. In no event shall the association be obligated to a
3984 policyholder or claimant in an amount in excess of the
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3985 obligation of the insolvent insurer under the policy from which
3986 the claim arises.

3987 (2) The association may:

3988 (d) Negotiate and become a party to such contracts as are
3989 necessary to carry out the purpose of this part. Additionally,
3990 the association may enter into such contracts with a
3991 municipality, a county, or a legal entity created pursuant to s.
3992 163.01(7)(g) as are necessary in order for the municipality,
3993 county, or legal entity to issue bonds under s. 631.695. In
3994 connection with the issuance of any such bonds and the entering
3995 into of any such necessary contracts, the association may agree
3996 to such terms and conditions as the association deems necessary
3997 and proper.

3998 (3) (a) To the extent necessary to secure the funds for the
3999 respective accounts for the payment of covered claims, ~~and also~~
4000 to pay the reasonable costs to administer the same, and to the
4001 extent necessary to secure the funds for the account specified
4002 in s. 631.55(2)(c) or to retire indebtedness, including, without
4003 limitation, the principal, redemption premium, if any, and
4004 interest on, and related costs of issuance of, bonds issued
4005 under s. 631.695 and the funding of any reserves and other
4006 payments required under the bond resolution or trust indenture
4007 pursuant to which such bonds have been issued, the office, upon
4008 certification of the board of directors, shall levy assessments
4009 in the proportion that each insurer's net direct written
4010 premiums in this state in the classes protected by the account
4011 bears to the total of said net direct written premiums received
4012 in this state by all such insurers for the preceding calendar
4013 year for the kinds of insurance included within such account.

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4014 Assessments shall be remitted to and administered by the board
4015 of directors in the manner specified by the approved plan. Each
4016 insurer so assessed shall have at least 30 days' written notice
4017 as to the date the assessment is due and payable. Every
4018 assessment shall be made as a uniform percentage applicable to
4019 the net direct written premiums of each insurer in the kinds of
4020 insurance included within the account in which the assessment is
4021 made. The assessments levied against any insurer shall not
4022 exceed in any one year more than 2 percent of that insurer's net
4023 direct written premiums in this state for the kinds of insurance
4024 included within such account during the calendar year next
4025 preceding the date of such assessments.

4026 (e)1.a. In addition to assessments otherwise authorized in
4027 paragraph (a) and to the extent necessary to secure the funds
4028 for the account specified in s. 631.55(2)(c) or to retire
4029 indebtedness, including, without limitation, the principal,
4030 redemption premium, if any, and interest on, and related costs
4031 of issuance of, bonds issued under s. 631.695 and the funding of
4032 any reserves and other payments required under the bond
4033 resolution or trust indenture pursuant to which such bonds have
4034 been issued, the office, upon certification of the board of
4035 directors, shall levy emergency assessments upon insurers
4036 holding a certificate of authority. The emergency assessments
4037 payable under this paragraph by any insurer shall not exceed in
4038 any single year more than 2 percent of that insurer's direct
4039 written premiums, net of refunds, in this state during the
4040 preceding calendar year for the kinds of insurance within the
4041 account specified in s. 631.55(2)(c).

4042 b. Any emergency assessments authorized under this

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4043 paragraph shall be levied by the office upon insurers referred
4044 to in sub-subparagraph a., upon certification as to the need for
4045 such assessments by the board of directors, in each year that
4046 bonds issued under s. 631.695 and secured by such emergency
4047 assessments are outstanding, in such amounts up to such 2-
4048 percent limit as required in order to provide for the full and
4049 timely payment of the principal of, redemption premium, if any,
4050 and interest on, and related costs of issuance of, such bonds.
4051 The emergency assessments provided for in this paragraph are
4052 assigned and pledged to the municipality, county, or legal
4053 entity issuing bonds under s. 631.695 for the benefit of the
4054 holders of such bonds, in order to enable such municipality,
4055 county, or legal entity to provide for the payment of the
4056 principal of, redemption premium, if any, and interest on such
4057 bonds, the cost of issuance of such bonds, and the funding of
4058 any reserves and other payments required under the bond
4059 resolution or trust indenture pursuant to which such bonds have
4060 been issued, without the necessity of any further action by the
4061 association, the office, or any other party. To the extent bonds
4062 are issued under s. 631.695 and the association determines to
4063 secure such bonds by a pledge of revenues received from the
4064 emergency assessments, such bonds, upon such pledge of revenues,
4065 shall be secured by and payable from the proceeds of such
4066 emergency assessments, and the proceeds of emergency assessments
4067 levied under this paragraph shall be remitted directly to and
4068 administered by the trustee or custodian appointed for such
4069 bonds.

4070 c. Emergency assessments under this paragraph may be
4071 payable in a single payment or, at the option of the

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4072 association, may be payable in 12 monthly installments with the
4073 first installment being due and payable at the end of the month
4074 after an emergency assessment is levied and subsequent
4075 installments being due not later than the end of each succeeding
4076 month.

4077 d. If emergency assessments are imposed, the report
4078 required by s. 631.695(7) shall include an analysis of the
4079 revenues generated from the emergency assessments imposed under
4080 this paragraph.

4081 e. If emergency assessments are imposed, the references in
4082 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
4083 assessments levied under paragraph (a) shall include emergency
4084 assessments imposed under this paragraph.

4085 2. In order to ensure that insurers paying emergency
4086 assessments levied under this paragraph continue to charge rates
4087 that are neither inadequate nor excessive, within 90 days after
4088 being notified of such assessments, each insurer that is to be
4089 assessed pursuant to this paragraph shall submit a rate filing
4090 for coverage included within the account specified in s.
4091 631.55(2)(c) and for which rates are required to be filed under
4092 s. 627.062. If the filing reflects a rate change that, as a
4093 percentage, is equal to the difference between the rate of such
4094 assessment and the rate of the previous year's assessment under
4095 this paragraph, the filing shall consist of a certification so
4096 stating and shall be deemed approved when made. Any rate change
4097 of a different percentage shall be subject to the standards and
4098 procedures of s. 627.062.

4099 3. An annual assessment under this paragraph shall
4100 continue while the bonds issued with respect to which the

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4101 assessment was imposed are outstanding, including any bonds the
4102 proceeds of which were used to refund bonds issued pursuant to
4103 s. 631.695, unless adequate provision has been made for the
4104 payment of the bonds in the documents authorizing the issuance
4105 of such bonds.

4106 4. Emergency assessments under this paragraph are not
4107 premium and are not subject to the premium tax, to any fees, or
4108 to any commissions. An insurer is liable for all emergency
4109 assessments that the insurer collects and shall treat the
4110 failure of an insured to pay an emergency assessment as a
4111 failure to pay the premium. An insurer is not liable for
4112 uncollectible emergency assessments.

4113 Section 26. Section 631.695, Florida Statutes, is created
4114 to read:

4115 631.695 Revenue bond issuance through counties or
4116 municipalities.--

4117 (1) The Legislature finds:

4118 (a) The potential for widespread and massive damage to
4119 persons and property caused by hurricanes making landfall in
4120 this state can generate insurance claims of such a number as to
4121 render numerous insurers operating within this state insolvent
4122 and therefore unable to satisfy covered claims.

4123 (b) The inability of insureds within this state to receive
4124 payment of covered claims or to timely receive such payment
4125 creates financial and other hardships for such insureds and
4126 places undue burdens on the state, the affected units of local
4127 government, and the community at large.

4128 (c) In addition, the failure of insurers to pay covered
4129 claims or to timely pay such claims due to the insolvency of

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4130 such insurers can undermine the public's confidence in insurers
4131 operating within this state, thereby adversely affecting the
4132 stability of the insurance industry in this state.

4133 (d) The state has previously taken action to address these
4134 problems by adopting the Florida Insurance Guaranty Association
4135 Act, which, among other things, provides a mechanism for the
4136 payment of covered claims under certain insurance policies to
4137 avoid excessive delay in payment and to avoid financial loss to
4138 claimants or policyholders because of the insolvency of an
4139 insurer.

4140 (e) In the wake of the unprecedented destruction caused by
4141 various hurricanes that have made landfall in this state, the
4142 resultant covered claims, and the number of insurers rendered
4143 insolvent thereby, make it evident that alternative programs
4144 must be developed to allow the Florida Insurance Guaranty
4145 Association to more expeditiously and effectively provide for
4146 the payment of covered claims.

4147 (f) It is therefore determined to be in the best interests
4148 of, and necessary for, the protection of the public health,
4149 safety, and general welfare of the residents of this state and
4150 for the protection and preservation of the economic stability of
4151 insurers operating in this state and it is declared to be an
4152 essential public purpose to permit certain municipalities and
4153 counties to take such actions as will provide relief to
4154 claimants and policyholders having covered claims against
4155 insolvent insurers operating in this state by expediting the
4156 handling and payment of covered claims.

4157 (g) To achieve the foregoing purposes, it is proper to
4158 authorize municipalities and counties of this state

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4159 substantially affected by the landfall of a hurricane to issue
4160 bonds to assist the Florida Insurance Guaranty Association in
4161 expediting the handling and payment of covered claims of
4162 insolvent insurers.

4163 (h) In order to avoid the needless and indiscriminate
4164 proliferation, duplication, and fragmentation of such assistance
4165 programs, it is in the best interests of the residents of this
4166 state to authorize municipalities and counties severely affected
4167 by a hurricane to provide for the payment of covered claims
4168 beyond their territorial limits in the implementation of such
4169 programs.

4170 (i) It is a paramount public purpose for municipalities
4171 and counties substantially affected by the landfall of a
4172 hurricane to be able to issue bonds for the purposes described
4173 in this section. Such issuance shall provide assistance to
4174 residents of those municipalities and counties as well as to
4175 other residents of this state.

4176 (2) The governing body of any municipality or county, the
4177 residents of which have been substantially affected by a
4178 hurricane, may issue bonds to fund an assistance program in
4179 conjunction with, and with the consent of, the Florida Insurance
4180 Guaranty Association for the purpose of paying claimants' or
4181 policyholders' covered claims, as defined in s. 631.54, arising
4182 through the insolvency of an insurer, which insolvency is
4183 determined by the Florida Insurance Guaranty Association to have
4184 been a result of a hurricane, regardless of whether the
4185 claimants or policyholders are residents of such municipality or
4186 county or the property to which the claim relates is located
4187 within or outside the territorial jurisdiction of the

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4188 municipality or county. The power of a municipality or county to
4189 issue bonds, as described in this section, is in addition to any
4190 powers granted by law and may not be abrogated or restricted by
4191 any provisions in such municipality's or county's charter. A
4192 municipality or county issuing bonds for this purpose shall
4193 enter into such contracts with the Florida Insurance Guaranty
4194 Association or any entity acting on behalf of the Florida
4195 Insurance Guaranty Association as are necessary to implement the
4196 assistance program. Any bonds issued by a municipality or county
4197 or a combination thereof under this subsection shall be payable
4198 from and secured by moneys received by or on behalf of the
4199 municipality or county from assessments levied under s.
4200 631.57(3) (a) and assigned and pledged to or on behalf of the
4201 municipality or county for the benefit of the holders of the
4202 bonds in connection with the assistance program. The funds,
4203 credit, property, and taxing power of the state or any
4204 municipality or county shall not be pledged for the payment of
4205 such bonds.

4206 (3) Bonds may be validated by the municipality or county
4207 pursuant to chapter 75. The proceeds of the bonds may be used to
4208 pay covered claims of insolvent insurers; to refinance or
4209 replace previously existing borrowings or financial
4210 arrangements; to pay interest on bonds; to fund reserves for the
4211 bonds; to pay expenses incident to the issuance or sale of any
4212 bond issued under this section, including costs of validating,
4213 printing, and delivering the bonds, costs of printing the
4214 official statement, costs of publishing notices of sale of the
4215 bonds, costs of obtaining credit enhancement or liquidity
4216 support, and related administrative expenses; or for such other

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4217 purposes related to the financial obligations of the fund as the
4218 association may determine. The term of the bonds may not exceed
4219 30 years.

4220 (4) The state covenants with holders of bonds of the
4221 assistance program that the state will not take any action that
4222 will have a material adverse effect on the holders and will not
4223 repeal or abrogate the power of the board of directors of the
4224 association to direct the Office of Insurance Regulation to levy
4225 the assessments and to collect the proceeds of the revenues
4226 pledged to the payment of the bonds as long as any of the bonds
4227 remain outstanding, unless adequate provision has been made for
4228 the payment of the bonds in the documents authorizing the
4229 issuance of the bonds.

4230 (5) The accomplishment of the authorized purposes of such
4231 municipality or county under this section is in all respects for
4232 the benefit of the people of the state, for the increase of
4233 their commerce and prosperity, and for the improvement of their
4234 health and living conditions. The municipality or county, in
4235 performing essential governmental functions in accomplishing its
4236 purposes, is not required to pay any taxes or assessments of any
4237 kind whatsoever upon any property acquired or used by the county
4238 or municipality for such purposes or upon any revenues at any
4239 time received by the county or municipality. The bonds, notes,
4240 and other obligations of the municipality or county and the
4241 transfer of and income from such bonds, notes, and other
4242 obligations, including any profits made on the sale of such
4243 bonds, notes, and other obligations, are exempt from taxation of
4244 any kind by the state or by any political subdivision or other
4245 agency or instrumentality of the state. The exemption granted in
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4246 this subsection is not applicable to any tax imposed by chapter
4247 220 on interest, income, or profits on debt obligations owned by
4248 corporations.

4249 (6) Two or more municipalities or counties, the residents
4250 of which have been substantially affected by a hurricane, may
4251 create a legal entity pursuant to s. 163.01(7)(g) to exercise
4252 the powers described in this section as well as those powers
4253 granted in s. 163.01(7)(g). References in this section to a
4254 municipality or county includes such legal entity.

4255 (7) The association shall issue an annual report on the
4256 status of the use of bond proceeds as related to insolvencies
4257 caused by hurricanes. The report must contain the number and
4258 amount of claims paid. The association shall also include an
4259 analysis of the revenue generated from the assessment levied
4260 under s. 631.57(3)(a) to pay such bonds. The association shall
4261 submit a copy of the report to the President of the Senate, the
4262 Speaker of the House of Representatives, and the Chief Financial
4263 Officer within 90 days after the end of each calendar year in
4264 which bonds were outstanding.

4265 Section 27. No provision of s. 631.57 or s. 631.695,
4266 Florida Statutes, shall be repealed until such time as the
4267 principal, redemption premium, if any, and interest on all bonds
4268 issued under s. 631.695, Florida Statutes, payable and secured
4269 from assessments levied under s. 631.57(3)(a), Florida Statutes,
4270 have been paid in full or adequate provision for such payment
4271 has been made in accordance with the bond resolution or trust
4272 indenture pursuant to which the bonds were issued.

4273 Section 28. Paragraph (a) of subsection (1) of section
4274 817.234, Florida Statutes, is amended to read:

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4275 817.234 False and fraudulent insurance claims.--

4276 (1) (a) A person commits insurance fraud punishable as
4277 provided in subsection (11) if that person, with the intent to
4278 injure, defraud, or deceive any insurer:

4279 1. Presents or causes to be presented any written or oral
4280 statement as part of, or in support of, a claim for payment or
4281 other benefit pursuant to an insurance policy or a health
4282 maintenance organization subscriber or provider contract,
4283 knowing that such statement contains any false, incomplete, or
4284 misleading information concerning any fact or thing material to
4285 such claim;

4286 2. Prepares or makes any written or oral statement that is
4287 intended to be presented to any insurer in connection with, or
4288 in support of, any claim for payment or other benefit pursuant
4289 to an insurance policy or a health maintenance organization
4290 subscriber or provider contract, knowing that such statement
4291 contains any false, incomplete, or misleading information
4292 concerning any fact or thing material to such claim; or

4293 3.a. Knowingly presents, causes to be presented, or
4294 prepares or makes with knowledge or belief that it will be
4295 presented to any insurer, purported insurer, servicing
4296 corporation, insurance broker, or insurance agent, or any
4297 employee or agent thereof, any false, incomplete, or misleading
4298 information or written or oral statement as part of, or in
4299 support of, an application for the issuance of, or the rating
4300 of, any insurance policy, or a health maintenance organization
4301 subscriber or provider contract, including any false declaration
4302 of homestead status for the purpose of obtaining coverage in a
4303 homestead account under s. 627.351(6); or

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4304 b. Who knowingly conceals information concerning any fact
4305 material to such application.

4306 Section 29. Task Force on Hurricane Mitigation and
4307 Hurricane Insurance for Mobile and Manufactured Homes.--

4308 (1) TASK FORCE CREATED.--There is created the Task Force
4309 on Hurricane Mitigation and Hurricane Insurance for Mobile and
4310 Manufactured Homes.

4311 (2) ADMINISTRATION.--The task force shall be
4312 administratively housed within the Office of Insurance
4313 Regulation but shall operate independently of any state officer
4314 or agency. The office shall provide such administrative support
4315 as the task force deems necessary to accomplish its mission and
4316 shall provide necessary funding for the task force within the
4317 office's existing resources. The Executive Office of the
4318 Governor, the Department of Financial Services, the Office of
4319 Insurance Regulation, the Department of Highway Safety and Motor
4320 Vehicles, and the Department of Community Affairs shall provide
4321 substantive staff support for the task force.

4322 (3) MEMBERSHIP.--The members of the task force shall be
4323 appointed as follows:

4324 (a) The Governor shall appoint two members who have
4325 expertise in financial matters, one of whom is a representative
4326 of the mobile or manufactured home industry and one of whom is a
4327 representative of insurance consumers.

4328 (b) The Chief Financial Officer shall appoint two members
4329 who have expertise in financial matters, one of whom is a
4330 representative of a property insurer writing mobile or
4331 manufactured homeowners insurance in this state and one of whom
4332 is a representative of insurance agents.

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4333 (c) The President of the Senate shall appoint one member.

4334 (d) The Speaker of the House of Representatives shall
4335 appoint one member.

4336 (e) The Commissioner of Insurance Regulation or his or her
4337 designee shall serve as an ex officio voting member of the task
4338 force.

4339 (f) The Executive Director of Citizens Property Insurance
4340 or his or her designee shall serve as an ex officio voting
4341 member of the task force.

4342 (g) The Chief Executive Officer of the Federal Alliance
4343 for Safe Homes, Incorporated or his or her designee shall serve
4344 as an ex officio voting member of the task force.

4345
4346 Members of the task force shall serve without compensation but
4347 may receive reimbursement for per diem and travel expenses as
4348 provided in s. 112.061, Florida Statutes.

4349 (4) PURPOSE AND INTENT.--The Legislature recognizes the
4350 continued availability of hurricane insurance coverage for
4351 mobile and manufactured home owners in this state is essential
4352 to the state's economic survival. The Legislature further
4353 recognizes hurricane mitigation measures and building codes may
4354 reduce the likelihood or amount of damage to mobile or
4355 manufactured homes in the event of a hurricane. The Legislature
4356 further recognizes mobile and manufactured homes provide safe
4357 and affordable housing to many residents of this state. The
4358 purpose of the task force is to make recommendations to the
4359 legislative and executive branches of this state's government
4360 relating to the creation and maintenance of insurance capacity
4361 in the private sector and public sector that is sufficient to

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4362 ensure that all mobile and manufactured home owners in this
4363 state are able to obtain appropriate insurance coverage for
4364 hurricane losses and relating to the effectiveness of hurricane
4365 mitigation measures for mobile or manufactured homes as further
4366 described in this section.

4367 (5) SPECIFIC TASKS.--The task force shall conduct such
4368 research and hearings as the task force deems necessary to
4369 achieve the purposes specified in subsection (4) and shall
4370 develop information on relevant issues, including, but not
4371 limited to, the following issues:

4372 (a) Whether this state currently has sufficient hurricane
4373 insurance capacity for mobile and manufactured homes to ensure
4374 the continuation of a healthy, competitive marketplace, taking
4375 into consideration private-sector and public-sector resources.

4376 (b) Identifying the future demands on the hurricane
4377 insurance capacity of this state, taking into account population
4378 growth, coastal growth, and anticipated future hurricane
4379 activity.

4380 (c) Identifying how many mobile or manufactured homes are
4381 occupied in this state, how many mobile or manufactured homes
4382 are occupied by owners who also own the land to which the unit
4383 is attached, the age or average age of mobile or manufactured
4384 homes, the location of such homes, and the size of such homes.

4385 (d) The extent to which the growth in insurance on mobile
4386 or manufactured homes in Citizens Property Insurance Corporation
4387 is attributable to insufficient insurance capacity.

4388 (e) The extent to which the growth trends of Citizens
4389 Property Insurance Corporation create long-term problems for

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4390 mobile and manufactured home owners in this state and for other
4391 persons and businesses that depend on a viable market.

4392 (f) The extent to which insurance discounts, credits, or
4393 other rate differentials or reductions in the hurricane
4394 insurance deductible for a mobile or manufactured homeowner who
4395 takes mitigative measures would increase hurricane insurance
4396 capacity for mobile or manufactured homeowners.

4397 (g) The extent hurricane mitigation enhancements to mobile
4398 or manufactured homes decreases the likelihood of damage from a
4399 hurricane or decreases the amount of damage from a hurricane.

4400 (h) The extent to which the building codes reduce the
4401 likelihood of damage or amount of damage to mobile or
4402 manufactured homes.

4403 (6) REPORT AND RECOMMENDATIONS.--By January 1, 2007, the
4404 task force shall provide a report containing findings relating
4405 to the tasks identified in subsection (5) and recommendations
4406 consistent with the purposes of this section and also consistent
4407 with such findings. The task force shall submit the report to
4408 the Governor, the Chief Financial Officer, the President of the
4409 Senate, and the Speaker of the House of Representatives. The
4410 task force may also submit such interim reports as the task
4411 force deems appropriate.

4412 (7) EXPIRATION.--The task force shall expire on January 2,
4413 2007.

4414 Section 30. By January 1, 2007, the Office of Insurance
4415 Regulation shall submit a report to the President of the Senate,
4416 the Speaker of the House of Representatives, the minority party
4417 leaders of the Senate and the House of Representatives, and the
4418 chairs of the standing committees of the Senate and the House of
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4419 Representatives having jurisdiction over matters relating to
4420 property and casualty insurance. In preparing the report, the
4421 office shall consult with the Department of Highway Safety and
4422 Motor Vehicles, the Department of Community Affairs, the Florida
4423 Building Commission, the Florida Home Builders Association,
4424 representatives of the mobile and manufactured home industry,
4425 representatives of the property and casualty insurance industry,
4426 and any other party the office determines is appropriate. The
4427 report shall include findings and recommendations on the
4428 insurability of attached or free standing structures to
4429 residential homes, mobile, or manufactured homes, such as
4430 carports or pool enclosures; the increase or decrease in
4431 insurance costs associated with insuring such structures; the
4432 feasibility of insuring such structures; the impact on
4433 homeowners of not having insurance coverage for such structures;
4434 the ability of mitigation measures relating to such structures
4435 to reduce risk and loss; and such other related information as
4436 the office determines is appropriate for the Legislature to
4437 consider.

4438 Section 31. (1) The Office of Insurance Regulation, in
4439 consultation with the Department of Community Affairs, the
4440 Department of Financial Services, the Federal Alliance for Safe
4441 Homes, the Florida Insurance Council, the Florida Home Builders
4442 Association, the Florida Manufactured Housing Association, the
4443 Risk and Insurance Department of Florida State University, and
4444 the Institute for Business and Homes Safety, shall study and
4445 develop a program that will provide an objective rating system
4446 that will allow homeowners to evaluate the relative ability of

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4447 Florida properties to withstand the wind load from a sustained
4448 severe tropical storm or hurricane.

4449 (2) The rating system will be designed in a manner that is
4450 easy to understand for the property owner, based on proven
4451 readily verifiable mitigation techniques and devices, and able
4452 to be implemented based on a visual inspection program. The
4453 Department of Financial Services shall implement a pilot program
4454 for use in the Florida Comprehensive Hurricane Damage Mitigation
4455 Program.

4456 (3) The Department shall provide a report to the Governor,
4457 the President of the Senate, and the Speaker of the House of
4458 Representatives by March 31, 2007, detailing the nature and
4459 construction of the rating scale, its effectiveness based on
4460 implementation in a pilot program, and an operational plan for
4461 statewide implementation of the rating scale.

4462 Section 32. (1) For fiscal year 2006-2007, the sum of
4463 \$100 million is appropriated from the General Revenue Fund to
4464 the Department of Financial Services for the Florida Hurricane
4465 Damage Prevention Endowment as a nonrecurring appropriation for
4466 the purposes specified in s. 215.558, Florida Statutes.

4467 (2) The sum of \$400 million is appropriated from the
4468 General Revenue Fund to the Department of Financial Services as
4469 a nonrecurring appropriation for the purposes specified in s.
4470 215.5586, Florida Statutes.

4471 (3) Funds provided in subsections (1) and (2) shall be
4472 transferred by the department to the Florida Hurricane Damage
4473 Prevention Trust Fund, as created in s. 215.5585, Florida
4474 Statutes.

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4475 (4) For fiscal year 2006-2007, the recurring sum of \$5
4476 million is appropriated to the Department of Financial Services
4477 from the Florida Hurricane Damage Prevention Trust Fund, Special
4478 Category - Financial Incentives for Hurricane Damage Prevention.

4479 (5) For fiscal year 2006-2007, the nonrecurring sum of
4480 \$400 million is appropriated to the Department of Financial
4481 Services from the Florida Hurricane Damage Prevention Trust
4482 Fund, Special Category - Florida Comprehensive Hurricane Damage
4483 Mitigation Program. The department may spend up to 1 percent of
4484 the funds appropriated to administer the program. The department
4485 may spend up to \$7.5 million to fund the Manufactured Housing
4486 and Mobile Home Hurricane Mitigation Program that is part of the
4487 Florida Comprehensive Hurricane Damage Mitigation Program.

4488 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
4489 216.351, Florida Statutes, any unexpended balance from this
4490 appropriation shall be carried forward at the end of each fiscal
4491 year until the 2010-2011 fiscal year. At the end of the 2010-
4492 2011 fiscal year, any obligated funds for qualified projects
4493 that are not yet disbursed shall remain with the department to
4494 be used for the purposes of this act. Any unobligated funds of
4495 this appropriation shall revert to the Florida Hurricane Damage
4496 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

4497 Section 33. (1) For fiscal year 2006-2007, the sum of
4498 \$920 million in nonrecurring funds is appropriated from the
4499 General Revenue Fund to the Department of Financial Services for
4500 transfer to the Citizens Property Insurance Corporation as an
4501 allocation to regular assessments on assessable insurers and
4502 insureds, as authorized under s. 627.351(6)(b)3.b., Florida
4503 Statutes, for the 2005 Plan Year deficit. The board of governors

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4504 of the corporation shall allocate the appropriated state moneys
4505 to each of the personal lines, commercial lines, and high-risk
4506 accounts so as to totally eliminate the deficit for calendar
4507 year 2005 in each such account that would have been paid from
4508 the proceeds of regular assessment but for the appropriated
4509 moneys. The moneys allocated to each account from the
4510 appropriations shall be considered to be and shall be treated as
4511 proceeds of regular assessments for purposes of financing
4512 documents of the corporation. No regular assessments shall be
4513 imposed for any portion of the calendar year 2005 deficit paid
4514 from the appropriated moneys. The transfer made by the
4515 department to the corporation shall be limited to the amount of
4516 the total regular assessments that were authorized by law to
4517 cover the 2005 Plan Year deficit. Any unused and remaining funds
4518 in this appropriation shall revert to the General Revenue Fund.

4519 (2) The corporation shall amortize over a 10-year period
4520 any emergency assessments resulting from the 2005 Plan Year
4521 deficit.

4522 Section 34. For fiscal year 2006-2007, the sums of
4523 \$250,000 in recurring funds and \$425,000 in nonrecurring funds
4524 are appropriated from the Insurance Regulatory Trust Fund in the
4525 Department of Financial Services to the Office of Insurance
4526 Regulation for the purpose of carrying out reporting and
4527 administrative responsibilities of this act.

4528 Section 35. Except as otherwise expressly provided in this
4529 act, this act shall take effect July 1, 2006.

4530

4531

4532 ===== T I T L E A M E N D M E N T =====

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4533 Remove the entire title, and insert:
4534 A bill to be entitled
4535 An act relating to property and casualty insurance; amending s.
4536 215.555, F.S.; revising a definition; authorizing the State
4537 Board of Administration to make available to certain insurers a
4538 contract to cede certain portions of surplus to the Florida
4539 Hurricane Catastrophe Fund; providing contract criteria and
4540 requirements; revising certain reimbursement contract criteria;
4541 revising certain reimbursement premium requirements; deleting a
4542 revenue bond issuance prohibition and validation requirement;
4543 revising certain revenue bond emergency assessment requirements;
4544 creating s. 215.558, F.S.; creating the Florida Hurricane Damage
4545 Prevention Endowment; providing a purpose and legislative
4546 intent; providing definitions; providing requirements and
4547 authority for investment of endowment assets by the State Board
4548 of Administration; requiring a report to the Legislature;
4549 providing for payment of the board's investment services' costs
4550 and fees from the endowment; providing requirements of the
4551 Department of Financial Services in providing financial
4552 incentives for residential hurricane damage prevention
4553 activities; providing for an interest-free loan program;
4554 providing program criteria and requirements; creating an
4555 advisory council for certain purposes; providing for appointment
4556 of members; requiring members to serve without compensation;
4557 providing for per diem and travel expenses; creating s.
4558 215.5586, F.S.; establishing the Florida Comprehensive Hurricane
4559 Damage Mitigation Program within the Department of Financial
4560 Services; providing qualifications for the program
4561 administrator; providing program components and requirements;
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4562 providing for wind certification and hurricane mitigation
4563 inspections; providing inspection requirements; providing
4564 inspector eligibility requirements; providing for grants;
4565 providing grant requirements; providing for loans; providing
4566 public education and consumer awareness requirements; creating
4567 the Manufactured Housing and Mobile Home Hurricane Mitigation
4568 Program for certain purposes; requiring the Department of
4569 Financial Services to develop the program in consultation with
4570 certain entities; specifying requirements of the program;
4571 specifying the program as a matching grant program for
4572 improvement of mobile homes and manufactured homes; providing
4573 for distribution of the grants to the Department of Financial
4574 Services for certain purposes; requiring Citizens Property
4575 Insurance Corporation to grant certain insurance discounts,
4576 credits, rate differentials, or deductible reductions for
4577 property insurance premiums for certain manufactured home or
4578 mobile home owners; specifying criteria for such premiums;
4579 requiring a program report each year to the Governor and
4580 Legislature; providing report requirements; creating an advisory
4581 council; providing for appointment of members; specifying
4582 service without compensation; providing for per diem and travel
4583 expense reimbursements; requiring the department to obtain
4584 supplemental federal grants or funds for the program; requiring
4585 the department to adopt rules; creating s. 252.63, F.S. ;
4586 providing purpose and intent; providing powers of the
4587 Commissioner of Insurance Regulation during a state of
4588 emergency; providing a purpose and intent; authorizing the
4589 commissioner to issue certain orders in a state of emergency;
4590 providing for effect and duration of such orders; providing for
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4591 legislative termination of such orders; requiring the
4592 commissioner to publish such orders and an explanatory
4593 statement; amending s. 626.918, F.S.; authorizing certain
4594 letters of credit to fund an insurer's required policyholder
4595 protection trust fund; providing a definition; amending s.
4596 627.062, F.S.; specifying certain rate filings as not subject to
4597 office determination as excessive or unfairly discriminatory;
4598 providing limitations; providing a definition; prohibiting
4599 certain rate filings under certain circumstances; preserving the
4600 office's authority to disapprove certain rate filings under
4601 certain circumstances; providing procedures for insurers
4602 submitting certain rate filings; revising provisions providing
4603 for recoupment of certain reinsurance costs; specifying
4604 nonapplication to certain types of insurance; specifying
4605 approval of certain rate filings under certain circumstances;
4606 providing an exception; requiring the office to provide annual
4607 reports on the impact of certain rate regulations; specifying
4608 report requirements; amending s. 627.0628, F.S.; prohibiting
4609 certain office or consumer advocate questions of certain models
4610 reviewed by the commission; amending s. 627.0645, F.S.;
4611 authorizing the office to exempt certain companies from certain
4612 rate filing and rate certification requirements; amending s.
4613 627.06281, F.S.; prohibiting the office from using certain
4614 hurricane loss projection models under certain circumstances;
4615 amending s. 627.351, F.S., relating to the Citizens Property
4616 Insurance Corporation; providing additional legislative intent;
4617 specifying application to homestead property; providing that
4618 certain responsibilities of the Office of Insurance Regulation
4619 with respect to the plan of operation of Citizens Property

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4620 Insurance Corporation be assumed by the Financial Services
4621 Commission; specifying the existing three separate accounts of
4622 the corporation as providing coverage only for homestead
4623 property; providing a definition; providing for an additional
4624 separate account for nonhomestead property; requiring separate
4625 maintenance of revenues, assets, liabilities, losses, and
4626 expenses attributable to the nonhomestead account; providing
4627 authority and requirements for coverage rates for nonhomestead
4628 properties; providing for office review of such rates or rating
4629 plans for being inadequate or unfairly discriminatory;
4630 authorizing the office to order discontinuance of certain
4631 policies under certain circumstances; requiring insurers to
4632 maintain certain records; providing for reducing regular
4633 assessments by the Citizen policyholder surcharge under certain
4634 circumstances; providing for deficit assessments against
4635 nonhomestead account policyholders under certain circumstances;
4636 authorizing the board of governors of the corporation to make
4637 loans from the homestead accounts to the nonhomestead account
4638 under certain circumstances; specifying ineligibility of certain
4639 nonhomestead account policyholders for certain coverage under
4640 certain circumstances; revising the requirements of the plan of
4641 operation of the corporation; requiring additional procedures
4642 for determining eligibility of a risk for coverage; prescribing
4643 a 10-day waiting period for applications for coverage for a new
4644 policy; authorizing exceptions; providing for determination of
4645 regular assessments to which the Citizen policyholder surcharge
4646 applies; providing for optional payment plans; specifying a
4647 minimum requirement for a hurricane deductible for certain
4648 property; specifying contents of required statements in

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4649 applications for nonhomestead and homestead account coverage;
4650 requiring prospective senior management employees of the
4651 corporation to successfully pass a background check; requiring
4652 employees of the corporation to sign annually a statement that
4653 they have no conflict of interest; providing that senior
4654 managers and members of the board of governors are subject to
4655 the code of ethics and must file financial disclosure;
4656 prohibiting employees and members of the board of governors from
4657 accepting gifts or expenditures from a persons or entity, or
4658 employee thereof, which has or is under consideration for a
4659 contract with the corporation; providing penalties; providing a
4660 limitation on senior managers' representation of persons before
4661 the corporation after retirement or termination of employment
4662 and on employment with an insurer that has received a take-out
4663 bonus; prescribing guidelines for purchases of goods and
4664 services; providing guidelines on use of outside counsel;
4665 prohibiting the corporation from retaining a lobbyist;
4666 authorizing full-time employees to register and engage in
4667 lobbying; creating the Office of Internal Auditor and
4668 prescribing its duties; providing record-retention requirements;
4669 requiring establishment of a unit or division to investigate
4670 claims involving possible fraud against the corporation and
4671 another to receive and respond to consumer complaints; requiring
4672 a periodic comprehensive market conduct examination of the
4673 corporation; requiring periodic operational audits of the
4674 corporation by the Auditor General; prescribing elements to be
4675 included in such audits; requiring the corporation to limit
4676 coverage on certain mobile homes or manufactured homes;
4677 providing additional legislative intent relating to rate

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4678 adequacy in the residual market; revising provisions relating to
4679 a pilot program in Monroe County; deleting provisions relating
4680 to a rate methodology panel appointed by the corporation;
4681 providing requirements and limitations for a corporation adopted
4682 bonus payment program; specifying absence of liability of
4683 producing agents of record of the corporation and employees for
4684 a take-out insurer's insolvency; deleting provisions for
4685 immunity for certain persons and entities; providing a criterion
4686 for calculating reduction or increase in probable maximum loss;
4687 providing bankruptcy petition limitations; delaying application
4688 of certain high-risk area boundary reduction provisions;
4689 providing for application of provisions relating to homestead
4690 and nonhomestead accounts to certain policies; requiring certain
4691 corporation employees to comply with certain ethics code
4692 requirements; requiring corporation employees to notify the
4693 Division of Insurance Fraud of probable commissions of fraud by
4694 corporation employees; requiring the corporation to report on
4695 the feasibility of requiring authorized insurers to issue and
4696 service specified policies of the corporation; specifying report
4697 requirements; providing immunity to producing agents and
4698 employees for specified actions taken relating to removal of
4699 policies from the corporation; providing a limitation; providing
4700 legislative intent; creating a High Risk Eligibility Panel;
4701 providing for appointment of panel members and member's terms;
4702 providing for administration of the panel by the corporation;
4703 prohibiting compensation and per diem and travel expenses;
4704 providing an exception; requiring the panel to report annually
4705 to the Legislature on the certain areas that should be included
4706 in the Citizens Property Insurance Corporation high risk

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4707 account; specifying factors to be considered by the panel;
4708 providing duties of the office; authorizing the office to
4709 conduct public hearings; requiring the panel to conduct an
4710 analysis of property eligible for the high-risk account in
4711 specified areas; requiring the panel to submit a report to the
4712 office and corporation; providing requirements of the report;
4713 amending s. 627.3517, F.S.; providing that an insurance risk
4714 apportionment plan policyholder's right to retain his or her
4715 current agent does not apply during the first 10 days after a
4716 new application for coverage has been submitted to Citizens
4717 Property Insurance Corporation; creating s. 627.3519, F.S.;
4718 requiring the Financial Services Commission to report annually
4719 to the Legislature on probable maximum losses, financing
4720 options, and assessment potentials of the Florida Hurricane
4721 Catastrophe Fund and Citizens Property Insurance Corporation;
4722 amending s. 627.4035, F.S.; providing for a waiver of a written
4723 authorization requirement to pay claims by debit card or other
4724 electronic transfer; amending s. 627.701, F.S.; providing
4725 additional authorization and requirements for hurricane
4726 deductibles for renewal periods; authorizing insurers to provide
4727 insureds with certain deductible selection options after
4728 hurricane mitigation measures are taken; providing a notice
4729 requirement; amending s. 627.7011, F.S.; limiting certain law
4730 and ordinance coverage; deleting application to personal
4731 property; requiring insurers to issue separate checks for
4732 certain expenses and requiring certain checks to be issued
4733 directly to a policyholder; providing construction relating to
4734 limiting the liability of an insurer for certain replacement
4735 costs; creating s. 627.7019, F.S.; requiring the Financial
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4736 Services Commission to adopt rules imposing standardized
4737 requirements applicable to insurers after certain natural
4738 events; providing criteria; providing requirements of the Office
4739 of Insurance Regulation; prohibiting certain conflicting
4740 emergency rules; amending s. 627.706, F.S.; providing a
4741 definition; amending s. 627.727, F.S.; correcting a cross-
4742 reference; amending s. 631.181, F.S.; providing an exception to
4743 certain requirements for a signed statement for certain claims;
4744 providing requirements; amending s. 631.54, F.S.; defining the
4745 term "homeowner's insurance"; amending s. 631.55, F.S.;
4746 correcting a cross-reference; amending s. 631.57, F.S.; revising
4747 requirements and limitations for obligations of the Florida
4748 Insurance Guaranty Association for covered claims; authorizing
4749 the association to contract with counties, municipalities, and
4750 legal entities to issue revenue bonds for certain purposes;
4751 authorizing the Office of Insurance Regulation to levy
4752 assessments and emergency assessments on insurers under certain
4753 circumstances for certain bond repayment purposes; providing
4754 requirements for and limitations on such assessments; providing
4755 for payment, collection, and distribution of such assessments;
4756 requiring insurers to include an analysis of revenues from such
4757 assessments in a required report; providing rate filing
4758 requirements for insurers relating to such assessments;
4759 providing for continuing annual assessments under certain
4760 circumstances; specifying emergency assessments as not premium
4761 and not subject to certain taxes, fees, or commissions;
4762 specifying insurer liability for emergency assessments;
4763 providing an exception; creating s. 631.695, F.S.; providing
4764 legislative findings and purposes; providing for issuance of
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4765 revenue bonds through counties and municipalities to fund
4766 assistance programs for paying covered claims for hurricane
4767 damage; providing procedures, requirements, and limitations for
4768 counties, municipalities, and the Florida Insurance Guaranty
4769 Association, Inc., relating to issuance and validation of such
4770 bonds; prohibiting pledging the funds, credit, property, and
4771 taxing power of the state, counties, and municipalities for
4772 payment of bonds; specifying authorized uses of bond proceeds;
4773 limiting the term of bonds; specifying a state covenant to
4774 protect bondholders from adverse actions relating to such bonds;
4775 specifying exemptions for bonds, notes, and other obligations of
4776 counties and municipalities from certain taxes or assessments on
4777 property and revenues; authorizing counties and municipalities
4778 to create a legal entity to exercise certain powers; requiring
4779 the association to issue an annual report on the status of
4780 certain uses of bond proceeds; providing report requirements;
4781 requiring the association to provide a copy of the report to the
4782 Legislature and Chief Financial Officer; prohibiting repeal of
4783 certain provisions relating to certain bonds under certain
4784 circumstances; amending s. 817.234, F.S.; providing an
4785 additional circumstance that constitutes committing insurance
4786 fraud; creating the Task Force on Hurricane Mitigation and
4787 Hurricane Insurance for Mobile and Manufactured Homes; providing
4788 for administration by the office; specifying additional agency
4789 administrative staff; providing for appointment of task force
4790 members; requiring members to serve without compensation;
4791 providing for per diem and travel expenses; providing purpose
4792 and intent; requiring the task force to address specified
4793 issues; requiring a report to the Governor, Chief Financial
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4794 Officer, and Legislature; providing for expiration of the task
4795 force; requiring the Office of Insurance Regulation to submit
4796 reports to the Legislature relating to the insurability of
4797 certain attached or free standing structures ; providing report
4798 requirements; providing duties of the office; providing
4799 appropriations; specifying uses and purposes of appropriations;
4800 providing effective dates.