

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.

1 Representative(s) Taylor offered the following:

2
3 **Substitute Amendment for Amendment (074037) (with title**
4 **amendment)**

5 Remove everything after the enacting clause, and insert:

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

8 215.555 Florida Hurricane Insurance ~~Catastrophe~~ Fund.--

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

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

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

26 (c) Mortgages require reliable property insurance, and the
27 unavailability of reliable property insurance would therefore
28 make most real estate transactions impossible. In addition, the
29 public health, safety, and welfare demand that structures
30 damaged or destroyed in a catastrophe be repaired or
31 reconstructed as soon as possible. Therefore, the inability of
32 the private sector insurance and reinsurance markets to maintain
33 sufficient capacity to enable residents of this state to obtain
34 property insurance coverage in the private sector endangers the
35 economy of the state and endangers the public health, safety,
36 and welfare. Accordingly, state action to correct for this
37 inability of the private sector constitutes a valid and
38 necessary public and governmental purpose.

39 (d) The insolvencies and financial impairments resulting
40 from Hurricane Andrew and the 2004 and 2005 hurricane seasons
41 demonstrate that many property insurers are unable or unwilling
42 to maintain reserves, surplus, and reinsurance sufficient to
43 enable the insurers to pay all claims in full in the event of a
44 catastrophe. State action is therefore necessary to protect the
45 public from an insurer's unwillingness or inability to maintain
46 sufficient reserves, surplus, and reinsurance.

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47 (e) A state program to provide a stable and ongoing source
48 of coverage reimbursement to insurers for a substantial portion
49 of ~~their catastrophic~~ hurricane losses for citizens of this
50 state will create additional insurance capacity sufficient to
51 ameliorate the current dangers to the state's economy and to the
52 public health, safety, and welfare.

53 (f) It is essential to the functioning of a state program
54 to increase insurance capacity that revenues received be exempt
55 from federal taxation. It is therefore the intent of the
56 Legislature that this program be structured as a state trust
57 fund under the direction and control of the State Board of
58 Administration and operate exclusively for the purpose of
59 protecting and advancing the state's interest in maintaining
60 insurance capacity in this state.

61 (g) Hurricane Andrew, which caused insured and uninsured
62 losses in excess of \$20 billion, and the 2004 hurricane season,
63 which caused insured losses in excess of \$42 billion, will
64 likely not be the last major windstorm to strike Florida.
65 Recognizing that a future wind catastrophe could cause damages
66 in excess of \$60 billion, especially if a major urban area or
67 series of urban areas were hit, it is the intent of the
68 Legislature to balance equitably its concerns about mitigation
69 of hurricane impact, insurance affordability and availability,
70 and the risk of insurer and joint underwriting association
71 insolvency, as well as assessment and bonding limitations.

72 (h) Wind-storm coverage provided by Citizens Property
73 Insurance Corporation has proven to be ineffective for
74 homeowners in Florida. Following the 2004 and 2005 hurricane
75 seasons, Citizens Property Insurance Corporation has levied

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76 assessments that have caused enormous financial constraints to
77 all homeowners in Florida.

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

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

84 (b)~~(a)~~ "Actuarially indicated" means, with respect to
85 premiums paid to ~~by~~ insurers for reimbursement provided by the
86 fund, an amount determined according to principles of actuarial
87 science to be adequate, but not excessive, in the aggregate, to
88 pay current and future obligations and expenses of the fund,
89 including additional amounts if needed to pay debt service on
90 revenue bonds issued under this section and to provide required
91 debt service coverage in excess of the amounts required to pay
92 actual debt service on revenue bonds issued under subsection
93 (6), and determined according to principles of actuarial science
94 to reflect each insurer's relative exposure to hurricane losses.

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

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

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

103 (f)~~(e)~~ "Covered policy" means any hurricane insurance
104 policy covering residential property in this state, including,
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105 | but not limited to, any homeowner's, mobile home owner's, farm
106 | owner's, condominium association, condominium unit owner's,
107 | tenant's, or apartment building policy, or any other policy
108 | covering a residential structure or its contents issued by any
109 | authorized insurer, including the Citizens Property Insurance
110 | Corporation and any joint underwriting association or similar
111 | entity created pursuant to law. The term "covered policy"
112 | includes any collateral protection insurance policy covering
113 | personal residences which protects both the borrower's and the
114 | lender's financial interests, in an amount at least equal to the
115 | coverage for the dwelling in place under the lapsed homeowner's
116 | policy, if such policy can be accurately reported as required in
117 | subsection (5). Additionally, covered policies include policies
118 | covering the peril of wind removed from the Florida Residential
119 | Property and Casualty Joint Underwriting Association or from the
120 | Citizens Property Insurance Corporation, created pursuant to s.
121 | 627.351(6), or from the Florida Windstorm Underwriting
122 | Association, created pursuant to s. 627.351(2), by an authorized
123 | insurer under the terms and conditions of an executed assumption
124 | agreement between the authorized insurer and such association or
125 | Citizens Property Insurance Corporation. Each assumption
126 | agreement between the association and such authorized insurer or
127 | Citizens Property Insurance Corporation must be approved by the
128 | Office of Insurance Regulation prior to the effective date of
129 | the assumption, and the Office of Insurance Regulation must
130 | provide written notification to the board within 15 working days
131 | after such approval. "Covered policy" does not include any
132 | policy that excludes wind coverage or hurricane coverage or any
133 | reinsurance agreement and does not include any policy otherwise
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134 meeting this definition which is issued by a surplus lines
135 insurer or a reinsurer. All commercial residential excess
136 policies and all deductible buy-back policies that, based on
137 sound actuarial principles, require individual ratemaking shall
138 be excluded by rule if the actuarial soundness of the fund is
139 not jeopardized. For this purpose, the term "excess policy"
140 means a policy that provides insurance protection for large
141 commercial property risks and that provides a layer of coverage
142 above a primary layer insured by another insurer.

143 (g)~~(h)~~ "Debt service" means the amount required in any
144 fiscal year to pay the principal of, redemption premium, if any,
145 and interest on revenue bonds and any amounts required by the
146 terms of documents authorizing, securing, or providing liquidity
147 for revenue bonds necessary to maintain in effect any such
148 liquidity or security arrangements.

149 (h)~~(i)~~ "Debt service coverage" means the amount, if any,
150 required by the documents under which revenue bonds are issued,
151 which amount is to be received in any fiscal year in excess of
152 the amount required to pay debt service for such fiscal year.

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

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

159 (k)~~(d)~~ "Losses" means direct incurred losses under covered
160 policies, which shall include losses for additional living
161 expenses not to exceed 40 percent of the insured value of a
162 residential structure or its contents and shall exclude loss
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163 adjustment expenses. "Losses" does not include losses for fair
164 rental value, loss of use, or business interruption losses.

165 ~~(1)(k)~~ "Pledged revenues" means all or any portion of
166 revenues to be derived from reimbursement premiums under
167 subsection (5) or from emergency assessments under paragraph
168 (6)(b), as determined by the board.

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

172 ~~1. The board shall calculate and report to each insurer~~
173 ~~the retention multiples for that year. For the contract year~~
174 ~~beginning June 1, 2005, the retention multiple shall be equal to~~
175 ~~\$4.5 billion divided by the total estimated reimbursement~~
176 ~~premium for the contract year; for subsequent years, the~~
177 ~~retention multiple shall be equal to \$4.5 billion, adjusted~~
178 ~~based upon the reported exposure from the prior contract year to~~
179 ~~reflect the percentage growth in exposure to the fund for~~
180 ~~covered policies since 2004, divided by the total estimated~~
181 ~~reimbursement premium for the contract year. Total reimbursement~~
182 ~~premium for purposes of the calculation under this subparagraph~~
183 ~~shall be estimated using the assumption that all insurers have~~
184 ~~selected the 90 percent coverage level.~~

185 ~~2. The retention multiple as determined under subparagraph~~
186 ~~1. shall be adjusted to reflect the coverage level elected by~~
187 ~~the insurer. For insurers electing the 90 percent coverage~~
188 ~~level, the adjusted retention multiple is 100 percent of the~~
189 ~~amount determined under subparagraph 1. For insurers electing~~
190 ~~the 75 percent coverage level, the retention multiple is 120~~
191 ~~percent of the amount determined under subparagraph 1. For~~

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192 ~~insurers electing the 45 percent coverage level, the adjusted~~
193 ~~retention multiple is 200 percent of the amount determined under~~
194 ~~subparagraph 1.~~

195 ~~3. An insurer shall determine its provisional retention by~~
196 ~~multiplying its provisional reimbursement premium by the~~
197 ~~applicable adjusted retention multiple and shall determine its~~
198 ~~actual retention by multiplying its actual reimbursement premium~~
199 ~~by the applicable adjusted retention multiple.~~

200 ~~4. For insurers who experience multiple covered events~~
201 ~~causing loss during the contract year, beginning June 1, 2005,~~
202 ~~each insurer's full retention shall be applied to each of the~~
203 ~~covered events causing the two largest losses for that insurer.~~
204 ~~For each other covered event resulting in losses, the insurer's~~
205 ~~retention shall be reduced to one third of the full retention.~~
206 ~~The reimbursement contract shall provide for the reimbursement~~
207 ~~of losses for each covered event based on the full retention~~
208 ~~with adjustments made to reflect the reduced retentions after~~
209 ~~January 1 of the contract year provided the insurer reports its~~
210 ~~losses as specified in the reimbursement contract.~~

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

213 (3) FLORIDA HURRICANE INSURANCE CATASTROPHE FUND
214 CREATED.--There is created the Florida Hurricane Insurance
215 Catastrophe Fund to be administered by the State Board of
216 Administration. Moneys in the fund may not be expended, loaned,
217 or appropriated except to pay obligations of the fund arising
218 out of reimbursement contracts entered into under subsection
219 (4), payment of debt service on revenue bonds issued under
220 subsection (6), costs of the mitigation program under subsection

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221 (7), costs of procuring reinsurance, and costs of administration
222 of the fund. The board shall invest the moneys in the fund
223 pursuant to ss. 215.44-215.52. Except as otherwise provided in
224 this section, earnings from all investments shall be retained in
225 the fund. The board may employ or contract with such staff and
226 professionals as the board deems necessary for the
227 administration of the fund. The board may adopt such rules as
228 are reasonable and necessary to implement this section and shall
229 specify interest due on any delinquent remittances, which
230 interest may not exceed the fund's rate of return plus 5
231 percent. Such rules must conform to the Legislature's specific
232 intent in establishing the fund as expressed in subsection (1),
233 must enhance the fund's potential ability to respond to claims
234 for covered events, must contain general provisions so that the
235 rules can be applied with reasonable flexibility so as to
236 accommodate insurers in situations of an unusual nature or where
237 undue hardship may result, except that such flexibility may not
238 in any way impair, override, supersede, or constrain the public
239 purpose of the fund, and must be consistent with sound insurance
240 practices. The board may, by rule, provide for the exemption
241 from subsections (4) and (5) of insurers writing covered
242 policies with less than \$10 million in aggregate exposure for
243 covered policies if the exemption does not affect the actuarial
244 soundness of the fund.

245 (4) REIMBURSEMENT CONTRACTS.--

246 (a) The board shall enter into a contract with each
247 insurer writing hurricane-covered ~~covered~~ policies in this state
248 to provide to the insurer the reimbursement described in
249 paragraphs (b) and (d), in exchange for the reimbursement

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250 premium paid into the fund under subsection (5). As a condition
251 of doing business in this state, each such insurer shall enter
252 into such a contract.

253 (b)1. The contract shall contain a promise by the board to
254 reimburse the insurer for losses as provided in this paragraph
255 as a result of a covered event ~~45 percent, 75 percent, or 90~~
256 ~~percent of its losses from each covered event in excess of the~~
257 ~~insurer's retention, plus 5 percent of the reimbursed losses to~~
258 ~~cover loss adjustment expenses.~~

259 2. The insurer shall provide hurricane coverage for any
260 policyholder selecting this coverage. The insurer shall collect
261 premiums from policyholders as determined by the state and remit
262 premium collections to the state to be deposited in the Florida
263 Hurricane Insurance Fund ~~must elect one of the percentage~~
264 ~~coverage levels specified in this paragraph and may, upon~~
265 ~~renewal of a reimbursement contract, elect a lower percentage~~
266 ~~coverage level if no revenue bonds issued under subsection (6)~~
267 ~~after a covered event are outstanding, or elect a higher~~
268 ~~percentage coverage level, regardless of whether or not revenue~~
269 ~~bonds are outstanding. All members of an insurer group must~~
270 ~~elect the same percentage coverage level. Any joint underwriting~~
271 ~~association, risk apportionment plan, or other entity created~~
272 ~~under s. 627.351 must elect the 90 percent coverage level.~~

273 3. The contract shall provide that reimbursement coverage
274 for any hurricane loss must be paid to the insurer. A
275 policyholder shall submit all claims to the insurer for payment
276 for all related losses.

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277 4. A policyholder shall pay hurricane peril premiums to
278 the insurer, and the insurer shall remit collected premiums to
279 the state.

280 5. An insurer shall contract with the state to provide
281 hurricane peril coverage to policyholders and provide coverage
282 directly to policyholders for losses as a result of a covered
283 event. The state shall reimburse the insurer from the Florida
284 Hurricane Insurance Fund for all reimbursements made by the
285 insurer to policyholders as a result of a covered event.

286 6. Premiums paid by a policyholder must provide, through
287 the fund, a maximum coverage of \$100,000.

288 7. A policyholder may select hurricane deductibles of 1,
289 2, 5, or 10 percent.

290 8. An insurer may choose to provide additional coverage
291 beyond the fund's coverage of \$100,000 for its policyholders.

292 9. An insurer shall provide claims adjustment and
293 reimbursement for losses directly to its policyholders. Once
294 reimbursement amounts have been determined for policyholders, an
295 insurer shall submit a request for reimbursement through the
296 fund for payments made to policyholders for hurricane loss.
297 Insurers will be reimbursed for 90 percent of adjusted hurricane
298 losses sustained by policyholders.

299 10. The \$100,000 maximum coverage shall be adjusted every
300 3 years based on the home rate index.

301 11. Discounted premiums shall be provided by the fund for
302 an insurer who encourages its policyholders to engage in loss
303 mitigation following damage to or loss of property amounts shall
304 ~~not be reduced by reinsurance paid or payable to the insurer~~
305 ~~from other sources.~~

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306 ~~(c)1. The contract shall also provide that the obligation~~
307 ~~of the board with respect to all contracts covering a particular~~
308 ~~contract year shall not exceed the actual claims paying capacity~~
309 ~~of the fund up to a limit of \$15 billion for that contract year~~
310 ~~adjusted based upon the reported exposure from the prior~~
311 ~~contract year to reflect the percentage growth in exposure to~~
312 ~~the fund for covered policies since 2003, provided the dollar~~
313 ~~growth in the limit may not increase in any year by an amount~~
314 ~~greater than the dollar growth of the cash balance which~~
315 ~~occurred over the prior calendar year.~~

316 ~~2. In May before the start of the upcoming contract year~~
317 ~~and in October during the contract year, the board shall publish~~
318 ~~in the Florida Administrative Weekly a statement of the fund's~~
319 ~~estimated borrowing capacity and the projected balance of the~~
320 ~~fund as of December 31. After the end of each calendar year, the~~
321 ~~board shall notify insurers of the estimated borrowing capacity~~
322 ~~and the balance of the fund as of December 31 to provide~~
323 ~~insurers with data necessary to assist them in determining their~~
324 ~~actuarially sound premiums retention and projected payout from~~
325 ~~the fund for loss reimbursement purposes. In conjunction with~~
326 ~~the development of the premium formula, as provided for in~~
327 ~~subsection (5), the board shall publish factors or multiples~~
328 ~~that assist insurers in determining their retention and~~
329 ~~projected payout for the next contract year. For all regulatory~~
330 ~~and reinsurance purposes, an insurer may calculate its projected~~
331 ~~payout from the fund as its share of the total fund premium for~~
332 ~~the current contract year multiplied by the sum of the projected~~
333 ~~balance of the fund as of December 31 and the estimated~~

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334 ~~borrowing capacity for that contract year as reported under this~~
335 ~~subparagraph.~~

336 (d)1. For purposes of determining potential liability and
337 to aid in the sound administration of the fund, the contract
338 shall require each insurer to report such insurer's losses from
339 each covered event on an interim basis, as directed by the
340 board. The contract shall require the insurer to report to the
341 board no later than December 31 of each year, and quarterly
342 thereafter, its reimbursable losses from covered events for the
343 year. ~~The contract shall require the board to determine and pay,~~
344 ~~as soon as practicable after receiving these reports of~~
345 ~~reimbursable losses, the initial amount of reimbursement due and~~
346 ~~adjustments to this amount based on later loss information. The~~
347 ~~adjustments to reimbursement amounts shall require the board to~~
348 ~~pay, or the insurer to return, amounts reflecting the most~~
349 ~~recent calculation of losses.~~

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

352 a. ~~First~~ reimburse insurers within 90 days after reporting
353 policyholder-paid losses as a result of a covered event ~~writing~~
354 ~~covered policies, which insurers are in full compliance with~~
355 ~~this section and have petitioned the Office of Insurance~~
356 ~~Regulation and qualified as limited apportionment companies~~
357 ~~under s. 627.351(2)(b)3. The amount of such reimbursement shall~~
358 ~~be the lesser of \$10 million or an amount equal to 10 times the~~
359 ~~insurer's reimbursement premium for the current year. The amount~~
360 ~~of reimbursement paid under this sub-subparagraph may not exceed~~
361 ~~the full amount of reimbursement promised in the reimbursement~~
362 ~~contract. This sub-subparagraph does not apply with respect to~~
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363 ~~any contract year in which the year end projected cash balance~~
364 ~~of the fund, exclusive of any bonding capacity of the fund,~~
365 ~~exceeds \$2 billion. Only one member of any insurer group may~~
366 ~~receive reimbursement under this sub-subparagraph.~~

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

374 ~~e. Thereafter, establish the prorated reimbursement level~~
375 ~~at the highest level for which any remaining fund balance or~~
376 ~~bond proceeds are sufficient to reimburse entities created~~
377 ~~pursuant to s. 627.351 based on reimbursable losses exceeding~~
378 ~~the amounts payable pursuant to sub-subparagraph b. for the~~
379 ~~current contract year.~~

380 ~~(c)1. Except as provided in subparagraphs 2. and 3., the~~
381 ~~contract shall provide that if an insurer demonstrates to the~~
382 ~~board that it is likely to qualify for reimbursement under the~~
383 ~~contract, and demonstrates to the board that the immediate~~
384 ~~receipt of moneys from the board is likely to prevent the~~
385 ~~insurer from becoming insolvent, the board shall advance the~~
386 ~~insurer, at market interest rates, the amounts necessary to~~
387 ~~maintain the solvency of the insurer, up to 50 percent of the~~
388 ~~board's estimate of the reimbursement due the insurer. The~~
389 ~~insurer's reimbursement shall be reduced by an amount equal to~~
390 ~~the amount of the advance and interest thereon.~~

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391 ~~2. With respect only to an entity created under s.~~
392 ~~627.351, the contract shall also provide that the board may,~~
393 ~~upon application by such entity, advance to such entity, at~~
394 ~~market interest rates, up to 90 percent of the lesser of:~~

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

397 ~~b. The entity's share of the actual reimbursement premium~~
398 ~~paid for that contract year, multiplied by the currently~~
399 ~~available liquid assets of the fund. In order for the entity to~~
400 ~~qualify for an advance under this subparagraph, the entity must~~
401 ~~demonstrate to the board that the advance is essential to allow~~
402 ~~the entity to pay claims for a covered event and the board must~~
403 ~~determine that the fund's assets are sufficient and are~~
404 ~~sufficiently liquid to allow the board to make an advance to the~~
405 ~~entity and still fulfill the board's reimbursement obligations~~
406 ~~to other insurers. The entity's final reimbursement for any~~
407 ~~contract year in which an advance has been made under this~~
408 ~~subparagraph must be reduced by an amount equal to the amount of~~
409 ~~the advance and any interest on such advance. In order to~~
410 ~~determine what amounts, if any, are due the entity, the board~~
411 ~~may require the entity to report its exposure and its losses at~~
412 ~~any time to determine retention levels and reimbursements~~
413 ~~payable.~~

414 ~~3. The contract shall also provide specifically and solely~~
415 ~~with respect to any limited apportionment company under s.~~
416 ~~627.351(2)(b)3. that the board may, upon application by such~~
417 ~~company, advance to such company the amount of the estimated~~
418 ~~reimbursement payable to such company as calculated pursuant to~~
419 ~~paragraph (d), at market interest rates, if the board determines~~

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420 ~~that the fund's assets are sufficient and are sufficiently~~
421 ~~liquid to permit the board to make an advance to such company~~
422 ~~and at the same time fulfill its reimbursement obligations to~~
423 ~~the insurers that are participants in the fund. Such company's~~
424 ~~final reimbursement for any contract year in which an advance~~
425 ~~pursuant to this subparagraph has been made shall be reduced by~~
426 ~~an amount equal to the amount of the advance and interest~~
427 ~~thereon. In order to determine what amounts, if any, are due to~~
428 ~~such company, the board may require such company to report its~~
429 ~~exposure and its losses at such times as may be required to~~
430 ~~determine retention levels and loss reimbursements payable.~~

431 (e) ~~(f)~~ In order to ensure that insurers have properly
432 reported the insured values on which the reimbursement premium
433 is based and to ensure that insurers have properly reported the
434 losses for which reimbursements have been made, the board shall
435 inspect, examine, and verify the records of each insurer's
436 covered policies at such times as the board deems appropriate
437 and according to standards established by rule for the specific
438 purpose of validating the accuracy of exposures and losses
439 required to be reported under the terms and conditions of the
440 reimbursement contract. The costs of the examinations shall be
441 borne by the board. However, in order to remove any incentive
442 for an insurer to delay preparations for an examination, the
443 board shall be reimbursed by the insurer for any examination
444 expenses incurred in addition to the usual and customary costs
445 of the examination, which additional expenses were incurred as a
446 result of an insurer's failure, despite proper notice, to be
447 prepared for the examination or as a result of an insurer's
448 failure to provide requested information while the examination

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449 is in progress. If the board finds any insurer's records or
450 other necessary information to be inadequate or inadequately
451 posted, recorded, or maintained, the board may employ experts to
452 reconstruct, rewrite, record, post, or maintain such records or
453 information, at the expense of the insurer being examined, if
454 such insurer has failed to maintain, complete, or correct such
455 records or deficiencies after the board has given the insurer
456 notice and a reasonable opportunity to do so. Any information
457 contained in an examination report, which information is
458 described in s. 215.557, is confidential and exempt from the
459 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
460 Constitution, as provided in s. 215.557. Nothing in this
461 paragraph expands the exemption in s. 215.557.

462 (f)~~(g)~~ The contract shall provide that in the event of the
463 insolvency of an insurer, the fund shall pay directly to the
464 Florida Insurance Guaranty Association for the benefit of
465 Florida policyholders of the insurer the net amount of all
466 reimbursement moneys owed to the insurer. As used in this
467 paragraph, the term "net amount of all reimbursement moneys"
468 means that amount which remains after reimbursement for:

469 1. Preliminary or duplicate payments owed to private
470 reinsurers or other inuring reinsurance payments to private
471 reinsurers that satisfy statutory or contractual obligations of
472 the insolvent insurer attributable to covered events to such
473 reinsurers; or

474 2. Funds owed to a bank or other financial institution to
475 cover obligations of the insolvent insurer under a credit
476 agreement that assists the insolvent insurer in paying claims
477 attributable to covered events.

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479 The private reinsurers, banks, or other financial institutions
480 shall be reimbursed or otherwise paid prior to payment to the
481 Florida Insurance Guaranty Association, notwithstanding any law
482 to the contrary. The guaranty association shall pay all claims
483 up to the maximum amount permitted by chapter 631; thereafter,
484 any remaining moneys shall be paid pro rata to claims not fully
485 satisfied. This paragraph does not apply to a joint underwriting
486 association, risk apportionment plan, or other entity created
487 under s. 627.351.

488 (5) REIMBURSEMENT PREMIUMS.--

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

492 (b) The State Board of Administration shall select an
493 independent consultant to develop a formula for determining the
494 actuarially indicated premium to be paid to the fund. The
495 formula shall specify, for each zip code or other limited
496 geographical area, the amount of premium to be paid by an
497 insurer ~~for each \$1,000 of insured value under covered policies~~
498 ~~in that zip code or other area~~. In establishing premiums, the
499 board shall consider ~~the coverage elected under paragraph (4)(b)~~
500 ~~and~~ any factors that tend to enhance the actuarial
501 sophistication of ratemaking for the fund, including
502 deductibles, type of construction, type of coverage provided,
503 relative concentration of risks, loss mitigation efforts, a
504 factor providing for more rapid cash buildup in the fund until
505 the fund capacity for a single hurricane season is fully funded,
506 and other such factors deemed by the board to be appropriate.

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507 ~~The formula may provide for a procedure to determine the~~
508 ~~premiums to be paid by new insurers that begin writing covered~~
509 ~~policies after the beginning of a contract year, taking into~~
510 ~~consideration when the insurer starts writing covered policies,~~
511 ~~the potential exposure of the insurer, the potential exposure of~~
512 ~~the fund, the administrative costs to the insurer and to the~~
513 ~~fund, and any other factors deemed appropriate by the board. The~~
514 ~~formula must be approved by unanimous vote of the board. The~~
515 ~~board may, at any time, revise the formula pursuant to the~~
516 ~~procedure provided in this paragraph.~~

517 (c) No later than September 1 of each year, each insurer
518 shall notify the board of its insured values under covered
519 policies by zip code, as of June 30 of that year. On the basis
520 of these reports, the board shall calculate the premium due from
521 the insurer, based on the formula adopted under paragraph (b).
522 ~~The insurer shall pay the required annual premium pursuant to a~~
523 ~~periodic payment plan specified in the contract. The board shall~~
524 ~~provide for payment of reimbursement premium in periodic~~
525 ~~installments and for the adjustment of provisional premium~~
526 ~~installments collected prior to submission of the exposure~~
527 ~~report to reflect data in the exposure report. The board shall~~
528 ~~collect interest on late reimbursement premium payments~~
529 ~~consistent with the assumptions made in developing the premium~~
530 ~~formula in accordance with paragraph (b).~~

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

534 (6) REVENUE BONDS.--

535 (a) General provisions.--

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536 1. Upon the occurrence of a hurricane and a determination
537 that the moneys in the fund are or will be insufficient to pay
538 reimbursement at the levels promised in the reimbursement
539 contracts, the board may take the necessary steps under
540 paragraph (c) or paragraph (d) for the issuance of revenue bonds
541 for the benefit of the fund. The proceeds of such revenue bonds
542 may be used to make reimbursement payments under reimbursement
543 contracts; to refinance or replace previously existing
544 borrowings or financial arrangements; to pay interest on bonds;
545 to fund reserves for the bonds; to pay expenses incident to the
546 issuance or sale of any bond issued under this section,
547 including costs of validating, printing, and delivering the
548 bonds, costs of printing the official statement, costs of
549 publishing notices of sale of the bonds, and related
550 administrative expenses; or for such other purposes related to
551 the financial obligations of the fund as the board may
552 determine. The term of the bonds may not exceed 30 years. The
553 board may pledge or authorize the corporation to pledge all or a
554 portion of all revenues under subsection (5) and under paragraph
555 (b) to secure such revenue bonds and the board may execute such
556 agreements between the board and the issuer of any revenue bonds
557 and providers of other financing arrangements under paragraph
558 (7) (b) as the board deems necessary to evidence, secure,
559 preserve, and protect such pledge. If reimbursement premiums
560 received under subsection (5) or earnings on such premiums are
561 used to pay debt service on revenue bonds, such premiums and
562 earnings shall be used only after the use of the moneys derived
563 from assessments under paragraph (b). The funds, credit,
564 property, or taxing power of the state or political subdivisions

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565 of the state shall not be pledged for the payment of such bonds.
566 The board may also enter into agreements under paragraph (c) or
567 paragraph (d) for the purpose of issuing revenue bonds in the
568 absence of a hurricane upon a determination that such action
569 would maximize the ability of the fund to meet future
570 obligations.

571 2. The Legislature finds and declares that the issuance of
572 bonds under this subsection is for the public purpose of paying
573 the proceeds of the bonds to insurers, thereby enabling insurers
574 to pay the claims of policyholders to assure that policyholders
575 are able to pay the cost of construction, reconstruction,
576 repair, restoration, and other costs associated with damage to
577 property of policyholders of covered policies after the
578 occurrence of a hurricane. Revenue bonds may not be issued under
579 this subsection until validated under chapter 75. The validation
580 of at least the first obligations incurred pursuant to this
581 subsection shall be appealed to the Supreme Court, to be handled
582 on an expedited basis.

583 (b) Emergency assessments.--

584 1. If the board determines that the amount of revenue
585 produced under subsection (5) is insufficient to fund the
586 obligations, costs, and expenses of the fund and the
587 corporation, including repayment of revenue bonds and that
588 portion of the debt service coverage not met by reimbursement
589 premiums, the board shall direct the Office of Insurance
590 Regulation to levy, by order, an emergency assessment on direct
591 premiums for all property and casualty lines of business in this
592 state, including property and casualty business of surplus lines
593 insurers regulated under part VIII of chapter 626, but not

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594 including any workers' compensation premiums or medical
595 malpractice premiums. As used in this subsection, the term
596 "property and casualty business" includes all lines of business
597 identified on Form 2, Exhibit of Premiums and Losses, in the
598 annual statement required of authorized insurers by s. 624.424
599 and any rule adopted under this section, except for those lines
600 identified as accident and health insurance and except for
601 policies written under the National Flood Insurance Program. The
602 assessment shall be specified as a percentage of future premium
603 collections and is subject to annual adjustments by the board to
604 reflect changes in premiums subject to assessments collected
605 under this subparagraph in order to meet debt obligations. The
606 same percentage shall apply to all policies in lines of business
607 subject to the assessment issued or renewed during the 12-month
608 period beginning on the effective date of the assessment.

609 2. A premium is not subject to an annual assessment under
610 this paragraph in excess of 6 percent of premium with respect to
611 obligations arising out of losses attributable to any one
612 contract year, and a premium is not subject to an aggregate
613 annual assessment under this paragraph in excess of 10 percent
614 of premium. An annual assessment under this paragraph shall
615 continue until the revenue bonds issued with respect to which
616 the assessment was imposed are outstanding, including any bonds
617 the proceeds of which were used to refund the revenue bonds,
618 unless adequate provision has been made for the payment of the
619 bonds under the documents authorizing issuance of the bonds.

620 3. With respect to each insurer collecting premiums that
621 are subject to the assessment, the insurer shall collect the
622 assessment at the same time as it collects the premium payment

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623 for each policy and shall remit the assessment collected to the
624 fund or corporation as provided in the order issued by the
625 Office of Insurance Regulation. The office shall verify the
626 accurate and timely collection and remittance of emergency
627 assessments and shall report the information to the board in a
628 form and at a time specified by the board. Each insurer
629 collecting assessments shall provide the information with
630 respect to premiums and collections as may be required by the
631 office to enable the office to monitor and verify compliance
632 with this paragraph.

633 4. With respect to assessments of surplus lines premiums,
634 each surplus lines agent shall collect the assessment at the
635 same time as the agent collects the surplus lines tax required
636 by s. 626.932, and the surplus lines agent shall remit the
637 assessment to the Florida Surplus Lines Service Office created
638 by s. 626.921 at the same time as the agent remits the surplus
639 lines tax to the Florida Surplus Lines Service Office. The
640 emergency assessment on each insured procuring coverage and
641 filing under s. 626.938 shall be remitted by the insured to the
642 Florida Surplus Lines Service Office at the time the insured
643 pays the surplus lines tax to the Florida Surplus Lines Service
644 Office. The Florida Surplus Lines Service Office shall remit the
645 collected assessments to the fund or corporation as provided in
646 the order levied by the Office of Insurance Regulation. The
647 Florida Surplus Lines Service Office shall verify the proper
648 application of such emergency assessments and shall assist the
649 board in ensuring the accurate and timely collection and
650 remittance of assessments as required by the board. The Florida
651 Surplus Lines Service Office shall annually calculate the

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652 aggregate written premium on property and casualty business,
653 other than workers' compensation and medical malpractice,
654 procured through surplus lines agents and insureds procuring
655 coverage and filing under s. 626.938 and shall report the
656 information to the board in a form and at a time specified by
657 the board.

658 5. Any assessment authority not used for a particular
659 contract year may be used for a subsequent contract year. If,
660 for a subsequent contract year, the board determines that the
661 amount of revenue produced under subsection (5) is insufficient
662 to fund the obligations, costs, and expenses of the fund and the
663 corporation, including repayment of revenue bonds and that
664 portion of the debt service coverage not met by reimbursement
665 premiums, the board shall direct the Office of Insurance
666 Regulation to levy an emergency assessment up to an amount not
667 exceeding the amount of unused assessment authority from a
668 previous contract year or years, plus an additional 4 percent
669 provided that the assessments in the aggregate do not exceed the
670 limits specified in subparagraph 2.

671 6. The assessments otherwise payable to the corporation
672 under this paragraph shall be paid to the fund unless and until
673 the Office of Insurance Regulation and the Florida Surplus Lines
674 Service Office have received from the corporation and the fund a
675 notice, which shall be conclusive and upon which they may rely
676 without further inquiry, that the corporation has issued bonds
677 and the fund has no agreements in effect with local governments
678 under paragraph (c). On or after the date of the notice and
679 until the date the corporation has no bonds outstanding, the
680 fund shall have no right, title, or interest in or to the

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681 assessments, except as provided in the fund's agreement with the
682 corporation.

683 7. Emergency assessments are not premium and are not
684 subject to the premium tax, to the surplus lines tax, to any
685 fees, or to any commissions. An insurer is liable for all
686 assessments that it collects and must treat the failure of an
687 insured to pay an assessment as a failure to pay the premium. An
688 insurer is not liable for uncollectible assessments.

689 8. When an insurer is required to return an unearned
690 premium, it shall also return any collected assessment
691 attributable to the unearned premium. A credit adjustment to the
692 collected assessment may be made by the insurer with regard to
693 future remittances that are payable to the fund or corporation,
694 but the insurer is not entitled to a refund.

695 9. When a surplus lines insured or an insured who has
696 procured coverage and filed under s. 626.938 is entitled to the
697 return of an unearned premium, the Florida Surplus Lines Service
698 Office shall provide a credit or refund to the agent or such
699 insured for the collected assessment attributable to the
700 unearned premium prior to remitting the emergency assessment
701 collected to the fund or corporation.

702 10. The exemption of medical malpractice insurance
703 premiums from emergency assessments under this paragraph is
704 repealed May 31, 2007, and medical malpractice insurance
705 premiums shall be subject to emergency assessments attributable
706 to loss events occurring in the contract years commencing on
707 June 1, 2007.

708 (c) Revenue bond issuance through counties or
709 municipalities.--

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710 1. If the board elects to enter into agreements with local
711 governments for the issuance of revenue bonds for the benefit of
712 the fund, the board shall enter into such contracts with one or
713 more local governments, including agreements providing for the
714 pledge of revenues, as are necessary to effect such issuance.
715 The governing body of a county or municipality is authorized to
716 issue bonds as defined in s. 125.013 or s. 166.101 from time to
717 time to fund an assistance program, in conjunction with the
718 Florida Hurricane Insurance ~~Catastrophe~~ Fund, for the purposes
719 set forth in this section or for the purpose of paying the costs
720 of construction, reconstruction, repair, restoration, and other
721 costs associated with damage to properties of policyholders of
722 covered policies due to the occurrence of a hurricane by
723 assuring that policyholders located in this state are able to
724 recover claims under property insurance policies after a covered
725 event.

726 2. In order to avoid needless and indiscriminate
727 proliferation, duplication, and fragmentation of such assistance
728 programs, any local government may provide for the payment of
729 fund reimbursements, regardless of whether or not the losses for
730 which reimbursement is made occurred within or outside of the
731 territorial jurisdiction of the local government.

732 3. The state hereby covenants with holders of bonds issued
733 under this paragraph that the state will not repeal or abrogate
734 the power of the board to direct the Office of Insurance
735 Regulation to levy the assessments and to collect the proceeds
736 of the revenues pledged to the payment of such bonds as long as
737 any such bonds remain outstanding unless adequate provision has

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738 | been made for the payment of such bonds pursuant to the
739 | documents authorizing the issuance of such bonds.

740 | 4. There shall be no liability on the part of, and no
741 | cause of action shall arise against any members or employees of
742 | the governing body of a local government for any actions taken
743 | by them in the performance of their duties under this paragraph.

744 | (d) Florida Hurricane Insurance ~~Catastrophe~~ Fund Finance
745 | Corporation.--

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

748 | a. The public benefits corporation created under this
749 | paragraph will provide a mechanism necessary for the cost-
750 | effective and efficient issuance of bonds. This mechanism will
751 | eliminate unnecessary costs in the bond issuance process,
752 | thereby increasing the amounts available to pay reimbursement
753 | for losses to property sustained as a result of hurricane
754 | damage.

755 | b. The purpose of such bonds is to fund reimbursements
756 | through the Florida Hurricane Insurance ~~Catastrophe~~ Fund to pay
757 | for the costs of construction, reconstruction, repair,
758 | restoration, and other costs associated with damage to
759 | properties of policyholders of covered policies due to the
760 | occurrence of a hurricane.

761 | c. The efficacy of the financing mechanism will be
762 | enhanced by the corporation's ownership of the assessments, by
763 | the insulation of the assessments from possible bankruptcy
764 | proceedings, and by covenants of the state with the
765 | corporation's bondholders.

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766 2.a. There is created a public benefits corporation, which
767 is an instrumentality of the state, to be known as the Florida
768 Hurricane Insurance Catastrophe Fund Finance Corporation.

769 b. The corporation shall operate under a five-member board
770 of directors consisting of the Governor or a designee, the Chief
771 Financial Officer or a designee, the Attorney General or a
772 designee, the director of the Division of Bond Finance of the
773 State Board of Administration, and the senior employee of the
774 State Board of Administration responsible for operations of the
775 Florida Hurricane Insurance Catastrophe Fund.

776 c. The corporation has all of the powers of corporations
777 under chapter 607 and under chapter 617, subject only to the
778 provisions of this subsection.

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

782 e. The corporation may invest in any of the investments
783 authorized under s. 215.47.

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

788 3.a. In actions under chapter 75 to validate any bonds
789 issued by the corporation, the notice required by s. 75.06 shall
790 be published only in Leon County and in two newspapers of
791 general circulation in the state, and the complaint and order of
792 the court shall be served only on the State Attorney of the
793 Second Judicial Circuit.

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794 b. The state hereby covenants with holders of bonds of the
795 corporation that the state will not repeal or abrogate the power
796 of the board to direct the Office of Insurance Regulation to
797 levy the assessments and to collect the proceeds of the revenues
798 pledged to the payment of such bonds as long as any such bonds
799 remain outstanding unless adequate provision has been made for
800 the payment of such bonds pursuant to the documents authorizing
801 the issuance of such bonds.

802 4. The bonds of the corporation are not a debt of the
803 state or of any political subdivision, and neither the state nor
804 any political subdivision is liable on such bonds. The
805 corporation does not have the power to pledge the credit, the
806 revenues, or the taxing power of the state or of any political
807 subdivision. The credit, revenues, or taxing power of the state
808 or of any political subdivision shall not be deemed to be
809 pledged to the payment of any bonds of the corporation.

810 5.a. The property, revenues, and other assets of the
811 corporation; the transactions and operations of the corporation
812 and the income from such transactions and operations; and all
813 bonds issued under this paragraph and interest on such bonds are
814 exempt from taxation by the state and any political subdivision,
815 including the intangibles tax under chapter 199 and the income
816 tax under chapter 220. This exemption does not apply to any tax
817 imposed by chapter 220 on interest, income, or profits on debt
818 obligations owned by corporations other than the Florida
819 Hurricane Insurance Catastrophe Fund Finance Corporation.

820 b. All bonds of the corporation shall be and constitute
821 legal investments without limitation for all public bodies of
822 this state; for all banks, trust companies, savings banks,
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823 savings associations, savings and loan associations, and
824 investment companies; for all administrators, executors,
825 trustees, and other fiduciaries; for all insurance companies and
826 associations and other persons carrying on an insurance
827 business; and for all other persons who are now or may hereafter
828 be authorized to invest in bonds or other obligations of the
829 state and shall be and constitute eligible securities to be
830 deposited as collateral for the security of any state, county,
831 municipal, or other public funds. This sub-subparagraph shall be
832 considered as additional and supplemental authority and shall
833 not be limited without specific reference to this sub-
834 subparagraph.

835 6. The corporation and its corporate existence shall
836 continue until terminated by law; however, no such law shall
837 take effect as long as the corporation has bonds outstanding
838 unless adequate provision has been made for the payment of such
839 bonds pursuant to the documents authorizing the issuance of such
840 bonds. Upon termination of the existence of the corporation, all
841 of its rights and properties in excess of its obligations shall
842 pass to and be vested in the state.

843 (e) Protection of bondholders.--

844 1. As long as the corporation has any bonds outstanding,
845 neither the fund nor the corporation shall have the authority to
846 file a voluntary petition under chapter 9 of the federal
847 Bankruptcy Code or such corresponding chapter or sections as may
848 be in effect, from time to time, and neither any public officer
849 nor any organization, entity, or other person shall authorize
850 the fund or the corporation to be or become a debtor under
851 chapter 9 of the federal Bankruptcy Code or such corresponding

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852 chapter or sections as may be in effect, from time to time,
853 during any such period.

854 2. The state hereby covenants with holders of bonds of the
855 corporation that the state will not limit or alter the denial of
856 authority under this paragraph or the rights under this section
857 vested in the fund or the corporation to fulfill the terms of
858 any agreements made with such bondholders or in any way impair
859 the rights and remedies of such bondholders as long as any such
860 bonds remain outstanding unless adequate provision has been made
861 for the payment of such bonds pursuant to the documents
862 authorizing the issuance of such bonds.

863 3. Notwithstanding any other provision of law, any pledge
864 of or other security interest in revenue, money, accounts,
865 contract rights, general intangibles, or other personal property
866 made or created by the fund or the corporation shall be valid,
867 binding, and perfected from the time such pledge is made or
868 other security interest attaches without any physical delivery
869 of the collateral or further act and the lien of any such pledge
870 or other security interest shall be valid, binding, and
871 perfected against all parties having claims of any kind in tort,
872 contract, or otherwise against the fund or the corporation
873 irrespective of whether or not such parties have notice of such
874 claims. No instrument by which such a pledge or security
875 interest is created nor any financing statement need be recorded
876 or filed.

877 (7) ADDITIONAL POWERS AND DUTIES.--

878 (a) The board may procure reinsurance from reinsurers
879 acceptable to the Office of Insurance Regulation for the purpose
880 of maximizing the capacity of the fund.

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881 (b) In addition to borrowing under subsection (6), the
882 board may also borrow from, or enter into other financing
883 arrangements with, any market sources at prevailing interest
884 rates.

885 ~~(c) Each fiscal year, the Legislature shall appropriate~~
886 ~~from the investment income of the Florida Hurricane Catastrophe~~
887 ~~Fund an amount no less than \$10 million and no more than 35~~
888 ~~percent of the investment income based upon the most recent~~
889 ~~fiscal year end audited financial statements for the purpose of~~
890 ~~providing funding for local governments, state agencies, public~~
891 ~~and private educational institutions, and nonprofit~~
892 ~~organizations to support programs intended to improve hurricane~~
893 ~~preparedness, reduce potential losses in the event of a~~
894 ~~hurricane, provide research into means to reduce such losses,~~
895 ~~educate or inform the public as to means to reduce hurricane~~
896 ~~losses, assist the public in determining the appropriateness of~~
897 ~~particular upgrades to structures or in the financing of such~~
898 ~~upgrades, or protect local infrastructure from potential damage~~
899 ~~from a hurricane. Moneys shall first be available for~~
900 ~~appropriation under this paragraph in fiscal year 1997-1998.~~
901 ~~Moneys in excess of the \$10 million specified in this paragraph~~
902 ~~shall not be available for appropriation under this paragraph if~~
903 ~~the State Board of Administration finds that an appropriation of~~
904 ~~investment income from the fund would jeopardize the actuarial~~
905 ~~soundness of the fund.~~

906 (c)-(d) The board may allow insurers to comply with
907 reporting requirements and reporting format requirements by
908 using alternative methods of reporting if the proper
909 administration of the fund is not thereby impaired and if the

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910 alternative methods produce data which is consistent with the
911 purposes of this section.

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

916 (8) ADVISORY COUNCIL.--The State Board of Administration
917 shall appoint a nine-member Florida Hurricane Insurance Fund
918 Advisory Council that consists of an actuary, a meteorologist,
919 an engineer, a representative of insurers, a representative of
920 insurance agents, a representative of reinsurers, and three
921 consumers who shall also be representatives of other affected
922 professions and industries, to provide the board with
923 information and advice in connection with its duties under this
924 section. Members of the advisory council shall serve at the
925 pleasure of the board and are eligible for per diem and travel
926 expenses under s. 112.061.

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

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

936 (11) LEGAL PROCEEDINGS.--The board is authorized to take
937 any action necessary to enforce the rules, and the provisions

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938 and requirements of the reimbursement contract, required by and
939 adopted pursuant to this section.

940 (12) FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon the
941 creation of a federal or multistate catastrophic insurance or
942 reinsurance program intended to serve purposes similar to the
943 purposes of the fund created by this section, the State Board of
944 Administration shall promptly make recommendations to the
945 Legislature for coordination with the federal or multistate
946 program, for termination of the fund, or for such other actions
947 as the board finds appropriate in the circumstances.

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

952 (14) SEVERABILITY.--If any provision of this section or
953 its application to any person or circumstance is held invalid,
954 the invalidity does not affect other provisions or applications
955 of the section which can be given effect without the invalid
956 provision or application, and to this end the provisions of this
957 section are declared severable.

958 (15) COLLATERAL PROTECTION INSURANCE.--As used in this
959 section and ss. 627.311 and 627.351, the term "collateral
960 protection insurance" means commercial property insurance of
961 which a creditor is the primary beneficiary and policyholder and
962 which protects or covers an interest of the creditor arising out
963 of a credit transaction secured by real or personal property.
964 Initiation of such coverage is triggered by the mortgagor's
965 failure to maintain insurance coverage as required by the

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966 mortgage or other lending document. Collateral protection
967 insurance is not residential coverage.

968 Section 2. Section 215.556, Florida Statutes, is amended
969 to read:

970 215.556 Exemption.--The Florida Hurricane Insurance
971 ~~Catastrophe~~ Fund created by s. 215.555 is exempt from the
972 deduction required by s. 215.20(1).

973 Section 3. Section 215.558, Florida Statutes, is created
974 to read:

975 215.558 Florida Hurricane Damage Prevention Endowment.--

976 (1) PURPOSE AND INTENT.--The purpose of this section is to
977 provide a continuing source of funding for financial incentives
978 to encourage residential property owners of this state to
979 retrofit their properties to make them less vulnerable to
980 hurricane damage, to help decrease the cost of residential
981 property and casualty insurance, and to provide matching funds
982 to local governments and nonprofit entities for projects that
983 will reduce hurricane damage to residential properties. It is
984 the intent of the Legislature that this section be construed
985 liberally to effectuate its purpose.

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

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

988 (b) "Corpus" means the money that has been appropriated to
989 the endowment by the 2006 Legislature, together with any amounts
990 subsequently appropriated to the endowment that are specifically
991 designated as contributions to the corpus and any grants, gifts,
992 or donations to the endowment that are specifically designated
993 as contributions to the corpus.

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994 (c) "Earnings" means any money in the endowment in excess
995 of the corpus, including any income generated by investments,
996 any increase in the market value of investments net of decreases
997 in market value, and any appropriations, grants, gifts, or
998 donations to the endowment not specifically designated as
999 contributions to the corpus.

1000 (d) "Endowment" means the Florida Hurricane Damage
1001 Prevention Endowment created by this section.

1002 (e) "Program administrator" means the Department of
1003 Financial Services.

1004 (3) ADMINISTRATION.--

1005 (a) The board shall invest endowment assets as provided in
1006 this section.

1007 (b) The board may invest and reinvest funds of the
1008 endowment in accordance with s. 215.47 and consistent with board
1009 policy.

1010 (c) The investment objective shall be long-term
1011 preservation of the value of the corpus and a specified regular
1012 annual cash outflow for appropriation, as nonrecurring revenue,
1013 for the purposes specified in subsection (4).

1014 (d) In accordance with s. 215.44, the board shall report
1015 on the financial status of the endowment in its annual
1016 investment report to the Legislature.

1017 (e) Costs and fees of the board for investment services
1018 shall be deducted from the assets of the endowment.

1019 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE
1020 PREVENTION ACTIVITIES.--

1021 (a) Not less than 80 percent of the net earnings of the
1022 endowment shall be expended for financial incentives to

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1023 residential property owners as described in paragraph (b), and
1024 no more than the remainder of the net earnings of the endowment
1025 shall be expended for matching fund grants to local governments
1026 and nonprofit entities for projects that will reduce hurricane
1027 damage to residential properties as described in paragraph (c).
1028 Any funds authorized for expenditure but not expended for these
1029 purposes shall be returned to the endowment.

1030 (b)1. The program administrator, by rule, shall establish
1031 a request for a proposal process to annually solicit proposals
1032 from lending institutions under which the lending institution
1033 will provide interest-free loans to homestead property owners to
1034 pay for inspections of homestead property to determine what
1035 mitigation measures are needed and for improvements to existing
1036 residential properties intended to reduce the homestead
1037 property's vulnerability to hurricane damage, in exchange for
1038 funding from the endowment.

1039 2. In order to qualify for funding under this paragraph,
1040 an interest-free loan program must include an inspection of
1041 homestead property to determine what mitigation measures are
1042 needed, a means for verifying that the improvements to be paid
1043 for from loan proceeds have been demonstrated to reduce a
1044 homestead property's vulnerability to hurricane damage, and a
1045 means for verifying that the proceeds were actually spent on
1046 such improvements. The program must include a method for
1047 awarding loans according to the following priorities:

1048 a. The highest priority must be given to single-family
1049 owner-occupied homestead dwellings, insured at \$500,000 or less,
1050 located in the areas designated as high-risk areas for purposes
1051 of coverage by the Citizens Property Insurance Corporation.

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1052 b. The next highest priority must be given to single-
1053 family owner-occupied homestead dwellings, insured at \$500,000
1054 or less, covered by the Citizens Property Insurance Corporation,
1055 wherever located.

1056 c. The next highest priority must be given to single-
1057 family owner-occupied homestead dwellings, insured at \$500,000
1058 or less, that are more than 40 years old.

1059 d. The next highest priority must be given to all other
1060 single-family owner-occupied homestead dwellings insured at
1061 \$500,000 or less.

1062 3. The program administrator shall evaluate proposals
1063 based on the following factors:

1064 a. The degree to which the proposal meets the requirements
1065 of subparagraph 2.

1066 b. The lending institution's plan for marketing the loans.

1067 c. The anticipated number of loans to be granted relative
1068 to the total amount of funding sought.

1069 4. The program administrator shall annually solicit
1070 proposals from local governments and nonprofit entities for
1071 projects that will reduce hurricane damage to homestead
1072 properties. The program administrator may provide up to 50
1073 percent of the funding for such projects. The projects may
1074 include educational programs, repair services, property
1075 inspections, and hurricane vulnerability analyses and such other
1076 projects as the program administrator determines to be
1077 consistent with the purposes of this section.

1078 (5) ADVISORY COUNCIL.--There is created an advisory
1079 council to provide advice and assistance to the program

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1080 administrator with regard to its administration of the
1081 endowment. The advisory council shall consist of:

1082 (a) A representative of lending institutions, selected by
1083 the Financial Services Commission from a list of at least three
1084 persons recommended by the Florida Bankers Association.

1085 (b) A representative of residential property insurers,
1086 selected by the Financial Services Commission from a list of at
1087 least three persons recommended by the Florida Insurance
1088 Council.

1089 (c) A representative of home builders, selected by the
1090 Financial Services Commission from a list of at least three
1091 persons recommended by the Florida Home Builders Association.

1092 (d) A faculty member of a state university selected by the
1093 Financial Services Commission who is an expert in hurricane-
1094 resistant construction methodologies and materials.

1095 (e) Two members of the House of Representatives selected
1096 by the Speaker of the House of Representatives.

1097 (f) Two members of the Senate selected by the President of
1098 the Senate.

1099 (g) The senior officer of the Florida Hurricane
1100 Catastrophe Fund.

1101 (h) The executive director of Citizens Property Insurance
1102 Corporation.

1103 (i) The director of the Division of Emergency Management
1104 of the Department of Community Affairs.

1105
1106 Members appointed under paragraphs (a) - (d) shall serve at the
1107 pleasure of the Financial Services Commission. Members appointed
1108 under paragraphs (e) and (f) shall serve at the pleasure of the
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1109 appointing officer. All other members shall serve ex officio.
1110 Members of the advisory council shall serve without compensation
1111 but may receive reimbursement as provided in s. 112.061 for per
1112 diem and travel expenses incurred in the performance of their
1113 official duties.

1114 Section 4. Section 215.5586, Florida Statutes, is created
1115 to read:

1116 215.5586 Florida Comprehensive Hurricane Damage Mitigation
1117 Program.--There is established within the Department of
1118 Financial Services the Florida Comprehensive Hurricane Damage
1119 Mitigation Program. The program shall be administered by an
1120 individual with prior executive experience in the private sector
1121 in the areas of insurance, business, or construction. The
1122 program shall develop and implement a comprehensive and
1123 coordinated approach for hurricane damage mitigation that shall
1124 include the following:

1125 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
1126 INSPECTIONS.--

1127 (a) Free home-retrofit inspections of site-built,
1128 residential property, including single-family, two-family,
1129 three-family, or four-family residential units, shall be offered
1130 to determine what mitigation measures are needed and what
1131 improvements to existing residential properties are needed to
1132 reduce the property's vulnerability to hurricane damage. The
1133 Department of Financial Services shall establish a request for
1134 proposals to solicit proposals from wind certification entities
1135 to provide at no cost to homeowners wind certification and
1136 hurricane mitigation inspections. The inspections provided to
1137 homeowners, at a minimum, must include:

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1138 1. A home inspection and report that summarizes the
1139 results and identifies corrective actions a homeowner may take
1140 to mitigate hurricane damage.

1141 2. A range of cost estimates regarding the mitigation
1142 features.

1143 3. Insurer-specific information regarding premium
1144 discounts correlated to recommended mitigation features
1145 identified by the inspection.

1146 4. A hurricane resistance rating scale specifying the
1147 home's current as well as projected wind resistance
1148 capabilities.

1149 (b) To qualify for selection by the department as a
1150 provider of wind certification and hurricane mitigation
1151 inspections, the entity shall, at a minimum:

1152 1. Use wind certification and hurricane mitigation
1153 inspectors who:

1154 a. Have prior experience in residential construction or
1155 inspection and have received specialized training in hurricane
1156 mitigation procedures.

1157 b. Have undergone drug testing and background checks.

1158 c. Have been certified, in a manner satisfactory to the
1159 department, to conduct the inspections.

1160 2. Provide a quality assurance program including a
1161 reinspection component.

1162 (2) GRANTS.--Financial grants shall be used to encourage
1163 single-family, site-built, owner-occupied, residential property
1164 owners to retrofit their properties to make them less vulnerable
1165 to hurricane damage.

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1166 (a) To be eligible for a grant, a residential property
1167 must:

1168 1. Have been granted a homestead exemption under chapter
1169 196.

1170 2. Be a dwelling with an insured value of \$500,000 or
1171 less.

1172 3. Have undergone an acceptable wind certification and
1173 hurricane mitigation inspection.

1174
1175 A residential property which is part of a multi-family
1176 residential unit may receive a grant only if all homeowners
1177 participate and the total number of units does not exceed four.

1178 (b) All grants must be matched on a dollar-for-dollar
1179 basis for a total of \$10,000 for the mitigation project with the
1180 state's contribution not to exceed \$5,000.

1181 (c) The program shall create a process in which mitigation
1182 contractors agree to participate and seek reimbursement from the
1183 state and homeowners select from a list of participating
1184 contractors. All mitigation must be based upon the securing of
1185 all required local permits and inspections. Mitigation projects
1186 are subject to random reinspection of up to at least 10 percent
1187 of all projects.

1188 (d) Matching fund grants shall also be made available to
1189 local governments and nonprofit entities for projects that will
1190 reduce hurricane damage to single-family, site-built, owner-
1191 occupied, residential property.

1192 (3) LOANS.--Financial incentives shall be provided as
1193 authorized by s. 215.558.

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1194 (4) EDUCATION AND CONSUMER AWARENESS.--Multimedia public
1195 education, awareness, and advertising efforts designed to
1196 specifically address mitigation techniques shall be employed, as
1197 well as a component to support ongoing consumer resources and
1198 referral services.

1199 (5) ADVISORY COUNCIL.--There is created an advisory
1200 council to provide advice and assistance to the program
1201 administrator with regard to his or her administration of the
1202 program. The advisory council shall consist of:

1203 (a) A representative of lending institutions, selected by
1204 the Financial Services Commission from a list of at least three
1205 persons recommended by the Florida Bankers Association.

1206 (b) A representative of residential property insurers,
1207 selected by the Financial Services Commission from a list of at
1208 least three persons recommended by the Florida Insurance
1209 Council.

1210 (c) A representative of home builders, selected by the
1211 Financial Services Commission from a list of at least three
1212 persons recommended by the Florida Home Builders Association.

1213 (d) A faculty member of a state university, selected by
1214 the Financial Services Commission, who is an expert in
1215 hurricane-resistant construction methodologies and materials.

1216 (e) Two members of the House of Representatives, selected
1217 by the Speaker of the House of Representatives.

1218 (f) Two members of the Senate, selected by the President
1219 of the Senate.

1220 (g) The Chief Executive Officer of the Federal Alliance
1221 for Safe Homes, Inc., or his or her designee.

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1222 (h) The senior officer of the Florida Hurricane
1223 Catastrophe Fund.

1224 (i) The executive director of Citizens Property Insurance
1225 Corporation.

1226 (j) The director of the Division of Emergency Management
1227 of the Department of Community Affairs.

1228
1229 Members appointed under paragraphs (a)-(d) shall serve at the
1230 pleasure of the Financial Services Commission. Members appointed
1231 under paragraphs (e) and (f) shall serve at the pleasure of the
1232 appointing officer. All other members shall serve voting ex
1233 officio. Members of the advisory council shall serve without
1234 compensation but may receive reimbursement as provided in s.
1235 112.061 for per diem and travel expenses incurred in the
1236 performance of their official duties.

1237 (6) RULES.--The Department of Financial Services shall
1238 adopt rules pursuant to ss. 120.536(1) and 120.54 governing the
1239 Florida Comprehensive Hurricane Damage Mitigation Program.

1240 Section 5. Section 215.559, Florida Statutes, is amended
1241 to read:

1242 215.559 Hurricane Loss Mitigation Program.--

1243 (1) There is created a Hurricane Loss Mitigation Program.
1244 The Legislature shall annually appropriate \$10 million of the
1245 moneys authorized for appropriation under s. 215.555(7)(c) from
1246 the Florida Hurricane Catastrophe Fund to the Department of
1247 Community Affairs for the purposes set forth in this section.

1248 (2)(a) Seven million dollars in funds provided in
1249 subsection (1) shall be used for programs to improve the wind
1250 resistance of residences and mobile homes, including loans,
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1251 subsidies, grants, demonstration projects, and direct
1252 assistance; cooperative programs with local governments and the
1253 Federal Government; and other efforts to prevent or reduce
1254 losses or reduce the cost of rebuilding after a disaster.

1255 (b) Three million dollars in funds provided in subsection
1256 (1) shall be used to retrofit existing facilities used as public
1257 hurricane shelters. The department must prioritize the use of
1258 these funds for projects included in the September 1, 2000,
1259 version of the Shelter Retrofit Report prepared in accordance
1260 with s. 252.385(3), and each annual report thereafter. The
1261 department must give funding priority to projects in regional
1262 planning council regions that have shelter deficits and to
1263 projects that maximize use of state funds.

1264 ~~(3) By the 2006-2007 fiscal year, the Department of~~
1265 ~~Community Affairs shall develop a low interest loan program for~~
1266 ~~homeowners and mobile home owners to retrofit their homes with~~
1267 ~~fixtures or apply construction techniques that have been~~
1268 ~~demonstrated to reduce the amount of damage or loss due to a~~
1269 ~~hurricane. Funding for the program shall be used to subsidize or~~
1270 ~~guaranty private sector loans for this purpose to qualified~~
1271 ~~homeowners by financial institutions chartered by the state or~~
1272 ~~Federal Government. The department may enter into contracts with~~
1273 ~~financial institutions for this purpose. The department shall~~
1274 ~~establish criteria for determining eligibility for the loans and~~
1275 ~~selecting recipients, standards for retrofitting homes or mobile~~
1276 ~~homes, limitations on loan subsidies and loan guaranties, and~~
1277 ~~other terms and conditions of the program, which must be~~
1278 ~~specified in the department's report to the Legislature on~~
1279 ~~January 1, 2006, required by subsection (8). For the 2005-2006~~
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1280 ~~fiscal year, the Department of Community Affairs may use up to~~
1281 ~~\$1 million of the funds appropriated pursuant to paragraph~~
1282 ~~(2) (a) to begin the low interest loan program as a pilot project~~
1283 ~~in one or more counties. The Department of Financial Services,~~
1284 ~~the Office of Financial Regulation, the Florida Housing Finance~~
1285 ~~Corporation, and the Office of Tourism, Trade, and Economic~~
1286 ~~Development shall assist the Department of Community Affairs in~~
1287 ~~establishing the program and pilot project. The department may~~
1288 ~~use up to 2.5 percent of the funds appropriated in any given~~
1289 ~~fiscal year for administering the loan program. The department~~
1290 ~~may adopt rules to implement the program.~~

1291 (3) (a) (4) Forty percent of the total appropriation in
1292 paragraph (2) (a) shall be used to inspect and improve tie-downs
1293 for mobile homes. Within 30 days after the effective date of
1294 that appropriation, the department shall contract with a public
1295 higher educational institution in this state which has previous
1296 experience in administering the programs set forth in this
1297 subsection to serve as the administrative entity and fiscal
1298 agent pursuant to s. 216.346 for the purpose of administering
1299 the programs set forth in this subsection in accordance with
1300 established policy and procedures. The administrative entity
1301 working with the advisory council set up under subsection (6)
1302 shall develop a list of mobile home parks and counties that may
1303 be eligible to participate in the tie-down program.

1304 (b) 1. There is created the Manufactured Housing and Mobile
1305 Home Hurricane Mitigation Program. The program shall require the
1306 mitigation of damage to homes for the areas of concern raised by
1307 the Department of Highway Safety and Motor Vehicles in the 2004-
1308 2005 Hurricane Reports on the effects of the 2004 and 2005

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1309 hurricanes on manufactured and mobile homes in this state. The
1310 mitigation shall include, but not be limited to, problems
1311 associated with weakened trusses, studs, and other structural
1312 components, site-built additions, or tie-down systems and may
1313 also address any other issues deemed appropriate by the
1314 Department of Community Affairs upon consultation with the
1315 Tallahassee Community College, the Federation of Manufactured
1316 Home Owners of Florida, Inc., the Florida Manufactured Housing
1317 Association, and the Department of Highway Safety and Motor
1318 Vehicles. The program may include an education and outreach
1319 component to ensure that owners of manufactured and mobile homes
1320 are aware of the benefits of participation.

1321 2. The program shall include the offering of a matching
1322 grant to owners of manufactured and mobile homes manufactured
1323 after 1993 only. Homeowners accepted for the program shall be
1324 eligible to qualify for a \$5,000 dollar-for-dollar matching
1325 grant in which the homeowner may receive up to \$2,500 in state
1326 moneys. The moneys appropriated for this program shall be
1327 distributed directly to the Department of Community Affairs for
1328 the uses set forth under this paragraph.

1329 3. Upon evidence of completion of the program, the
1330 Citizens Property Insurance Corporation shall grant, on a pro
1331 rata basis, actuarially reasonable discounts, credits, or other
1332 rate differentials or appropriate reductions in deductibles for
1333 the properties of owners of manufactured homes or mobile homes
1334 on which fixtures or construction techniques that have been
1335 demonstrated to reduce the amount of loss in a windstorm have
1336 been installed or implemented. The discount on the premium shall
1337 be applied to subsequent renewal premium amounts. Premiums of

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1338 | the Citizens Property Insurance Corporation shall reflect the
1339 | location of the home and the fact that the home has been
1340 | installed in compliance with building codes adopted after
1341 | Hurricane Andrew.

1342 | 4. On or before January 1 of each year, the Department of
1343 | Community Affairs shall provide a report of activities under
1344 | this subsection to the Governor, the President of the Senate,
1345 | and the Speaker of the House of Representatives. The report
1346 | shall set forth the number of manufactured homes and mobile
1347 | homes that have taken advantage of the program, the types of
1348 | enhancements and improvements made to the manufactured homes or
1349 | mobile homes and attachments to such homes, and whether there
1350 | has been an increase of availability of insurance products to
1351 | owners of manufactured homes or mobile homes.

1352 | (4)-(5) Of moneys provided to the Department of Community
1353 | Affairs in paragraph (2) (a), 10 percent shall be allocated to a
1354 | Type I Center within the State University System dedicated to
1355 | hurricane research. The Type I Center shall develop a
1356 | preliminary work plan approved by the advisory council set forth
1357 | in subsection (6) to eliminate the state and local barriers to
1358 | upgrading existing mobile homes and communities, research and
1359 | develop a program for the recycling of existing older mobile
1360 | homes, and support programs of research and development relating
1361 | to hurricane loss reduction devices and techniques for site-
1362 | built residences. The State University System also shall consult
1363 | with the Department of Community Affairs and assist the
1364 | department with the report required under subsection (8).

1365 | (5)-(6) The Department of Community Affairs shall develop
1366 | the programs set forth in this section in consultation with an
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1367 advisory council consisting of a representative designated by
1368 the Chief Financial Officer, a representative designated by the
1369 Florida Home Builders Association, a representative designated
1370 by the Florida Insurance Council, a representative designated by
1371 the Federation of Manufactured Home Owners, a representative
1372 designated by the Florida Association of Counties, and a
1373 representative designated by the Florida Manufactured Housing
1374 Association.

1375 ~~(6)~~⁽⁷⁾ Moneys provided to the Department of Community
1376 Affairs under this section are intended to supplement other
1377 funding sources of the Department of Community Affairs and may
1378 not supplant other funding sources of the Department of
1379 Community Affairs.

1380 ~~(7)~~⁽⁸⁾ On January 1st of each year, the Department of
1381 Community Affairs shall provide a full report and accounting of
1382 activities under this section and an evaluation of such
1383 activities to the Speaker of the House of Representatives, the
1384 President of the Senate, and the Majority and Minority Leaders
1385 of the House of Representatives and the Senate.

1386 ~~(8)~~⁽⁹⁾ This section is repealed June 30, 2011.

1387 Section 6. Subsection (10) of section 624.424, Florida
1388 Statutes, is amended to read:

1389 624.424 Annual statement and other information.--

1390 (10) Each insurer or insurer group doing business in this
1391 state shall file on a quarterly basis in conjunction with
1392 financial reports required by paragraph (1)(a) a supplemental
1393 report on an individual and group basis on a form prescribed by
1394 the commission with information on personal lines and commercial
1395 lines residential property insurance policies in this state. The
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1396 supplemental report shall include separate information for
1397 personal lines property policies and for commercial lines
1398 property policies and totals for each item specified, including
1399 premiums written for each of the property lines of business as
1400 described in ss. 215.555(2) (f) ~~(e)~~ and 627.351(6) (a). The report
1401 shall include the following information for each county on a
1402 monthly basis:

1403 (a) Total number of policies in force at the end of each
1404 month.

1405 (b) Total number of policies canceled.

1406 (c) Total number of policies nonrenewed.

1407 (d) Number of policies canceled due to hurricane risk.

1408 (e) Number of policies nonrenewed due to hurricane risk.

1409 (f) Number of new policies written.

1410 (g) Total dollar value of structure exposure under
1411 policies that include wind coverage.

1412 (h) Number of policies that exclude wind coverage.

1413 Section 7. Subsection (3) of section 624.5091, Florida
1414 Statutes, is amended to read:

1415 624.5091 Retaliatory provision, insurers.--

1416 (3) This section does not apply as to personal income
1417 taxes, nor as to sales or use taxes, nor as to ad valorem taxes
1418 on real or personal property, nor as to reimbursement premiums
1419 paid to the Florida Hurricane Insurance ~~Catastrophe~~ Fund, nor as
1420 to emergency assessments paid to the Florida Hurricane Insurance
1421 ~~Catastrophe~~ Fund, nor as to special purpose obligations or
1422 assessments imposed in connection with particular kinds of
1423 insurance other than property insurance, except that deductions,
1424 from premium taxes or other taxes otherwise payable, allowed on
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1425 account of real estate or personal property taxes paid shall be
1426 taken into consideration by the department in determining the
1427 propriety and extent of retaliatory action under this section.

1428 Section 8. Subsection (5) of section 627.062, Florida
1429 Statutes, is amended to read:

1430 627.062 Rate standards.--

1431 (5) With respect to a rate filing involving coverage of
1432 the type for which the insurer is required to pay a
1433 reimbursement premium to the Florida Hurricane Insurance
1434 ~~Catastrophe~~ Fund, the insurer may fully recoup in its property
1435 insurance premiums any reimbursement premiums paid to the
1436 Florida Hurricane Insurance ~~Catastrophe~~ Fund, together with
1437 reasonable costs of other reinsurance, but may not recoup
1438 reinsurance costs that duplicate coverage provided by the
1439 Florida Hurricane Insurance ~~Catastrophe~~ Fund. An insurer may not
1440 recoup more than 1 year of reimbursement premium at a time. Any
1441 under-recoupment from the prior year may be added to the
1442 following year's reimbursement premium and any over-recoupment
1443 shall be subtracted from the following year's reimbursement
1444 premium.

1445 Section 9. Paragraph (c) of subsection (1), paragraphs (b)
1446 and (f) of subsection (2), and paragraph (b) of subsection (3)
1447 of section 627.0628, Florida Statutes, are amended to read:

1448 627.0628 Florida Commission on Hurricane Loss Projection
1449 Methodology; public records exemption; public meetings
1450 exemption.--

1451 (1) LEGISLATIVE FINDINGS AND INTENT.--

1452 (c) It is the intent of the Legislature to create the
1453 Florida Commission on Hurricane Loss Projection Methodology as a
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1454 panel of experts to provide the most actuarially sophisticated
1455 guidelines and standards for projection of hurricane losses
1456 possible, given the current state of actuarial science. It is
1457 the further intent of the Legislature that such standards and
1458 guidelines must be used by the State Board of Administration in
1459 developing reimbursement premium rates for the Florida Hurricane
1460 Insurance Catastrophe Fund, and, subject to paragraph (3)(c),
1461 may be used by insurers in rate filings under s. 627.062 unless
1462 the way in which such standards and guidelines were applied by
1463 the insurer was erroneous, as shown by a preponderance of the
1464 evidence.

1465 (2) COMMISSION CREATED.--

1466 (b) The commission shall consist of the following 11
1467 members:

1468 1. The insurance consumer advocate.

1469 2. The senior employee of the State Board of
1470 Administration responsible for operations of the Florida
1471 Hurricane Insurance Catastrophe Fund.

1472 3. The Executive Director of the Citizens Property
1473 Insurance Corporation.

1474 4. The Director of the Division of Emergency Management of
1475 the Department of Community Affairs.

1476 5. The actuary member of the Florida Hurricane Insurance
1477 Catastrophe Fund Advisory Council.

1478 6. An employee of the office who is an actuary responsible
1479 for property insurance rate filings and who is appointed by the
1480 director of the office.

1481 7. Five members appointed by the Chief Financial Officer,
1482 as follows:

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1483 a. An actuary who is employed full time by a property and
1484 casualty insurer which was responsible for at least 1 percent of
1485 the aggregate statewide direct written premium for homeowner's
1486 insurance in the calendar year preceding the member's
1487 appointment to the commission.

1488 b. An expert in insurance finance who is a full-time
1489 member of the faculty of the State University System and who has
1490 a background in actuarial science.

1491 c. An expert in statistics who is a full-time member of
1492 the faculty of the State University System and who has a
1493 background in insurance.

1494 d. An expert in computer system design who is a full-time
1495 member of the faculty of the State University System.

1496 e. An expert in meteorology who is a full-time member of
1497 the faculty of the State University System and who specializes
1498 in hurricanes.

1499 (f) The State Board of Administration shall, as a cost of
1500 administration of the Florida Hurricane Insurance Catastrophe
1501 Fund, provide for travel, expenses, and staff support for the
1502 commission.

1503 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1504 (b) In establishing reimbursement premiums for the Florida
1505 Hurricane Insurance Catastrophe Fund, the State Board of
1506 Administration must, to the extent feasible, employ actuarial
1507 methods, principles, standards, models, or output ranges found
1508 by the commission to be accurate or reliable.

1509 Section 10. Subsection (10) of section 627.0629, Florida
1510 Statutes, is amended to read:

1511 627.0629 Residential property insurance; rate filings.--
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1512 (10) A property insurance rate filing that includes any
1513 adjustments related to premiums paid to the Florida Hurricane
1514 Insurance Catastrophe Fund must include a complete calculation
1515 of the insurer's catastrophe load, and the information in the
1516 filing may not be limited solely to recovery of moneys paid to
1517 the fund.

1518 Section 11. Paragraph (b) of subsection (2) and paragraphs
1519 (b), (c), (k), and (l) of subsection (6) of section 627.351,
1520 Florida Statutes, are amended to read:

1521 627.351 Insurance risk apportionment plans.--

1522 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

1523 (b) The department shall require all insurers holding a
1524 certificate of authority to transact property insurance on a
1525 direct basis in this state, other than joint underwriting
1526 associations and other entities formed pursuant to this section,
1527 to provide windstorm coverage to applicants from areas
1528 determined to be eligible pursuant to paragraph (c) who in good
1529 faith are entitled to, but are unable to procure, such coverage
1530 through ordinary means; or it shall adopt a reasonable plan or
1531 plans for the equitable apportionment or sharing among such
1532 insurers of windstorm coverage, which may include formation of
1533 an association for this purpose. As used in this subsection, the
1534 term "property insurance" means insurance on real or personal
1535 property, as defined in s. 624.604, including insurance for
1536 fire, industrial fire, allied lines, farmowners multiperil,
1537 homeowners' multiperil, commercial multiperil, and mobile homes,
1538 and including liability coverages on all such insurance, but
1539 excluding inland marine as defined in s. 624.607(3) and
1540 excluding vehicle insurance as defined in s. 624.605(1)(a) other
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1541 than insurance on mobile homes used as permanent dwellings. The
1542 department shall adopt rules that provide a formula for the
1543 recovery and repayment of any deferred assessments.

1544 1. For the purpose of this section, properties eligible
1545 for such windstorm coverage are defined as dwellings, buildings,
1546 and other structures, including mobile homes which are used as
1547 dwellings and which are tied down in compliance with mobile home
1548 tie-down requirements prescribed by the Department of Highway
1549 Safety and Motor Vehicles pursuant to s. 320.8325, and the
1550 contents of all such properties. An applicant or policyholder is
1551 eligible for coverage only if an offer of coverage cannot be
1552 obtained by or for the applicant or policyholder from an
1553 admitted insurer at approved rates.

1554 2.a.(I) All insurers required to be members of such
1555 association shall participate in its writings, expenses, and
1556 losses. Surplus of the association shall be retained for the
1557 payment of claims and shall not be distributed to the member
1558 insurers. Such participation by member insurers shall be in the
1559 proportion that the net direct premiums of each member insurer
1560 written for property insurance in this state during the
1561 preceding calendar year bear to the aggregate net direct
1562 premiums for property insurance of all member insurers, as
1563 reduced by any credits for voluntary writings, in this state
1564 during the preceding calendar year. For the purposes of this
1565 subsection, the term "net direct premiums" means direct written
1566 premiums for property insurance, reduced by premium for
1567 liability coverage and for the following if included in allied
1568 lines: rain and hail on growing crops; livestock; association
1569 direct premiums booked; National Flood Insurance Program direct
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1570 premiums; and similar deductions specifically authorized by the
1571 plan of operation and approved by the department. A member's
1572 participation shall begin on the first day of the calendar year
1573 following the year in which it is issued a certificate of
1574 authority to transact property insurance in the state and shall
1575 terminate 1 year after the end of the calendar year during which
1576 it no longer holds a certificate of authority to transact
1577 property insurance in the state. The commissioner, after review
1578 of annual statements, other reports, and any other statistics
1579 that the commissioner deems necessary, shall certify to the
1580 association the aggregate direct premiums written for property
1581 insurance in this state by all member insurers.

1582 (II) Effective July 1, 2002, the association shall operate
1583 subject to the supervision and approval of a board of governors
1584 who are the same individuals that have been appointed by the
1585 Treasurer to serve on the board of governors of the Citizens
1586 Property Insurance Corporation.

1587 (III) The plan of operation shall provide a formula
1588 whereby a company voluntarily providing windstorm coverage in
1589 affected areas will be relieved wholly or partially from
1590 apportionment of a regular assessment pursuant to sub-sub-
1591 subparagraph d.(I) or sub-sub-subparagraph d.(II).

1592 (IV) A company which is a member of a group of companies
1593 under common management may elect to have its credits applied on
1594 a group basis, and any company or group may elect to have its
1595 credits applied to any other company or group.

1596 (V) There shall be no credits or relief from apportionment
1597 to a company for emergency assessments collected from its
1598 policyholders under sub-sub-subparagraph d.(III).

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1599 (VI) The plan of operation may also provide for the award
1600 of credits, for a period not to exceed 3 years, from a regular
1601 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
1602 subparagraph d.(II) as an incentive for taking policies out of
1603 the Residential Property and Casualty Joint Underwriting
1604 Association. In order to qualify for the exemption under this
1605 sub-sub-subparagraph, the take-out plan must provide that at
1606 least 40 percent of the policies removed from the Residential
1607 Property and Casualty Joint Underwriting Association cover risks
1608 located in Dade, Broward, and Palm Beach Counties or at least 30
1609 percent of the policies so removed cover risks located in Dade,
1610 Broward, and Palm Beach Counties and an additional 50 percent of
1611 the policies so removed cover risks located in other coastal
1612 counties, and must also provide that no more than 15 percent of
1613 the policies so removed may exclude windstorm coverage. With the
1614 approval of the department, the association may waive these
1615 geographic criteria for a take-out plan that removes at least
1616 the lesser of 100,000 Residential Property and Casualty Joint
1617 Underwriting Association policies or 15 percent of the total
1618 number of Residential Property and Casualty Joint Underwriting
1619 Association policies, provided the governing board of the
1620 Residential Property and Casualty Joint Underwriting Association
1621 certifies that the take-out plan will materially reduce the
1622 Residential Property and Casualty Joint Underwriting
1623 Association's 100-year probable maximum loss from hurricanes.
1624 With the approval of the department, the board may extend such
1625 credits for an additional year if the insurer guarantees an
1626 additional year of renewability for all policies removed from
1627 the Residential Property and Casualty Joint Underwriting

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1628 Association, or for 2 additional years if the insurer guarantees
1629 2 additional years of renewability for all policies removed from
1630 the Residential Property and Casualty Joint Underwriting
1631 Association.

1632 b. Assessments to pay deficits in the association under
1633 this subparagraph shall be included as an appropriate factor in
1634 the making of rates as provided in s. 627.3512.

1635 c. The Legislature finds that the potential for unlimited
1636 deficit assessments under this subparagraph may induce insurers
1637 to attempt to reduce their writings in the voluntary market, and
1638 that such actions would worsen the availability problems that
1639 the association was created to remedy. It is the intent of the
1640 Legislature that insurers remain fully responsible for paying
1641 regular assessments and collecting emergency assessments for any
1642 deficits of the association; however, it is also the intent of
1643 the Legislature to provide a means by which assessment
1644 liabilities may be amortized over a period of years.

1645 d.(I) When the deficit incurred in a particular calendar
1646 year is 10 percent or less of the aggregate statewide direct
1647 written premium for property insurance for the prior calendar
1648 year for all member insurers, the association shall levy an
1649 assessment on member insurers in an amount equal to the deficit.

1650 (II) When the deficit incurred in a particular calendar
1651 year exceeds 10 percent of the aggregate statewide direct
1652 written premium for property insurance for the prior calendar
1653 year for all member insurers, the association shall levy an
1654 assessment on member insurers in an amount equal to the greater
1655 of 10 percent of the deficit or 10 percent of the aggregate
1656 statewide direct written premium for property insurance for the
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1657 prior calendar year for member insurers. Any remaining deficit
1658 shall be recovered through emergency assessments under sub-sub-
1659 subparagraph (III).

1660 (III) Upon a determination by the board of directors that
1661 a deficit exceeds the amount that will be recovered through
1662 regular assessments on member insurers, pursuant to sub-sub-
1663 subparagraph (I) or sub-sub-subparagraph (II), the board shall
1664 levy, after verification by the department, emergency
1665 assessments to be collected by member insurers and by
1666 underwriting associations created pursuant to this section which
1667 write property insurance, upon issuance or renewal of property
1668 insurance policies other than National Flood Insurance policies
1669 in the year or years following levy of the regular assessments.
1670 The amount of the emergency assessment collected in a particular
1671 year shall be a uniform percentage of that year's direct written
1672 premium for property insurance for all member insurers and
1673 underwriting associations, excluding National Flood Insurance
1674 policy premiums, as annually determined by the board and
1675 verified by the department. The department shall verify the
1676 arithmetic calculations involved in the board's determination
1677 within 30 days after receipt of the information on which the
1678 determination was based. Notwithstanding any other provision of
1679 law, each member insurer and each underwriting association
1680 created pursuant to this section shall collect emergency
1681 assessments from its policyholders without such obligation being
1682 affected by any credit, limitation, exemption, or deferment. The
1683 emergency assessments so collected shall be transferred directly
1684 to the association on a periodic basis as determined by the
1685 association. The aggregate amount of emergency assessments

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1686 levied under this sub-sub-subparagraph in any calendar year may
1687 not exceed the greater of 10 percent of the amount needed to
1688 cover the original deficit, plus interest, fees, commissions,
1689 required reserves, and other costs associated with financing of
1690 the original deficit, or 10 percent of the aggregate statewide
1691 direct written premium for property insurance written by member
1692 insurers and underwriting associations for the prior year, plus
1693 interest, fees, commissions, required reserves, and other costs
1694 associated with financing the original deficit. The board may
1695 pledge the proceeds of the emergency assessments under this sub-
1696 sub-subparagraph as the source of revenue for bonds, to retire
1697 any other debt incurred as a result of the deficit or events
1698 giving rise to the deficit, or in any other way that the board
1699 determines will efficiently recover the deficit. The emergency
1700 assessments under this sub-sub-subparagraph shall continue as
1701 long as any bonds issued or other indebtedness incurred with
1702 respect to a deficit for which the assessment was imposed remain
1703 outstanding, unless adequate provision has been made for the
1704 payment of such bonds or other indebtedness pursuant to the
1705 document governing such bonds or other indebtedness. Emergency
1706 assessments collected under this sub-sub-subparagraph are not
1707 part of an insurer's rates, are not premium, and are not subject
1708 to premium tax, fees, or commissions; however, failure to pay
1709 the emergency assessment shall be treated as failure to pay
1710 premium.

1711 (IV) Each member insurer's share of the total regular
1712 assessments under sub-sub-subparagraph (I) or sub-sub-
1713 subparagraph (II) shall be in the proportion that the insurer's
1714 net direct premium for property insurance in this state, for the
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1715 | year preceding the assessment bears to the aggregate statewide
1716 | net direct premium for property insurance of all member
1717 | insurers, as reduced by any credits for voluntary writings for
1718 | that year.

1719 | (V) If regular deficit assessments are made under sub-sub-
1720 | subparagraph (I) or sub-sub-subparagraph (II), or by the
1721 | Residential Property and Casualty Joint Underwriting Association
1722 | under sub-subparagraph (6)(b)3.a. or sub-subparagraph
1723 | (6)(b)3.b., the association shall levy upon the association's
1724 | policyholders, as part of its next rate filing, or by a separate
1725 | rate filing solely for this purpose, a market equalization
1726 | surcharge in a percentage equal to the total amount of such
1727 | regular assessments divided by the aggregate statewide direct
1728 | written premium for property insurance for member insurers for
1729 | the prior calendar year. Market equalization surcharges under
1730 | this sub-sub-subparagraph are not considered premium and are not
1731 | subject to commissions, fees, or premium taxes; however, failure
1732 | to pay a market equalization surcharge shall be treated as
1733 | failure to pay premium.

1734 | e. The governing body of any unit of local government, any
1735 | residents of which are insured under the plan, may issue bonds
1736 | as defined in s. 125.013 or s. 166.101 to fund an assistance
1737 | program, in conjunction with the association, for the purpose of
1738 | defraying deficits of the association. In order to avoid
1739 | needless and indiscriminate proliferation, duplication, and
1740 | fragmentation of such assistance programs, any unit of local
1741 | government, any residents of which are insured by the
1742 | association, may provide for the payment of losses, regardless
1743 | of whether or not the losses occurred within or outside of the
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1744 territorial jurisdiction of the local government. Revenue bonds
1745 may not be issued until validated pursuant to chapter 75, unless
1746 a state of emergency is declared by executive order or
1747 proclamation of the Governor pursuant to s. 252.36 making such
1748 findings as are necessary to determine that it is in the best
1749 interests of, and necessary for, the protection of the public
1750 health, safety, and general welfare of residents of this state
1751 and the protection and preservation of the economic stability of
1752 insurers operating in this state, and declaring it an essential
1753 public purpose to permit certain municipalities or counties to
1754 issue bonds as will provide relief to claimants and
1755 policyholders of the association and insurers responsible for
1756 apportionment of plan losses. Any such unit of local government
1757 may enter into such contracts with the association and with any
1758 other entity created pursuant to this subsection as are
1759 necessary to carry out this paragraph. Any bonds issued under
1760 this sub-subparagraph shall be payable from and secured by
1761 moneys received by the association from assessments under this
1762 subparagraph, and assigned and pledged to or on behalf of the
1763 unit of local government for the benefit of the holders of such
1764 bonds. The funds, credit, property, and taxing power of the
1765 state or of the unit of local government shall not be pledged
1766 for the payment of such bonds. If any of the bonds remain unsold
1767 60 days after issuance, the department shall require all
1768 insurers subject to assessment to purchase the bonds, which
1769 shall be treated as admitted assets; each insurer shall be
1770 required to purchase that percentage of the unsold portion of
1771 the bond issue that equals the insurer's relative share of
1772 assessment liability under this subsection. An insurer shall not
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1773 | be required to purchase the bonds to the extent that the
1774 | department determines that the purchase would endanger or impair
1775 | the solvency of the insurer. The authority granted by this sub-
1776 | subparagraph is additional to any bonding authority granted by
1777 | subparagraph 6.

1778 | 3. The plan shall also provide that any member with a
1779 | surplus as to policyholders of \$20 million or less writing 25
1780 | percent or more of its total countrywide property insurance
1781 | premiums in this state may petition the department, within the
1782 | first 90 days of each calendar year, to qualify as a limited
1783 | apportionment company. The apportionment of such a member
1784 | company in any calendar year for which it is qualified shall not
1785 | exceed its gross participation, which shall not be affected by
1786 | the formula for voluntary writings. In no event shall a limited
1787 | apportionment company be required to participate in any
1788 | apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
1789 | or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
1790 | \$50 million after payment of available plan funds in any
1791 | calendar year. However, a limited apportionment company shall
1792 | collect from its policyholders any emergency assessment imposed
1793 | under sub-sub-subparagraph 2.d.(III). The plan shall provide
1794 | that, if the department determines that any regular assessment
1795 | will result in an impairment of the surplus of a limited
1796 | apportionment company, the department may direct that all or
1797 | part of such assessment be deferred. However, there shall be no
1798 | limitation or deferment of an emergency assessment to be
1799 | collected from policyholders under sub-sub-subparagraph
1800 | 2.d.(III).

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1801 4. The plan shall provide for the deferment, in whole or
1802 in part, of a regular assessment of a member insurer under sub-
1803 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
1804 not for an emergency assessment collected from policyholders
1805 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
1806 commissioner, payment of such regular assessment would endanger
1807 or impair the solvency of the member insurer. In the event a
1808 regular assessment against a member insurer is deferred in whole
1809 or in part, the amount by which such assessment is deferred may
1810 be assessed against the other member insurers in a manner
1811 consistent with the basis for assessments set forth in sub-sub-
1812 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

1813 5.a. The plan of operation may include deductibles and
1814 rules for classification of risks and rate modifications
1815 consistent with the objective of providing and maintaining funds
1816 sufficient to pay catastrophe losses.

1817 b. The association may require arbitration of a rate
1818 filing under s. 627.062(6). It is the intent of the Legislature
1819 that the rates for coverage provided by the association be
1820 actuarially sound and not competitive with approved rates
1821 charged in the admitted voluntary market such that the
1822 association functions as a residual market mechanism to provide
1823 insurance only when the insurance cannot be procured in the
1824 voluntary market. The plan of operation shall provide a
1825 mechanism to assure that, beginning no later than January 1,
1826 1999, the rates charged by the association for each line of
1827 business are reflective of approved rates in the voluntary
1828 market for hurricane coverage for each line of business in the
1829 various areas eligible for association coverage.

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1830 c. The association shall provide for windstorm coverage on
1831 residential properties in limits up to \$10 million for
1832 commercial lines residential risks and up to \$1 million for
1833 personal lines residential risks. If coverage with the
1834 association is sought for a residential risk valued in excess of
1835 these limits, coverage shall be available to the risk up to the
1836 replacement cost or actual cash value of the property, at the
1837 option of the insured, if coverage for the risk cannot be
1838 located in the authorized market. The association must accept a
1839 commercial lines residential risk with limits above \$10 million
1840 or a personal lines residential risk with limits above \$1
1841 million if coverage is not available in the authorized market.
1842 The association may write coverage above the limits specified in
1843 this subparagraph with or without facultative or other
1844 reinsurance coverage, as the association determines appropriate.

1845 d. The plan of operation must provide objective criteria
1846 and procedures, approved by the department, to be uniformly
1847 applied for all applicants in determining whether an individual
1848 risk is so hazardous as to be uninsurable. In making this
1849 determination and in establishing the criteria and procedures,
1850 the following shall be considered:

1851 (I) Whether the likelihood of a loss for the individual
1852 risk is substantially higher than for other risks of the same
1853 class; and

1854 (II) Whether the uncertainty associated with the
1855 individual risk is such that an appropriate premium cannot be
1856 determined.

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1858 The acceptance or rejection of a risk by the association
1859 pursuant to such criteria and procedures must be construed as
1860 the private placement of insurance, and the provisions of
1861 chapter 120 do not apply.

1862 e. If the risk accepts an offer of coverage through the
1863 market assistance program or through a mechanism established by
1864 the association, either before the policy is issued by the
1865 association or during the first 30 days of coverage by the
1866 association, and the producing agent who submitted the
1867 application to the association is not currently appointed by the
1868 insurer, the insurer shall:

1869 (I) Pay to the producing agent of record of the policy,
1870 for the first year, an amount that is the greater of the
1871 insurer's usual and customary commission for the type of policy
1872 written or a fee equal to the usual and customary commission of
1873 the association; or

1874 (II) Offer to allow the producing agent of record of the
1875 policy to continue servicing the policy for a period of not less
1876 than 1 year and offer to pay the agent the greater of the
1877 insurer's or the association's usual and customary commission
1878 for the type of policy written.

1879

1880 If the producing agent is unwilling or unable to accept
1881 appointment, the new insurer shall pay the agent in accordance
1882 with sub-sub-subparagraph (I). Subject to the provisions of s.
1883 627.3517, the policies issued by the association must provide
1884 that if the association obtains an offer from an authorized
1885 insurer to cover the risk at its approved rates under either a
1886 standard policy including wind coverage or, if consistent with
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1887 the insurer's underwriting rules as filed with the department, a
1888 basic policy including wind coverage, the risk is no longer
1889 eligible for coverage through the association. Upon termination
1890 of eligibility, the association shall provide written notice to
1891 the policyholder and agent of record stating that the
1892 association policy must be canceled as of 60 days after the date
1893 of the notice because of the offer of coverage from an
1894 authorized insurer. Other provisions of the insurance code
1895 relating to cancellation and notice of cancellation do not apply
1896 to actions under this sub-subparagraph.

1897 f. When the association enters into a contractual
1898 agreement for a take-out plan, the producing agent of record of
1899 the association policy is entitled to retain any unearned
1900 commission on the policy, and the insurer shall:

1901 (I) Pay to the producing agent of record of the
1902 association policy, for the first year, an amount that is the
1903 greater of the insurer's usual and customary commission for the
1904 type of policy written or a fee equal to the usual and customary
1905 commission of the association; or

1906 (II) Offer to allow the producing agent of record of the
1907 association policy to continue servicing the policy for a period
1908 of not less than 1 year and offer to pay the agent the greater
1909 of the insurer's or the association's usual and customary
1910 commission for the type of policy written.

1911
1912 If the producing agent is unwilling or unable to accept
1913 appointment, the new insurer shall pay the agent in accordance
1914 with sub-sub-subparagraph (I).

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1915 6.a. The plan of operation may authorize the formation of
1916 a private nonprofit corporation, a private nonprofit
1917 unincorporated association, a partnership, a trust, a limited
1918 liability company, or a nonprofit mutual company which may be
1919 empowered, among other things, to borrow money by issuing bonds
1920 or by incurring other indebtedness and to accumulate reserves or
1921 funds to be used for the payment of insured catastrophe losses.
1922 The plan may authorize all actions necessary to facilitate the
1923 issuance of bonds, including the pledging of assessments or
1924 other revenues.

1925 b. Any entity created under this subsection, or any entity
1926 formed for the purposes of this subsection, may sue and be sued,
1927 may borrow money; issue bonds, notes, or debt instruments;
1928 pledge or sell assessments, market equalization surcharges and
1929 other surcharges, rights, premiums, contractual rights,
1930 projected recoveries from the Florida Hurricane Insurance
1931 ~~Catastrophe~~ Fund, other reinsurance recoverables, and other
1932 assets as security for such bonds, notes, or debt instruments;
1933 enter into any contracts or agreements necessary or proper to
1934 accomplish such borrowings; and take other actions necessary to
1935 carry out the purposes of this subsection. The association may
1936 issue bonds or incur other indebtedness, or have bonds issued on
1937 its behalf by a unit of local government pursuant to
1938 subparagraph (6)(g)2., in the absence of a hurricane or other
1939 weather-related event, upon a determination by the association
1940 subject to approval by the department that such action would
1941 enable it to efficiently meet the financial obligations of the
1942 association and that such financings are reasonably necessary to
1943 effectuate the requirements of this subsection. Any such entity

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1944 may accumulate reserves and retain surpluses as of the end of
1945 any association year to provide for the payment of losses
1946 incurred by the association during that year or any future year.
1947 The association shall incorporate and continue the plan of
1948 operation and articles of agreement in effect on the effective
1949 date of chapter 76-96, Laws of Florida, to the extent that it is
1950 not inconsistent with chapter 76-96, and as subsequently
1951 modified consistent with chapter 76-96. The board of directors
1952 and officers currently serving shall continue to serve until
1953 their successors are duly qualified as provided under the plan.
1954 The assets and obligations of the plan in effect immediately
1955 prior to the effective date of chapter 76-96 shall be construed
1956 to be the assets and obligations of the successor plan created
1957 herein.

1958 c. In recognition of s. 10, Art. I of the State
1959 Constitution, prohibiting the impairment of obligations of
1960 contracts, it is the intent of the Legislature that no action be
1961 taken whose purpose is to impair any bond indenture or financing
1962 agreement or any revenue source committed by contract to such
1963 bond or other indebtedness issued or incurred by the association
1964 or any other entity created under this subsection.

1965 7. On such coverage, an agent's remuneration shall be that
1966 amount of money payable to the agent by the terms of his or her
1967 contract with the company with which the business is placed.
1968 However, no commission will be paid on that portion of the
1969 premium which is in excess of the standard premium of that
1970 company.

1971 8. Subject to approval by the department, the association
1972 may establish different eligibility requirements and operational
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1973 | procedures for any line or type of coverage for any specified
1974 | eligible area or portion of an eligible area if the board
1975 | determines that such changes to the eligibility requirements and
1976 | operational procedures are justified due to the voluntary market
1977 | being sufficiently stable and competitive in such area or for
1978 | such line or type of coverage and that consumers who, in good
1979 | faith, are unable to obtain insurance through the voluntary
1980 | market through ordinary methods would continue to have access to
1981 | coverage from the association. When coverage is sought in
1982 | connection with a real property transfer, such requirements and
1983 | procedures shall not provide for an effective date of coverage
1984 | later than the date of the closing of the transfer as
1985 | established by the transferor, the transferee, and, if
1986 | applicable, the lender.

1987 | 9. Notwithstanding any other provision of law:

1988 | a. The pledge or sale of, the lien upon, and the security
1989 | interest in any rights, revenues, or other assets of the
1990 | association created or purported to be created pursuant to any
1991 | financing documents to secure any bonds or other indebtedness of
1992 | the association shall be and remain valid and enforceable,
1993 | notwithstanding the commencement of and during the continuation
1994 | of, and after, any rehabilitation, insolvency, liquidation,
1995 | bankruptcy, receivership, conservatorship, reorganization, or
1996 | similar proceeding against the association under the laws of
1997 | this state or any other applicable laws.

1998 | b. No such proceeding shall relieve the association of its
1999 | obligation, or otherwise affect its ability to perform its
2000 | obligation, to continue to collect, or levy and collect,
2001 | assessments, market equalization or other surcharges, projected
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2002 recoveries from the Florida Hurricane Insurance Catastrophe
2003 Fund, reinsurance recoverables, or any other rights, revenues,
2004 or other assets of the association pledged.

2005 c. Each such pledge or sale of, lien upon, and security
2006 interest in, including the priority of such pledge, lien, or
2007 security interest, any such assessments, emergency assessments,
2008 market equalization or renewal surcharges, projected recoveries
2009 from the Florida Hurricane Insurance Catastrophe Fund,
2010 reinsurance recoverables, or other rights, revenues, or other
2011 assets which are collected, or levied and collected, after the
2012 commencement of and during the pendency of or after any such
2013 proceeding shall continue unaffected by such proceeding.

2014 d. As used in this subsection, the term "financing
2015 documents" means any agreement, instrument, or other document
2016 now existing or hereafter created evidencing any bonds or other
2017 indebtedness of the association or pursuant to which any such
2018 bonds or other indebtedness has been or may be issued and
2019 pursuant to which any rights, revenues, or other assets of the
2020 association are pledged or sold to secure the repayment of such
2021 bonds or indebtedness, together with the payment of interest on
2022 such bonds or such indebtedness, or the payment of any other
2023 obligation of the association related to such bonds or
2024 indebtedness.

2025 e. Any such pledge or sale of assessments, revenues,
2026 contract rights or other rights or assets of the association
2027 shall constitute a lien and security interest, or sale, as the
2028 case may be, that is immediately effective and attaches to such
2029 assessments, revenues, contract, or other rights or assets,
2030 whether or not imposed or collected at the time the pledge or
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2031 sale is made. Any such pledge or sale is effective, valid,
2032 binding, and enforceable against the association or other entity
2033 making such pledge or sale, and valid and binding against and
2034 superior to any competing claims or obligations owed to any
2035 other person or entity, including policyholders in this state,
2036 asserting rights in any such assessments, revenues, contract, or
2037 other rights or assets to the extent set forth in and in
2038 accordance with the terms of the pledge or sale contained in the
2039 applicable financing documents, whether or not any such person
2040 or entity has notice of such pledge or sale and without the need
2041 for any physical delivery, recordation, filing, or other action.

2042 f. There shall be no liability on the part of, and no
2043 cause of action of any nature shall arise against, any member
2044 insurer or its agents or employees, agents or employees of the
2045 association, members of the board of directors of the
2046 association, or the department or its representatives, for any
2047 action taken by them in the performance of their duties or
2048 responsibilities under this subsection. Such immunity does not
2049 apply to actions for breach of any contract or agreement
2050 pertaining to insurance, or any willful tort.

2051 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

2052 (b)1. All insurers authorized to write one or more subject
2053 lines of business in this state are subject to assessment by the
2054 corporation and, for the purposes of this subsection, are
2055 referred to collectively as "assessable insurers." Insurers
2056 writing one or more subject lines of business in this state
2057 pursuant to part VIII of chapter 626 are not assessable
2058 insurers, but insureds who procure one or more subject lines of
2059 business in this state pursuant to part VIII of chapter 626 are
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2060 subject to assessment by the corporation and are referred to
2061 collectively as "assessable insureds." An authorized insurer's
2062 assessment liability shall begin on the first day of the
2063 calendar year following the year in which the insurer was issued
2064 a certificate of authority to transact insurance for subject
2065 lines of business in this state and shall terminate 1 year after
2066 the end of the first calendar year during which the insurer no
2067 longer holds a certificate of authority to transact insurance
2068 for subject lines of business in this state.

2069 2.a. All revenues, assets, liabilities, losses, and
2070 expenses of the corporation shall be divided into three separate
2071 accounts as follows:

2072 (I) A personal lines account for personal residential
2073 policies issued by the corporation or issued by the Residential
2074 Property and Casualty Joint Underwriting Association and renewed
2075 by the corporation that provide comprehensive, multiperil
2076 coverage on risks that are not located in areas eligible for
2077 coverage in the Florida Windstorm Underwriting Association as
2078 those areas were defined on January 1, 2002, and for such
2079 policies that do not provide coverage for the peril of wind on
2080 risks that are located in such areas;

2081 (II) A commercial lines account for commercial residential
2082 policies issued by the corporation or issued by the Residential
2083 Property and Casualty Joint Underwriting Association and renewed
2084 by the corporation that provide coverage for basic property
2085 perils on risks that are not located in areas eligible for
2086 coverage in the Florida Windstorm Underwriting Association as
2087 those areas were defined on January 1, 2002, and for such

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2088 policies that do not provide coverage for the peril of wind on
2089 risks that are located in such areas; and
2090 (III) A high-risk account for personal residential
2091 policies and commercial residential and commercial
2092 nonresidential property policies issued by the corporation or
2093 transferred to the corporation that provide coverage for the
2094 peril of wind on risks that are located in areas eligible for
2095 coverage in the Florida Windstorm Underwriting Association as
2096 those areas were defined on January 1, 2002. The high-risk
2097 account must also include quota share primary insurance under
2098 subparagraph (c)2. The area eligible for coverage under the
2099 high-risk account also includes the area within Port Canaveral,
2100 which is bordered on the south by the City of Cape Canaveral,
2101 bordered on the west by the Banana River, and bordered on the
2102 north by Federal Government property. The office may remove
2103 territory from the area eligible for wind-only and quota share
2104 coverage if, after a public hearing, the office finds that
2105 authorized insurers in the voluntary market are willing and able
2106 to write sufficient amounts of personal and commercial
2107 residential coverage for all perils in the territory, including
2108 coverage for the peril of wind, such that risks covered by wind-
2109 only policies in the removed territory could be issued a policy
2110 by the corporation in either the personal lines or commercial
2111 lines account without a significant increase in the
2112 corporation's probable maximum loss in such account. Removal of
2113 territory from the area eligible for wind-only or quota share
2114 coverage does not alter the assignment of wind coverage written
2115 in such areas to the high-risk account.

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2116 b. The three separate accounts must be maintained as long
2117 as financing obligations entered into by the Florida Windstorm
2118 Underwriting Association or Residential Property and Casualty
2119 Joint Underwriting Association are outstanding, in accordance
2120 with the terms of the corresponding financing documents. When
2121 the financing obligations are no longer outstanding, in
2122 accordance with the terms of the corresponding financing
2123 documents, the corporation may use a single account for all
2124 revenues, assets, liabilities, losses, and expenses of the
2125 corporation.

2126 c. Creditors of the Residential Property and Casualty
2127 Joint Underwriting Association shall have a claim against, and
2128 recourse to, the accounts referred to in sub-sub-subparagraphs
2129 a.(I) and (II) and shall have no claim against, or recourse to,
2130 the account referred to in sub-sub-subparagraph a.(III).
2131 Creditors of the Florida Windstorm Underwriting Association
2132 shall have a claim against, and recourse to, the account
2133 referred to in sub-sub-subparagraph a.(III) and shall have no
2134 claim against, or recourse to, the accounts referred to in sub-
2135 sub-subparagraphs a.(I) and (II).

2136 d. Revenues, assets, liabilities, losses, and expenses not
2137 attributable to particular accounts shall be prorated among the
2138 accounts.

2139 e. The Legislature finds that the revenues of the
2140 corporation are revenues that are necessary to meet the
2141 requirements set forth in documents authorizing the issuance of
2142 bonds under this subsection.

2143 f. No part of the income of the corporation may inure to
2144 the benefit of any private person.

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2145 3. With respect to a deficit in an account:

2146 a. When the deficit incurred in a particular calendar year
2147 is not greater than 10 percent of the aggregate statewide direct
2148 written premium for the subject lines of business for the prior
2149 calendar year, the entire deficit shall be recovered through
2150 regular assessments of assessable insurers under paragraph (g)
2151 and assessable insureds.

2152 b. When the deficit incurred in a particular calendar year
2153 exceeds 10 percent of the aggregate statewide direct written
2154 premium for the subject lines of business for the prior calendar
2155 year, the corporation shall levy regular assessments on
2156 assessable insurers under paragraph (g) and on assessable
2157 insureds in an amount equal to the greater of 10 percent of the
2158 deficit or 10 percent of the aggregate statewide direct written
2159 premium for the subject lines of business for the prior calendar
2160 year. Any remaining deficit shall be recovered through emergency
2161 assessments under sub-subparagraph d.

2162 c. Each assessable insurer's share of the amount being
2163 assessed under sub-subparagraph a. or sub-subparagraph b. shall
2164 be in the proportion that the assessable insurer's direct
2165 written premium for the subject lines of business for the year
2166 preceding the assessment bears to the aggregate statewide direct
2167 written premium for the subject lines of business for that year.
2168 The assessment percentage applicable to each assessable insured
2169 is the ratio of the amount being assessed under sub-subparagraph
2170 a. or sub-subparagraph b. to the aggregate statewide direct
2171 written premium for the subject lines of business for the prior
2172 year. Assessments levied by the corporation on assessable
2173 insurers under sub-subparagraphs a. and b. shall be paid as
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2174 required by the corporation's plan of operation and paragraph
2175 (g). Assessments levied by the corporation on assessable
2176 insureds under sub-subparagraphs a. and b. shall be collected by
2177 the surplus lines agent at the time the surplus lines agent
2178 collects the surplus lines tax required by s. 626.932 and shall
2179 be paid to the Florida Surplus Lines Service Office at the time
2180 the surplus lines agent pays the surplus lines tax to the
2181 Florida Surplus Lines Service Office. Upon receipt of regular
2182 assessments from surplus lines agents, the Florida Surplus Lines
2183 Service Office shall transfer the assessments directly to the
2184 corporation as determined by the corporation.

2185 d. Upon a determination by the board of governors that a
2186 deficit in an account exceeds the amount that will be recovered
2187 through regular assessments under sub-subparagraph a. or sub-
2188 subparagraph b., the board shall levy, after verification by the
2189 office, emergency assessments, for as many years as necessary to
2190 cover the deficits, to be collected by assessable insurers and
2191 the corporation and collected from assessable insureds upon
2192 issuance or renewal of policies for subject lines of business,
2193 excluding National Flood Insurance policies. The amount of the
2194 emergency assessment collected in a particular year shall be a
2195 uniform percentage of that year's direct written premium for
2196 subject lines of business and all accounts of the corporation,
2197 excluding National Flood Insurance Program policy premiums, as
2198 annually determined by the board and verified by the office. The
2199 office shall verify the arithmetic calculations involved in the
2200 board's determination within 30 days after receipt of the
2201 information on which the determination was based.

2202 Notwithstanding any other provision of law, the corporation and
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2203 each assessable insurer that writes subject lines of business
2204 shall collect emergency assessments from its policyholders
2205 without such obligation being affected by any credit,
2206 limitation, exemption, or deferment. Emergency assessments
2207 levied by the corporation on assessable insureds shall be
2208 collected by the surplus lines agent at the time the surplus
2209 lines agent collects the surplus lines tax required by s.
2210 626.932 and shall be paid to the Florida Surplus Lines Service
2211 Office at the time the surplus lines agent pays the surplus
2212 lines tax to the Florida Surplus Lines Service Office. The
2213 emergency assessments so collected shall be transferred directly
2214 to the corporation on a periodic basis as determined by the
2215 corporation and shall be held by the corporation solely in the
2216 applicable account. The aggregate amount of emergency
2217 assessments levied for an account under this sub-subparagraph in
2218 any calendar year may not exceed the greater of 10 percent of
2219 the amount needed to cover the original deficit, plus interest,
2220 fees, commissions, required reserves, and other costs associated
2221 with financing of the original deficit, or 10 percent of the
2222 aggregate statewide direct written premium for subject lines of
2223 business and for all accounts of the corporation for the prior
2224 year, plus interest, fees, commissions, required reserves, and
2225 other costs associated with financing the original deficit.

2226 e. The corporation may pledge the proceeds of assessments,
2227 projected recoveries from the Florida Hurricane Insurance
2228 ~~Catastrophe~~ Fund, other insurance and reinsurance recoverables,
2229 market equalization surcharges and other surcharges, and other
2230 funds available to the corporation as the source of revenue for
2231 and to secure bonds issued under paragraph (g), bonds or other
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2232 indebtedness issued under subparagraph (c)3., or lines of credit
2233 or other financing mechanisms issued or created under this
2234 subsection, or to retire any other debt incurred as a result of
2235 deficits or events giving rise to deficits, or in any other way
2236 that the board determines will efficiently recover such
2237 deficits. The purpose of the lines of credit or other financing
2238 mechanisms is to provide additional resources to assist the
2239 corporation in covering claims and expenses attributable to a
2240 catastrophe. As used in this subsection, the term "assessments"
2241 includes regular assessments under sub-subparagraph a., sub-
2242 subparagraph b., or subparagraph (g)1. and emergency assessments
2243 under sub-subparagraph d. Emergency assessments collected under
2244 sub-subparagraph d. are not part of an insurer's rates, are not
2245 premium, and are not subject to premium tax, fees, or
2246 commissions; however, failure to pay the emergency assessment
2247 shall be treated as failure to pay premium. The emergency
2248 assessments under sub-subparagraph d. shall continue as long as
2249 any bonds issued or other indebtedness incurred with respect to
2250 a deficit for which the assessment was imposed remain
2251 outstanding, unless adequate provision has been made for the
2252 payment of such bonds or other indebtedness pursuant to the
2253 documents governing such bonds or other indebtedness.

2254 f. As used in this subsection, the term "subject lines of
2255 business" means insurance written by assessable insurers or
2256 procured by assessable insureds on real or personal property, as
2257 defined in s. 624.604, including insurance for fire, industrial
2258 fire, allied lines, farmowners multiperil, homeowners
2259 multiperil, commercial multiperil, and mobile homes, and
2260 including liability coverage on all such insurance, but

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2261 | excluding inland marine as defined in s. 624.607(3) and
2262 | excluding vehicle insurance as defined in s. 624.605(1) other
2263 | than insurance on mobile homes used as permanent dwellings.

2264 | g. The Florida Surplus Lines Service Office shall
2265 | determine annually the aggregate statewide written premium in
2266 | subject lines of business procured by assessable insureds and
2267 | shall report that information to the corporation in a form and
2268 | at a time the corporation specifies to ensure that the
2269 | corporation can meet the requirements of this subsection and the
2270 | corporation's financing obligations.

2271 | h. The Florida Surplus Lines Service Office shall verify
2272 | the proper application by surplus lines agents of assessment
2273 | percentages for regular assessments and emergency assessments
2274 | levied under this subparagraph on assessable insureds and shall
2275 | assist the corporation in ensuring the accurate, timely
2276 | collection and payment of assessments by surplus lines agents as
2277 | required by the corporation.

2278 | (c) The plan of operation of the corporation:

2279 | 1. Must provide for adoption of residential property and
2280 | casualty insurance policy forms and commercial residential and
2281 | nonresidential property insurance forms, which forms must be
2282 | approved by the office prior to use. The corporation shall adopt
2283 | the following policy forms:

2284 | a. Standard personal lines policy forms that are
2285 | comprehensive multiperil policies providing full coverage of a
2286 | residential property equivalent to the coverage provided in the
2287 | private insurance market under an HO-3, HO-4, or HO-6 policy.

2288 | b. Basic personal lines policy forms that are policies
2289 | similar to an HO-8 policy or a dwelling fire policy that provide
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2290 coverage meeting the requirements of the secondary mortgage
2291 market, but which coverage is more limited than the coverage
2292 under a standard policy.

2293 c. Commercial lines residential policy forms that are
2294 generally similar to the basic perils of full coverage
2295 obtainable for commercial residential structures in the admitted
2296 voluntary market.

2297 d. Personal lines and commercial lines residential
2298 property insurance forms that cover the peril of wind only. The
2299 forms are applicable only to residential properties located in
2300 areas eligible for coverage under the high-risk account referred
2301 to in sub-subparagraph (b)2.a.

2302 e. Commercial lines nonresidential property insurance
2303 forms that cover the peril of wind only. The forms are
2304 applicable only to nonresidential properties located in areas
2305 eligible for coverage under the high-risk account referred to in
2306 sub-subparagraph (b)2.a.

2307 2.a. Must provide that the corporation adopt a program in
2308 which the corporation and authorized insurers enter into quota
2309 share primary insurance agreements for hurricane coverage, as
2310 defined in s. 627.4025(2)(a), for eligible risks, and adopt
2311 property insurance forms for eligible risks which cover the
2312 peril of wind only. As used in this subsection, the term:

2313 (I) "Quota share primary insurance" means an arrangement
2314 in which the primary hurricane coverage of an eligible risk is
2315 provided in specified percentages by the corporation and an
2316 authorized insurer. The corporation and authorized insurer are
2317 each solely responsible for a specified percentage of hurricane
2318 coverage of an eligible risk as set forth in a quota share

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2319 primary insurance agreement between the corporation and an
2320 authorized insurer and the insurance contract. The
2321 responsibility of the corporation or authorized insurer to pay
2322 its specified percentage of hurricane losses of an eligible
2323 risk, as set forth in the quota share primary insurance
2324 agreement, may not be altered by the inability of the other
2325 party to the agreement to pay its specified percentage of
2326 hurricane losses. Eligible risks that are provided hurricane
2327 coverage through a quota share primary insurance arrangement
2328 must be provided policy forms that set forth the obligations of
2329 the corporation and authorized insurer under the arrangement,
2330 clearly specify the percentages of quota share primary insurance
2331 provided by the corporation and authorized insurer, and
2332 conspicuously and clearly state that neither the authorized
2333 insurer nor the corporation may be held responsible beyond its
2334 specified percentage of coverage of hurricane losses.

2335 (II) "Eligible risks" means personal lines residential and
2336 commercial lines residential risks that meet the underwriting
2337 criteria of the corporation and are located in areas that were
2338 eligible for coverage by the Florida Windstorm Underwriting
2339 Association on January 1, 2002.

2340 b. The corporation may enter into quota share primary
2341 insurance agreements with authorized insurers at corporation
2342 coverage levels of 90 percent and 50 percent.

2343 c. If the corporation determines that additional coverage
2344 levels are necessary to maximize participation in quota share
2345 primary insurance agreements by authorized insurers, the
2346 corporation may establish additional coverage levels. However,

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2347 | the corporation's quota share primary insurance coverage level
2348 | may not exceed 90 percent.

2349 | d. Any quota share primary insurance agreement entered
2350 | into between an authorized insurer and the corporation must
2351 | provide for a uniform specified percentage of coverage of
2352 | hurricane losses, by county or territory as set forth by the
2353 | corporation board, for all eligible risks of the authorized
2354 | insurer covered under the quota share primary insurance
2355 | agreement.

2356 | e. Any quota share primary insurance agreement entered
2357 | into between an authorized insurer and the corporation is
2358 | subject to review and approval by the office. However, such
2359 | agreement shall be authorized only as to insurance contracts
2360 | entered into between an authorized insurer and an insured who is
2361 | already insured by the corporation for wind coverage.

2362 | f. For all eligible risks covered under quota share
2363 | primary insurance agreements, the exposure and coverage levels
2364 | for both the corporation and authorized insurers shall be
2365 | reported by the corporation to the Florida Hurricane Insurance
2366 | ~~Catastrophe~~ Fund. For all policies of eligible risks covered
2367 | under quota share primary insurance agreements, the corporation
2368 | and the authorized insurer shall maintain complete and accurate
2369 | records for the purpose of exposure and loss reimbursement
2370 | audits as required by Florida Hurricane Insurance ~~Catastrophe~~
2371 | Fund rules. The corporation and the authorized insurer shall
2372 | each maintain duplicate copies of policy declaration pages and
2373 | supporting claims documents.

2374 | g. The corporation board shall establish in its plan of
2375 | operation standards for quota share agreements which ensure that
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2376 | there is no discriminatory application among insurers as to the
2377 | terms of quota share agreements, pricing of quota share
2378 | agreements, incentive provisions if any, and consideration paid
2379 | for servicing policies or adjusting claims.

2380 | h. The quota share primary insurance agreement between the
2381 | corporation and an authorized insurer must set forth the
2382 | specific terms under which coverage is provided, including, but
2383 | not limited to, the sale and servicing of policies issued under
2384 | the agreement by the insurance agent of the authorized insurer
2385 | producing the business, the reporting of information concerning
2386 | eligible risks, the payment of premium to the corporation, and
2387 | arrangements for the adjustment and payment of hurricane claims
2388 | incurred on eligible risks by the claims adjuster and personnel
2389 | of the authorized insurer. Entering into a quota sharing
2390 | insurance agreement between the corporation and an authorized
2391 | insurer shall be voluntary and at the discretion of the
2392 | authorized insurer.

2393 | 3. May provide that the corporation may employ or
2394 | otherwise contract with individuals or other entities to provide
2395 | administrative or professional services that may be appropriate
2396 | to effectuate the plan. The corporation shall have the power to
2397 | borrow funds, by issuing bonds or by incurring other
2398 | indebtedness, and shall have other powers reasonably necessary
2399 | to effectuate the requirements of this subsection, including,
2400 | without limitation, the power to issue bonds and incur other
2401 | indebtedness in order to refinance outstanding bonds or other
2402 | indebtedness. The corporation may, but is not required to, seek
2403 | judicial validation of its bonds or other indebtedness under
2404 | chapter 75. The corporation may issue bonds or incur other

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2405 indebtedness, or have bonds issued on its behalf by a unit of
2406 local government pursuant to subparagraph (g)2., in the absence
2407 of a hurricane or other weather-related event, upon a
2408 determination by the corporation, subject to approval by the
2409 office, that such action would enable it to efficiently meet the
2410 financial obligations of the corporation and that such
2411 financings are reasonably necessary to effectuate the
2412 requirements of this subsection. The corporation is authorized
2413 to take all actions needed to facilitate tax-free status for any
2414 such bonds or indebtedness, including formation of trusts or
2415 other affiliated entities. The corporation shall have the
2416 authority to pledge assessments, projected recoveries from the
2417 Florida Hurricane Insurance Catastrophe Fund, other reinsurance
2418 recoverables, market equalization and other surcharges, and
2419 other funds available to the corporation as security for bonds
2420 or other indebtedness. In recognition of s. 10, Art. I of the
2421 State Constitution, prohibiting the impairment of obligations of
2422 contracts, it is the intent of the Legislature that no action be
2423 taken whose purpose is to impair any bond indenture or financing
2424 agreement or any revenue source committed by contract to such
2425 bond or other indebtedness.

2426 4.a. Must require that the corporation operate subject to
2427 the supervision and approval of a board of governors consisting
2428 of 8 individuals who are residents of this state, from different
2429 geographical areas of this state. The Governor, the Chief
2430 Financial Officer, the President of the Senate, and the Speaker
2431 of the House of Representatives shall each appoint two members
2432 of the board, effective August 1, 2005. At least one of the two
2433 members appointed by each appointing officer must have

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2434 demonstrated expertise in insurance. The Chief Financial Officer
2435 shall designate one of the appointees as chair. All board
2436 members serve at the pleasure of the appointing officer. All
2437 board members, including the chair, must be appointed to serve
2438 for 3-year terms beginning annually on a date designated by the
2439 plan. Any board vacancy shall be filled for the unexpired term
2440 by the appointing officer. The Chief Financial Officer shall
2441 appoint a technical advisory group to provide information and
2442 advice to the board of governors in connection with the board's
2443 duties under this subsection. The executive director and senior
2444 managers of the corporation shall be engaged by the board, as
2445 recommended by the Chief Financial Officer, and serve at the
2446 pleasure of the board. The executive director is responsible for
2447 employing other staff as the corporation may require, subject to
2448 review and concurrence by the board and the Chief Financial
2449 Officer.

2450 b. The board shall create a Market Accountability Advisory
2451 Committee to assist the corporation in developing awareness of
2452 its rates and its customer and agent service levels in
2453 relationship to the voluntary market insurers writing similar
2454 coverage. The members of the advisory committee shall consist of
2455 the following 11 persons, one of whom must be elected chair by
2456 the members of the committee: four representatives, one
2457 appointed by the Florida Association of Insurance Agents, one by
2458 the Florida Association of Insurance and Financial Advisors, one
2459 by the Professional Insurance Agents of Florida, and one by the
2460 Latin American Association of Insurance Agencies; three
2461 representatives appointed by the insurers with the three highest
2462 voluntary market share of residential property insurance

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2463 business in the state; one representative from the Office of
2464 Insurance Regulation; one consumer appointed by the board who is
2465 insured by the corporation at the time of appointment to the
2466 committee; one representative appointed by the Florida
2467 Association of Realtors; and one representative appointed by the
2468 Florida Bankers Association. All members must serve for 3-year
2469 terms and may serve for consecutive terms. The committee shall
2470 report to the corporation at each board meeting on insurance
2471 market issues which may include rates and rate competition with
2472 the voluntary market; service, including policy issuance, claims
2473 processing, and general responsiveness to policyholders,
2474 applicants, and agents; and matters relating to depopulation.

2475 5. Must provide a procedure for determining the
2476 eligibility of a risk for coverage, as follows:

2477 a. Subject to the provisions of s. 627.3517, with respect
2478 to personal lines residential risks, if the risk is offered
2479 coverage from an authorized insurer at the insurer's approved
2480 rate under either a standard policy including wind coverage or,
2481 if consistent with the insurer's underwriting rules as filed
2482 with the office, a basic policy including wind coverage, the
2483 risk is not eligible for any policy issued by the corporation.
2484 If the risk is not able to obtain any such offer, the risk is
2485 eligible for either a standard policy including wind coverage or
2486 a basic policy including wind coverage issued by the
2487 corporation; however, if the risk could not be insured under a
2488 standard policy including wind coverage regardless of market
2489 conditions, the risk shall be eligible for a basic policy
2490 including wind coverage unless rejected under subparagraph 8.

2491 The corporation shall determine the type of policy to be
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2492 provided on the basis of objective standards specified in the
2493 underwriting manual and based on generally accepted underwriting
2494 practices.

2495 (I) If the risk accepts an offer of coverage through the
2496 market assistance plan or an offer of coverage through a
2497 mechanism established by the corporation before a policy is
2498 issued to the risk by the corporation or during the first 30
2499 days of coverage by the corporation, and the producing agent who
2500 submitted the application to the plan or to the corporation is
2501 not currently appointed by the insurer, the insurer shall:

2502 (A) Pay to the producing agent of record of the policy,
2503 for the first year, an amount that is the greater of the
2504 insurer's usual and customary commission for the type of policy
2505 written or a fee equal to the usual and customary commission of
2506 the corporation; or

2507 (B) Offer to allow the producing agent of record of the
2508 policy to continue servicing the policy for a period of not less
2509 than 1 year and offer to pay the agent the greater of the
2510 insurer's or the corporation's usual and customary commission
2511 for the type of policy written.

2512
2513 If the producing agent is unwilling or unable to accept
2514 appointment, the new insurer shall pay the agent in accordance
2515 with sub-sub-sub-subparagraph (A).

2516 (II) When the corporation enters into a contractual
2517 agreement for a take-out plan, the producing agent of record of
2518 the corporation policy is entitled to retain any unearned
2519 commission on the policy, and the insurer shall:

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2520 (A) Pay to the producing agent of record of the
2521 corporation policy, for the first year, an amount that is the
2522 greater of the insurer's usual and customary commission for the
2523 type of policy written or a fee equal to the usual and customary
2524 commission of the corporation; or

2525 (B) Offer to allow the producing agent of record of the
2526 corporation policy to continue servicing the policy for a period
2527 of not less than 1 year and offer to pay the agent the greater
2528 of the insurer's or the corporation's usual and customary
2529 commission for the type of policy written.

2530
2531 If the producing agent is unwilling or unable to accept
2532 appointment, the new insurer shall pay the agent in accordance
2533 with sub-sub-sub-subparagraph (A).

2534 b. With respect to commercial lines residential risks, if
2535 the risk is offered coverage under a policy including wind
2536 coverage from an authorized insurer at its approved rate, the
2537 risk is not eligible for any policy issued by the corporation.
2538 If the risk is not able to obtain any such offer, the risk is
2539 eligible for a policy including wind coverage issued by the
2540 corporation.

2541 (I) If the risk accepts an offer of coverage through the
2542 market assistance plan or an offer of coverage through a
2543 mechanism established by the corporation before a policy is
2544 issued to the risk by the corporation or during the first 30
2545 days of coverage by the corporation, and the producing agent who
2546 submitted the application to the plan or the corporation is not
2547 currently appointed by the insurer, the insurer shall:

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2548 (A) Pay to the producing agent of record of the policy,
2549 for the first year, an amount that is the greater of the
2550 insurer's usual and customary commission for the type of policy
2551 written or a fee equal to the usual and customary commission of
2552 the corporation; or

2553 (B) Offer to allow the producing agent of record of the
2554 policy to continue servicing the policy for a period of not less
2555 than 1 year and offer to pay the agent the greater of the
2556 insurer's or the corporation's usual and customary commission
2557 for the type of policy written.

2558
2559 If the producing agent is unwilling or unable to accept
2560 appointment, the new insurer shall pay the agent in accordance
2561 with sub-sub-sub-subparagraph (A).

2562 (II) When the corporation enters into a contractual
2563 agreement for a take-out plan, the producing agent of record of
2564 the corporation policy is entitled to retain any unearned
2565 commission on the policy, and the insurer shall:

2566 (A) Pay to the producing agent of record of the
2567 corporation policy, for the first year, an amount that is the
2568 greater of the insurer's usual and customary commission for the
2569 type of policy written or a fee equal to the usual and customary
2570 commission of the corporation; or

2571 (B) Offer to allow the producing agent of record of the
2572 corporation policy to continue servicing the policy for a period
2573 of not less than 1 year and offer to pay the agent the greater
2574 of the insurer's or the corporation's usual and customary
2575 commission for the type of policy written.

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2577 If the producing agent is unwilling or unable to accept
2578 appointment, the new insurer shall pay the agent in accordance
2579 with sub-sub-sub-subparagraph (A).

2580 6. Must include rules for classifications of risks and
2581 rates therefor.

2582 7. Must provide that if premium and investment income for
2583 an account attributable to a particular calendar year are in
2584 excess of projected losses and expenses for the account
2585 attributable to that year, such excess shall be held in surplus
2586 in the account. Such surplus shall be available to defray
2587 deficits in that account as to future years and shall be used
2588 for that purpose prior to assessing assessable insurers and
2589 assessable insureds as to any calendar year.

2590 8. Must provide objective criteria and procedures to be
2591 uniformly applied for all applicants in determining whether an
2592 individual risk is so hazardous as to be uninsurable. In making
2593 this determination and in establishing the criteria and
2594 procedures, the following shall be considered:

2595 a. Whether the likelihood of a loss for the individual
2596 risk is substantially higher than for other risks of the same
2597 class; and

2598 b. Whether the uncertainty associated with the individual
2599 risk is such that an appropriate premium cannot be determined.

2600
2601 The acceptance or rejection of a risk by the corporation shall
2602 be construed as the private placement of insurance, and the
2603 provisions of chapter 120 shall not apply.

2604 9. Must provide that the corporation shall make its best
2605 efforts to procure catastrophe reinsurance at reasonable rates,
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2606 to cover its projected 100-year probable maximum loss as
2607 determined by the board of governors.

2608 10. Must provide that in the event of regular deficit
2609 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
2610 (b)3.b., in the personal lines account, the commercial lines
2611 residential account, or the high-risk account, the corporation
2612 shall levy upon corporation policyholders in its next rate
2613 filing, or by a separate rate filing solely for this purpose, a
2614 market equalization surcharge arising from a regular assessment
2615 in such account in a percentage equal to the total amount of
2616 such regular assessments divided by the aggregate statewide
2617 direct written premium for subject lines of business for the
2618 prior calendar year. Market equalization surcharges under this
2619 subparagraph are not considered premium and are not subject to
2620 commissions, fees, or premium taxes; however, failure to pay a
2621 market equalization surcharge shall be treated as failure to pay
2622 premium.

2623 11. The policies issued by the corporation must provide
2624 that, if the corporation or the market assistance plan obtains
2625 an offer from an authorized insurer to cover the risk at its
2626 approved rates, the risk is no longer eligible for renewal
2627 through the corporation.

2628 12. Corporation policies and applications must include a
2629 notice that the corporation policy could, under this section, be
2630 replaced with a policy issued by an authorized insurer that does
2631 not provide coverage identical to the coverage provided by the
2632 corporation. The notice shall also specify that acceptance of
2633 corporation coverage creates a conclusive presumption that the
2634 applicant or policyholder is aware of this potential.

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2635 13. May establish, subject to approval by the office,
2636 different eligibility requirements and operational procedures
2637 for any line or type of coverage for any specified county or
2638 area if the board determines that such changes to the
2639 eligibility requirements and operational procedures are
2640 justified due to the voluntary market being sufficiently stable
2641 and competitive in such area or for such line or type of
2642 coverage and that consumers who, in good faith, are unable to
2643 obtain insurance through the voluntary market through ordinary
2644 methods would continue to have access to coverage from the
2645 corporation. When coverage is sought in connection with a real
2646 property transfer, such requirements and procedures shall not
2647 provide for an effective date of coverage later than the date of
2648 the closing of the transfer as established by the transferor,
2649 the transferee, and, if applicable, the lender.

2650 14. Must provide that, with respect to the high-risk
2651 account, any assessable insurer with a surplus as to
2652 policyholders of \$25 million or less writing 25 percent or more
2653 of its total countrywide property insurance premiums in this
2654 state may petition the office, within the first 90 days of each
2655 calendar year, to qualify as a limited apportionment company. In
2656 no event shall a limited apportionment company be required to
2657 participate in the portion of any assessment, within the high-
2658 risk account, pursuant to sub-subparagraph (b)3.a. or sub-
2659 subparagraph (b)3.b. in the aggregate which exceeds \$50 million
2660 after payment of available high-risk account funds in any
2661 calendar year. However, a limited apportionment company shall
2662 collect from its policyholders any emergency assessment imposed
2663 under sub-subparagraph (b)3.d. The plan shall provide that, if
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2664 the office determines that any regular assessment will result in
2665 an impairment of the surplus of a limited apportionment company,
2666 the office may direct that all or part of such assessment be
2667 deferred as provided in subparagraph (g)4. However, there shall
2668 be no limitation or deferment of an emergency assessment to be
2669 collected from policyholders under sub-subparagraph (b)3.d.

2670 15. Must provide that the corporation appoint as its
2671 licensed agents only those agents who also hold an appointment
2672 as defined in s. 626.015(3) with an insurer who at the time of
2673 the agent's initial appointment by the corporation is authorized
2674 to write and is actually writing personal lines residential
2675 property coverage, commercial residential property coverage, or
2676 commercial nonresidential property coverage within the state.

2677 (k) Upon a determination by the office that the conditions
2678 giving rise to the establishment and activation of the
2679 corporation no longer exist, the corporation is dissolved. Upon
2680 dissolution, the assets of the corporation shall be applied
2681 first to pay all debts, liabilities, and obligations of the
2682 corporation, including the establishment of reasonable reserves
2683 for any contingent liabilities or obligations, and all remaining
2684 assets of the corporation shall become property of the state and
2685 shall be deposited in the Florida Hurricane Insurance
2686 ~~Catastrophe~~ Fund. However, no dissolution shall take effect as
2687 long as the corporation has bonds or other financial obligations
2688 outstanding unless adequate provision has been made for the
2689 payment of the bonds or other financial obligations pursuant to
2690 the documents authorizing the issuance of the bonds or other
2691 financial obligations.

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2692 (1)1. Effective July 1, 2002, policies of the Residential
2693 Property and Casualty Joint Underwriting Association shall
2694 become policies of the corporation. All obligations, rights,
2695 assets and liabilities of the Residential Property and Casualty
2696 Joint Underwriting Association, including bonds, note and debt
2697 obligations, and the financing documents pertaining to them
2698 become those of the corporation as of July 1, 2002. The
2699 corporation is not required to issue endorsements or
2700 certificates of assumption to insureds during the remaining term
2701 of in-force transferred policies.

2702 2. Effective July 1, 2002, policies of the Florida
2703 Windstorm Underwriting Association are transferred to the
2704 corporation and shall become policies of the corporation. All
2705 obligations, rights, assets, and liabilities of the Florida
2706 Windstorm Underwriting Association, including bonds, note and
2707 debt obligations, and the financing documents pertaining to them
2708 are transferred to and assumed by the corporation on July 1,
2709 2002. The corporation is not required to issue endorsement or
2710 certificates of assumption to insureds during the remaining term
2711 of in-force transferred policies.

2712 3. The Florida Windstorm Underwriting Association and the
2713 Residential Property and Casualty Joint Underwriting Association
2714 shall take all actions as may be proper to further evidence the
2715 transfers and shall provide the documents and instruments of
2716 further assurance as may reasonably be requested by the
2717 corporation for that purpose. The corporation shall execute
2718 assumptions and instruments as the trustees or other parties to
2719 the financing documents of the Florida Windstorm Underwriting
2720 Association or the Residential Property and Casualty Joint

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2721 Underwriting Association may reasonably request to further
2722 evidence the transfers and assumptions, which transfers and
2723 assumptions, however, are effective on the date provided under
2724 this paragraph whether or not, and regardless of the date on
2725 which, the assumptions or instruments are executed by the
2726 corporation. Subject to the relevant financing documents
2727 pertaining to their outstanding bonds, notes, indebtedness, or
2728 other financing obligations, the moneys, investments,
2729 receivables, choses in action, and other intangibles of the
2730 Florida Windstorm Underwriting Association shall be credited to
2731 the high-risk account of the corporation, and those of the
2732 personal lines residential coverage account and the commercial
2733 lines residential coverage account of the Residential Property
2734 and Casualty Joint Underwriting Association shall be credited to
2735 the personal lines account and the commercial lines account,
2736 respectively, of the corporation.

2737 4. Effective July 1, 2002, a new applicant for property
2738 insurance coverage who would otherwise have been eligible for
2739 coverage in the Florida Windstorm Underwriting Association is
2740 eligible for coverage from the corporation as provided in this
2741 subsection.

2742 5. The transfer of all policies, obligations, rights,
2743 assets, and liabilities from the Florida Windstorm Underwriting
2744 Association to the corporation and the renaming of the
2745 Residential Property and Casualty Joint Underwriting Association
2746 as the corporation shall in no way affect the coverage with
2747 respect to covered policies as defined in s. 215.555(2) ~~(e)~~
2748 provided to these entities by the Florida Hurricane Insurance
2749 ~~Catastrophe~~ Fund. The coverage provided by the Florida Hurricane
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2750 Insurance Catastrophe Fund to the Florida Windstorm Underwriting
2751 Association based on its exposures as of June 30, 2002, and each
2752 June 30 thereafter shall be redesignated as coverage for the
2753 high-risk account of the corporation. Notwithstanding any other
2754 provision of law, the coverage provided by the Florida Hurricane
2755 Insurance Catastrophe Fund to the Residential Property and
2756 Casualty Joint Underwriting Association based on its exposures
2757 as of June 30, 2002, and each June 30 thereafter shall be
2758 transferred to the personal lines account and the commercial
2759 lines account of the corporation. Notwithstanding any other
2760 provision of law, the high-risk account shall be treated, for
2761 all Florida Hurricane Insurance Catastrophe Fund purposes, as if
2762 it were a separate participating insurer with its own exposures,
2763 reimbursement premium, and loss reimbursement. Likewise, the
2764 personal lines and commercial lines accounts shall be viewed
2765 together, for all Florida Hurricane Insurance Catastrophe Fund
2766 purposes, as if the two accounts were one and represent a
2767 single, separate participating insurer with its own exposures,
2768 reimbursement premium, and loss reimbursement. The coverage
2769 provided by the Florida Hurricane Insurance Catastrophe Fund to
2770 the corporation shall constitute and operate as a full transfer
2771 of coverage from the Florida Windstorm Underwriting Association
2772 and Residential Property and Casualty Joint Underwriting to the
2773 corporation.

2774 Section 12. Paragraph (d) of subsection (6) of section
2775 627.701, Florida Statutes, is amended to read:

2776 627.701 Liability of insureds; coinsurance; deductibles.--

2777 (6)

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2778 (d) The office shall draft and formally propose as a rule
2779 the form for the certificate of security. The certificate of
2780 security may be issued in any of the following circumstances:

2781 1. A mortgage lender or other financial institution may
2782 issue a certificate of security after granting the applicant a
2783 line of credit, secured by equity in real property or other
2784 reasonable security, which line of credit may be drawn on only
2785 to pay for the deductible portion of insured construction or
2786 reconstruction after a hurricane loss. In the sole discretion of
2787 the mortgage lender or other financial institution, the line of
2788 credit may be issued to an applicant on an unsecured basis.

2789 2. A licensed insurance agent may issue a certificate of
2790 security after obtaining for an applicant a line of credit,
2791 secured by equity in real property or other reasonable security,
2792 which line of credit may be drawn on only to pay for the
2793 deductible portion of insured construction or reconstruction
2794 after a hurricane loss. The Florida Hurricane Insurance
2795 ~~Catastrophe~~ Fund shall negotiate agreements creating a financing
2796 consortium to serve as an additional source of lines of credit
2797 to secure deductibles. Any licensed insurance agent may act as
2798 the agent of such consortium.

2799 3. Any person qualified to act as a trustee for any
2800 purpose may issue a certificate of security secured by a pledge
2801 of assets, with the restriction that the assets may be drawn on
2802 only to pay for the deductible portion of insured construction
2803 or reconstruction after a hurricane loss.

2804 4. Any insurer, including any admitted insurer or any
2805 surplus lines insurer, may issue a certificate of security after
2806 issuing the applicant a policy of supplemental insurance that
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2807 will pay for 100 percent of the deductible portion of insured
2808 construction or reconstruction after a hurricane loss.

2809 5. Any other method approved by the office upon finding
2810 that such other method provides a similar level of security as
2811 the methods specified in this paragraph and that such other
2812 method has no negative impact on residential property insurance
2813 catastrophic capacity. The legislative intent of this
2814 subparagraph is to provide the flexibility needed to achieve the
2815 public policy of expanding property insurance capacity while
2816 improving the affordability of property insurance.

2817 Section 13. Paragraph (a) of subsection (3) of section
2818 627.7077, Florida Statutes, is amended to read:

2819 627.7077 Florida Sinkhole Insurance Facility and other
2820 matters related to affordability and availability of sinkhole
2821 insurance; feasibility study.--

2822 (3) The feasibility study shall, at a minimum, address the
2823 following issues:

2824 (a) Where the facility should be housed, including, but
2825 not limited to, the options of creating a separate facility or
2826 using the Citizens Property Insurance Corporation or the Florida
2827 Hurricane Insurance Catastrophe Fund.

2828 Section 14. Citizens Property Insurance Corporation wind-
2829 storm coverage will sunset January 1, 2010. Beginning January 1,
2830 2007, all windstorm coverage provided through Citizens Property
2831 Insurance Corporation will be phased out and coverage will be
2832 provided through the Florida Catastrophe Fund.

2833 Section 15. Sales tax revenues generated as estimated by
2834 the Office of Economic and Demographic Research due to hurricane
2835 damages and rebuilding shall be used as follows:

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2836 (1) Fifty percent of sales tax collection shall be
2837 deposited in the Florida Catastrophe Fund.

2838 (2) Fifty percent of sales tax collection shall be
2839 deposited in the "Protect Our Homes" Mitigation Fund.

2840 Section 16. Section 350.061, Florida Statutes, is
2841 transferred, renumbered as section 11.402, Florida Statutes,
2842 and amended to read:

2843 11.402 ~~350.061~~ Public Counsel; appointment; oath;
2844 restrictions on Public Counsel and his or her employees.--

2845 (1) The Committee on Public Service Commission Oversight
2846 shall appoint a Public Counsel by majority vote of the members
2847 of the committee to represent the general public of Florida
2848 before the Florida Public Service Commission and the Office of
2849 Insurance Regulation. The Public Counsel shall be an attorney
2850 admitted to practice before the Florida Supreme Court and shall
2851 serve at the pleasure of the Committee on Public Service
2852 Commission Oversight, subject to biennial reconfirmation by the
2853 committee. The Public Counsel shall perform his or her duties
2854 independently. Vacancies in the office shall be filled in the
2855 same manner as the original appointment.

2856 (2) The Public Counsel shall take and subscribe to the
2857 oath of office required of state officers by the State
2858 Constitution.

2859 (3) No officer or full-time employee of the Public Counsel
2860 shall actively engage in any other business or profession; serve
2861 as the representative of any political party or on any executive
2862 committee or other governing body thereof; serve as an
2863 executive, officer, or employee of any political party,
2864 committee, organization, or association; receive remuneration

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2865 for activities on behalf of any candidate for public office; or
2866 engage on behalf of any candidate for public office in the
2867 solicitation of votes or other activities in behalf of such
2868 candidacy. Neither the Public Counsel nor any employee of the
2869 Public Counsel shall become a candidate for election to public
2870 office unless he or she shall first resign from his or her
2871 office or employment.

2872 Section 17. Section 350.0611, Florida Statutes, is
2873 transferred, renumbered as section 11.403, Florida Statutes, and
2874 amended to read:

2875 11.403 ~~350.0611~~ Public Counsel; duties and powers.--It
2876 shall be the duty of the Public Counsel to provide legal
2877 representation for the people of the state in proceedings before
2878 the Public Service Commission and the Office of Insurance
2879 Regulation ~~commission~~ and in proceedings before counties
2880 pursuant to s. 367.171(8). The Public Counsel shall have such
2881 powers as are necessary to carry out the duties of his or her
2882 office, including, but not limited to, the following specific
2883 powers:

2884 (1) To recommend to the Public Service Commission
2885 ~~commission~~ or the counties, by petition, the commencement of any
2886 proceeding or action or to appear, in the name of the state or
2887 its citizens, in any proceeding or action before the commission
2888 or the counties.

2889 (2) To recommend to the Office of Insurance Regulation, by
2890 petition, the commencement of, and to appear in the name of the
2891 state or its citizens in, any proceeding or action before the
2892 office relating to:

2893 (a) Rules governing residential property insurance; or
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2894 (b) Rate filings for residential property insurance which,
2895 pursuant to standards determined by the office, request an
2896 average statewide rate increase of 10 percent or greater as
2897 compared to the current rates in effect or the rates in effect
2898 12 months prior to the proposed effective date. The Public
2899 Counsel may not stay any final order of the Office of Insurance
2900 Regulation.

2901 (3) To ~~and~~ urge in any proceeding or action to which he or
2902 she is a party ~~therein~~ any position ~~that~~ ~~which~~ he or she deems
2903 to be in the public interest, whether consistent or inconsistent
2904 with positions previously adopted by the commission, ~~or~~ the
2905 counties, or the office, and use ~~utilize~~ therein all forms of
2906 discovery available to attorneys in civil actions generally,
2907 subject to protective orders of the commission, ~~or~~ the counties,
2908 or the office, which shall be reviewable by summary procedure in
2909 the circuit courts of this state.

2910 (4)~~(2)~~ To have access to and use of all files, records,
2911 and data of the commission, ~~or~~ the counties, or the office,
2912 available to any other attorney representing parties in a
2913 proceeding before the commission or the counties.

2914 (5)~~(3)~~ In any proceeding in which he or she has
2915 participated as a party, to seek review of any determination,
2916 finding, or order of the commission, ~~or~~ the counties, or the
2917 office, or of any hearing examiner designated by the commission,
2918 ~~or~~ the counties, or the office, in the name of the state or its
2919 citizens.

2920 (6)~~(4)~~ To prepare and issue reports, recommendations, and
2921 proposed orders to the commission or office, the Governor, and
2922 the Legislature on any matter or subject within the jurisdiction
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2923 of the commission or office, and to make such recommendations as
2924 he or she deems appropriate for legislation relative to
2925 commission or office procedures, rules, jurisdiction, personnel,
2926 and functions. ~~;~~ ~~and~~

2927 (7) ~~(5)~~ To appear before other state agencies, federal
2928 agencies, and state and federal courts in connection with
2929 matters under the jurisdiction of the commission or office, in
2930 the name of the state or its citizens.

2931 Section 18. Section 350.0612, Florida Statutes, is
2932 transferred, renumbered as section 11.404, Florida Statutes, and
2933 amended to read:

2934 11.404 ~~350.0612~~ Public Counsel; location.--The Public
2935 Counsel shall maintain his or her office in Leon County ~~on the~~
2936 ~~premises of the commission or, if suitable space there cannot be~~
2937 ~~provided,~~ at such ~~other~~ place convenient to the offices of the
2938 Public Services Commission or the Office of Insurance Regulation
2939 ~~commissioners~~ as will enable him or her to carry out
2940 expeditiously the duties and functions of his or her office.

2941 Section 19. Subsection (1) of section 408.40, Florida
2942 Statutes, is amended to read:

2943 408.40 Public Counsel.--

2944 (1) Notwithstanding any other provisions of this chapter,
2945 the Public Counsel shall represent the public in any proceeding
2946 before the agency or its advisory panels in any administrative
2947 hearing conducted pursuant to chapter 120 or before any other
2948 state and federal agencies and courts in any issue before the
2949 agency, any court, or any agency. With respect to any such
2950 proceeding, the Public Counsel is subject to the provisions of

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2951 and may use the powers granted to him or her by ss. 11.402-
2952 11.404 and ss. 350.0613 ~~350.061~~-350.0614.

2953 Section 20. Subsection (3) of section 109 of chapter 2000-
2954 141, Laws of Florida, is amended to read:

2955 Section 109. The Legislature has reviewed the Florida
2956 Building Code that was adopted by action of the Florida Building
2957 Commission on February 15, 2000, and that was noticed for rule
2958 adoption by reference in Rule 9B-3.047, F.A.C., on February 18,
2959 2000, in the Florida Administrative Weekly on page 731. The
2960 Florida Building Commission is directed to continue the process
2961 to adopt the code, pursuant to section 120.54(3), Florida
2962 Statutes, and to incorporate the following provisions or
2963 standards for the State of Florida:

2964 (3) For areas of the state not within the high velocity
2965 hurricane zone, the commission shall adopt, pursuant to s.
2966 553.73, Florida Statutes, the wind protection requirements of
2967 the American Society of Civil Engineers, Standard 7, 1998
2968 edition as implemented by the International Building Code, 2000
2969 edition, and as modified by the commission in its February 15,
2970 2000, adoption of the Florida Building Code for rule adoption by
2971 reference in Rule 9B-3.047, Florida Administrative Code.

2972 ~~However, from the eastern border of Franklin County to the~~
2973 ~~Florida Alabama line, only land within 1 mile of the coast shall~~
2974 ~~be subject to the windborne debris requirements adopted by the~~
2975 ~~commission.~~ The exact location of wind speed lines shall be
2976 established by local ordinance, using recognized physical
2977 landmarks such as major roads, canals, rivers, and lake shores,
2978 wherever possible. Buildings constructed in the windborne debris
2979 region must be either designed for internal pressures that may

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2980 result inside a building when a window or door is broken or a
2981 hole is created in its walls or roof by large debris, or be
2982 designed with protected openings. Except in the high velocity
2983 hurricane zone, local governments may not prohibit the option of
2984 designing buildings to resist internal pressures.

2985
2986 The Legislature declares that changes made to the proposed Rule
2987 9B-3.047, Florida Administrative Code, to implement the
2988 requirements of this act prior to October 1, 2000, are not
2989 subject to rule challenges under section 120.56, Florida
2990 Statutes. However, the entire rule, adopted pursuant to s.
2991 120.54(3), Florida Statutes, as amended after October 1, 2000,
2992 is subject to rule challenges under s. 120.56, Florida Statutes.

2993 Section 21. Task Force on Hurricane Mitigation and
2994 Hurricane Insurance for Mobile and Manufactured Homes.--

2995 (1) TASK FORCE CREATED.--There is created the Task Force
2996 on Hurricane Mitigation and Hurricane Insurance for Mobile and
2997 Manufactured Homes.

2998 (2) ADMINISTRATION.--The task force shall be
2999 administratively housed within the Office of Insurance
3000 Regulation but shall operate independently of any state officer
3001 or agency. The office shall provide such administrative support
3002 as the task force deems necessary to accomplish its mission and
3003 shall provide necessary funding for the task force within the
3004 office's existing resources. The Executive Office of the
3005 Governor, the Department of Financial Services, the Office of
3006 Insurance Regulation, the Department of Highway Safety and Motor
3007 Vehicles, and the Department of Community Affairs shall provide
3008 substantive staff support for the task force.

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3009 (3) MEMBERSHIP.--The members of the task force shall be
3010 appointed as follows:

3011 (a) The Governor shall appoint two members who have
3012 expertise in financial matters, one of whom is a representative
3013 of the mobile or manufactured home industry and one of whom is a
3014 representative of insurance consumers.

3015 (b) The Chief Financial Officer shall appoint two members
3016 who have expertise in financial matters, one of whom is a
3017 representative of a property insurer writing mobile or
3018 manufactured homeowners insurance in this state and one of whom
3019 is a representative of insurance agents.

3020 (c) The President of the Senate shall appoint one member.

3021 (d) The Speaker of the House of Representatives shall
3022 appoint one member.

3023 (e) The Commissioner of Insurance Regulation or his or her
3024 designee shall serve as an ex officio voting member of the task
3025 force.

3026 (f) The Executive Director of Citizens Property Insurance
3027 or his or her designee shall serve as an ex officio voting
3028 member of the task force.

3029 (g) The Chief Executive Officer of the Federal Alliance
3030 for Safe Homes, Incorporated or his or her designee shall serve
3031 as an ex officio voting member of the task force.

3032
3033 Members of the task force shall serve without compensation but
3034 may receive reimbursement for per diem and travel expenses as
3035 provided in s. 112.061, Florida Statutes.

3036 (4) PURPOSE AND INTENT.--The Legislature recognizes the
3037 continued availability of hurricane insurance coverage for
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3038 mobile and manufactured home owners in this state is essential
3039 to the state's economic survival. The Legislature further
3040 recognizes hurricane mitigation measures and building codes may
3041 reduce the likelihood or amount of damage to mobile or
3042 manufactured homes in the event of a hurricane. The Legislature
3043 further recognizes mobile and manufactured homes provide safe
3044 and affordable housing to many residents of this state. The
3045 purpose of the task force is to make recommendations to the
3046 legislative and executive branches of this state's government
3047 relating to the creation and maintenance of insurance capacity
3048 in the private sector and public sector that is sufficient to
3049 ensure that all mobile and manufactured home owners in this
3050 state are able to obtain appropriate insurance coverage for
3051 hurricane losses and relating to the effectiveness of hurricane
3052 mitigation measures for mobile or manufactured homes as further
3053 described in this section.

3054 (5) SPECIFIC TASKS.--The task force shall conduct such
3055 research and hearings as the task force deems necessary to
3056 achieve the purposes specified in subsection (4) and shall
3057 develop information on relevant issues, including, but not
3058 limited to, the following issues:

3059 (a) Whether this state currently has sufficient hurricane
3060 insurance capacity for mobile and manufactured homes to ensure
3061 the continuation of a healthy, competitive marketplace, taking
3062 into consideration private-sector and public-sector resources.

3063 (b) Identifying the future demands on the hurricane
3064 insurance capacity of this state, taking into account population
3065 growth, coastal growth, and anticipated future hurricane
3066 activity.

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3067 (c) Identifying how many mobile or manufactured homes are
3068 occupied in this state, how many mobile or manufactured homes
3069 are occupied by owners who also own the land to which the unit
3070 is attached, the age or average age of mobile or manufactured
3071 homes, the location of such homes, and the size of such homes.

3072 (d) The extent to which the growth in insurance on mobile
3073 or manufactured homes in Citizens Property Insurance Corporation
3074 is attributable to insufficient insurance capacity.

3075 (e) The extent to which the growth trends of Citizens
3076 Property Insurance Corporation create long-term problems for
3077 mobile and manufactured home owners in this state and for other
3078 persons and businesses that depend on a viable market.

3079 (f) The extent to which insurance discounts, credits, or
3080 other rate differentials or reductions in the hurricane
3081 insurance deductible for a mobile or manufactured homeowner who
3082 takes mitigative measures would increase hurricane insurance
3083 capacity for mobile or manufactured homeowners.

3084 (g) The extent hurricane mitigation enhancements to mobile
3085 or manufactured homes decreases the likelihood of damage from a
3086 hurricane or decreases the amount of damage from a hurricane.

3087 (h) The extent to which the building codes reduce the
3088 likelihood of damage or amount of damage to mobile or
3089 manufactured homes.

3090 (6) REPORT AND RECOMMENDATIONS.--By January 1, 2007, the
3091 task force shall provide a report containing findings relating
3092 to the tasks identified in subsection (5) and recommendations
3093 consistent with the purposes of this section and also consistent
3094 with such findings. The task force shall submit the report to
3095 the Governor, the Chief Financial Officer, the President of the
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3096 Senate, and the Speaker of the House of Representatives. The
3097 task force may also submit such interim reports as the task
3098 force deems appropriate.

3099 (7) EXPIRATION.--The task force shall expire on January 2,
3100 2007.

3101 Section 22. By January 1, 2007, the Office of Insurance
3102 Regulation shall submit a report to the President of the Senate,
3103 the Speaker of the House of Representatives, the minority party
3104 leaders of the Senate and the House of Representatives, and the
3105 chairs of the standing committees of the Senate and the House of
3106 Representatives having jurisdiction over matters relating to
3107 property and casualty insurance. In preparing the report, the
3108 office shall consult with the Department of Highway Safety and
3109 Motor Vehicles, the Department of Community Affairs, the Florida
3110 Building Commission, the Florida Home Builders Association,
3111 representatives of the mobile and manufactured home industry,
3112 representatives of the property and casualty insurance industry,
3113 and any other party the office determines is appropriate. The
3114 report shall include findings and recommendations on the
3115 insurability of attached or free standing structures to
3116 residential homes, mobile, or manufactured homes, such as
3117 carports or pool enclosures; the increase or decrease in
3118 insurance costs associated with insuring such structures; the
3119 feasibility of insuring such structures; the impact on
3120 homeowners of not having insurance coverage for such structures;
3121 the ability of mitigation measures relating to such structures
3122 to reduce risk and loss; and such other related information as
3123 the office determines is appropriate for the Legislature to
3124 consider.

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3125 Section 23. (1) The Office of Insurance Regulation, in
3126 consultation with the Department of Community Affairs, the
3127 Department of Financial Services, the Federal Alliance for Safe
3128 Homes, the Florida Insurance Council, the Florida Home Builders
3129 Association, the Florida Manufactured Housing Association, the
3130 Risk and Insurance Department of Florida State University, and
3131 the Institute for Business and Homes Safety, shall study and
3132 develop a program that will provide an objective rating system
3133 that will allow homeowners to evaluate the relative ability of
3134 Florida properties to withstand the wind load from a sustained
3135 severe tropical storm or hurricane.

3136 (2) The rating system will be designed in a manner that is
3137 easy to understand for the property owner, based on proven
3138 readily verifiable mitigation techniques and devices, and able
3139 to be implemented based on a visual inspection program. The
3140 Department of Financial Services shall implement a pilot program
3141 for use in the Florida Comprehensive Hurricane Damage Mitigation
3142 Program.

3143 (3) The Department shall provide a report to the Governor,
3144 the President of the Senate, and the Speaker of the House of
3145 Representatives by March 31, 2007, detailing the nature and
3146 construction of the rating scale, its effectiveness based on
3147 implementation in a pilot program, and an operational plan for
3148 statewide implementation of the rating scale.

3149 Section 24. (1) For fiscal year 2006-2007, the sum of
3150 \$100 million is appropriated from the General Revenue Fund to
3151 the Department of Financial Services for the Florida Hurricane
3152 Damage Prevention Endowment as a nonrecurring appropriation for
3153 the purposes specified in s. 215.558, Florida Statutes.

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3154 (2) The sum of \$400 million is appropriated from the
3155 General Revenue Fund to the Department of Financial Services as
3156 a nonrecurring appropriation for the purposes specified in s.
3157 215.5586, Florida Statutes.

3158 (3) Funds provided in subsections (1) and (2) shall be
3159 transferred by the department to the Florida Hurricane Damage
3160 Prevention Trust Fund, as created in s. 215.5585, Florida
3161 Statutes.

3162 (4) For fiscal year 2006-2007, the recurring sum of \$5
3163 million is appropriated to the Department of Financial Services
3164 from the Florida Hurricane Damage Prevention Trust Fund, Special
3165 Category - Financial Incentives for Hurricane Damage Prevention.

3166 (5) For fiscal year 2006-2007, the nonrecurring sum of
3167 \$392.5 million is appropriated to the Department of Financial
3168 Services from the Florida Hurricane Damage Prevention Trust
3169 Fund, Special Category - Florida Comprehensive Hurricane Damage
3170 Mitigation Program. The department may spend up to 1 percent of
3171 the funds appropriated to administer the program.

3172 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
3173 216.351, Florida Statutes, any unexpended balance from this
3174 appropriation shall be carried forward at the end of each fiscal
3175 year until the 2010-2011 fiscal year. At the end of the 2010-
3176 2011 fiscal year, any obligated funds for qualified projects
3177 that are not yet disbursed shall remain with the department to
3178 be used for the purposes of this act. Any unobligated funds of
3179 this appropriation shall revert to the Florida Hurricane Damage
3180 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

3181 (6) For fiscal year 2006-2007, the nonrecurring sum of
3182 \$7.5 million is appropriated to the Department of Community
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3183 Affairs from the Florida Hurricane Damage Prevention Trust Fund,
3184 Special Category - Florida Comprehensive Hurricane Damage
3185 Mitigation Program. The department may spend up to 5 percent of
3186 the funds appropriated to administer the Manufactured Housing
3187 and Mobile Home Hurricane Mitigation Program. Notwithstanding s.
3188 216.301, Florida Statutes, and pursuant to s. 216.351, Florida
3189 Statutes, any unexpended balance from this appropriation shall
3190 be carried forward at the end of each fiscal year until the
3191 2010-2011 fiscal year. At the end of the 2010-2011 fiscal year,
3192 any obligated funds for qualified projects that are not yet
3193 disbursed shall remain with the department to be used for the
3194 purposes of this act. Any unobligated funds of this
3195 appropriation shall revert to the Florida Hurricane Damage
3196 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

3197 Section 25. (1) For fiscal year 2006-2007, the sum of
3198 \$920 million in nonrecurring funds is appropriated from the
3199 General Revenue Fund to the Department of Financial Services for
3200 transfer to the Citizens Property Insurance Corporation to avoid
3201 regular assessments on assessable insurers, as authorized under
3202 s. 627.351(6)(b)3.b., Florida Statutes, for the 2005 Plan Year
3203 deficit. The board of governors of the corporation shall use
3204 appropriated state moneys to fund that portion of the 2005 Plan
3205 Year deficit which would result in the levying of regular
3206 assessments in the commercial lines, personal lines, and high-
3207 risk accounts. The transfer made by the department to the
3208 corporation shall be limited to the amount of the total regular
3209 assessments that were authorized by law to cover the 2005 Plan
3210 Year deficit. Any unused and remaining funds in this
3211 appropriation shall revert to the General Revenue Fund.

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3212 (2) The corporation shall amortize over a 10-year period
3213 any emergency assessments resulting from the 2005 Plan Year
3214 deficit.

3215 Section 26. For fiscal year 2006-2007, the sums of
3216 \$250,000 in recurring funds and \$425,000 in nonrecurring funds
3217 are appropriated from the Insurance Regulatory Trust Fund in the
3218 Department of Financial Services to the Office of Insurance
3219 Regulation for the purpose of carrying out reporting and
3220 administrative responsibilities of this act.

3221 Section 27. Task Force on Hurricane Mitigation and
3222 Hurricane Insurance for Mobile and Manufactured Homes.--

3223 (1) TASK FORCE CREATED.--There is created the Task Force
3224 on Hurricane Mitigation and Hurricane Insurance for Mobile and
3225 Manufactured Homes.

3226 (2) ADMINISTRATION.--The task force shall be
3227 administratively housed within the Office of Insurance
3228 Regulation but shall operate independently of any state officer
3229 or agency. The office shall provide such administrative support
3230 as the task force deems necessary to accomplish its mission and
3231 shall provide necessary funding for the task force within the
3232 office's existing resources. The Executive Office of the
3233 Governor, the Department of Financial Services, the Office of
3234 Insurance Regulation, the Department of Highway Safety and Motor
3235 Vehicles, and the Department of Community Affairs shall provide
3236 substantive staff support for the task force.

3237 (3) MEMBERSHIP.--The members of the task force shall be
3238 appointed as follows:

3239 (a) The Governor shall appoint two members who have
3240 expertise in financial matters, one of whom is a representative
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3241 of the mobile or manufactured home industry and one of whom is a
3242 representative of insurance consumers.

3243 (b) The Chief Financial Officer shall appoint two members
3244 who have expertise in financial matters, one of whom is a
3245 representative of a property insurer writing mobile or
3246 manufactured homeowners insurance in this state and one of whom
3247 is a representative of insurance agents.

3248 (c) The President of the Senate shall appoint one member.

3249 (d) The Speaker of the House of Representatives shall
3250 appoint one member.

3251 (e) The Commissioner of Insurance Regulation or his or her
3252 designee shall serve as an ex officio voting member of the task
3253 force.

3254 (f) The Executive Director of Citizens Property Insurance
3255 or his or her designee shall serve as an ex officio voting
3256 member of the task force.

3257 (g) The Chief Executive Officer of the Federal Alliance
3258 for Safe Homes, Incorporated or his or her designee shall serve
3259 as an ex officio voting member of the task force.

3260
3261 Members of the task force shall serve without compensation but
3262 may receive reimbursement for per diem and travel expenses as
3263 provided in s. 112.061, Florida Statutes.

3264 (4) PURPOSE AND INTENT.--The Legislature recognizes the
3265 continued availability of hurricane insurance coverage for
3266 mobile and manufactured home owners in this state is essential
3267 to the state's economic survival. The Legislature further
3268 recognizes hurricane mitigation measures and building codes may
3269 reduce the likelihood or amount of damage to mobile or

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3270 manufactured homes in the event of a hurricane. The Legislature
3271 further recognizes mobile and manufactured homes provide safe
3272 and affordable housing to many residents of this state. The
3273 purpose of the task force is to make recommendations to the
3274 legislative and executive branches of this state's government
3275 relating to the creation and maintenance of insurance capacity
3276 in the private sector and public sector that is sufficient to
3277 ensure that all mobile and manufactured home owners in this
3278 state are able to obtain appropriate insurance coverage for
3279 hurricane losses and relating to the effectiveness of hurricane
3280 mitigation measures for mobile or manufactured homes as further
3281 described in this section.

3282 (5) SPECIFIC TASKS.--The task force shall conduct such
3283 research and hearings as the task force deems necessary to
3284 achieve the purposes specified in subsection (4) and shall
3285 develop information on relevant issues, including, but not
3286 limited to, the following issues:

3287 (a) Whether this state currently has sufficient hurricane
3288 insurance capacity for mobile and manufactured homes to ensure
3289 the continuation of a healthy, competitive marketplace, taking
3290 into consideration private-sector and public-sector resources.

3291 (b) Identifying the future demands on the hurricane
3292 insurance capacity of this state, taking into account population
3293 growth, coastal growth, and anticipated future hurricane
3294 activity.

3295 (c) Identifying how many mobile or manufactured homes are
3296 occupied in this state, how many mobile or manufactured homes
3297 are occupied by owners who also own the land to which the unit

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3298 is attached, the age or average age of mobile or manufactured
3299 homes, the location of such homes, and the size of such homes.

3300 (d) The extent to which the growth in insurance on mobile
3301 or manufactured homes in Citizens Property Insurance Corporation
3302 is attributable to insufficient insurance capacity.

3303 (e) The extent to which the growth trends of Citizens
3304 Property Insurance Corporation create long-term problems for
3305 mobile and manufactured home owners in this state and for other
3306 persons and businesses that depend on a viable market.

3307 (f) The extent to which insurance discounts, credits, or
3308 other rate differentials or reductions in the hurricane
3309 insurance deductible for a mobile or manufactured homeowner who
3310 takes mitigative measures would increase hurricane insurance
3311 capacity for mobile or manufactured homeowners.

3312 (g) The extent hurricane mitigation enhancements to mobile
3313 or manufactured homes decreases the likelihood of damage from a
3314 hurricane or decreases the amount of damage from a hurricane.

3315 (h) The extent to which the building codes reduce the
3316 likelihood of damage or amount of damage to mobile or
3317 manufactured homes.

3318 (6) REPORT AND RECOMMENDATIONS.--By January 1, 2007, the
3319 task force shall provide a report containing findings relating
3320 to the tasks identified in subsection (5) and recommendations
3321 consistent with the purposes of this section and also consistent
3322 with such findings. The task force shall submit the report to
3323 the Governor, the Chief Financial Officer, the President of the
3324 Senate, and the Speaker of the House of Representatives. The
3325 task force may also submit such interim reports as the task
3326 force deems appropriate.

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3327 (7) EXPIRATION.--The task force shall expire on January 2,
3328 2007.

3329 Section 28. By January 1, 2007, the Office of Insurance
3330 Regulation shall submit a report to the President of the Senate,
3331 the Speaker of the House of Representatives, the minority party
3332 leaders of the Senate and the House of Representatives, and the
3333 chairs of the standing committees of the Senate and the House of
3334 Representatives having jurisdiction over matters relating to
3335 property and casualty insurance. In preparing the report, the
3336 office shall consult with the Department of Highway Safety and
3337 Motor Vehicles, the Department of Community Affairs, the Florida
3338 Building Commission, the Florida Home Builders Association,
3339 representatives of the mobile and manufactured home industry,
3340 representatives of the property and casualty insurance industry,
3341 and any other party the office determines is appropriate. The
3342 report shall include findings and recommendations on the
3343 insurability of attached or free standing structures to
3344 residential homes, mobile, or manufactured homes, such as
3345 carports or pool enclosures; the increase or decrease in
3346 insurance costs associated with insuring such structures; the
3347 feasibility of insuring such structures; the impact on
3348 homeowners of not having insurance coverage for such structures;
3349 the ability of mitigation measures relating to such structures
3350 to reduce risk and loss; and such other related information as
3351 the office determines is appropriate for the Legislature to
3352 consider.

3353 Section 29. (1) The Office of Insurance Regulation, in
3354 consultation with the Department of Community Affairs, the
3355 Department of Financial Services, the Federal Alliance for Safe
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3356 Homes, the Florida Insurance Council, the Florida Home Builders
3357 Association, the Florida Manufactured Housing Association, the
3358 Risk and Insurance Department of Florida State University, and
3359 the Institute for Business and Homes Safety, shall study and
3360 develop a program that will provide an objective rating system
3361 that will allow homeowners to evaluate the relative ability of
3362 Florida properties to withstand the wind load from a sustained
3363 severe tropical storm or hurricane.

3364 (2) The rating system will be designed in a manner that is
3365 easy to understand for the property owner, based on proven
3366 readily verifiable mitigation techniques and devices, and able
3367 to be implemented based on a visual inspection program. The
3368 Department of Financial Services shall implement a pilot program
3369 for use in the Florida Comprehensive Hurricane Damage Mitigation
3370 Program.

3371 (3) The Department shall provide a report to the Governor,
3372 the President of the Senate, and the Speaker of the House of
3373 Representatives by March 31, 2007, detailing the nature and
3374 construction of the rating scale, its effectiveness based on
3375 implementation in a pilot program, and an operational plan for
3376 statewide implementation of the rating scale.

3377 Section 30. (1) For fiscal year 2006-2007, the sum of
3378 \$100 million is appropriated from the General Revenue Fund to
3379 the Department of Financial Services for the Florida Hurricane
3380 Damage Prevention Endowment as a nonrecurring appropriation for
3381 the purposes specified in s. 215.558, Florida Statutes.

3382 (2) The sum of \$400 million is appropriated from the
3383 General Revenue Fund to the Department of Financial Services as

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3384 a nonrecurring appropriation for the purposes specified in s.
3385 215.5586, Florida Statutes.

3386 (3) Funds provided in subsections (1) and (2) shall be
3387 transferred by the department to the Florida Hurricane Damage
3388 Prevention Trust Fund, as created in s. 215.5585, Florida
3389 Statutes.

3390 (4) For fiscal year 2006-2007, the recurring sum of \$5
3391 million is appropriated to the Department of Financial Services
3392 from the Florida Hurricane Damage Prevention Trust Fund, Special
3393 Category - Financial Incentives for Hurricane Damage Prevention.

3394 (5) For fiscal year 2006-2007, the nonrecurring sum of
3395 \$392.5 million is appropriated to the Department of Financial
3396 Services from the Florida Hurricane Damage Prevention Trust
3397 Fund, Special Category - Florida Comprehensive Hurricane Damage
3398 Mitigation Program. The department may spend up to 1 percent of
3399 the funds appropriated to administer the program.

3400 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
3401 216.351, Florida Statutes, any unexpended balance from this
3402 appropriation shall be carried forward at the end of each fiscal
3403 year until the 2010-2011 fiscal year. At the end of the 2010-
3404 2011 fiscal year, any obligated funds for qualified projects
3405 that are not yet disbursed shall remain with the department to
3406 be used for the purposes of this act. Any unobligated funds of
3407 this appropriation shall revert to the Florida Hurricane Damage
3408 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

3409 (6) For fiscal year 2006-2007, the nonrecurring sum of
3410 \$7.5 million is appropriated to the Department of Community
3411 Affairs from the Florida Hurricane Damage Prevention Trust Fund,
3412 Special Category - Florida Comprehensive Hurricane Damage

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3413 Mitigation Program. The department may spend up to 5 percent of
3414 the funds appropriated to administer the Manufactured Housing
3415 and Mobile Home Hurricane Mitigation Program. Notwithstanding s.
3416 216.301, Florida Statutes, and pursuant to s. 216.351, Florida
3417 Statutes, any unexpended balance from this appropriation shall
3418 be carried forward at the end of each fiscal year until the
3419 2010-2011 fiscal year. At the end of the 2010-2011 fiscal year,
3420 any obligated funds for qualified projects that are not yet
3421 disbursed shall remain with the department to be used for the
3422 purposes of this act. Any unobligated funds of this
3423 appropriation shall revert to the Florida Hurricane Damage
3424 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

3425 Section 31. (1) For fiscal year 2006-2007, the sum of
3426 \$920 million in nonrecurring funds is appropriated from the
3427 General Revenue Fund to the Department of Financial Services for
3428 transfer to the Citizens Property Insurance Corporation to avoid
3429 regular assessments on assessable insurers, as authorized under
3430 s. 627.351(6)(b)3.b., Florida Statutes, for the 2005 Plan Year
3431 deficit. The board of governors of the corporation shall use
3432 appropriated state moneys to fund that portion of the 2005 Plan
3433 Year deficit which would result in the levying of regular
3434 assessments in the commercial lines, personal lines, and high-
3435 risk accounts. The transfer made by the department to the
3436 corporation shall be limited to the amount of the total regular
3437 assessments that were authorized by law to cover the 2005 Plan
3438 Year deficit. Any unused and remaining funds in this
3439 appropriation shall revert to the General Revenue Fund.

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3440 (2) The corporation shall amortize over a 10-year period
3441 any emergency assessments resulting from the 2005 Plan Year
3442 deficit.

3443 Section 32. For fiscal year 2006-2007, the sums of
3444 \$250,000 in recurring funds and \$425,000 in nonrecurring funds
3445 are appropriated from the Insurance Regulatory Trust Fund in the
3446 Department of Financial Services to the Office of Insurance
3447 Regulation for the purpose of carrying out reporting and
3448 administrative responsibilities of this act.

3449 Section 33. Except as otherwise expressly provided in this
3450 act, this act shall take effect January 1, 2007.

3451

3452 ===== T I T L E A M E N D M E N T =====

3453 Remove the entire title and insert:

3454 A bill to be entitled

3455 An act relating to property and casualty insurance;
3456 amending s. 215.555, F.S.; revising findings and purposes;
3457 revising definitions; changing the name of the fund to the
3458 Florida Hurricane Insurance Fund; revising requirements
3459 for reimbursement contracts; providing requirements,
3460 procedures, and methodologies for policyholders to pay
3461 premiums to insurers, insurers to remit premiums to the
3462 fund, insurers to reimburse policyholders for hurricane
3463 losses, and the state to reimburse insurers from the fund
3464 for payments to policyholders; deleting a required annual
3465 appropriation from the investment income of the Florida
3466 Hurricane Catastrophe Fund for certain purposes; providing
3467 coverage limitations; providing exceptions; providing for
3468 discounted premiums to certain insurers under certain

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3469 | circumstances; deleting conflicting provisions; revising
3470 | reimbursement premium provisions to conform; renaming the
3471 | Florida Hurricane Catastrophe Fund Finance Corporation as
3472 | the Florida Hurricane Insurance Fund Finance Corporation;
3473 | making conforming changes; creating s. 215.558, F.S. ;
3474 | creating the Florida Hurricane Damage Prevention
3475 | Endowment; providing a purpose and legislative intent;
3476 | providing definitions; providing requirements and
3477 | authority for investment of endowment assets by the State
3478 | Board of Administration; requiring a report to the
3479 | Legislature; providing for payment of the board's
3480 | investment services' costs and fees from the endowment;
3481 | providing requirements of the Department of Financial
3482 | Services in providing financial incentives for residential
3483 | hurricane damage prevention activities; providing for an
3484 | interest-free loan program; providing program criteria and
3485 | requirements; creating an advisory council for certain
3486 | purposes; providing for appointment of members; requiring
3487 | members to serve without compensation; providing for per
3488 | diem and travel expenses; creating s. 215.5586, F.S. ;
3489 | establishing the Florida Comprehensive Hurricane Damage
3490 | Mitigation Program within the Department of Financial
3491 | Services; providing qualifications for the program
3492 | administrator; providing program components and
3493 | requirements; providing for wind certification and
3494 | hurricane mitigation inspections; providing inspection
3495 | requirements; providing inspector eligibility
3496 | requirements; providing for grants; providing grant
3497 | requirements; providing for loans; providing public

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3498 education and consumer awareness requirements; creating an
3499 advisory council; providing for appointment of members;
3500 specifying service without compensation; providing for per
3501 diem and travel expense reimbursements; requiring the
3502 department to adopt rules; amending. s. 215.559, F.S.;
3503 creating the Manufactured Housing and Mobile Home
3504 Hurricane Mitigation Program for certain purposes;
3505 requiring the Department of Community Affairs to develop
3506 the program in consultation with certain entities;
3507 specifying requirements of the program; specifying the
3508 program as a matching grant program for improvement of
3509 mobile homes and manufactured homes; providing for
3510 distribution of the grants to the Department of Community
3511 Affairs for certain purposes; requiring Citizens Property
3512 Insurance Corporation to grant certain insurance
3513 discounts, credits, rate differentials, or deductible
3514 reductions for property insurance premiums for certain
3515 manufactured home or mobile home owners; specifying
3516 criteria for such premiums; requiring a program report
3517 each year to the Governor and Legislature; providing
3518 report requirements; amending ss. 215.556, 624.424,
3519 624.5091, 627.062, 627.0628, 627.0629, 627.351, 627.701,
3520 and 627.7077, F.S., to conform; providing a for the sunset
3521 of Citizens Property Insurance Corporation wind-storm
3522 coverage; providing for the use of sales tax revenues
3523 generated as estimated by the Office of Economic and
3524 Demographic Research; amending and renumbering ss.
3525 350.061, 350.0611, and 350.0612, F.S.; amending provisions
3526 relating to the Office of Insurance Regulation; amending

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3527 s. 408.40, F.S.; correcting a cross-reference; amending s.
3528 109(3), ch. 2000-141, Laws of Florida; deleting a
3529 limitation subjecting certain portions of coastal counties
3530 to certain debris requirements adopted by the Florida
3531 Building Commission; creating the Task Force on Hurricane
3532 Mitigation and Hurricane Insurance for Mobile and
3533 Manufactured Homes; providing for administration by the
3534 office; specifying additional agency administrative staff;
3535 providing for appointment of task force members; requiring
3536 members to serve without compensation; providing for per
3537 diem and travel expenses; providing purpose and intent;
3538 requiring the task force to address specified issues;
3539 requiring a report to the Governor, Chief Financial
3540 Officer, and Legislature; providing for expiration of the
3541 task force; requiring the Office of Insurance Regulation
3542 to submit reports to the Legislature relating to the
3543 insurability of certain attached or free standing
3544 structures ; providing report requirements; providing
3545 duties of the office; providing appropriations; specifying
3546 uses and purposes of appropriations; providing effective
3547 dates.

3548