

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative(s) Robaina offered the following:

2
3 **Substitute Amendment for Amendment (918865) (with title**
4 **amendment)**

5 Between lines 3719 and 3720, insert:

6 Section 24. Paragraph (n) of subsection (2), subsection
7 (3), paragraphs (c) and (d) of subsection (6), paragraph (c) of
8 subsection (7), and subsection (9) of section 215.555, Florida
9 Statutes, are amended to read:

10 215.555 John F. Cosgrove Florida Hurricane Catastrophe
11 Fund.--

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

13 (n) "Corporation" means the John F. Cosgrove Florida
14 Hurricane Catastrophe Fund Finance Corporation created in
15 paragraph (6) (d).

16 (3) JOHN F. COSGROVE FLORIDA HURRICANE CATASTROPHE FUND
17 CREATED.--There is created the John F. Cosgrove Florida
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18 Hurricane Catastrophe Fund to be administered by the State Board
19 of Administration. Moneys in the fund may not be expended,
20 loaned, or appropriated except to pay obligations of the fund
21 arising out of reimbursement contracts entered into under
22 subsection (4), payment of debt service on revenue bonds issued
23 under subsection (6), costs of the mitigation program under
24 subsection (7), costs of procuring reinsurance, and costs of
25 administration of the fund. The board shall invest the moneys in
26 the fund pursuant to ss. 215.44-215.52. Except as otherwise
27 provided in this section, earnings from all investments shall be
28 retained in the fund. The board may employ or contract with such
29 staff and professionals as the board deems necessary for the
30 administration of the fund. The board may adopt such rules as
31 are reasonable and necessary to implement this section and shall
32 specify interest due on any delinquent remittances, which
33 interest may not exceed the fund's rate of return plus 5
34 percent. Such rules must conform to the Legislature's specific
35 intent in establishing the fund as expressed in subsection (1),
36 must enhance the fund's potential ability to respond to claims
37 for covered events, must contain general provisions so that the
38 rules can be applied with reasonable flexibility so as to
39 accommodate insurers in situations of an unusual nature or where
40 undue hardship may result, except that such flexibility may not
41 in any way impair, override, supersede, or constrain the public
42 purpose of the fund, and must be consistent with sound insurance
43 practices. The board may, by rule, provide for the exemption
44 from subsections (4) and (5) of insurers writing covered
45 policies with less than \$10 million in aggregate exposure for

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46 covered policies if the exemption does not affect the actuarial
47 soundness of the fund.

48 (6) REVENUE BONDS.--

49 (c) Revenue bond issuance through counties or
50 municipalities.--

51 1. If the board elects to enter into agreements with local
52 governments for the issuance of revenue bonds for the benefit of
53 the fund, the board shall enter into such contracts with one or
54 more local governments, including agreements providing for the
55 pledge of revenues, as are necessary to effect such issuance.
56 The governing body of a county or municipality is authorized to
57 issue bonds as defined in s. 125.013 or s. 166.101 from time to
58 time to fund an assistance program, in conjunction with the John
59 F. Cosgrove Florida Hurricane Catastrophe Fund, for the purposes
60 set forth in this section or for the purpose of paying the costs
61 of construction, reconstruction, repair, restoration, and other
62 costs associated with damage to properties of policyholders of
63 covered policies due to the occurrence of a hurricane by
64 assuring that policyholders located in this state are able to
65 recover claims under property insurance policies after a covered
66 event.

67 2. In order to avoid needless and indiscriminate
68 proliferation, duplication, and fragmentation of such assistance
69 programs, any local government may provide for the payment of
70 fund reimbursements, regardless of whether or not the losses for
71 which reimbursement is made occurred within or outside of the
72 territorial jurisdiction of the local government.

73 3. The state hereby covenants with holders of bonds issued
74 under this paragraph that the state will not repeal or abrogate
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75 | the power of the board to direct the Office of Insurance
76 | Regulation to levy the assessments and to collect the proceeds
77 | of the revenues pledged to the payment of such bonds as long as
78 | any such bonds remain outstanding unless adequate provision has
79 | been made for the payment of such bonds pursuant to the
80 | documents authorizing the issuance of such bonds.

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

85 | (d) John F. Cosgrove Florida Hurricane Catastrophe Fund
86 | Finance Corporation.--

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

89 | a. The public benefits corporation created under this
90 | paragraph will provide a mechanism necessary for the cost-
91 | effective and efficient issuance of bonds. This mechanism will
92 | eliminate unnecessary costs in the bond issuance process,
93 | thereby increasing the amounts available to pay reimbursement
94 | for losses to property sustained as a result of hurricane
95 | damage.

96 | b. The purpose of such bonds is to fund reimbursements
97 | through the John F. Cosgrove Florida Hurricane Catastrophe Fund
98 | to pay for the costs of construction, reconstruction, repair,
99 | restoration, and other costs associated with damage to
100 | properties of policyholders of covered policies due to the
101 | occurrence of a hurricane.

102 | c. The efficacy of the financing mechanism will be
103 | enhanced by the corporation's ownership of the assessments, by
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104 the insulation of the assessments from possible bankruptcy
105 proceedings, and by covenants of the state with the
106 corporation's bondholders.

107 2.a. There is created a public benefits corporation, which
108 is an instrumentality of the state, to be known as the John F.
109 Cosgrove Florida Hurricane Catastrophe Fund Finance Corporation.

110 b. The corporation shall operate under a five-member board
111 of directors consisting of the Governor or a designee, the Chief
112 Financial Officer or a designee, the Attorney General or a
113 designee, the director of the Division of Bond Finance of the
114 State Board of Administration, and the senior employee of the
115 State Board of Administration responsible for operations of the
116 John F. Cosgrove Florida Hurricane Catastrophe Fund.

117 c. The corporation has all of the powers of corporations
118 under chapter 607 and under chapter 617, subject only to the
119 provisions of this subsection.

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

123 e. The corporation may invest in any of the investments
124 authorized under s. 215.47.

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

129 3.a. In actions under chapter 75 to validate any bonds
130 issued by the corporation, the notice required by s. 75.06 shall
131 be published only in Leon County and in two newspapers of
132 general circulation in the state, and the complaint and order of
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133 the court shall be served only on the State Attorney of the
134 Second Judicial Circuit.

135 b. The state hereby covenants with holders of bonds of the
136 corporation that the state will not repeal or abrogate the power
137 of the board to direct the Office of Insurance Regulation to
138 levy the assessments and to collect the proceeds of the revenues
139 pledged to the payment of such bonds as long as any such bonds
140 remain outstanding unless adequate provision has been made for
141 the payment of such bonds pursuant to the documents authorizing
142 the issuance of such bonds.

143 4. The bonds of the corporation are not a debt of the
144 state or of any political subdivision, and neither the state nor
145 any political subdivision is liable on such bonds. The
146 corporation does not have the power to pledge the credit, the
147 revenues, or the taxing power of the state or of any political
148 subdivision. The credit, revenues, or taxing power of the state
149 or of any political subdivision shall not be deemed to be
150 pledged to the payment of any bonds of the corporation.

151 5.a. The property, revenues, and other assets of the
152 corporation; the transactions and operations of the corporation
153 and the income from such transactions and operations; and all
154 bonds issued under this paragraph and interest on such bonds are
155 exempt from taxation by the state and any political subdivision,
156 including the intangibles tax under chapter 199 and the income
157 tax under chapter 220. This exemption does not apply to any tax
158 imposed by chapter 220 on interest, income, or profits on debt
159 obligations owned by corporations other than the John F.
160 Cosgrove Florida Hurricane Catastrophe Fund Finance Corporation.

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161 b. All bonds of the corporation shall be and constitute
162 legal investments without limitation for all public bodies of
163 this state; for all banks, trust companies, savings banks,
164 savings associations, savings and loan associations, and
165 investment companies; for all administrators, executors,
166 trustees, and other fiduciaries; for all insurance companies and
167 associations and other persons carrying on an insurance
168 business; and for all other persons who are now or may hereafter
169 be authorized to invest in bonds or other obligations of the
170 state and shall be and constitute eligible securities to be
171 deposited as collateral for the security of any state, county,
172 municipal, or other public funds. This sub-subparagraph shall be
173 considered as additional and supplemental authority and shall
174 not be limited without specific reference to this sub-
175 subparagraph.

176 6. The corporation and its corporate existence shall
177 continue until terminated by law; however, no such law shall
178 take effect as long as the corporation has bonds outstanding
179 unless adequate provision has been made for the payment of such
180 bonds pursuant to the documents authorizing the issuance of such
181 bonds. Upon termination of the existence of the corporation, all
182 of its rights and properties in excess of its obligations shall
183 pass to and be vested in the state.

184 (7) ADDITIONAL POWERS AND DUTIES.--

185 (c) Each fiscal year, the Legislature shall appropriate
186 from the investment income of the John F. Cosgrove Florida
187 Hurricane Catastrophe Fund an amount no less than \$10 million
188 and no more than 35 percent of the investment income based upon
189 the most recent fiscal year-end audited financial statements for
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190 the purpose of providing funding for local governments, state
191 agencies, public and private educational institutions, and
192 nonprofit organizations to support programs intended to improve
193 hurricane preparedness, reduce potential losses in the event of
194 a hurricane, provide research into means to reduce such losses,
195 educate or inform the public as to means to reduce hurricane
196 losses, assist the public in determining the appropriateness of
197 particular upgrades to structures or in the financing of such
198 upgrades, or protect local infrastructure from potential damage
199 from a hurricane. Moneys shall first be available for
200 appropriation under this paragraph in fiscal year 1997-1998.
201 Moneys in excess of the \$10 million specified in this paragraph
202 shall not be available for appropriation under this paragraph if
203 the State Board of Administration finds that an appropriation of
204 investment income from the fund would jeopardize the actuarial
205 soundness of the fund.

206 (9) APPLICABILITY OF S. 19, ART. III OF THE STATE
207 CONSTITUTION.--The Legislature finds that the John F. Cosgrove
208 Florida Hurricane Catastrophe Fund created by this section is a
209 trust fund established for bond covenants, indentures, or
210 resolutions within the meaning of s. 19(f)(3), Art. III of the
211 State Constitution.

212 Section 25. Section 215.556, Florida Statutes, is amended
213 to read:

214 215.556 Exemption.--The John F. Cosgrove Florida Hurricane
215 Catastrophe Fund created by s. 215.555 is exempt from the
216 deduction required by s. 215.20(1).

217 Section 26. Subsection (1) of section 215.559, Florida
218 Statutes, is amended to read:

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219 215.559 Hurricane Loss Mitigation Program.--

220 (1) There is created a Hurricane Loss Mitigation Program.
221 The Legislature shall annually appropriate \$10 million of the
222 moneys authorized for appropriation under s. 215.555(7)(c) from
223 the John F. Cosgrove Florida Hurricane Catastrophe Fund to the
224 Department of Community Affairs for the purposes set forth in
225 this section.

226 Section 27. Subsection (3) of section 624.5091, Florida
227 Statutes, is amended to read:

228 624.5091 Retaliatory provision, insurers.--

229 (3) This section does not apply as to personal income
230 taxes, nor as to sales or use taxes, nor as to ad valorem taxes
231 on real or personal property, nor as to reimbursement premiums
232 paid to the John F. Cosgrove Florida Hurricane Catastrophe Fund,
233 nor as to emergency assessments paid to the John F. Cosgrove
234 Florida Hurricane Catastrophe Fund, nor as to special purpose
235 obligations or assessments imposed in connection with particular
236 kinds of insurance other than property insurance, except that
237 deductions, from premium taxes or other taxes otherwise payable,
238 allowed on account of real estate or personal property taxes
239 paid shall be taken into consideration by the department in
240 determining the propriety and extent of retaliatory action under
241 this section.

242 Section 28. Subsection (5) of section 627.062, Florida
243 Statutes, is amended to read:

244 627.062 Rate standards.--

245 (5) With respect to a rate filing involving coverage of
246 the type for which the insurer is required to pay a
247 reimbursement premium to the John F. Cosgrove Florida Hurricane
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248 Catastrophe Fund, the insurer may fully recoup in its property
249 insurance premiums any reimbursement premiums paid to the John
250 F. Cosgrove Florida Hurricane Catastrophe Fund, together with
251 reasonable costs of other reinsurance, but may not recoup
252 reinsurance costs that duplicate coverage provided by the John
253 F. Cosgrove Florida Hurricane Catastrophe Fund. An insurer may
254 not recoup more than 1 year of reimbursement premium at a time.
255 Any under-recoupment from the prior year may be added to the
256 following year's reimbursement premium and any over-recoupment
257 shall be subtracted from the following year's reimbursement
258 premium.

259 Section 29. Paragraph (c) of subsection (1), paragraphs
260 (b) and (f) of subsection (2), and paragraph (b) of subsection
261 (3) of section 627.0628, Florida Statutes, are amended to read:

262 627.0628 Florida Commission on Hurricane Loss Projection
263 Methodology; public records exemption; public meetings
264 exemption.--

265 (1) LEGISLATIVE FINDINGS AND INTENT.--

266 (c) It is the intent of the Legislature to create the
267 Florida Commission on Hurricane Loss Projection Methodology as a
268 panel of experts to provide the most actuarially sophisticated
269 guidelines and standards for projection of hurricane losses
270 possible, given the current state of actuarial science. It is
271 the further intent of the Legislature that such standards and
272 guidelines must be used by the State Board of Administration in
273 developing reimbursement premium rates for the John F. Cosgrove
274 Florida Hurricane Catastrophe Fund, and, subject to paragraph
275 (3)(c), may be used by insurers in rate filings under s. 627.062
276 unless the way in which such standards and guidelines were

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277 | applied by the insurer was erroneous, as shown by a
278 | preponderance of the evidence.

279 | (2) COMMISSION CREATED.--

280 | (b) The commission shall consist of the following 11
281 | members:

282 | 1. The insurance consumer advocate.

283 | 2. The senior employee of the State Board of
284 | Administration responsible for operations of the John F.
285 | Cosgrove Florida Hurricane Catastrophe Fund.

286 | 3. The Executive Director of the Citizens Property
287 | Insurance Corporation.

288 | 4. The Director of the Division of Emergency Management of
289 | the Department of Community Affairs.

290 | 5. The actuary member of the John F. Cosgrove Florida
291 | Hurricane Catastrophe Fund Advisory Council.

292 | 6. An employee of the office who is an actuary responsible
293 | for property insurance rate filings and who is appointed by the
294 | director of the office.

295 | 7. Five members appointed by the Chief Financial Officer,
296 | as follows:

297 | a. An actuary who is employed full time by a property and
298 | casualty insurer which was responsible for at least 1 percent of
299 | the aggregate statewide direct written premium for homeowner's
300 | insurance in the calendar year preceding the member's
301 | appointment to the commission.

302 | b. An expert in insurance finance who is a full-time
303 | member of the faculty of the State University System and who has
304 | a background in actuarial science.

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305 c. An expert in statistics who is a full-time member of
306 the faculty of the State University System and who has a
307 background in insurance.

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

310 e. An expert in meteorology who is a full-time member of
311 the faculty of the State University System and who specializes
312 in hurricanes.

313 (f) The State Board of Administration shall, as a cost of
314 administration of the John F. Cosgrove Florida Hurricane
315 Catastrophe Fund, provide for travel, expenses, and staff
316 support for the commission.

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

318 (b) In establishing reimbursement premiums for the John F.
319 Cosgrove Florida Hurricane Catastrophe Fund, the State Board of
320 Administration must, to the extent feasible, employ actuarial
321 methods, principles, standards, models, or output ranges found
322 by the commission to be accurate or reliable.

323 Section 30. Subsection (10) of section 627.0629, Florida
324 Statutes, is amended to read:

325 627.0629 Residential property insurance; rate filings.--

326 (10) A property insurance rate filing that includes any
327 adjustments related to premiums paid to the John F. Cosgrove
328 Florida Hurricane Catastrophe Fund must include a complete
329 calculation of the insurer's catastrophe load, and the
330 information in the filing may not be limited solely to recovery
331 of moneys paid to the fund.

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332 Section 31. Paragraph (b) of subsection (2), paragraphs
333 (b), (c), (k), and (l) of subsection (6) of section 627.351,
334 Florida Statutes, are amended to read:

335 627.351 Insurance risk apportionment plans.--

336 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

337 (b) The department shall require all insurers holding a
338 certificate of authority to transact property insurance on a
339 direct basis in this state, other than joint underwriting
340 associations and other entities formed pursuant to this section,
341 to provide windstorm coverage to applicants from areas
342 determined to be eligible pursuant to paragraph (c) who in good
343 faith are entitled to, but are unable to procure, such coverage
344 through ordinary means; or it shall adopt a reasonable plan or
345 plans for the equitable apportionment or sharing among such
346 insurers of windstorm coverage, which may include formation of
347 an association for this purpose. As used in this subsection, the
348 term "property insurance" means insurance on real or personal
349 property, as defined in s. 624.604, including insurance for
350 fire, industrial fire, allied lines, farmowners multiperil,
351 homeowners' multiperil, commercial multiperil, and mobile homes,
352 and including liability coverages on all such insurance, but
353 excluding inland marine as defined in s. 624.607(3) and
354 excluding vehicle insurance as defined in s. 624.605(1)(a) other
355 than insurance on mobile homes used as permanent dwellings. The
356 department shall adopt rules that provide a formula for the
357 recovery and repayment of any deferred assessments.

358 1. For the purpose of this section, properties eligible
359 for such windstorm coverage are defined as dwellings, buildings,
360 and other structures, including mobile homes which are used as

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361 dwellings and which are tied down in compliance with mobile home
362 tie-down requirements prescribed by the Department of Highway
363 Safety and Motor Vehicles pursuant to s. 320.8325, and the
364 contents of all such properties. An applicant or policyholder is
365 eligible for coverage only if an offer of coverage cannot be
366 obtained by or for the applicant or policyholder from an
367 admitted insurer at approved rates.

368 2.a.(I) All insurers required to be members of such
369 association shall participate in its writings, expenses, and
370 losses. Surplus of the association shall be retained for the
371 payment of claims and shall not be distributed to the member
372 insurers. Such participation by member insurers shall be in the
373 proportion that the net direct premiums of each member insurer
374 written for property insurance in this state during the
375 preceding calendar year bear to the aggregate net direct
376 premiums for property insurance of all member insurers, as
377 reduced by any credits for voluntary writings, in this state
378 during the preceding calendar year. For the purposes of this
379 subsection, the term "net direct premiums" means direct written
380 premiums for property insurance, reduced by premium for
381 liability coverage and for the following if included in allied
382 lines: rain and hail on growing crops; livestock; association
383 direct premiums booked; National Flood Insurance Program direct
384 premiums; and similar deductions specifically authorized by the
385 plan of operation and approved by the department. A member's
386 participation shall begin on the first day of the calendar year
387 following the year in which it is issued a certificate of
388 authority to transact property insurance in the state and shall
389 terminate 1 year after the end of the calendar year during which

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390 it no longer holds a certificate of authority to transact
391 property insurance in the state. The commissioner, after review
392 of annual statements, other reports, and any other statistics
393 that the commissioner deems necessary, shall certify to the
394 association the aggregate direct premiums written for property
395 insurance in this state by all member insurers.

396 (II) Effective July 1, 2002, the association shall operate
397 subject to the supervision and approval of a board of governors
398 who are the same individuals that have been appointed by the
399 Treasurer to serve on the board of governors of the Citizens
400 Property Insurance Corporation.

401 (III) The plan of operation shall provide a formula
402 whereby a company voluntarily providing windstorm coverage in
403 affected areas will be relieved wholly or partially from
404 apportionment of a regular assessment pursuant to sub-sub-
405 subparagraph d.(I) or sub-sub-subparagraph d.(II).

406 (IV) A company which is a member of a group of companies
407 under common management may elect to have its credits applied on
408 a group basis, and any company or group may elect to have its
409 credits applied to any other company or group.

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

413 (VI) The plan of operation may also provide for the award
414 of credits, for a period not to exceed 3 years, from a regular
415 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
416 subparagraph d.(II) as an incentive for taking policies out of
417 the Residential Property and Casualty Joint Underwriting
418 Association. In order to qualify for the exemption under this
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419 sub-sub-subparagraph, the take-out plan must provide that at
420 least 40 percent of the policies removed from the Residential
421 Property and Casualty Joint Underwriting Association cover risks
422 located in Dade, Broward, and Palm Beach Counties or at least 30
423 percent of the policies so removed cover risks located in Dade,
424 Broward, and Palm Beach Counties and an additional 50 percent of
425 the policies so removed cover risks located in other coastal
426 counties, and must also provide that no more than 15 percent of
427 the policies so removed may exclude windstorm coverage. With the
428 approval of the department, the association may waive these
429 geographic criteria for a take-out plan that removes at least
430 the lesser of 100,000 Residential Property and Casualty Joint
431 Underwriting Association policies or 15 percent of the total
432 number of Residential Property and Casualty Joint Underwriting
433 Association policies, provided the governing board of the
434 Residential Property and Casualty Joint Underwriting Association
435 certifies that the take-out plan will materially reduce the
436 Residential Property and Casualty Joint Underwriting
437 Association's 100-year probable maximum loss from hurricanes.
438 With the approval of the department, the board may extend such
439 credits for an additional year if the insurer guarantees an
440 additional year of renewability for all policies removed from
441 the Residential Property and Casualty Joint Underwriting
442 Association, or for 2 additional years if the insurer guarantees
443 2 additional years of renewability for all policies removed from
444 the Residential Property and Casualty Joint Underwriting
445 Association.

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

449 c. The Legislature finds that the potential for unlimited
450 deficit assessments under this subparagraph may induce insurers
451 to attempt to reduce their writings in the voluntary market, and
452 that such actions would worsen the availability problems that
453 the association was created to remedy. It is the intent of the
454 Legislature that insurers remain fully responsible for paying
455 regular assessments and collecting emergency assessments for any
456 deficits of the association; however, it is also the intent of
457 the Legislature to provide a means by which assessment
458 liabilities may be amortized over a period of years.

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

464 (II) When the deficit incurred in a particular calendar
465 year exceeds 10 percent of the aggregate statewide direct
466 written premium for property insurance for the prior calendar
467 year for all member insurers, the association shall levy an
468 assessment on member insurers in an amount equal to the greater
469 of 10 percent of the deficit or 10 percent of the aggregate
470 statewide direct written premium for property insurance for the
471 prior calendar year for member insurers. Any remaining deficit
472 shall be recovered through emergency assessments under sub-sub-
473 subparagraph (III).

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474 (III) Upon a determination by the board of directors that
475 a deficit exceeds the amount that will be recovered through
476 regular assessments on member insurers, pursuant to sub-sub-
477 subparagraph (I) or sub-sub-subparagraph (II), the board shall
478 levy, after verification by the department, emergency
479 assessments to be collected by member insurers and by
480 underwriting associations created pursuant to this section which
481 write property insurance, upon issuance or renewal of property
482 insurance policies other than National Flood Insurance policies
483 in the year or years following levy of the regular assessments.
484 The amount of the emergency assessment collected in a particular
485 year shall be a uniform percentage of that year's direct written
486 premium for property insurance for all member insurers and
487 underwriting associations, excluding National Flood Insurance
488 policy premiums, as annually determined by the board and
489 verified by the department. The department shall verify the
490 arithmetic calculations involved in the board's determination
491 within 30 days after receipt of the information on which the
492 determination was based. Notwithstanding any other provision of
493 law, each member insurer and each underwriting association
494 created pursuant to this section shall collect emergency
495 assessments from its policyholders without such obligation being
496 affected by any credit, limitation, exemption, or deferment. The
497 emergency assessments so collected shall be transferred directly
498 to the association on a periodic basis as determined by the
499 association. The aggregate amount of emergency assessments
500 levied under this sub-sub-subparagraph in any calendar year may
501 not exceed the greater of 10 percent of the amount needed to
502 cover the original deficit, plus interest, fees, commissions,
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503 required reserves, and other costs associated with financing of
504 the original deficit, or 10 percent of the aggregate statewide
505 direct written premium for property insurance written by member
506 insurers and underwriting associations for the prior year, plus
507 interest, fees, commissions, required reserves, and other costs
508 associated with financing the original deficit. The board may
509 pledge the proceeds of the emergency assessments under this sub-
510 sub-subparagraph as the source of revenue for bonds, to retire
511 any other debt incurred as a result of the deficit or events
512 giving rise to the deficit, or in any other way that the board
513 determines will efficiently recover the deficit. The emergency
514 assessments under this sub-sub-subparagraph shall continue as
515 long as any bonds issued or other indebtedness incurred with
516 respect to a deficit for which the assessment was imposed remain
517 outstanding, unless adequate provision has been made for the
518 payment of such bonds or other indebtedness pursuant to the
519 document governing such bonds or other indebtedness. Emergency
520 assessments collected under this sub-sub-subparagraph are not
521 part of an insurer's rates, are not premium, and are not subject
522 to premium tax, fees, or commissions; however, failure to pay
523 the emergency assessment shall be treated as failure to pay
524 premium.

525 (IV) Each member insurer's share of the total regular
526 assessments under sub-sub-subparagraph (I) or sub-sub-
527 subparagraph (II) shall be in the proportion that the insurer's
528 net direct premium for property insurance in this state, for the
529 year preceding the assessment bears to the aggregate statewide
530 net direct premium for property insurance of all member

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531 insurers, as reduced by any credits for voluntary writings for
532 that year.

533 (V) If regular deficit assessments are made under sub-sub-
534 subparagraph (I) or sub-sub-subparagraph (II), or by the
535 Residential Property and Casualty Joint Underwriting Association
536 under sub-subparagraph (6)(b)3.a. or sub-subparagraph
537 (6)(b)3.b., the association shall levy upon the association's
538 policyholders, as part of its next rate filing, or by a separate
539 rate filing solely for this purpose, a market equalization
540 surcharge in a percentage equal to the total amount of such
541 regular assessments divided by the aggregate statewide direct
542 written premium for property insurance for member insurers for
543 the prior calendar year. Market equalization surcharges under
544 this sub-sub-subparagraph are not considered premium and are not
545 subject to commissions, fees, or premium taxes; however, failure
546 to pay a market equalization surcharge shall be treated as
547 failure to pay premium.

548 e. The governing body of any unit of local government, any
549 residents of which are insured under the plan, may issue bonds
550 as defined in s. 125.013 or s. 166.101 to fund an assistance
551 program, in conjunction with the association, for the purpose of
552 defraying deficits of the association. In order to avoid
553 needless and indiscriminate proliferation, duplication, and
554 fragmentation of such assistance programs, any unit of local
555 government, any residents of which are insured by the
556 association, may provide for the payment of losses, regardless
557 of whether or not the losses occurred within or outside of the
558 territorial jurisdiction of the local government. Revenue bonds
559 may not be issued until validated pursuant to chapter 75, unless
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560 a state of emergency is declared by executive order or
561 proclamation of the Governor pursuant to s. 252.36 making such
562 findings as are necessary to determine that it is in the best
563 interests of, and necessary for, the protection of the public
564 health, safety, and general welfare of residents of this state
565 and the protection and preservation of the economic stability of
566 insurers operating in this state, and declaring it an essential
567 public purpose to permit certain municipalities or counties to
568 issue bonds as will provide relief to claimants and
569 policyholders of the association and insurers responsible for
570 apportionment of plan losses. Any such unit of local government
571 may enter into such contracts with the association and with any
572 other entity created pursuant to this subsection as are
573 necessary to carry out this paragraph. Any bonds issued under
574 this sub-subparagraph shall be payable from and secured by
575 moneys received by the association from assessments under this
576 subparagraph, and assigned and pledged to or on behalf of the
577 unit of local government for the benefit of the holders of such
578 bonds. The funds, credit, property, and taxing power of the
579 state or of the unit of local government shall not be pledged
580 for the payment of such bonds. If any of the bonds remain unsold
581 60 days after issuance, the department shall require all
582 insurers subject to assessment to purchase the bonds, which
583 shall be treated as admitted assets; each insurer shall be
584 required to purchase that percentage of the unsold portion of
585 the bond issue that equals the insurer's relative share of
586 assessment liability under this subsection. An insurer shall not
587 be required to purchase the bonds to the extent that the
588 department determines that the purchase would endanger or impair

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589 the solvency of the insurer. The authority granted by this sub-
590 subparagraph is additional to any bonding authority granted by
591 subparagraph 6.

592 3. The plan shall also provide that any member with a
593 surplus as to policyholders of \$20 million or less writing 25
594 percent or more of its total countrywide property insurance
595 premiums in this state may petition the department, within the
596 first 90 days of each calendar year, to qualify as a limited
597 apportionment company. The apportionment of such a member
598 company in any calendar year for which it is qualified shall not
599 exceed its gross participation, which shall not be affected by
600 the formula for voluntary writings. In no event shall a limited
601 apportionment company be required to participate in any
602 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
603 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
604 \$50 million after payment of available plan funds in any
605 calendar year. However, a limited apportionment company shall
606 collect from its policyholders any emergency assessment imposed
607 under sub-sub-subparagraph 2.d.(III). The plan shall provide
608 that, if the department determines that any regular assessment
609 will result in an impairment of the surplus of a limited
610 apportionment company, the department may direct that all or
611 part of such assessment be deferred. However, there shall be no
612 limitation or deferment of an emergency assessment to be
613 collected from policyholders under sub-sub-subparagraph
614 2.d.(III).

615 4. The plan shall provide for the deferment, in whole or
616 in part, of a regular assessment of a member insurer under sub-
617 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
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618 not for an emergency assessment collected from policyholders
619 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
620 commissioner, payment of such regular assessment would endanger
621 or impair the solvency of the member insurer. In the event a
622 regular assessment against a member insurer is deferred in whole
623 or in part, the amount by which such assessment is deferred may
624 be assessed against the other member insurers in a manner
625 consistent with the basis for assessments set forth in sub-sub-
626 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

627 5.a. The plan of operation may include deductibles and
628 rules for classification of risks and rate modifications
629 consistent with the objective of providing and maintaining funds
630 sufficient to pay catastrophe losses.

631 b. The association may require arbitration of a rate
632 filing under s. 627.062(6). It is the intent of the Legislature
633 that the rates for coverage provided by the association be
634 actuarially sound and not competitive with approved rates
635 charged in the admitted voluntary market such that the
636 association functions as a residual market mechanism to provide
637 insurance only when the insurance cannot be procured in the
638 voluntary market. The plan of operation shall provide a
639 mechanism to assure that, beginning no later than January 1,
640 1999, the rates charged by the association for each line of
641 business are reflective of approved rates in the voluntary
642 market for hurricane coverage for each line of business in the
643 various areas eligible for association coverage.

644 c. The association shall provide for windstorm coverage on
645 residential properties in limits up to \$10 million for
646 commercial lines residential risks and up to \$1 million for

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647 personal lines residential risks. If coverage with the
648 association is sought for a residential risk valued in excess of
649 these limits, coverage shall be available to the risk up to the
650 replacement cost or actual cash value of the property, at the
651 option of the insured, if coverage for the risk cannot be
652 located in the authorized market. The association must accept a
653 commercial lines residential risk with limits above \$10 million
654 or a personal lines residential risk with limits above \$1
655 million if coverage is not available in the authorized market.
656 The association may write coverage above the limits specified in
657 this subparagraph with or without facultative or other
658 reinsurance coverage, as the association determines appropriate.

659 d. The plan of operation must provide objective criteria
660 and procedures, approved by the department, to be uniformly
661 applied for all applicants in determining whether an individual
662 risk is so hazardous as to be uninsurable. In making this
663 determination and in establishing the criteria and procedures,
664 the following shall be considered:

665 (I) Whether the likelihood of a loss for the individual
666 risk is substantially higher than for other risks of the same
667 class; and

668 (II) Whether the uncertainty associated with the
669 individual risk is such that an appropriate premium cannot be
670 determined.

671
672 The acceptance or rejection of a risk by the association
673 pursuant to such criteria and procedures must be construed as
674 the private placement of insurance, and the provisions of
675 chapter 120 do not apply.

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676 e. If the risk accepts an offer of coverage through the
677 market assistance program or through a mechanism established by
678 the association, either before the policy is issued by the
679 association or during the first 30 days of coverage by the
680 association, and the producing agent who submitted the
681 application to the association is not currently appointed by the
682 insurer, the insurer shall:

683 (I) Pay to the producing agent of record of the policy,
684 for the first year, an amount that is the greater of the
685 insurer's usual and customary commission for the type of policy
686 written or a fee equal to the usual and customary commission of
687 the association; or

688 (II) Offer to allow the producing agent of record of the
689 policy to continue servicing the policy for a period of not less
690 than 1 year and offer to pay the agent the greater of the
691 insurer's or the association's usual and customary commission
692 for the type of policy written.

693

694 If the producing agent is unwilling or unable to accept
695 appointment, the new insurer shall pay the agent in accordance
696 with sub-sub-subparagraph (I). Subject to the provisions of s.
697 627.3517, the policies issued by the association must provide
698 that if the association obtains an offer from an authorized
699 insurer to cover the risk at its approved rates under either a
700 standard policy including wind coverage or, if consistent with
701 the insurer's underwriting rules as filed with the department, a
702 basic policy including wind coverage, the risk is no longer
703 eligible for coverage through the association. Upon termination
704 of eligibility, the association shall provide written notice to
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705 the policyholder and agent of record stating that the
706 association policy must be canceled as of 60 days after the date
707 of the notice because of the offer of coverage from an
708 authorized insurer. Other provisions of the insurance code
709 relating to cancellation and notice of cancellation do not apply
710 to actions under this sub-subparagraph.

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

715 (I) Pay to the producing agent of record of the
716 association policy, for the first year, an amount that is the
717 greater of the insurer's usual and customary commission for the
718 type of policy written or a fee equal to the usual and customary
719 commission of the association; or

720 (II) Offer to allow the producing agent of record of the
721 association policy to continue servicing the policy for a period
722 of not less than 1 year and offer to pay the agent the greater
723 of the insurer's or the association's usual and customary
724 commission for the type of policy written.

725

726 If the producing agent is unwilling or unable to accept
727 appointment, the new insurer shall pay the agent in accordance
728 with sub-sub-subparagraph (I).

729 6.a. The plan of operation may authorize the formation of
730 a private nonprofit corporation, a private nonprofit
731 unincorporated association, a partnership, a trust, a limited
732 liability company, or a nonprofit mutual company which may be
733 empowered, among other things, to borrow money by issuing bonds
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734 or by incurring other indebtedness and to accumulate reserves or
735 funds to be used for the payment of insured catastrophe losses.
736 The plan may authorize all actions necessary to facilitate the
737 issuance of bonds, including the pledging of assessments or
738 other revenues.

739 b. Any entity created under this subsection, or any entity
740 formed for the purposes of this subsection, may sue and be sued,
741 may borrow money; issue bonds, notes, or debt instruments;
742 pledge or sell assessments, market equalization surcharges and
743 other surcharges, rights, premiums, contractual rights,
744 projected recoveries from the John F. Cosgrove Florida Hurricane
745 Catastrophe Fund, other reinsurance recoverables, and other
746 assets as security for such bonds, notes, or debt instruments;
747 enter into any contracts or agreements necessary or proper to
748 accomplish such borrowings; and take other actions necessary to
749 carry out the purposes of this subsection. The association may
750 issue bonds or incur other indebtedness, or have bonds issued on
751 its behalf by a unit of local government pursuant to
752 subparagraph (6)(g)2., in the absence of a hurricane or other
753 weather-related event, upon a determination by the association
754 subject to approval by the department that such action would
755 enable it to efficiently meet the financial obligations of the
756 association and that such financings are reasonably necessary to
757 effectuate the requirements of this subsection. Any such entity
758 may accumulate reserves and retain surpluses as of the end of
759 any association year to provide for the payment of losses
760 incurred by the association during that year or any future year.
761 The association shall incorporate and continue the plan of
762 operation and articles of agreement in effect on the effective

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763 date of chapter 76-96, Laws of Florida, to the extent that it is
764 not inconsistent with chapter 76-96, and as subsequently
765 modified consistent with chapter 76-96. The board of directors
766 and officers currently serving shall continue to serve until
767 their successors are duly qualified as provided under the plan.
768 The assets and obligations of the plan in effect immediately
769 prior to the effective date of chapter 76-96 shall be construed
770 to be the assets and obligations of the successor plan created
771 herein.

772 c. In recognition of s. 10, Art. I of the State
773 Constitution, prohibiting the impairment of obligations of
774 contracts, it is the intent of the Legislature that no action be
775 taken whose purpose is to impair any bond indenture or financing
776 agreement or any revenue source committed by contract to such
777 bond or other indebtedness issued or incurred by the association
778 or any other entity created under this subsection.

779 7. On such coverage, an agent's remuneration shall be that
780 amount of money payable to the agent by the terms of his or her
781 contract with the company with which the business is placed.
782 However, no commission will be paid on that portion of the
783 premium which is in excess of the standard premium of that
784 company.

785 8. Subject to approval by the department, the association
786 may establish different eligibility requirements and operational
787 procedures for any line or type of coverage for any specified
788 eligible area or portion of an eligible area if the board
789 determines that such changes to the eligibility requirements and
790 operational procedures are justified due to the voluntary market
791 being sufficiently stable and competitive in such area or for
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792 such line or type of coverage and that consumers who, in good
793 faith, are unable to obtain insurance through the voluntary
794 market through ordinary methods would continue to have access to
795 coverage from the association. When coverage is sought in
796 connection with a real property transfer, such requirements and
797 procedures shall not provide for an effective date of coverage
798 later than the date of the closing of the transfer as
799 established by the transferor, the transferee, and, if
800 applicable, the lender.

801 9. Notwithstanding any other provision of law:

802 a. The pledge or sale of, the lien upon, and the security
803 interest in any rights, revenues, or other assets of the
804 association created or purported to be created pursuant to any
805 financing documents to secure any bonds or other indebtedness of
806 the association shall be and remain valid and enforceable,
807 notwithstanding the commencement of and during the continuation
808 of, and after, any rehabilitation, insolvency, liquidation,
809 bankruptcy, receivership, conservatorship, reorganization, or
810 similar proceeding against the association under the laws of
811 this state or any other applicable laws.

812 b. No such proceeding shall relieve the association of its
813 obligation, or otherwise affect its ability to perform its
814 obligation, to continue to collect, or levy and collect,
815 assessments, market equalization or other surcharges, projected
816 recoveries from the John F. Cosgrove Florida Hurricane
817 Catastrophe Fund, reinsurance recoverables, or any other rights,
818 revenues, or other assets of the association pledged.

819 c. Each such pledge or sale of, lien upon, and security
820 interest in, including the priority of such pledge, lien, or
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821 security interest, any such assessments, emergency assessments,
822 market equalization or renewal surcharges, projected recoveries
823 from the John F. Cosgrove Florida Hurricane Catastrophe Fund,
824 reinsurance recoverables, or other rights, revenues, or other
825 assets which are collected, or levied and collected, after the
826 commencement of and during the pendency of or after any such
827 proceeding shall continue unaffected by such proceeding.

828 d. As used in this subsection, the term "financing
829 documents" means any agreement, instrument, or other document
830 now existing or hereafter created evidencing any bonds or other
831 indebtedness of the association or pursuant to which any such
832 bonds or other indebtedness has been or may be issued and
833 pursuant to which any rights, revenues, or other assets of the
834 association are pledged or sold to secure the repayment of such
835 bonds or indebtedness, together with the payment of interest on
836 such bonds or such indebtedness, or the payment of any other
837 obligation of the association related to such bonds or
838 indebtedness.

839 e. Any such pledge or sale of assessments, revenues,
840 contract rights or other rights or assets of the association
841 shall constitute a lien and security interest, or sale, as the
842 case may be, that is immediately effective and attaches to such
843 assessments, revenues, contract, or other rights or assets,
844 whether or not imposed or collected at the time the pledge or
845 sale is made. Any such pledge or sale is effective, valid,
846 binding, and enforceable against the association or other entity
847 making such pledge or sale, and valid and binding against and
848 superior to any competing claims or obligations owed to any
849 other person or entity, including policyholders in this state,
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850 asserting rights in any such assessments, revenues, contract, or
851 other rights or assets to the extent set forth in and in
852 accordance with the terms of the pledge or sale contained in the
853 applicable financing documents, whether or not any such person
854 or entity has notice of such pledge or sale and without the need
855 for any physical delivery, recordation, filing, or other action.

856 f. There shall be no liability on the part of, and no
857 cause of action of any nature shall arise against, any member
858 insurer or its agents or employees, agents or employees of the
859 association, members of the board of directors of the
860 association, or the department or its representatives, for any
861 action taken by them in the performance of their duties or
862 responsibilities under this subsection. Such immunity does not
863 apply to actions for breach of any contract or agreement
864 pertaining to insurance, or any willful tort.

865 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

866 (b)1. All insurers authorized to write one or more subject
867 lines of business in this state are subject to assessment by the
868 corporation and, for the purposes of this subsection, are
869 referred to collectively as "assessable insurers." Insurers
870 writing one or more subject lines of business in this state
871 pursuant to part VIII of chapter 626 are not assessable
872 insurers, but insureds who procure one or more subject lines of
873 business in this state pursuant to part VIII of chapter 626 are
874 subject to assessment by the corporation and are referred to
875 collectively as "assessable insureds." An authorized insurer's
876 assessment liability shall begin on the first day of the
877 calendar year following the year in which the insurer was issued
878 a certificate of authority to transact insurance for subject
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879 lines of business in this state and shall terminate 1 year after
880 the end of the first calendar year during which the insurer no
881 longer holds a certificate of authority to transact insurance
882 for subject lines of business in this state.

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

886 (I) A personal lines account for personal residential
887 policies issued by the corporation or issued by the Residential
888 Property and Casualty Joint Underwriting Association and renewed
889 by the corporation that provide comprehensive, multiperil
890 coverage on risks that are not located in areas eligible for
891 coverage in the Florida Windstorm Underwriting Association as
892 those areas were defined on January 1, 2002, and for such
893 policies that do not provide coverage for the peril of wind on
894 risks that are located in such areas;

895 (II) A commercial lines account for commercial residential
896 policies issued by the corporation or issued by the Residential
897 Property and Casualty Joint Underwriting Association and renewed
898 by the corporation that provide coverage for basic property
899 perils on risks that are not located in areas eligible for
900 coverage in the Florida Windstorm Underwriting Association as
901 those areas were defined on January 1, 2002, and for such
902 policies that do not provide coverage for the peril of wind on
903 risks that are located in such areas; and

904 (III) A high-risk account for personal residential
905 policies and commercial residential and commercial
906 nonresidential property policies issued by the corporation or
907 transferred to the corporation that provide coverage for the
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908 | peril of wind on risks that are located in areas eligible for
909 | coverage in the Florida Windstorm Underwriting Association as
910 | those areas were defined on January 1, 2002. The high-risk
911 | account must also include quota share primary insurance under
912 | subparagraph (c)2. The area eligible for coverage under the
913 | high-risk account also includes the area within Port Canaveral,
914 | which is bordered on the south by the City of Cape Canaveral,
915 | bordered on the west by the Banana River, and bordered on the
916 | north by Federal Government property. The office may remove
917 | territory from the area eligible for wind-only and quota share
918 | coverage if, after a public hearing, the office finds that
919 | authorized insurers in the voluntary market are willing and able
920 | to write sufficient amounts of personal and commercial
921 | residential coverage for all perils in the territory, including
922 | coverage for the peril of wind, such that risks covered by wind-
923 | only policies in the removed territory could be issued a policy
924 | by the corporation in either the personal lines or commercial
925 | lines account without a significant increase in the
926 | corporation's probable maximum loss in such account. Removal of
927 | territory from the area eligible for wind-only or quota share
928 | coverage does not alter the assignment of wind coverage written
929 | in such areas to the high-risk account.

930 | b. The three separate accounts must be maintained as long
931 | as financing obligations entered into by the Florida Windstorm
932 | Underwriting Association or Residential Property and Casualty
933 | Joint Underwriting Association are outstanding, in accordance
934 | with the terms of the corresponding financing documents. When
935 | the financing obligations are no longer outstanding, in
936 | accordance with the terms of the corresponding financing

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937 documents, the corporation may use a single account for all
938 revenues, assets, liabilities, losses, and expenses of the
939 corporation.

940 c. Creditors of the Residential Property and Casualty
941 Joint Underwriting Association shall have a claim against, and
942 recourse to, the accounts referred to in sub-sub-subparagraphs
943 a.(I) and (II) and shall have no claim against, or recourse to,
944 the account referred to in sub-sub-subparagraph a.(III).

945 Creditors of the Florida Windstorm Underwriting Association
946 shall have a claim against, and recourse to, the account
947 referred to in sub-sub-subparagraph a.(III) and shall have no
948 claim against, or recourse to, the accounts referred to in sub-
949 sub-subparagraphs a.(I) and (II).

950 d. Revenues, assets, liabilities, losses, and expenses not
951 attributable to particular accounts shall be prorated among the
952 accounts.

953 e. The Legislature finds that the revenues of the
954 corporation are revenues that are necessary to meet the
955 requirements set forth in documents authorizing the issuance of
956 bonds under this subsection.

957 f. No part of the income of the corporation may inure to
958 the benefit of any private person.

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

960 a. When the deficit incurred in a particular calendar year
961 is not greater than 10 percent of the aggregate statewide direct
962 written premium for the subject lines of business for the prior
963 calendar year, the entire deficit shall be recovered through
964 regular assessments of assessable insurers under paragraph (g)
965 and assessable insureds.

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966 b. When the deficit incurred in a particular calendar year
967 exceeds 10 percent of the aggregate statewide direct written
968 premium for the subject lines of business for the prior calendar
969 year, the corporation shall levy regular assessments on
970 assessable insurers under paragraph (g) and on assessable
971 insureds in an amount equal to the greater of 10 percent of the
972 deficit or 10 percent of the aggregate statewide direct written
973 premium for the subject lines of business for the prior calendar
974 year. Any remaining deficit shall be recovered through emergency
975 assessments under sub-subparagraph d.

976 c. Each assessable insurer's share of the amount being
977 assessed under sub-subparagraph a. or sub-subparagraph b. shall
978 be in the proportion that the assessable insurer's direct
979 written premium for the subject lines of business for the year
980 preceding the assessment bears to the aggregate statewide direct
981 written premium for the subject lines of business for that year.
982 The assessment percentage applicable to each assessable insured
983 is the ratio of the amount being assessed under sub-subparagraph
984 a. or sub-subparagraph b. to the aggregate statewide direct
985 written premium for the subject lines of business for the prior
986 year. Assessments levied by the corporation on assessable
987 insurers under sub-subparagraphs a. and b. shall be paid as
988 required by the corporation's plan of operation and paragraph
989 (g). Assessments levied by the corporation on assessable
990 insureds under sub-subparagraphs a. and b. shall be collected by
991 the surplus lines agent at the time the surplus lines agent
992 collects the surplus lines tax required by s. 626.932 and shall
993 be paid to the Florida Surplus Lines Service Office at the time
994 the surplus lines agent pays the surplus lines tax to the

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995 Florida Surplus Lines Service Office. Upon receipt of regular
996 assessments from surplus lines agents, the Florida Surplus Lines
997 Service Office shall transfer the assessments directly to the
998 corporation as determined by the corporation.

999 d. Upon a determination by the board of governors that a
1000 deficit in an account exceeds the amount that will be recovered
1001 through regular assessments under sub-subparagraph a. or sub-
1002 subparagraph b., the board shall levy, after verification by the
1003 office, emergency assessments, for as many years as necessary to
1004 cover the deficits, to be collected by assessable insurers and
1005 the corporation and collected from assessable insureds upon
1006 issuance or renewal of policies for subject lines of business,
1007 excluding National Flood Insurance policies. The amount of the
1008 emergency assessment collected in a particular year shall be a
1009 uniform percentage of that year's direct written premium for
1010 subject lines of business and all accounts of the corporation,
1011 excluding National Flood Insurance Program policy premiums, as
1012 annually determined by the board and verified by the office. The
1013 office shall verify the arithmetic calculations involved in the
1014 board's determination within 30 days after receipt of the
1015 information on which the determination was based.

1016 Notwithstanding any other provision of law, the corporation and
1017 each assessable insurer that writes subject lines of business
1018 shall collect emergency assessments from its policyholders
1019 without such obligation being affected by any credit,
1020 limitation, exemption, or deferment. Emergency assessments
1021 levied by the corporation on assessable insureds shall be
1022 collected by the surplus lines agent at the time the surplus
1023 lines agent collects the surplus lines tax required by s.

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1024 626.932 and shall be paid to the Florida Surplus Lines Service
1025 Office at the time the surplus lines agent pays the surplus
1026 lines tax to the Florida Surplus Lines Service Office. The
1027 emergency assessments so collected shall be transferred directly
1028 to the corporation on a periodic basis as determined by the
1029 corporation and shall be held by the corporation solely in the
1030 applicable account. The aggregate amount of emergency
1031 assessments levied for an account under this sub-subparagraph in
1032 any calendar year may not exceed the greater of 10 percent of
1033 the amount needed to cover the original deficit, plus interest,
1034 fees, commissions, required reserves, and other costs associated
1035 with financing of the original deficit, or 10 percent of the
1036 aggregate statewide direct written premium for subject lines of
1037 business and for all accounts of the corporation for the prior
1038 year, plus interest, fees, commissions, required reserves, and
1039 other costs associated with financing the original deficit.

1040 e. The corporation may pledge the proceeds of assessments,
1041 projected recoveries from the John F. Cosgrove Florida Hurricane
1042 Catastrophe Fund, other insurance and reinsurance recoverables,
1043 market equalization surcharges and other surcharges, and other
1044 funds available to the corporation as the source of revenue for
1045 and to secure bonds issued under paragraph (g), bonds or other
1046 indebtedness issued under subparagraph (c)3., or lines of credit
1047 or other financing mechanisms issued or created under this
1048 subsection, or to retire any other debt incurred as a result of
1049 deficits or events giving rise to deficits, or in any other way
1050 that the board determines will efficiently recover such
1051 deficits. The purpose of the lines of credit or other financing
1052 mechanisms is to provide additional resources to assist the

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1053 corporation in covering claims and expenses attributable to a
1054 catastrophe. As used in this subsection, the term "assessments"
1055 includes regular assessments under sub-subparagraph a., sub-
1056 subparagraph b., or subparagraph (g)1. and emergency assessments
1057 under sub-subparagraph d. Emergency assessments collected under
1058 sub-subparagraph d. are not part of an insurer's rates, are not
1059 premium, and are not subject to premium tax, fees, or
1060 commissions; however, failure to pay the emergency assessment
1061 shall be treated as failure to pay premium. The emergency
1062 assessments under sub-subparagraph d. shall continue as long as
1063 any bonds issued or other indebtedness incurred with respect to
1064 a deficit for which the assessment was imposed remain
1065 outstanding, unless adequate provision has been made for the
1066 payment of such bonds or other indebtedness pursuant to the
1067 documents governing such bonds or other indebtedness.

1068 f. As used in this subsection, the term "subject lines of
1069 business" means insurance written by assessable insurers or
1070 procured by assessable insureds on real or personal property, as
1071 defined in s. 624.604, including insurance for fire, industrial
1072 fire, allied lines, farmowners multiperil, homeowners
1073 multiperil, commercial multiperil, and mobile homes, and
1074 including liability coverage on all such insurance, but
1075 excluding inland marine as defined in s. 624.607(3) and
1076 excluding vehicle insurance as defined in s. 624.605(1) other
1077 than insurance on mobile homes used as permanent dwellings.

1078 g. The Florida Surplus Lines Service Office shall
1079 determine annually the aggregate statewide written premium in
1080 subject lines of business procured by assessable insureds and
1081 shall report that information to the corporation in a form and
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1082 at a time the corporation specifies to ensure that the
1083 corporation can meet the requirements of this subsection and the
1084 corporation's financing obligations.

1085 h. The Florida Surplus Lines Service Office shall verify
1086 the proper application by surplus lines agents of assessment
1087 percentages for regular assessments and emergency assessments
1088 levied under this subparagraph on assessable insureds and shall
1089 assist the corporation in ensuring the accurate, timely
1090 collection and payment of assessments by surplus lines agents as
1091 required by the corporation.

1092 (c) The plan of operation of the corporation:

1093 1. Must provide for adoption of residential property and
1094 casualty insurance policy forms and commercial residential and
1095 nonresidential property insurance forms, which forms must be
1096 approved by the office prior to use. The corporation shall adopt
1097 the following policy forms:

1098 a. Standard personal lines policy forms that are
1099 comprehensive multiperil policies providing full coverage of a
1100 residential property equivalent to the coverage provided in the
1101 private insurance market under an HO-3, HO-4, or HO-6 policy.

1102 b. Basic personal lines policy forms that are policies
1103 similar to an HO-8 policy or a dwelling fire policy that provide
1104 coverage meeting the requirements of the secondary mortgage
1105 market, but which coverage is more limited than the coverage
1106 under a standard policy.

1107 c. Commercial lines residential policy forms that are
1108 generally similar to the basic perils of full coverage
1109 obtainable for commercial residential structures in the admitted
1110 voluntary market.

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1111 d. Personal lines and commercial lines residential
1112 property insurance forms that cover the peril of wind only. The
1113 forms are applicable only to residential properties located in
1114 areas eligible for coverage under the high-risk account referred
1115 to in sub-subparagraph (b)2.a.

1116 e. Commercial lines nonresidential property insurance
1117 forms that cover the peril of wind only. The forms are
1118 applicable only to nonresidential properties located in areas
1119 eligible for coverage under the high-risk account referred to in
1120 sub-subparagraph (b)2.a.

1121 2.a. Must provide that the corporation adopt a program in
1122 which the corporation and authorized insurers enter into quota
1123 share primary insurance agreements for hurricane coverage, as
1124 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1125 property insurance forms for eligible risks which cover the
1126 peril of wind only. As used in this subsection, the term:

1127 (I) "Quota share primary insurance" means an arrangement
1128 in which the primary hurricane coverage of an eligible risk is
1129 provided in specified percentages by the corporation and an
1130 authorized insurer. The corporation and authorized insurer are
1131 each solely responsible for a specified percentage of hurricane
1132 coverage of an eligible risk as set forth in a quota share
1133 primary insurance agreement between the corporation and an
1134 authorized insurer and the insurance contract. The
1135 responsibility of the corporation or authorized insurer to pay
1136 its specified percentage of hurricane losses of an eligible
1137 risk, as set forth in the quota share primary insurance
1138 agreement, may not be altered by the inability of the other
1139 party to the agreement to pay its specified percentage of

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1140 hurricane losses. Eligible risks that are provided hurricane
1141 coverage through a quota share primary insurance arrangement
1142 must be provided policy forms that set forth the obligations of
1143 the corporation and authorized insurer under the arrangement,
1144 clearly specify the percentages of quota share primary insurance
1145 provided by the corporation and authorized insurer, and
1146 conspicuously and clearly state that neither the authorized
1147 insurer nor the corporation may be held responsible beyond its
1148 specified percentage of coverage of hurricane losses.

1149 (II) "Eligible risks" means personal lines residential and
1150 commercial lines residential risks that meet the underwriting
1151 criteria of the corporation and are located in areas that were
1152 eligible for coverage by the Florida Windstorm Underwriting
1153 Association on January 1, 2002.

1154 b. The corporation may enter into quota share primary
1155 insurance agreements with authorized insurers at corporation
1156 coverage levels of 90 percent and 50 percent.

1157 c. If the corporation determines that additional coverage
1158 levels are necessary to maximize participation in quota share
1159 primary insurance agreements by authorized insurers, the
1160 corporation may establish additional coverage levels. However,
1161 the corporation's quota share primary insurance coverage level
1162 may not exceed 90 percent.

1163 d. Any quota share primary insurance agreement entered
1164 into between an authorized insurer and the corporation must
1165 provide for a uniform specified percentage of coverage of
1166 hurricane losses, by county or territory as set forth by the
1167 corporation board, for all eligible risks of the authorized

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1168 insurer covered under the quota share primary insurance
1169 agreement.

1170 e. Any quota share primary insurance agreement entered
1171 into between an authorized insurer and the corporation is
1172 subject to review and approval by the office. However, such
1173 agreement shall be authorized only as to insurance contracts
1174 entered into between an authorized insurer and an insured who is
1175 already insured by the corporation for wind coverage.

1176 f. For all eligible risks covered under quota share
1177 primary insurance agreements, the exposure and coverage levels
1178 for both the corporation and authorized insurers shall be
1179 reported by the corporation to the John F. Cosgrove Florida
1180 Hurricane Catastrophe Fund. For all policies of eligible risks
1181 covered under quota share primary insurance agreements, the
1182 corporation and the authorized insurer shall maintain complete
1183 and accurate records for the purpose of exposure and loss
1184 reimbursement audits as required by John F. Cosgrove Florida
1185 Hurricane Catastrophe Fund rules. The corporation and the
1186 authorized insurer shall each maintain duplicate copies of
1187 policy declaration pages and supporting claims documents.

1188 g. The corporation board shall establish in its plan of
1189 operation standards for quota share agreements which ensure that
1190 there is no discriminatory application among insurers as to the
1191 terms of quota share agreements, pricing of quota share
1192 agreements, incentive provisions if any, and consideration paid
1193 for servicing policies or adjusting claims.

1194 h. The quota share primary insurance agreement between the
1195 corporation and an authorized insurer must set forth the
1196 specific terms under which coverage is provided, including, but
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1197 not limited to, the sale and servicing of policies issued under
1198 the agreement by the insurance agent of the authorized insurer
1199 producing the business, the reporting of information concerning
1200 eligible risks, the payment of premium to the corporation, and
1201 arrangements for the adjustment and payment of hurricane claims
1202 incurred on eligible risks by the claims adjuster and personnel
1203 of the authorized insurer. Entering into a quota sharing
1204 insurance agreement between the corporation and an authorized
1205 insurer shall be voluntary and at the discretion of the
1206 authorized insurer.

1207 3. May provide that the corporation may employ or
1208 otherwise contract with individuals or other entities to provide
1209 administrative or professional services that may be appropriate
1210 to effectuate the plan. The corporation shall have the power to
1211 borrow funds, by issuing bonds or by incurring other
1212 indebtedness, and shall have other powers reasonably necessary
1213 to effectuate the requirements of this subsection, including,
1214 without limitation, the power to issue bonds and incur other
1215 indebtedness in order to refinance outstanding bonds or other
1216 indebtedness. The corporation may, but is not required to, seek
1217 judicial validation of its bonds or other indebtedness under
1218 chapter 75. The corporation may issue bonds or incur other
1219 indebtedness, or have bonds issued on its behalf by a unit of
1220 local government pursuant to subparagraph (g)2., in the absence
1221 of a hurricane or other weather-related event, upon a
1222 determination by the corporation, subject to approval by the
1223 office, that such action would enable it to efficiently meet the
1224 financial obligations of the corporation and that such
1225 financings are reasonably necessary to effectuate the

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1226 requirements of this subsection. The corporation is authorized
1227 to take all actions needed to facilitate tax-free status for any
1228 such bonds or indebtedness, including formation of trusts or
1229 other affiliated entities. The corporation shall have the
1230 authority to pledge assessments, projected recoveries from the
1231 John F. Cosgrove Florida Hurricane Catastrophe Fund, other
1232 reinsurance recoverables, market equalization and other
1233 surcharges, and other funds available to the corporation as
1234 security for bonds or other indebtedness. In recognition of s.
1235 10, Art. I of the State Constitution, prohibiting the impairment
1236 of obligations of contracts, it is the intent of the Legislature
1237 that no action be taken whose purpose is to impair any bond
1238 indenture or financing agreement or any revenue source committed
1239 by contract to such bond or other indebtedness.

1240 4.a. Must require that the corporation operate subject to
1241 the supervision and approval of a board of governors consisting
1242 of 8 individuals who are residents of this state, from different
1243 geographical areas of this state. The Governor, the Chief
1244 Financial Officer, the President of the Senate, and the Speaker
1245 of the House of Representatives shall each appoint two members
1246 of the board, effective August 1, 2005. At least one of the two
1247 members appointed by each appointing officer must have
1248 demonstrated expertise in insurance. The Chief Financial Officer
1249 shall designate one of the appointees as chair. All board
1250 members serve at the pleasure of the appointing officer. All
1251 board members, including the chair, must be appointed to serve
1252 for 3-year terms beginning annually on a date designated by the
1253 plan. Any board vacancy shall be filled for the unexpired term
1254 by the appointing officer. The Chief Financial Officer shall

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1255 | appoint a technical advisory group to provide information and
1256 | advice to the board of governors in connection with the board's
1257 | duties under this subsection. The executive director and senior
1258 | managers of the corporation shall be engaged by the board, as
1259 | recommended by the Chief Financial Officer, and serve at the
1260 | pleasure of the board. The executive director is responsible for
1261 | employing other staff as the corporation may require, subject to
1262 | review and concurrence by the board and the Chief Financial
1263 | Officer.

1264 | b. The board shall create a Market Accountability Advisory
1265 | Committee to assist the corporation in developing awareness of
1266 | its rates and its customer and agent service levels in
1267 | relationship to the voluntary market insurers writing similar
1268 | coverage. The members of the advisory committee shall consist of
1269 | the following 11 persons, one of whom must be elected chair by
1270 | the members of the committee: four representatives, one
1271 | appointed by the Florida Association of Insurance Agents, one by
1272 | the Florida Association of Insurance and Financial Advisors, one
1273 | by the Professional Insurance Agents of Florida, and one by the
1274 | Latin American Association of Insurance Agencies; three
1275 | representatives appointed by the insurers with the three highest
1276 | voluntary market share of residential property insurance
1277 | business in the state; one representative from the Office of
1278 | Insurance Regulation; one consumer appointed by the board who is
1279 | insured by the corporation at the time of appointment to the
1280 | committee; one representative appointed by the Florida
1281 | Association of Realtors; and one representative appointed by the
1282 | Florida Bankers Association. All members must serve for 3-year
1283 | terms and may serve for consecutive terms. The committee shall

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1284 report to the corporation at each board meeting on insurance
1285 market issues which may include rates and rate competition with
1286 the voluntary market; service, including policy issuance, claims
1287 processing, and general responsiveness to policyholders,
1288 applicants, and agents; and matters relating to depopulation.

1289 5. Must provide a procedure for determining the
1290 eligibility of a risk for coverage, as follows:

1291 a. Subject to the provisions of s. 627.3517, with respect
1292 to personal lines residential risks, if the risk is offered
1293 coverage from an authorized insurer at the insurer's approved
1294 rate under either a standard policy including wind coverage or,
1295 if consistent with the insurer's underwriting rules as filed
1296 with the office, a basic policy including wind coverage, the
1297 risk is not eligible for any policy issued by the corporation.
1298 If the risk is not able to obtain any such offer, the risk is
1299 eligible for either a standard policy including wind coverage or
1300 a basic policy including wind coverage issued by the
1301 corporation; however, if the risk could not be insured under a
1302 standard policy including wind coverage regardless of market
1303 conditions, the risk shall be eligible for a basic policy
1304 including wind coverage unless rejected under subparagraph 8.
1305 The corporation shall determine the type of policy to be
1306 provided on the basis of objective standards specified in the
1307 underwriting manual and based on generally accepted underwriting
1308 practices.

1309 (I) If the risk accepts an offer of coverage through the
1310 market assistance plan or an offer of coverage through a
1311 mechanism established by the corporation before a policy is
1312 issued to the risk by the corporation or during the first 30
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1313 days of coverage by the corporation, and the producing agent who
1314 submitted the application to the plan or to the corporation is
1315 not currently appointed by the insurer, the insurer shall:

1316 (A) Pay to the producing agent of record of the policy,
1317 for the first year, an amount that is the greater of the
1318 insurer's usual and customary commission for the type of policy
1319 written or a fee equal to the usual and customary commission of
1320 the corporation; or

1321 (B) Offer to allow the producing agent of record of the
1322 policy to continue servicing the policy for a period of not less
1323 than 1 year and offer to pay the agent the greater of the
1324 insurer's or the corporation's usual and customary commission
1325 for the type of policy written.

1326
1327 If the producing agent is unwilling or unable to accept
1328 appointment, the new insurer shall pay the agent in accordance
1329 with sub-sub-sub-subparagraph (A).

1330 (II) When the corporation enters into a contractual
1331 agreement for a take-out plan, the producing agent of record of
1332 the corporation policy is entitled to retain any unearned
1333 commission on the policy, and the insurer shall:

1334 (A) Pay to the producing agent of record of the
1335 corporation policy, for the first year, an amount that is the
1336 greater of the insurer's usual and customary commission for the
1337 type of policy written or a fee equal to the usual and customary
1338 commission of the corporation; or

1339 (B) Offer to allow the producing agent of record of the
1340 corporation policy to continue servicing the policy for a period
1341 of not less than 1 year and offer to pay the agent the greater

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1342 of the insurer's or the corporation's usual and customary
1343 commission for the type of policy written.

1344
1345 If the producing agent is unwilling or unable to accept
1346 appointment, the new insurer shall pay the agent in accordance
1347 with sub-sub-sub-subparagraph (A).

1348 b. With respect to commercial lines residential risks, if
1349 the risk is offered coverage under a policy including wind
1350 coverage from an authorized insurer at its approved rate, the
1351 risk is not eligible for any policy issued by the corporation.
1352 If the risk is not able to obtain any such offer, the risk is
1353 eligible for a policy including wind coverage issued by the
1354 corporation.

1355 (I) If the risk accepts an offer of coverage through the
1356 market assistance plan or an offer of coverage through a
1357 mechanism established by the corporation before a policy is
1358 issued to the risk by the corporation or during the first 30
1359 days of coverage by the corporation, and the producing agent who
1360 submitted the application to the plan or the corporation is not
1361 currently appointed by the insurer, the insurer shall:

1362 (A) Pay to the producing agent of record of the policy,
1363 for the first year, an amount that is the greater of the
1364 insurer's usual and customary commission for the type of policy
1365 written or a fee equal to the usual and customary commission of
1366 the corporation; or

1367 (B) Offer to allow the producing agent of record of the
1368 policy to continue servicing the policy for a period of not less
1369 than 1 year and offer to pay the agent the greater of the

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1370 insurer's or the corporation's usual and customary commission
1371 for the type of policy written.

1372
1373 If the producing agent is unwilling or unable to accept
1374 appointment, the new insurer shall pay the agent in accordance
1375 with sub-sub-sub-subparagraph (A).

1376 (II) When the corporation enters into a contractual
1377 agreement for a take-out plan, the producing agent of record of
1378 the corporation policy is entitled to retain any unearned
1379 commission on the policy, and the insurer shall:

1380 (A) Pay to the producing agent of record of the
1381 corporation policy, for the first year, an amount that is the
1382 greater of the insurer's usual and customary commission for the
1383 type of policy written or a fee equal to the usual and customary
1384 commission of the corporation; or

1385 (B) Offer to allow the producing agent of record of the
1386 corporation policy to continue servicing the policy for a period
1387 of not less than 1 year and offer to pay the agent the greater
1388 of the insurer's or the corporation's usual and customary
1389 commission for the type of policy written.

1390
1391 If the producing agent is unwilling or unable to accept
1392 appointment, the new insurer shall pay the agent in accordance
1393 with sub-sub-sub-subparagraph (A).

1394 6. Must include rules for classifications of risks and
1395 rates therefor.

1396 7. Must provide that if premium and investment income for
1397 an account attributable to a particular calendar year are in
1398 excess of projected losses and expenses for the account

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1399 attributable to that year, such excess shall be held in surplus
1400 in the account. Such surplus shall be available to defray
1401 deficits in that account as to future years and shall be used
1402 for that purpose prior to assessing assessable insurers and
1403 assessable insureds as to any calendar year.

1404 8. Must provide objective criteria and procedures to be
1405 uniformly applied for all applicants in determining whether an
1406 individual risk is so hazardous as to be uninsurable. In making
1407 this determination and in establishing the criteria and
1408 procedures, the following shall be considered:

1409 a. Whether the likelihood of a loss for the individual
1410 risk is substantially higher than for other risks of the same
1411 class; and

1412 b. Whether the uncertainty associated with the individual
1413 risk is such that an appropriate premium cannot be determined.

1414
1415 The acceptance or rejection of a risk by the corporation shall
1416 be construed as the private placement of insurance, and the
1417 provisions of chapter 120 shall not apply.

1418 9. Must provide that the corporation shall make its best
1419 efforts to procure catastrophe reinsurance at reasonable rates,
1420 to cover its projected 100-year probable maximum loss as
1421 determined by the board of governors.

1422 10. Must provide that in the event of regular deficit
1423 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
1424 (b)3.b., in the personal lines account, the commercial lines
1425 residential account, or the high-risk account, the corporation
1426 shall levy upon corporation policyholders in its next rate
1427 filing, or by a separate rate filing solely for this purpose, a
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1428 market equalization surcharge arising from a regular assessment
1429 in such account in a percentage equal to the total amount of
1430 such regular assessments divided by the aggregate statewide
1431 direct written premium for subject lines of business for the
1432 prior calendar year. Market equalization surcharges under this
1433 subparagraph are not considered premium and are not subject to
1434 commissions, fees, or premium taxes; however, failure to pay a
1435 market equalization surcharge shall be treated as failure to pay
1436 premium.

1437 11. The policies issued by the corporation must provide
1438 that, if the corporation or the market assistance plan obtains
1439 an offer from an authorized insurer to cover the risk at its
1440 approved rates, the risk is no longer eligible for renewal
1441 through the corporation.

1442 12. Corporation policies and applications must include a
1443 notice that the corporation policy could, under this section, be
1444 replaced with a policy issued by an authorized insurer that does
1445 not provide coverage identical to the coverage provided by the
1446 corporation. The notice shall also specify that acceptance of
1447 corporation coverage creates a conclusive presumption that the
1448 applicant or policyholder is aware of this potential.

1449 13. May establish, subject to approval by the office,
1450 different eligibility requirements and operational procedures
1451 for any line or type of coverage for any specified county or
1452 area if the board determines that such changes to the
1453 eligibility requirements and operational procedures are
1454 justified due to the voluntary market being sufficiently stable
1455 and competitive in such area or for such line or type of
1456 coverage and that consumers who, in good faith, are unable to

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1457 obtain insurance through the voluntary market through ordinary
1458 methods would continue to have access to coverage from the
1459 corporation. When coverage is sought in connection with a real
1460 property transfer, such requirements and procedures shall not
1461 provide for an effective date of coverage later than the date of
1462 the closing of the transfer as established by the transferor,
1463 the transferee, and, if applicable, the lender.

1464 14. Must provide that, with respect to the high-risk
1465 account, any assessable insurer with a surplus as to
1466 policyholders of \$25 million or less writing 25 percent or more
1467 of its total countrywide property insurance premiums in this
1468 state may petition the office, within the first 90 days of each
1469 calendar year, to qualify as a limited apportionment company. In
1470 no event shall a limited apportionment company be required to
1471 participate in the portion of any assessment, within the high-
1472 risk account, pursuant to sub-subparagraph (b)3.a. or sub-
1473 subparagraph (b)3.b. in the aggregate which exceeds \$50 million
1474 after payment of available high-risk account funds in any
1475 calendar year. However, a limited apportionment company shall
1476 collect from its policyholders any emergency assessment imposed
1477 under sub-subparagraph (b)3.d. The plan shall provide that, if
1478 the office determines that any regular assessment will result in
1479 an impairment of the surplus of a limited apportionment company,
1480 the office may direct that all or part of such assessment be
1481 deferred as provided in subparagraph (g)4. However, there shall
1482 be no limitation or deferment of an emergency assessment to be
1483 collected from policyholders under sub-subparagraph (b)3.d.

1484 15. Must provide that the corporation appoint as its
1485 licensed agents only those agents who also hold an appointment

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1486 as defined in s. 626.015(3) with an insurer who at the time of
1487 the agent's initial appointment by the corporation is authorized
1488 to write and is actually writing personal lines residential
1489 property coverage, commercial residential property coverage, or
1490 commercial nonresidential property coverage within the state.

1491 (k) Upon a determination by the office that the conditions
1492 giving rise to the establishment and activation of the
1493 corporation no longer exist, the corporation is dissolved. Upon
1494 dissolution, the assets of the corporation shall be applied
1495 first to pay all debts, liabilities, and obligations of the
1496 corporation, including the establishment of reasonable reserves
1497 for any contingent liabilities or obligations, and all remaining
1498 assets of the corporation shall become property of the state and
1499 shall be deposited in the John F. Cosgrove Florida Hurricane
1500 Catastrophe Fund. However, no dissolution shall take effect as
1501 long as the corporation has bonds or other financial obligations
1502 outstanding unless adequate provision has been made for the
1503 payment of the bonds or other financial obligations pursuant to
1504 the documents authorizing the issuance of the bonds or other
1505 financial obligations.

1506 (l)1. Effective July 1, 2002, policies of the Residential
1507 Property and Casualty Joint Underwriting Association shall
1508 become policies of the corporation. All obligations, rights,
1509 assets and liabilities of the Residential Property and Casualty
1510 Joint Underwriting Association, including bonds, note and debt
1511 obligations, and the financing documents pertaining to them
1512 become those of the corporation as of July 1, 2002. The
1513 corporation is not required to issue endorsements or

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1514 certificates of assumption to insureds during the remaining term
1515 of in-force transferred policies.

1516 2. Effective July 1, 2002, policies of the Florida
1517 Windstorm Underwriting Association are transferred to the
1518 corporation and shall become policies of the corporation. All
1519 obligations, rights, assets, and liabilities of the Florida
1520 Windstorm Underwriting Association, including bonds, note and
1521 debt obligations, and the financing documents pertaining to them
1522 are transferred to and assumed by the corporation on July 1,
1523 2002. The corporation is not required to issue endorsement or
1524 certificates of assumption to insureds during the remaining term
1525 of in-force transferred policies.

1526 3. The Florida Windstorm Underwriting Association and the
1527 Residential Property and Casualty Joint Underwriting Association
1528 shall take all actions as may be proper to further evidence the
1529 transfers and shall provide the documents and instruments of
1530 further assurance as may reasonably be requested by the
1531 corporation for that purpose. The corporation shall execute
1532 assumptions and instruments as the trustees or other parties to
1533 the financing documents of the Florida Windstorm Underwriting
1534 Association or the Residential Property and Casualty Joint
1535 Underwriting Association may reasonably request to further
1536 evidence the transfers and assumptions, which transfers and
1537 assumptions, however, are effective on the date provided under
1538 this paragraph whether or not, and regardless of the date on
1539 which, the assumptions or instruments are executed by the
1540 corporation. Subject to the relevant financing documents
1541 pertaining to their outstanding bonds, notes, indebtedness, or
1542 other financing obligations, the moneys, investments,

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1543 receivables, choses in action, and other intangibles of the
1544 Florida Windstorm Underwriting Association shall be credited to
1545 the high-risk account of the corporation, and those of the
1546 personal lines residential coverage account and the commercial
1547 lines residential coverage account of the Residential Property
1548 and Casualty Joint Underwriting Association shall be credited to
1549 the personal lines account and the commercial lines account,
1550 respectively, of the corporation.

1551 4. Effective July 1, 2002, a new applicant for property
1552 insurance coverage who would otherwise have been eligible for
1553 coverage in the Florida Windstorm Underwriting Association is
1554 eligible for coverage from the corporation as provided in this
1555 subsection.

1556 5. The transfer of all policies, obligations, rights,
1557 assets, and liabilities from the Florida Windstorm Underwriting
1558 Association to the corporation and the renaming of the
1559 Residential Property and Casualty Joint Underwriting Association
1560 as the corporation shall in no way affect the coverage with
1561 respect to covered policies as defined in s. 215.555(2)(c)
1562 provided to these entities by the John F. Cosgrove Florida
1563 Hurricane Catastrophe Fund. The coverage provided by the John F.
1564 Cosgrove Florida Hurricane Catastrophe Fund to the Florida
1565 Windstorm Underwriting Association based on its exposures as of
1566 June 30, 2002, and each June 30 thereafter shall be redesignated
1567 as coverage for the high-risk account of the corporation.
1568 Notwithstanding any other provision of law, the coverage
1569 provided by the John F. Cosgrove Florida Hurricane Catastrophe
1570 Fund to the Residential Property and Casualty Joint Underwriting
1571 Association based on its exposures as of June 30, 2002, and each
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1572 June 30 thereafter shall be transferred to the personal lines
1573 account and the commercial lines account of the corporation.
1574 Notwithstanding any other provision of law, the high-risk
1575 account shall be treated, for all John F. Cosgrove Florida
1576 Hurricane Catastrophe Fund purposes, as if it were a separate
1577 participating insurer with its own exposures, reimbursement
1578 premium, and loss reimbursement. Likewise, the personal lines
1579 and commercial lines accounts shall be viewed together, for all
1580 John F. Cosgrove Florida Hurricane Catastrophe Fund purposes, as
1581 if the two accounts were one and represent a single, separate
1582 participating insurer with its own exposures, reimbursement
1583 premium, and loss reimbursement. The coverage provided by the
1584 John F. Cosgrove Florida Hurricane Catastrophe Fund to the
1585 corporation shall constitute and operate as a full transfer of
1586 coverage from the Florida Windstorm Underwriting Association and
1587 Residential Property and Casualty Joint Underwriting to the
1588 corporation.

1589 Section 32. Paragraph (d) of subsection (6) of section
1590 627.701, Florida Statutes, is amended to read:

1591 627.701 Liability of insureds; coinsurance; deductibles.--
1592 (6)

1593 (d) The office shall draft and formally propose as a rule
1594 the form for the certificate of security. The certificate of
1595 security may be issued in any of the following circumstances:

1596 1. A mortgage lender or other financial institution may
1597 issue a certificate of security after granting the applicant a
1598 line of credit, secured by equity in real property or other
1599 reasonable security, which line of credit may be drawn on only
1600 to pay for the deductible portion of insured construction or
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1601 reconstruction after a hurricane loss. In the sole discretion of
1602 the mortgage lender or other financial institution, the line of
1603 credit may be issued to an applicant on an unsecured basis.

1604 2. A licensed insurance agent may issue a certificate of
1605 security after obtaining for an applicant a line of credit,
1606 secured by equity in real property or other reasonable security,
1607 which line of credit may be drawn on only to pay for the
1608 deductible portion of insured construction or reconstruction
1609 after a hurricane loss. The John F. Cosgrove Florida Hurricane
1610 Catastrophe Fund shall negotiate agreements creating a financing
1611 consortium to serve as an additional source of lines of credit
1612 to secure deductibles. Any licensed insurance agent may act as
1613 the agent of such consortium.

1614 3. Any person qualified to act as a trustee for any
1615 purpose may issue a certificate of security secured by a pledge
1616 of assets, with the restriction that the assets may be drawn on
1617 only to pay for the deductible portion of insured construction
1618 or reconstruction after a hurricane loss.

1619 4. Any insurer, including any admitted insurer or any
1620 surplus lines insurer, may issue a certificate of security after
1621 issuing the applicant a policy of supplemental insurance that
1622 will pay for 100 percent of the deductible portion of insured
1623 construction or reconstruction after a hurricane loss.

1624 5. Any other method approved by the office upon finding
1625 that such other method provides a similar level of security as
1626 the methods specified in this paragraph and that such other
1627 method has no negative impact on residential property insurance
1628 catastrophic capacity. The legislative intent of this
1629 subparagraph is to provide the flexibility needed to achieve the
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1630 public policy of expanding property insurance capacity while
1631 improving the affordability of property insurance.

1632 Section 33. Paragraph (a) of subsection (3) of section
1633 627.7077, Florida Statutes, is amended to read:

1634 627.7077 Florida Sinkhole Insurance Facility and other
1635 matters related to affordability and availability of sinkhole
1636 insurance; feasibility study.--

1637 (3) The feasibility study shall, at a minimum, address the
1638 following issues:

1639 (a) Where the facility should be housed, including, but
1640 not limited to, the options of creating a separate facility or
1641 using the Citizens Property Insurance Corporation or the John F.
1642 Cosgrove Florida Hurricane Catastrophe Fund.

1643 Section 34. Subsection (6) of section 6 of chapter 2004-
1644 480, Laws of Florida, is amended to read:

1645 Section 6.

1646 (6) In order to maintain actuarially indicated premiums as
1647 required by s. 215.555, Florida Statutes, the State Board of
1648 Administration shall increase future premiums by the amount
1649 appropriated and transferred from the John F. Cosgrove Florida
1650 Hurricane Catastrophe Fund under this section, plus additional
1651 amounts necessary to recover lost investment income, less any
1652 refunds of unused cash to the John F. Cosgrove Florida Hurricane
1653 Catastrophe Fund. The increase in future premiums shall be
1654 spread over 5 years, in equal or approximately equal amounts,
1655 beginning with the June 1, 2006, contract year.

1656

1657

1658 ===== T I T L E A M E N D M E N T =====

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1659 Remove line 227, and insert:
1660 committing insurance fraud; amending ss. 215.555, 215.556,
1661 215.559, 624.5091, 627.062, 627.0628, 627.0629, 627.351,
1662 627.701, and 627.7077, F.S., and ch. 2004-480, Laws of
1663 Florida; changing the name of the Florida Hurricane
1664 Catastrophe Fund to the John F. Cosgrove Hurricane
1665 Catastrophe Fund; renaming the fund finance corporation to
1666 conform; creating the Task Force on