

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Robaina offered the following:

2  
3 Amendment **(with title amendment)**

4 Between lines 3302 and 3303, insert:

5 Section 21. Paragraph (n) of subsection (2), subsection  
6 (3), paragraphs (c) and (d) of subsection (6), paragraph (c) of  
7 subsection (7), and subsection (9) of section 215.555, Florida  
8 Statutes, are amended to read:

9 215.555 John Cosgrove Florida Hurricane Catastrophe  
10 Fund.--

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

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

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

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47 (6) REVENUE BONDS.--

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

50 1. If the board elects to enter into agreements with local  
51 governments for the issuance of revenue bonds for the benefit of  
52 the fund, the board shall enter into such contracts with one or  
53 more local governments, including agreements providing for the  
54 pledge of revenues, as are necessary to effect such issuance.

55 The governing body of a county or municipality is authorized to  
56 issue bonds as defined in s. 125.013 or s. 166.101 from time to  
57 time to fund an assistance program, in conjunction with the John  
58 Cosgrove Florida Hurricane Catastrophe Fund, for the purposes  
59 set forth in this section or for the purpose of paying the costs  
60 of construction, reconstruction, repair, restoration, and other  
61 costs associated with damage to properties of policyholders of  
62 covered policies due to the occurrence of a hurricane by  
63 assuring that policyholders located in this state are able to  
64 recover claims under property insurance policies after a covered  
65 event.

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

72 3. The state hereby covenants with holders of bonds issued  
73 under this paragraph that the state will not repeal or abrogate  
74 the power of the board to direct the Office of Insurance

75 Regulation to levy the assessments and to collect the proceeds  
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76 of the revenues pledged to the payment of such bonds as long as  
77 any such bonds remain outstanding unless adequate provision has  
78 been made for the payment of such bonds pursuant to the  
79 documents authorizing the issuance of such bonds.

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

84 (d) John Cosgrove Florida Hurricane Catastrophe Fund  
85 Finance Corporation.--

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

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

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

101 c. The efficacy of the financing mechanism will be  
102 enhanced by the corporation's ownership of the assessments, by  
103 the insulation of the assessments from possible bankruptcy

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104 proceedings, and by covenants of the state with the  
105 corporation's bondholders.

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

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

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

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

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

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

128 3.a. In actions under chapter 75 to validate any bonds  
129 issued by the corporation, the notice required by s. 75.06 shall  
130 be published only in Leon County and in two newspapers of  
131 general circulation in the state, and the complaint and order of

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132 the court shall be served only on the State Attorney of the  
133 Second Judicial Circuit.

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

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

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

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

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

183           (7) ADDITIONAL POWERS AND DUTIES.--

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

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

211 Section 22. Section 215.556, Florida Statutes, is amended  
212 to read:

213 215.556 Exemption.--The John Cosgrove Florida Hurricane  
214 Catastrophe Fund created by s. 215.555 is exempt from the  
215 deduction required by s. 215.20(1).

216 Section 23. Subsection (1) of section 215.559, Florida  
217 Statutes, is amended to read:

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218 215.559 Hurricane Loss Mitigation Program.--

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

225 Section 24. Subsection (3) of section 624.5091, Florida  
226 Statutes, is amended to read:

227 624.5091 Retaliatory provision, insurers.--

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

241 Section 25. Subsection (5) of section 627.062, Florida  
242 Statutes, is amended to read:

243 627.062 Rate standards.--

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

258 Section 26. Paragraph (c) of subsection (1), paragraphs  
259 (b) and (f) of subsection (2), and paragraph (b) of subsection  
260 (3) of section 627.0628, Florida Statutes, are amended to read:

261 627.0628 Florida Commission on Hurricane Loss Projection  
262 Methodology; public records exemption; public meetings  
263 exemption.--

264 (1) LEGISLATIVE FINDINGS AND INTENT.--

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

278 | (2) COMMISSION CREATED.--

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

281 | 1. The insurance consumer advocate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

322 Section 27. Subsection (10) of section 627.0629, Florida  
323 Statutes, is amended to read:

324 627.0629 Residential property insurance; rate filings.--

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

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331 Section 28. Paragraph (b) of subsection (2), paragraphs  
332 (b), (c), (k), and (l) of subsection (6) of section 627.351,  
333 Florida Statutes, are amended to read:

334 627.351 Insurance risk apportionment plans.--

335 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

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

357 1. For the purpose of this section, properties eligible  
358 for such windstorm coverage are defined as dwellings, buildings,  
359 and other structures, including mobile homes which are used as  
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360 dwellings and which are tied down in compliance with mobile home  
361 tie-down requirements prescribed by the Department of Highway  
362 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
363 contents of all such properties. An applicant or policyholder is  
364 eligible for coverage only if an offer of coverage cannot be  
365 obtained by or for the applicant or policyholder from an  
366 admitted insurer at approved rates.

367 2.a.(I) All insurers required to be members of such  
368 association shall participate in its writings, expenses, and  
369 losses. Surplus of the association shall be retained for the  
370 payment of claims and shall not be distributed to the member  
371 insurers. Such participation by member insurers shall be in the  
372 proportion that the net direct premiums of each member insurer  
373 written for property insurance in this state during the  
374 preceding calendar year bear to the aggregate net direct  
375 premiums for property insurance of all member insurers, as  
376 reduced by any credits for voluntary writings, in this state  
377 during the preceding calendar year. For the purposes of this  
378 subsection, the term "net direct premiums" means direct written  
379 premiums for property insurance, reduced by premium for  
380 liability coverage and for the following if included in allied  
381 lines: rain and hail on growing crops; livestock; association  
382 direct premiums booked; National Flood Insurance Program direct  
383 premiums; and similar deductions specifically authorized by the  
384 plan of operation and approved by the department. A member's  
385 participation shall begin on the first day of the calendar year  
386 following the year in which it is issued a certificate of  
387 authority to transact property insurance in the state and shall  
388 terminate 1 year after the end of the calendar year during which  
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389 it no longer holds a certificate of authority to transact  
390 property insurance in the state. The commissioner, after review  
391 of annual statements, other reports, and any other statistics  
392 that the commissioner deems necessary, shall certify to the  
393 association the aggregate direct premiums written for property  
394 insurance in this state by all member insurers.

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

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

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

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

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

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

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

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

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

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

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

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

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

547 e. The governing body of any unit of local government, any  
548 residents of which are insured under the plan, may issue bonds  
549 as defined in s. 125.013 or s. 166.101 to fund an assistance  
550 program, in conjunction with the association, for the purpose of  
551 defraying deficits of the association. In order to avoid  
552 needless and indiscriminate proliferation, duplication, and  
553 fragmentation of such assistance programs, any unit of local  
554 government, any residents of which are insured by the  
555 association, may provide for the payment of losses, regardless  
556 of whether or not the losses occurred within or outside of the  
557 territorial jurisdiction of the local government. Revenue bonds  
558 may not be issued until validated pursuant to chapter 75, unless

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559 a state of emergency is declared by executive order or  
560 proclamation of the Governor pursuant to s. 252.36 making such  
561 findings as are necessary to determine that it is in the best  
562 interests of, and necessary for, the protection of the public  
563 health, safety, and general welfare of residents of this state  
564 and the protection and preservation of the economic stability of  
565 insurers operating in this state, and declaring it an essential  
566 public purpose to permit certain municipalities or counties to  
567 issue bonds as will provide relief to claimants and  
568 policyholders of the association and insurers responsible for  
569 apportionment of plan losses. Any such unit of local government  
570 may enter into such contracts with the association and with any  
571 other entity created pursuant to this subsection as are  
572 necessary to carry out this paragraph. Any bonds issued under  
573 this sub-subparagraph shall be payable from and secured by  
574 moneys received by the association from assessments under this  
575 subparagraph, and assigned and pledged to or on behalf of the  
576 unit of local government for the benefit of the holders of such  
577 bonds. The funds, credit, property, and taxing power of the  
578 state or of the unit of local government shall not be pledged  
579 for the payment of such bonds. If any of the bonds remain unsold  
580 60 days after issuance, the department shall require all  
581 insurers subject to assessment to purchase the bonds, which  
582 shall be treated as admitted assets; each insurer shall be  
583 required to purchase that percentage of the unsold portion of  
584 the bond issue that equals the insurer's relative share of  
585 assessment liability under this subsection. An insurer shall not  
586 be required to purchase the bonds to the extent that the  
587 department determines that the purchase would endanger or impair

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

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

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

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

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

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

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

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

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

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

670

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

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

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

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

692  
693 If the producing agent is unwilling or unable to accept  
694 appointment, the new insurer shall pay the agent in accordance  
695 with sub-sub-subparagraph (I). Subject to the provisions of s.  
696 627.3517, the policies issued by the association must provide  
697 that if the association obtains an offer from an authorized  
698 insurer to cover the risk at its approved rates under either a  
699 standard policy including wind coverage or, if consistent with  
700 the insurer's underwriting rules as filed with the department, a  
701 basic policy including wind coverage, the risk is no longer  
702 eligible for coverage through the association. Upon termination  
703 of eligibility, the association shall provide written notice to  
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704 the policyholder and agent of record stating that the  
705 association policy must be canceled as of 60 days after the date  
706 of the notice because of the offer of coverage from an  
707 authorized insurer. Other provisions of the insurance code  
708 relating to cancellation and notice of cancellation do not apply  
709 to actions under this sub-subparagraph.

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

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

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

724

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

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

738 b. Any entity created under this subsection, or any entity  
739 formed for the purposes of this subsection, may sue and be sued,  
740 may borrow money; issue bonds, notes, or debt instruments;  
741 pledge or sell assessments, market equalization surcharges and  
742 other surcharges, rights, premiums, contractual rights,  
743 projected recoveries from the John Cosgrove Florida Hurricane  
744 Catastrophe Fund, other reinsurance recoverables, and other  
745 assets as security for such bonds, notes, or debt instruments;  
746 enter into any contracts or agreements necessary or proper to  
747 accomplish such borrowings; and take other actions necessary to  
748 carry out the purposes of this subsection. The association may  
749 issue bonds or incur other indebtedness, or have bonds issued on  
750 its behalf by a unit of local government pursuant to  
751 subparagraph (6)(g)2., in the absence of a hurricane or other  
752 weather-related event, upon a determination by the association  
753 subject to approval by the department that such action would  
754 enable it to efficiently meet the financial obligations of the  
755 association and that such financings are reasonably necessary to  
756 effectuate the requirements of this subsection. Any such entity  
757 may accumulate reserves and retain surpluses as of the end of  
758 any association year to provide for the payment of losses  
759 incurred by the association during that year or any future year.  
760 The association shall incorporate and continue the plan of  
761 operation and articles of agreement in effect on the effective  
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762 date of chapter 76-96, Laws of Florida, to the extent that it is  
763 not inconsistent with chapter 76-96, and as subsequently  
764 modified consistent with chapter 76-96. The board of directors  
765 and officers currently serving shall continue to serve until  
766 their successors are duly qualified as provided under the plan.  
767 The assets and obligations of the plan in effect immediately  
768 prior to the effective date of chapter 76-96 shall be construed  
769 to be the assets and obligations of the successor plan created  
770 herein.

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

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

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

800 9. Notwithstanding any other provision of law:

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

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

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

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

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

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

864 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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

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

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

903 (III) A high-risk account for personal residential  
904 policies and commercial residential and commercial  
905 nonresidential property policies issued by the corporation or  
906 transferred to the corporation that provide coverage for the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1015 Notwithstanding any other provision of law, the corporation and  
1016 each assessable insurer that writes subject lines of business  
1017 shall collect emergency assessments from its policyholders  
1018 without such obligation being affected by any credit,  
1019 limitation, exemption, or deferment. Emergency assessments  
1020 levied by the corporation on assessable insureds shall be  
1021 collected by the surplus lines agent at the time the surplus  
1022 lines agent collects the surplus lines tax required by s.

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1023 626.932 and shall be paid to the Florida Surplus Lines Service  
1024 Office at the time the surplus lines agent pays the surplus  
1025 lines tax to the Florida Surplus Lines Service Office. The  
1026 emergency assessments so collected shall be transferred directly  
1027 to the corporation on a periodic basis as determined by the  
1028 corporation and shall be held by the corporation solely in the  
1029 applicable account. The aggregate amount of emergency  
1030 assessments levied for an account under this sub-subparagraph in  
1031 any calendar year may not exceed the greater of 10 percent of  
1032 the amount needed to cover the original deficit, plus interest,  
1033 fees, commissions, required reserves, and other costs associated  
1034 with financing of the original deficit, or 10 percent of the  
1035 aggregate statewide direct written premium for subject lines of  
1036 business and for all accounts of the corporation for the prior  
1037 year, plus interest, fees, commissions, required reserves, and  
1038 other costs associated with financing the original deficit.

1039 e. The corporation may pledge the proceeds of assessments,  
1040 projected recoveries from the John Cosgrove Florida Hurricane  
1041 Catastrophe Fund, other insurance and reinsurance recoverables,  
1042 market equalization surcharges and other surcharges, and other  
1043 funds available to the corporation as the source of revenue for  
1044 and to secure bonds issued under paragraph (g), bonds or other  
1045 indebtedness issued under subparagraph (c)3., or lines of credit  
1046 or other financing mechanisms issued or created under this  
1047 subsection, or to retire any other debt incurred as a result of  
1048 deficits or events giving rise to deficits, or in any other way  
1049 that the board determines will efficiently recover such  
1050 deficits. The purpose of the lines of credit or other financing  
1051 mechanisms is to provide additional resources to assist the

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1052 corporation in covering claims and expenses attributable to a  
1053 catastrophe. As used in this subsection, the term "assessments"  
1054 includes regular assessments under sub-subparagraph a., sub-  
1055 subparagraph b., or subparagraph (g)1. and emergency assessments  
1056 under sub-subparagraph d. Emergency assessments collected under  
1057 sub-subparagraph d. are not part of an insurer's rates, are not  
1058 premium, and are not subject to premium tax, fees, or  
1059 commissions; however, failure to pay the emergency assessment  
1060 shall be treated as failure to pay premium. The emergency  
1061 assessments under sub-subparagraph d. shall continue as long as  
1062 any bonds issued or other indebtedness incurred with respect to  
1063 a deficit for which the assessment was imposed remain  
1064 outstanding, unless adequate provision has been made for the  
1065 payment of such bonds or other indebtedness pursuant to the  
1066 documents governing such bonds or other indebtedness.

1067 f. As used in this subsection, the term "subject lines of  
1068 business" means insurance written by assessable insurers or  
1069 procured by assessable insureds on real or personal property, as  
1070 defined in s. 624.604, including insurance for fire, industrial  
1071 fire, allied lines, farmowners multiperil, homeowners  
1072 multiperil, commercial multiperil, and mobile homes, and  
1073 including liability coverage on all such insurance, but  
1074 excluding inland marine as defined in s. 624.607(3) and  
1075 excluding vehicle insurance as defined in s. 624.605(1) other  
1076 than insurance on mobile homes used as permanent dwellings.

1077 g. The Florida Surplus Lines Service Office shall  
1078 determine annually the aggregate statewide written premium in  
1079 subject lines of business procured by assessable insureds and  
1080 shall report that information to the corporation in a form and  
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1081 at a time the corporation specifies to ensure that the  
1082 corporation can meet the requirements of this subsection and the  
1083 corporation's financing obligations.

1084 h. The Florida Surplus Lines Service Office shall verify  
1085 the proper application by surplus lines agents of assessment  
1086 percentages for regular assessments and emergency assessments  
1087 levied under this subparagraph on assessable insureds and shall  
1088 assist the corporation in ensuring the accurate, timely  
1089 collection and payment of assessments by surplus lines agents as  
1090 required by the corporation.

1091 (c) The plan of operation of the corporation:

1092 1. Must provide for adoption of residential property and  
1093 casualty insurance policy forms and commercial residential and  
1094 nonresidential property insurance forms, which forms must be  
1095 approved by the office prior to use. The corporation shall adopt  
1096 the following policy forms:

1097 a. Standard personal lines policy forms that are  
1098 comprehensive multiperil policies providing full coverage of a  
1099 residential property equivalent to the coverage provided in the  
1100 private insurance market under an HO-3, HO-4, or HO-6 policy.

1101 b. Basic personal lines policy forms that are policies  
1102 similar to an HO-8 policy or a dwelling fire policy that provide  
1103 coverage meeting the requirements of the secondary mortgage  
1104 market, but which coverage is more limited than the coverage  
1105 under a standard policy.

1106 c. Commercial lines residential policy forms that are  
1107 generally similar to the basic perils of full coverage  
1108 obtainable for commercial residential structures in the admitted  
1109 voluntary market.

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1110 d. Personal lines and commercial lines residential  
1111 property insurance forms that cover the peril of wind only. The  
1112 forms are applicable only to residential properties located in  
1113 areas eligible for coverage under the high-risk account referred  
1114 to in sub-subparagraph (b)2.a.

1115 e. Commercial lines nonresidential property insurance  
1116 forms that cover the peril of wind only. The forms are  
1117 applicable only to nonresidential properties located in areas  
1118 eligible for coverage under the high-risk account referred to in  
1119 sub-subparagraph (b)2.a.

1120 2.a. Must provide that the corporation adopt a program in  
1121 which the corporation and authorized insurers enter into quota  
1122 share primary insurance agreements for hurricane coverage, as  
1123 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
1124 property insurance forms for eligible risks which cover the  
1125 peril of wind only. As used in this subsection, the term:

1126 (I) "Quota share primary insurance" means an arrangement  
1127 in which the primary hurricane coverage of an eligible risk is  
1128 provided in specified percentages by the corporation and an  
1129 authorized insurer. The corporation and authorized insurer are  
1130 each solely responsible for a specified percentage of hurricane  
1131 coverage of an eligible risk as set forth in a quota share  
1132 primary insurance agreement between the corporation and an  
1133 authorized insurer and the insurance contract. The  
1134 responsibility of the corporation or authorized insurer to pay  
1135 its specified percentage of hurricane losses of an eligible  
1136 risk, as set forth in the quota share primary insurance  
1137 agreement, may not be altered by the inability of the other  
1138 party to the agreement to pay its specified percentage of

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1139 hurricane losses. Eligible risks that are provided hurricane  
1140 coverage through a quota share primary insurance arrangement  
1141 must be provided policy forms that set forth the obligations of  
1142 the corporation and authorized insurer under the arrangement,  
1143 clearly specify the percentages of quota share primary insurance  
1144 provided by the corporation and authorized insurer, and  
1145 conspicuously and clearly state that neither the authorized  
1146 insurer nor the corporation may be held responsible beyond its  
1147 specified percentage of coverage of hurricane losses.

1148 (II) "Eligible risks" means personal lines residential and  
1149 commercial lines residential risks that meet the underwriting  
1150 criteria of the corporation and are located in areas that were  
1151 eligible for coverage by the Florida Windstorm Underwriting  
1152 Association on January 1, 2002.

1153 b. The corporation may enter into quota share primary  
1154 insurance agreements with authorized insurers at corporation  
1155 coverage levels of 90 percent and 50 percent.

1156 c. If the corporation determines that additional coverage  
1157 levels are necessary to maximize participation in quota share  
1158 primary insurance agreements by authorized insurers, the  
1159 corporation may establish additional coverage levels. However,  
1160 the corporation's quota share primary insurance coverage level  
1161 may not exceed 90 percent.

1162 d. Any quota share primary insurance agreement entered  
1163 into between an authorized insurer and the corporation must  
1164 provide for a uniform specified percentage of coverage of  
1165 hurricane losses, by county or territory as set forth by the  
1166 corporation board, for all eligible risks of the authorized

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1167 insurer covered under the quota share primary insurance  
1168 agreement.

1169 e. Any quota share primary insurance agreement entered  
1170 into between an authorized insurer and the corporation is  
1171 subject to review and approval by the office. However, such  
1172 agreement shall be authorized only as to insurance contracts  
1173 entered into between an authorized insurer and an insured who is  
1174 already insured by the corporation for wind coverage.

1175 f. For all eligible risks covered under quota share  
1176 primary insurance agreements, the exposure and coverage levels  
1177 for both the corporation and authorized insurers shall be  
1178 reported by the corporation to the John Cosgrove Florida  
1179 Hurricane Catastrophe Fund. For all policies of eligible risks  
1180 covered under quota share primary insurance agreements, the  
1181 corporation and the authorized insurer shall maintain complete  
1182 and accurate records for the purpose of exposure and loss  
1183 reimbursement audits as required by John Cosgrove Florida  
1184 Hurricane Catastrophe Fund rules. The corporation and the  
1185 authorized insurer shall each maintain duplicate copies of  
1186 policy declaration pages and supporting claims documents.

1187 g. The corporation board shall establish in its plan of  
1188 operation standards for quota share agreements which ensure that  
1189 there is no discriminatory application among insurers as to the  
1190 terms of quota share agreements, pricing of quota share  
1191 agreements, incentive provisions if any, and consideration paid  
1192 for servicing policies or adjusting claims.

1193 h. The quota share primary insurance agreement between the  
1194 corporation and an authorized insurer must set forth the  
1195 specific terms under which coverage is provided, including, but  
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1196 not limited to, the sale and servicing of policies issued under  
1197 the agreement by the insurance agent of the authorized insurer  
1198 producing the business, the reporting of information concerning  
1199 eligible risks, the payment of premium to the corporation, and  
1200 arrangements for the adjustment and payment of hurricane claims  
1201 incurred on eligible risks by the claims adjuster and personnel  
1202 of the authorized insurer. Entering into a quota sharing  
1203 insurance agreement between the corporation and an authorized  
1204 insurer shall be voluntary and at the discretion of the  
1205 authorized insurer.

1206         3. May provide that the corporation may employ or  
1207 otherwise contract with individuals or other entities to provide  
1208 administrative or professional services that may be appropriate  
1209 to effectuate the plan. The corporation shall have the power to  
1210 borrow funds, by issuing bonds or by incurring other  
1211 indebtedness, and shall have other powers reasonably necessary  
1212 to effectuate the requirements of this subsection, including,  
1213 without limitation, the power to issue bonds and incur other  
1214 indebtedness in order to refinance outstanding bonds or other  
1215 indebtedness. The corporation may, but is not required to, seek  
1216 judicial validation of its bonds or other indebtedness under  
1217 chapter 75. The corporation may issue bonds or incur other  
1218 indebtedness, or have bonds issued on its behalf by a unit of  
1219 local government pursuant to subparagraph (g)2., in the absence  
1220 of a hurricane or other weather-related event, upon a  
1221 determination by the corporation, subject to approval by the  
1222 office, that such action would enable it to efficiently meet the  
1223 financial obligations of the corporation and that such  
1224 financings are reasonably necessary to effectuate the

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1225 requirements of this subsection. The corporation is authorized  
1226 to take all actions needed to facilitate tax-free status for any  
1227 such bonds or indebtedness, including formation of trusts or  
1228 other affiliated entities. The corporation shall have the  
1229 authority to pledge assessments, projected recoveries from the  
1230 John Cosgrove Florida Hurricane Catastrophe Fund, other  
1231 reinsurance recoverables, market equalization and other  
1232 surcharges, and other funds available to the corporation as  
1233 security for bonds or other indebtedness. In recognition of s.  
1234 10, Art. I of the State Constitution, prohibiting the impairment  
1235 of obligations of contracts, it is the intent of the Legislature  
1236 that no action be taken whose purpose is to impair any bond  
1237 indenture or financing agreement or any revenue source committed  
1238 by contract to such bond or other indebtedness.

1239 4.a. Must require that the corporation operate subject to  
1240 the supervision and approval of a board of governors consisting  
1241 of 8 individuals who are residents of this state, from different  
1242 geographical areas of this state. The Governor, the Chief  
1243 Financial Officer, the President of the Senate, and the Speaker  
1244 of the House of Representatives shall each appoint two members  
1245 of the board, effective August 1, 2005. At least one of the two  
1246 members appointed by each appointing officer must have  
1247 demonstrated expertise in insurance. The Chief Financial Officer  
1248 shall designate one of the appointees as chair. All board  
1249 members serve at the pleasure of the appointing officer. All  
1250 board members, including the chair, must be appointed to serve  
1251 for 3-year terms beginning annually on a date designated by the  
1252 plan. Any board vacancy shall be filled for the unexpired term  
1253 by the appointing officer. The Chief Financial Officer shall

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1254 appoint a technical advisory group to provide information and  
1255 advice to the board of governors in connection with the board's  
1256 duties under this subsection. The executive director and senior  
1257 managers of the corporation shall be engaged by the board, as  
1258 recommended by the Chief Financial Officer, and serve at the  
1259 pleasure of the board. The executive director is responsible for  
1260 employing other staff as the corporation may require, subject to  
1261 review and concurrence by the board and the Chief Financial  
1262 Officer.

1263       b. The board shall create a Market Accountability Advisory  
1264 Committee to assist the corporation in developing awareness of  
1265 its rates and its customer and agent service levels in  
1266 relationship to the voluntary market insurers writing similar  
1267 coverage. The members of the advisory committee shall consist of  
1268 the following 11 persons, one of whom must be elected chair by  
1269 the members of the committee: four representatives, one  
1270 appointed by the Florida Association of Insurance Agents, one by  
1271 the Florida Association of Insurance and Financial Advisors, one  
1272 by the Professional Insurance Agents of Florida, and one by the  
1273 Latin American Association of Insurance Agencies; three  
1274 representatives appointed by the insurers with the three highest  
1275 voluntary market share of residential property insurance  
1276 business in the state; one representative from the Office of  
1277 Insurance Regulation; one consumer appointed by the board who is  
1278 insured by the corporation at the time of appointment to the  
1279 committee; one representative appointed by the Florida  
1280 Association of Realtors; and one representative appointed by the  
1281 Florida Bankers Association. All members must serve for 3-year  
1282 terms and may serve for consecutive terms. The committee shall

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1283 report to the corporation at each board meeting on insurance  
1284 market issues which may include rates and rate competition with  
1285 the voluntary market; service, including policy issuance, claims  
1286 processing, and general responsiveness to policyholders,  
1287 applicants, and agents; and matters relating to depopulation.

1288 5. Must provide a procedure for determining the  
1289 eligibility of a risk for coverage, as follows:

1290 a. Subject to the provisions of s. 627.3517, with respect  
1291 to personal lines residential risks, if the risk is offered  
1292 coverage from an authorized insurer at the insurer's approved  
1293 rate under either a standard policy including wind coverage or,  
1294 if consistent with the insurer's underwriting rules as filed  
1295 with the office, a basic policy including wind coverage, the  
1296 risk is not eligible for any policy issued by the corporation.  
1297 If the risk is not able to obtain any such offer, the risk is  
1298 eligible for either a standard policy including wind coverage or  
1299 a basic policy including wind coverage issued by the  
1300 corporation; however, if the risk could not be insured under a  
1301 standard policy including wind coverage regardless of market  
1302 conditions, the risk shall be eligible for a basic policy  
1303 including wind coverage unless rejected under subparagraph 8.  
1304 The corporation shall determine the type of policy to be  
1305 provided on the basis of objective standards specified in the  
1306 underwriting manual and based on generally accepted underwriting  
1307 practices.

1308 (I) If the risk accepts an offer of coverage through the  
1309 market assistance plan or an offer of coverage through a  
1310 mechanism established by the corporation before a policy is  
1311 issued to the risk by the corporation or during the first 30

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1312 days of coverage by the corporation, and the producing agent who  
1313 submitted the application to the plan or to the corporation is  
1314 not currently appointed by the insurer, the insurer shall:

1315 (A) Pay to the producing agent of record of the policy,  
1316 for the first year, an amount that is the greater of the  
1317 insurer's usual and customary commission for the type of policy  
1318 written or a fee equal to the usual and customary commission of  
1319 the corporation; or

1320 (B) Offer to allow the producing agent of record of the  
1321 policy to continue servicing the policy for a period of not less  
1322 than 1 year and offer to pay the agent the greater of the  
1323 insurer's or the corporation's usual and customary commission  
1324 for the type of policy written.

1325  
1326 If the producing agent is unwilling or unable to accept  
1327 appointment, the new insurer shall pay the agent in accordance  
1328 with sub-sub-sub-subparagraph (A).

1329 (II) When the corporation enters into a contractual  
1330 agreement for a take-out plan, the producing agent of record of  
1331 the corporation policy is entitled to retain any unearned  
1332 commission on the policy, and the insurer shall:

1333 (A) Pay to the producing agent of record of the  
1334 corporation policy, for the first year, an amount that is the  
1335 greater of the insurer's usual and customary commission for the  
1336 type of policy written or a fee equal to the usual and customary  
1337 commission of the corporation; or

1338 (B) Offer to allow the producing agent of record of the  
1339 corporation policy to continue servicing the policy for a period  
1340 of not less than 1 year and offer to pay the agent the greater  
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1341 of the insurer's or the corporation's usual and customary  
1342 commission for the type of policy written.

1343  
1344 If the producing agent is unwilling or unable to accept  
1345 appointment, the new insurer shall pay the agent in accordance  
1346 with sub-sub-sub-subparagraph (A).

1347 b. With respect to commercial lines residential risks, if  
1348 the risk is offered coverage under a policy including wind  
1349 coverage from an authorized insurer at its approved rate, the  
1350 risk is not eligible for any policy issued by the corporation.  
1351 If the risk is not able to obtain any such offer, the risk is  
1352 eligible for a policy including wind coverage issued by the  
1353 corporation.

1354 (I) If the risk accepts an offer of coverage through the  
1355 market assistance plan or an offer of coverage through a  
1356 mechanism established by the corporation before a policy is  
1357 issued to the risk by the corporation or during the first 30  
1358 days of coverage by the corporation, and the producing agent who  
1359 submitted the application to the plan or the corporation is not  
1360 currently appointed by the insurer, the insurer shall:

1361 (A) Pay to the producing agent of record of the policy,  
1362 for the first year, an amount that is the greater of the  
1363 insurer's usual and customary commission for the type of policy  
1364 written or a fee equal to the usual and customary commission of  
1365 the corporation; or

1366 (B) Offer to allow the producing agent of record of the  
1367 policy to continue servicing the policy for a period of not less  
1368 than 1 year and offer to pay the agent the greater of the

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1369 insurer's or the corporation's usual and customary commission  
1370 for the type of policy written.

1371  
1372 If the producing agent is unwilling or unable to accept  
1373 appointment, the new insurer shall pay the agent in accordance  
1374 with sub-sub-sub-subparagraph (A).

1375 (II) When the corporation enters into a contractual  
1376 agreement for a take-out plan, the producing agent of record of  
1377 the corporation policy is entitled to retain any unearned  
1378 commission on the policy, and the insurer shall:

1379 (A) Pay to the producing agent of record of the  
1380 corporation policy, for the first year, an amount that is the  
1381 greater of the insurer's usual and customary commission for the  
1382 type of policy written or a fee equal to the usual and customary  
1383 commission of the corporation; or

1384 (B) Offer to allow the producing agent of record of the  
1385 corporation policy to continue servicing the policy for a period  
1386 of not less than 1 year and offer to pay the agent the greater  
1387 of the insurer's or the corporation's usual and customary  
1388 commission for the type of policy written.

1389  
1390 If the producing agent is unwilling or unable to accept  
1391 appointment, the new insurer shall pay the agent in accordance  
1392 with sub-sub-sub-subparagraph (A).

1393 6. Must include rules for classifications of risks and  
1394 rates therefor.

1395 7. Must provide that if premium and investment income for  
1396 an account attributable to a particular calendar year are in  
1397 excess of projected losses and expenses for the account

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1398 attributable to that year, such excess shall be held in surplus  
1399 in the account. Such surplus shall be available to defray  
1400 deficits in that account as to future years and shall be used  
1401 for that purpose prior to assessing assessable insurers and  
1402 assessable insureds as to any calendar year.

1403 8. Must provide objective criteria and procedures to be  
1404 uniformly applied for all applicants in determining whether an  
1405 individual risk is so hazardous as to be uninsurable. In making  
1406 this determination and in establishing the criteria and  
1407 procedures, the following shall be considered:

1408 a. Whether the likelihood of a loss for the individual  
1409 risk is substantially higher than for other risks of the same  
1410 class; and

1411 b. Whether the uncertainty associated with the individual  
1412 risk is such that an appropriate premium cannot be determined.

1413  
1414 The acceptance or rejection of a risk by the corporation shall  
1415 be construed as the private placement of insurance, and the  
1416 provisions of chapter 120 shall not apply.

1417 9. Must provide that the corporation shall make its best  
1418 efforts to procure catastrophe reinsurance at reasonable rates,  
1419 to cover its projected 100-year probable maximum loss as  
1420 determined by the board of governors.

1421 10. Must provide that in the event of regular deficit  
1422 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
1423 (b)3.b., in the personal lines account, the commercial lines  
1424 residential account, or the high-risk account, the corporation  
1425 shall levy upon corporation policyholders in its next rate  
1426 filing, or by a separate rate filing solely for this purpose, a  
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1427 market equalization surcharge arising from a regular assessment  
1428 in such account in a percentage equal to the total amount of  
1429 such regular assessments divided by the aggregate statewide  
1430 direct written premium for subject lines of business for the  
1431 prior calendar year. Market equalization surcharges under this  
1432 subparagraph are not considered premium and are not subject to  
1433 commissions, fees, or premium taxes; however, failure to pay a  
1434 market equalization surcharge shall be treated as failure to pay  
1435 premium.

1436 11. The policies issued by the corporation must provide  
1437 that, if the corporation or the market assistance plan obtains  
1438 an offer from an authorized insurer to cover the risk at its  
1439 approved rates, the risk is no longer eligible for renewal  
1440 through the corporation.

1441 12. Corporation policies and applications must include a  
1442 notice that the corporation policy could, under this section, be  
1443 replaced with a policy issued by an authorized insurer that does  
1444 not provide coverage identical to the coverage provided by the  
1445 corporation. The notice shall also specify that acceptance of  
1446 corporation coverage creates a conclusive presumption that the  
1447 applicant or policyholder is aware of this potential.

1448 13. May establish, subject to approval by the office,  
1449 different eligibility requirements and operational procedures  
1450 for any line or type of coverage for any specified county or  
1451 area if the board determines that such changes to the  
1452 eligibility requirements and operational procedures are  
1453 justified due to the voluntary market being sufficiently stable  
1454 and competitive in such area or for such line or type of  
1455 coverage and that consumers who, in good faith, are unable to  
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1456 obtain insurance through the voluntary market through ordinary  
1457 methods would continue to have access to coverage from the  
1458 corporation. When coverage is sought in connection with a real  
1459 property transfer, such requirements and procedures shall not  
1460 provide for an effective date of coverage later than the date of  
1461 the closing of the transfer as established by the transferor,  
1462 the transferee, and, if applicable, the lender.

1463       14. Must provide that, with respect to the high-risk  
1464 account, any assessable insurer with a surplus as to  
1465 policyholders of \$25 million or less writing 25 percent or more  
1466 of its total countrywide property insurance premiums in this  
1467 state may petition the office, within the first 90 days of each  
1468 calendar year, to qualify as a limited apportionment company. In  
1469 no event shall a limited apportionment company be required to  
1470 participate in the portion of any assessment, within the high-  
1471 risk account, pursuant to sub-subparagraph (b)3.a. or sub-  
1472 subparagraph (b)3.b. in the aggregate which exceeds \$50 million  
1473 after payment of available high-risk account funds in any  
1474 calendar year. However, a limited apportionment company shall  
1475 collect from its policyholders any emergency assessment imposed  
1476 under sub-subparagraph (b)3.d. The plan shall provide that, if  
1477 the office determines that any regular assessment will result in  
1478 an impairment of the surplus of a limited apportionment company,  
1479 the office may direct that all or part of such assessment be  
1480 deferred as provided in subparagraph (g)4. However, there shall  
1481 be no limitation or deferment of an emergency assessment to be  
1482 collected from policyholders under sub-subparagraph (b)3.d.

1483       15. Must provide that the corporation appoint as its  
1484 licensed agents only those agents who also hold an appointment  
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1485 as defined in s. 626.015(3) with an insurer who at the time of  
1486 the agent's initial appointment by the corporation is authorized  
1487 to write and is actually writing personal lines residential  
1488 property coverage, commercial residential property coverage, or  
1489 commercial nonresidential property coverage within the state.

1490 (k) Upon a determination by the office that the conditions  
1491 giving rise to the establishment and activation of the  
1492 corporation no longer exist, the corporation is dissolved. Upon  
1493 dissolution, the assets of the corporation shall be applied  
1494 first to pay all debts, liabilities, and obligations of the  
1495 corporation, including the establishment of reasonable reserves  
1496 for any contingent liabilities or obligations, and all remaining  
1497 assets of the corporation shall become property of the state and  
1498 shall be deposited in the John Cosgrove Florida Hurricane  
1499 Catastrophe Fund. However, no dissolution shall take effect as  
1500 long as the corporation has bonds or other financial obligations  
1501 outstanding unless adequate provision has been made for the  
1502 payment of the bonds or other financial obligations pursuant to  
1503 the documents authorizing the issuance of the bonds or other  
1504 financial obligations.

1505 (l)1. Effective July 1, 2002, policies of the Residential  
1506 Property and Casualty Joint Underwriting Association shall  
1507 become policies of the corporation. All obligations, rights,  
1508 assets and liabilities of the Residential Property and Casualty  
1509 Joint Underwriting Association, including bonds, note and debt  
1510 obligations, and the financing documents pertaining to them  
1511 become those of the corporation as of July 1, 2002. The  
1512 corporation is not required to issue endorsements or

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1513 certificates of assumption to insureds during the remaining term  
1514 of in-force transferred policies.

1515 2. Effective July 1, 2002, policies of the Florida  
1516 Windstorm Underwriting Association are transferred to the  
1517 corporation and shall become policies of the corporation. All  
1518 obligations, rights, assets, and liabilities of the Florida  
1519 Windstorm Underwriting Association, including bonds, note and  
1520 debt obligations, and the financing documents pertaining to them  
1521 are transferred to and assumed by the corporation on July 1,  
1522 2002. The corporation is not required to issue endorsement or  
1523 certificates of assumption to insureds during the remaining term  
1524 of in-force transferred policies.

1525 3. The Florida Windstorm Underwriting Association and the  
1526 Residential Property and Casualty Joint Underwriting Association  
1527 shall take all actions as may be proper to further evidence the  
1528 transfers and shall provide the documents and instruments of  
1529 further assurance as may reasonably be requested by the  
1530 corporation for that purpose. The corporation shall execute  
1531 assumptions and instruments as the trustees or other parties to  
1532 the financing documents of the Florida Windstorm Underwriting  
1533 Association or the Residential Property and Casualty Joint  
1534 Underwriting Association may reasonably request to further  
1535 evidence the transfers and assumptions, which transfers and  
1536 assumptions, however, are effective on the date provided under  
1537 this paragraph whether or not, and regardless of the date on  
1538 which, the assumptions or instruments are executed by the  
1539 corporation. Subject to the relevant financing documents  
1540 pertaining to their outstanding bonds, notes, indebtedness, or  
1541 other financing obligations, the moneys, investments,

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1542 receivables, choses in action, and other intangibles of the  
1543 Florida Windstorm Underwriting Association shall be credited to  
1544 the high-risk account of the corporation, and those of the  
1545 personal lines residential coverage account and the commercial  
1546 lines residential coverage account of the Residential Property  
1547 and Casualty Joint Underwriting Association shall be credited to  
1548 the personal lines account and the commercial lines account,  
1549 respectively, of the corporation.

1550 4. Effective July 1, 2002, a new applicant for property  
1551 insurance coverage who would otherwise have been eligible for  
1552 coverage in the Florida Windstorm Underwriting Association is  
1553 eligible for coverage from the corporation as provided in this  
1554 subsection.

1555 5. The transfer of all policies, obligations, rights,  
1556 assets, and liabilities from the Florida Windstorm Underwriting  
1557 Association to the corporation and the renaming of the  
1558 Residential Property and Casualty Joint Underwriting Association  
1559 as the corporation shall in no way affect the coverage with  
1560 respect to covered policies as defined in s. 215.555(2)(c)  
1561 provided to these entities by the John Cosgrove Florida  
1562 Hurricane Catastrophe Fund. The coverage provided by the John  
1563 Cosgrove Florida Hurricane Catastrophe Fund to the Florida  
1564 Windstorm Underwriting Association based on its exposures as of  
1565 June 30, 2002, and each June 30 thereafter shall be redesignated  
1566 as coverage for the high-risk account of the corporation.  
1567 Notwithstanding any other provision of law, the coverage  
1568 provided by the John Cosgrove Florida Hurricane Catastrophe Fund  
1569 to the Residential Property and Casualty Joint Underwriting  
1570 Association based on its exposures as of June 30, 2002, and each

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1571 June 30 thereafter shall be transferred to the personal lines  
1572 account and the commercial lines account of the corporation.  
1573 Notwithstanding any other provision of law, the high-risk  
1574 account shall be treated, for all John Cosgrove Florida  
1575 Hurricane Catastrophe Fund purposes, as if it were a separate  
1576 participating insurer with its own exposures, reimbursement  
1577 premium, and loss reimbursement. Likewise, the personal lines  
1578 and commercial lines accounts shall be viewed together, for all  
1579 John Cosgrove Florida Hurricane Catastrophe Fund purposes, as if  
1580 the two accounts were one and represent a single, separate  
1581 participating insurer with its own exposures, reimbursement  
1582 premium, and loss reimbursement. The coverage provided by the  
1583 John Cosgrove Florida Hurricane Catastrophe Fund to the  
1584 corporation shall constitute and operate as a full transfer of  
1585 coverage from the Florida Windstorm Underwriting Association and  
1586 Residential Property and Casualty Joint Underwriting to the  
1587 corporation.

1588 Section 29. Paragraph (d) of subsection (6) of section  
1589 627.701, Florida Statutes, is amended to read:

1590 627.701 Liability of insureds; coinsurance; deductibles.--  
1591 (6)

1592 (d) The office shall draft and formally propose as a rule  
1593 the form for the certificate of security. The certificate of  
1594 security may be issued in any of the following circumstances:

1595 1. A mortgage lender or other financial institution may  
1596 issue a certificate of security after granting the applicant a  
1597 line of credit, secured by equity in real property or other  
1598 reasonable security, which line of credit may be drawn on only  
1599 to pay for the deductible portion of insured construction or  
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1600 reconstruction after a hurricane loss. In the sole discretion of  
1601 the mortgage lender or other financial institution, the line of  
1602 credit may be issued to an applicant on an unsecured basis.

1603 2. A licensed insurance agent may issue a certificate of  
1604 security after obtaining for an applicant a line of credit,  
1605 secured by equity in real property or other reasonable security,  
1606 which line of credit may be drawn on only to pay for the  
1607 deductible portion of insured construction or reconstruction  
1608 after a hurricane loss. The John Cosgrove Florida Hurricane  
1609 Catastrophe Fund shall negotiate agreements creating a financing  
1610 consortium to serve as an additional source of lines of credit  
1611 to secure deductibles. Any licensed insurance agent may act as  
1612 the agent of such consortium.

1613 3. Any person qualified to act as a trustee for any  
1614 purpose may issue a certificate of security secured by a pledge  
1615 of assets, with the restriction that the assets may be drawn on  
1616 only to pay for the deductible portion of insured construction  
1617 or reconstruction after a hurricane loss.

1618 4. Any insurer, including any admitted insurer or any  
1619 surplus lines insurer, may issue a certificate of security after  
1620 issuing the applicant a policy of supplemental insurance that  
1621 will pay for 100 percent of the deductible portion of insured  
1622 construction or reconstruction after a hurricane loss.

1623 5. Any other method approved by the office upon finding  
1624 that such other method provides a similar level of security as  
1625 the methods specified in this paragraph and that such other  
1626 method has no negative impact on residential property insurance  
1627 catastrophic capacity. The legislative intent of this  
1628 subparagraph is to provide the flexibility needed to achieve the  
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1629 public policy of expanding property insurance capacity while  
1630 improving the affordability of property insurance.

1631 Section 30. Paragraph (a) of subsection (3) of section  
1632 627.7077, Florida Statutes, is amended to read:

1633 627.7077 Florida Sinkhole Insurance Facility and other  
1634 matters related to affordability and availability of sinkhole  
1635 insurance; feasibility study.--

1636 (3) The feasibility study shall, at a minimum, address the  
1637 following issues:

1638 (a) Where the facility should be housed, including, but  
1639 not limited to, the options of creating a separate facility or  
1640 using the Citizens Property Insurance Corporation or the John  
1641 Cosgrove Florida Hurricane Catastrophe Fund.

1642 Section 31. Subsection (6) of section 6 of chapter 2004-  
1643 480, Laws of Florida, is amended to read:

1644 Section 6.

1645 (6) In order to maintain actuarially indicated premiums as  
1646 required by s. 215.555, Florida Statutes, the State Board of  
1647 Administration shall increase future premiums by the amount  
1648 appropriated and transferred from the John Cosgrove Florida  
1649 Hurricane Catastrophe Fund under this section, plus additional  
1650 amounts necessary to recover lost investment income, less any  
1651 refunds of unused cash to the John Cosgrove Florida Hurricane  
1652 Catastrophe Fund. The increase in future premiums shall be  
1653 spread over 5 years, in equal or approximately equal amounts,  
1654 beginning with the June 1, 2006, contract year.

1655  
1656 ===== T I T L E A M E N D M E N T =====

1657 Remove line 192, and insert:

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1658 | committing insurance fraud; amending ss. 215.555, 215.556,  
1659 | 215.559, 624.5091, 627.062, 627.0628, 627.0629, 627.351,  
1660 | 627.701, and 627.7077, F.S., and ch. 2004-480, Laws of  
1661 | Florida; changing the name of the Florida Hurricane  
1662 | Catastrophe Fund to the John Cosgrove Hurricane  
1663 | Catastrophe Fund; renaming the fund finance corporation to  
1664 | conform; creating the Task Force on