

Bill No. HB 7225, 2nd Eng.

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| | CHAMBER ACTION | |
| <u>Senate</u> | | <u>House</u> |

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Senator Garcia moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Effective June 1, 2006, paragraph (d) of subsection (2), paragraphs (b), (c), and (d) of subsection (4), paragraph (b) of subsection (5), and paragraphs (a) and (b) of subsection (6) of section 215.555, Florida Statutes, are amended, and paragraph (e) is added to subsection (5) of that section, to read:

215.555 Florida Hurricane Catastrophe Fund.--

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

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

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1 (4) REIMBURSEMENT CONTRACTS.--

2 (b)1. The contract shall contain a promise by the
3 board to reimburse the insurer for 45 percent, 75 percent, or
4 90 percent of its losses from each covered event in excess of
5 the insurer's retention, plus 5 percent of the reimbursed
6 losses to cover loss adjustment expenses.

7 2. The insurer must elect one of the percentage
8 coverage levels specified in this paragraph and may, upon
9 renewal of a reimbursement contract, elect a lower percentage
10 coverage level if no revenue bonds issued under subsection (6)
11 after a covered event are outstanding, or elect a higher
12 percentage coverage level, regardless of whether or not
13 revenue bonds are outstanding. All members of an insurer group
14 must elect the same percentage coverage level. Any joint
15 underwriting association, risk apportionment plan, or other
16 entity created under s. 627.351 must elect the 90-percent
17 coverage level.

18 3. The contract shall provide that reimbursement
19 amounts shall not be reduced by reinsurance paid or payable to
20 the insurer from other sources.

21 4. Notwithstanding any other provision contained in
22 this section, the board shall make available to insurers
23 qualifying as limited apportionment companies under s.
24 627.351(6)(c) a contract or contract addendum that provides an
25 additional amount of reimbursement coverage of up to \$10
26 million. The premium to be charged for this additional
27 reimbursement coverage shall be 50 percent of the additional
28 reimbursement coverage provided, which shall include one
29 prepaid reinstatement. The minimum retention level that an
30 eligible participating insurer must retain associated with
31 this additional coverage layer is 30 percent of the insurer's

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1 surplus as of March 31, 2006. This coverage shall be in
2 addition to all other coverage that may be provided under this
3 section. The coverage provided by the fund under this
4 subsection shall be in addition to the claims-paying capacity
5 as defined in subparagraph (c)1., but only with respect to
6 those insurers that select the additional coverage option and
7 meet the requirements of this subsection. The claims-paying
8 capacity with respect to all other participating insurers and
9 limited apportionment companies that do not select the
10 additional coverage option shall be limited to their
11 reimbursement premium's proportionate share of the actual
12 claims-paying capacity otherwise defined in subparagraph (c)1.
13 and as provided for under the terms of the reimbursement
14 contract. Coverage provided in the reimbursement contract for
15 participating insurers will not be affected by the additional
16 premiums paid by limited apportionment companies exercising
17 the additional coverage option allowed in this subparagraph.
18 This subparagraph expires on May 31, 2007.

19 (c)1. The contract shall also provide that the
20 obligation of the board with respect to all contracts covering
21 a particular contract year shall not exceed the actual
22 claims-paying capacity of the fund up to a limit of \$15
23 billion for that contract year adjusted based upon the
24 reported exposure from the prior contract year to reflect the
25 percentage growth in exposure to the fund for covered policies
26 since 2003, provided the dollar growth in the limit may not
27 increase in any year by an amount greater than the dollar
28 growth of the ~~cash~~ balance of the fund as of December 31 as
29 defined by rule which occurred over the prior calendar year.

30 2. In May before the start of the upcoming contract
31 year and in October during the contract year, the board shall

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1 | publish in the Florida Administrative Weekly a statement of
 2 | the fund's estimated borrowing capacity and the projected
 3 | balance of the fund as of December 31. After the end of each
 4 | calendar year, the board shall notify insurers of the
 5 | estimated borrowing capacity and the balance of the fund as of
 6 | December 31 to provide insurers with data necessary to assist
 7 | them in determining their retention and projected payout from
 8 | the fund for loss reimbursement purposes. In conjunction with
 9 | the development of the premium formula, as provided for in
 10 | subsection (5), the board shall publish factors or multiples
 11 | that assist insurers in determining their retention and
 12 | projected payout for the next contract year. For all
 13 | regulatory and reinsurance purposes, an insurer may calculate
 14 | its projected payout from the fund as its share of the total
 15 | fund premium for the current contract year multiplied by the
 16 | sum of the projected balance of the fund as of December 31 and
 17 | the estimated borrowing capacity for that contract year as
 18 | reported under this subparagraph.

19 | (d)1. For purposes of determining potential liability
 20 | and to aid in the sound administration of the fund, the
 21 | contract shall require each insurer to report such insurer's
 22 | losses from each covered event on an interim basis, as
 23 | directed by the board. The contract shall require the insurer
 24 | to report to the board no later than December 31 of each year,
 25 | and quarterly thereafter, its reimbursable losses from covered
 26 | events for the year. The contract shall require the board to
 27 | determine and pay, as soon as practicable after receiving
 28 | these reports of reimbursable losses, the initial amount of
 29 | reimbursement due and adjustments to this amount based on
 30 | later loss information. The adjustments to reimbursement
 31 | amounts shall require the board to pay, or the insurer to

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1 return, amounts reflecting the most recent calculation of
2 losses.

3 2. In determining reimbursements pursuant to this
4 subsection, the contract shall provide that the board shall:

5 ~~a. First reimburse insurers writing covered policies,~~
6 ~~which insurers are in full compliance with this section and~~
7 ~~have petitioned the Office of Insurance Regulation and~~
8 ~~qualified as limited apportionment companies under s.~~
9 ~~627.351(2)(b)3. The amount of such reimbursement shall be the~~
10 ~~lesser of \$10 million or an amount equal to 10 times the~~
11 ~~insurer's reimbursement premium for the current year. The~~
12 ~~amount of reimbursement paid under this sub-subparagraph may~~
13 ~~not exceed the full amount of reimbursement promised in the~~
14 ~~reimbursement contract. This sub-subparagraph does not apply~~
15 ~~with respect to any contract year in which the year-end~~
16 ~~projected cash balance of the fund, exclusive of any bonding~~
17 ~~capacity of the fund, exceeds \$2 billion. Only one member of~~
18 ~~any insurer group may receive reimbursement under this~~
19 ~~sub-subparagraph.~~

20 ~~a.b.~~ Next pay to each insurer such insurer's projected
21 payout, which is the amount of reimbursement it is owed, up to
22 an amount equal to the insurer's share of the actual premium
23 paid for that contract year, multiplied by the actual
24 claims-paying capacity available for that contract year;
25 provided, entities created pursuant to s. 627.351 shall be
26 further reimbursed in accordance with sub-subparagraph b. ~~c.~~

27 ~~b.c.~~ Thereafter, establish the prorated reimbursement
28 level at the highest level for which any remaining fund
29 balance or bond proceeds are sufficient to reimburse entities
30 created pursuant to s. 627.351 based on reimbursable losses
31 exceeding the amounts payable pursuant to sub-subparagraph a.

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1 ~~b.~~ for the current contract year.

2 (5) REIMBURSEMENT PREMIUMS.--

3 (b) The State Board of Administration shall select an
4 independent consultant to develop a formula for determining
5 the actuarially indicated premium to be paid to the fund. The
6 formula shall specify, for each zip code or other limited
7 geographical area, the amount of premium to be paid by an
8 insurer for each \$1,000 of insured value under covered
9 policies in that zip code or other area. In establishing
10 premiums, the board shall consider the coverage elected under
11 paragraph (4)(b) and any factors that tend to enhance the
12 actuarial sophistication of ratemaking for the fund, including
13 deductibles, type of construction, type of coverage provided,
14 relative concentration of risks, ~~a factor providing for more~~
15 ~~rapid cash buildup in the fund until the fund capacity for a~~
16 ~~single hurricane season is fully funded,~~ and other such
17 factors deemed by the board to be appropriate. The formula may
18 provide for a procedure to determine the premiums to be paid
19 by new insurers that begin writing covered policies after the
20 beginning of a contract year, taking into consideration when
21 the insurer starts writing covered policies, the potential
22 exposure of the insurer, the potential exposure of the fund,
23 the administrative costs to the insurer and to the fund, and
24 any other factors deemed appropriate by the board. The formula
25 shall include a factor of 25 percent of the fund's actuarially
26 indicated premium in order to provide for more rapid cash
27 buildup in the fund. The formula must be approved by unanimous
28 vote of the board. The board may, at any time, revise the
29 formula pursuant to the procedure provided in this paragraph.

30 (e) If Citizens Property Insurance Corporation assumes
31 or otherwise provides coverage for policies of an insurer

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1 placed in liquidation under chapter 631 pursuant to s.
2 627.351(6), the corporation may, pursuant to conditions
3 mutually agreed to between the corporation and the State Board
4 of Administration, obtain coverage for such policies under its
5 contract with the fund or accept an assignment of the
6 liquidated insurer's contract with the fund. If Citizens
7 Property Insurance Corporation elects to cover these policies
8 under the corporation's contract with the fund, it shall
9 notify the board of its insured values with respect to such
10 policies within a specified time mutually agreed to between
11 the corporation and the board, after such assumption or other
12 coverage transaction, and the fund shall treat such policies
13 as having been in effect as of June 30 of that year. In the
14 event of an assignment, the fund shall apply that contract to
15 such policies and treat Citizens Property Insurance
16 Corporation as if the corporation were the liquidated insurer
17 for the remaining term of the contract, and the corporation
18 shall have all rights and duties of the liquidated insurer
19 beginning on the date it provides coverage for such policies,
20 but the corporation is not subject to any preexisting rights,
21 liabilities, or duties of the liquidated insurer. The
22 assignment, including any unresolved issues between the
23 liquidated insurer and Citizens Property Insurance Corporation
24 under the contract, shall be provided for in the liquidation
25 order or otherwise determined by the court. However, if a
26 covered event occurs before the effective date of the
27 assignment, the corporation may not obtain coverage for such
28 policies under its contract with the fund and shall accept an
29 assignment of the liquidated insurer's contract as provided in
30 this paragraph. This paragraph expires on June 1, 2007.

31 (6) REVENUE BONDS.--

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1 (a) General provisions.--

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

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1 shall not be pledged for the payment of such bonds. The board
 2 may also enter into agreements under paragraph (c) or
 3 paragraph (d) for the purpose of issuing revenue bonds in the
 4 absence of a hurricane upon a determination that such action
 5 would maximize the ability of the fund to meet future
 6 obligations.

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

20 (b) Emergency assessments.--

21 1. If the board determines that the amount of revenue
 22 produced under subsection (5) is insufficient to fund the
 23 obligations, costs, and expenses of the fund and the
 24 corporation, including repayment of revenue bonds and that
 25 portion of the debt service coverage not met by reimbursement
 26 premiums, the board shall direct the Office of Insurance
 27 Regulation to levy, by order, an emergency assessment on
 28 direct premiums for all property and casualty lines of
 29 business in this state, including property and casualty
 30 business of surplus lines insurers regulated under part VIII
 31 of chapter 626, but not including any workers' compensation

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1 premiums or medical malpractice premiums. As used in this
 2 subsection, the term "property and casualty business" includes
 3 all lines of business identified on Form 2, Exhibit of
 4 Premiums and Losses, in the annual statement required of
 5 authorized insurers by s. 624.424 and any rule adopted under
 6 this section, except for those lines identified as accident
 7 and health insurance and except for policies written under the
 8 National Flood Insurance Program. The assessment shall be
 9 specified as a percentage of direct written ~~future~~ premium
 10 ~~collections~~ and is subject to annual adjustments by the board
 11 ~~to reflect changes in premiums subject to assessments~~
 12 ~~collected under this subparagraph~~ in order to meet debt
 13 obligations. The same percentage shall apply to all policies
 14 in lines of business subject to the assessment issued or
 15 renewed during the 12-month period beginning on the effective
 16 date of the assessment.

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

29 3. Emergency assessments shall be collected from
 30 policyholders. Emergency assessments shall be remitted by
 31 insurers as a percentage of direct written premium for the

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1 preceding calendar quarter as specified in the order from the
2 Office of Insurance Regulation. ~~With respect to each insurer~~
3 ~~collecting premiums that are subject to the assessment, the~~
4 ~~insurer shall collect the assessment at the same time as it~~
5 ~~collects the premium payment for each policy and shall remit~~
6 ~~the assessment collected to the fund or corporation as~~
7 ~~provided in the order issued by the Office of Insurance~~
8 ~~Regulation.~~ The office shall verify the accurate and timely
9 collection and remittance of emergency assessments and shall
10 report the information to the board in a form and at a time
11 specified by the board. Each insurer collecting assessments
12 shall provide the information with respect to premiums and
13 collections as may be required by the office to enable the
14 office to monitor and verify compliance with this paragraph.

15 4. With respect to assessments of surplus lines
16 premiums, each surplus lines agent shall collect the
17 assessment at the same time as the agent collects the surplus
18 lines tax required by s. 626.932, and the surplus lines agent
19 shall remit the assessment to the Florida Surplus Lines
20 Service Office created by s. 626.921 at the same time as the
21 agent remits the surplus lines tax to the Florida Surplus
22 Lines Service Office. The emergency assessment on each insured
23 procuring coverage and filing under s. 626.938 shall be
24 remitted by the insured to the Florida Surplus Lines Service
25 Office at the time the insured pays the surplus lines tax to
26 the Florida Surplus Lines Service Office. The Florida Surplus
27 Lines Service Office shall remit the collected assessments to
28 the fund or corporation as provided in the order levied by the
29 Office of Insurance Regulation. The Florida Surplus Lines
30 Service Office shall verify the proper application of such
31 emergency assessments and shall assist the board in ensuring

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1 the accurate and timely collection and remittance of
 2 assessments as required by the board. The Florida Surplus
 3 Lines Service Office shall annually calculate the aggregate
 4 written premium on property and casualty business, other than
 5 workers' compensation and medical malpractice, procured
 6 through surplus lines agents and insureds procuring coverage
 7 and filing under s. 626.938 and shall report the information
 8 to the board in a form and at a time specified by the board.

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

22 6. The assessments otherwise payable to the
 23 corporation under this paragraph shall be paid to the fund
 24 unless and until the Office of Insurance Regulation and the
 25 Florida Surplus Lines Service Office have received from the
 26 corporation and the fund a notice, which shall be conclusive
 27 and upon which they may rely without further inquiry, that the
 28 corporation has issued bonds and the fund has no agreements in
 29 effect with local governments under paragraph (c). On or after
 30 the date of the notice and until the date the corporation has
 31 no bonds outstanding, the fund shall have no right, title, or

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1 interest in or to the assessments, except as provided in the
2 fund's agreement with the corporation.

3 7. Emergency assessments are not premium and are not
4 subject to the premium tax, to the surplus lines tax, to any
5 fees, or to any commissions. An insurer is liable for all
6 assessments that it collects and must treat the failure of an
7 insured to pay an assessment as a failure to pay the premium.
8 An insurer is not liable for uncollectible assessments.

9 8. When an insurer is required to return an unearned
10 premium, it shall also return any collected assessment
11 attributable to the unearned premium. A credit adjustment to
12 the collected assessment may be made by the insurer with
13 regard to future remittances that are payable to the fund or
14 corporation, but the insurer is not entitled to a refund.

15 9. When a surplus lines insured or an insured who has
16 procured coverage and filed under s. 626.938 is entitled to
17 the return of an unearned premium, the Florida Surplus Lines
18 Service Office shall provide a credit or refund to the agent
19 or such insured for the collected assessment attributable to
20 the unearned premium prior to remitting the emergency
21 assessment collected to the fund or corporation.

22 10. The exemption of medical malpractice insurance
23 premiums from emergency assessments under this paragraph is
24 repealed May 31, 2007, and medical malpractice insurance
25 premiums shall be subject to emergency assessments
26 attributable to loss events occurring in the contract years
27 commencing on June 1, 2007.

28 Section 2. Effective July 1, 2006, section 215.5586,
29 Florida Statutes, is created to read:

30 215.5586 Florida Comprehensive Hurricane Damage
31 Mitigation Program.--There is established within the

1 Department of Financial Services the Florida Comprehensive
 2 Hurricane Damage Mitigation Program. The program shall be
 3 administered by an individual with prior executive experience
 4 in the private sector in the areas of insurance, business, or
 5 construction. The program shall develop and implement a
 6 comprehensive and coordinated approach for hurricane damage
 7 mitigation that shall include the following:

8 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
 9 INSPECTIONS.--

10 (a) Free home-retrofit inspections of site-built,
 11 residential property, including single-family, two-family,
 12 three-family, or four-family residential units, shall be
 13 offered to determine what mitigation measures are needed and
 14 what improvements to existing residential properties are
 15 needed to reduce the property's vulnerability to hurricane
 16 damage. The Department of Financial Services shall establish a
 17 request for proposals to solicit proposals from wind
 18 certification entities to provide at no cost to homeowners
 19 wind certification and hurricane mitigation inspections. The
 20 inspections provided to homeowners, at a minimum, must
 21 include:

22 1. A home inspection and report that summarizes the
 23 results and identifies corrective actions a homeowner may take
 24 to mitigate hurricane damage.

25 2. A range of cost estimates regarding the mitigation
 26 features.

27 3. Insurer-specific information regarding premium
 28 discounts correlated to recommended mitigation features
 29 identified by the inspection.

30 4. A hurricane resistance rating scale specifying the
 31 home's current as well as projected wind resistance

1 capabilities.

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

5 1. Use wind certification and hurricane mitigation
6 inspectors who:

7 a. Have prior experience in residential construction
8 or inspection and have received specialized training in
9 hurricane mitigation procedures.

10 b. Have undergone drug testing and background checks.

11 c. Have been certified, in a manner satisfactory to
12 the department, to conduct the inspections.

13 2. Provide a quality assurance program including a
14 reinspection component.

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

19 (a) To be eligible for a grant, a residential property
20 must:

21 1. Have been granted a homestead exemption under
22 chapter 196.

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

25 3. Have undergone an acceptable wind certification and
26 hurricane mitigation inspection.

27

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

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

4 (c) The program shall create a process in which
5 mitigation contractors agree to participate and seek
6 reimbursement from the state and homeowners select from a list
7 of participating contractors. All mitigation must be based
8 upon the securing of all required local permits and
9 inspections. Mitigation projects are subject to random
10 reinspection of up to at least 10 percent of all projects.

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

15 (e) Grants may be used for the following improvements:

- 16 1. Roof deck attachment;
- 17 2. Secondary water barrier;
- 18 3. Roof covering;
- 19 4. Brace gable ends;
- 20 5. Reinforce roof-to-wall connections;
- 21 6. Opening protection; and
- 22 7. Exterior doors, including garage doors.

23 (f) Low-income homeowners, as defined in s.
24 420.0004(9), who otherwise meet the requirements of paragraphs
25 (a) and (c) are eligible for a grant of up to \$5,000 and are
26 not required to provide a matching amount to receive the
27 grant. Such grants shall be used to retrofit single-family,
28 site-built, owner-occupied, residential properties in order to
29 make them less vulnerable to hurricane damage.

30 (3) EDUCATION AND CONSUMER AWARENESS.--Multimedia
31 public education, awareness, and advertising efforts designed

1 to specifically address mitigation techniques shall be
2 employed, as well as a component to support ongoing consumer
3 resources and referral services.

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

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

11 (b) A representative of residential property insurers,
12 selected by the Financial Services Commission from a list of
13 at least three persons recommended by the Florida Insurance
14 Council.

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

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

21 (e) Two members of the House of Representatives,
22 selected by the Speaker of the House of Representatives.

23 (f) Two members of the Senate, selected by the
24 President of the Senate.

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

27 (h) The senior officer of the Florida Hurricane
28 Catastrophe Fund.

29 (i) The executive director of Citizens Property
30 Insurance Corporation.

31 (j) The director of the Division of Emergency

1 Management of the Department of Community Affairs.

2

3 Members appointed under paragraphs (a)-(d) shall serve at the
4 pleasure of the Financial Services Commission. Members
5 appointed under paragraphs (e) and (f) shall serve at the
6 pleasure of the appointing officer. All other members shall
7 serve voting ex officio. Members of the advisory council shall
8 serve without compensation but may receive reimbursement as
9 provided in s. 112.061 for per diem and travel expenses
10 incurred in the performance of their official duties.

11 (5) FEDERAL FUNDING.--The department shall use its
12 best efforts to obtain grants or funds from the federal
13 government to supplement the financial resources of the
14 program.

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

18 Section 3. Section 215.5595, Florida Statutes, is
19 created to read:

20 215.5595 Insurance Capital Build-Up Incentive
21 Program.--

22 (1) Upon entering the 2006 hurricane season, the
23 Legislature finds that:

24 (a) The losses in Florida from eight hurricanes in
25 2004 and 2005 have seriously strained the resources of both
26 the voluntary insurance market and the public-sector
27 mechanisms of Citizens Property Insurance Corporation and the
28 Florida Hurricane Catastrophe Fund.

29 (b) Private reinsurance is much less available and at
30 a significantly greater cost to residential property insurers
31 as compared to 1 year ago, particularly for amounts below the

1 insurer's retention or retained losses that must be paid
2 before reimbursement is provided by the Florida Hurricane
3 Catastrophe Fund.

4 (c) The Office of Insurance Regulation has reported
5 that the insolvency of certain insurers may be imminent.

6 (d) Hurricane forecast experts predict that the 2006
7 hurricane season will be an active hurricane season and that
8 the Atlantic and Gulf Coast regions face an active hurricane
9 cycle of 10 to 20 years or longer.

10 (e) The number of cancellations or nonrenewals of
11 residential property insurance policies is expected to
12 increase and the number of new residential policies written in
13 the voluntary market are likely to decrease, causing increased
14 policy growth and exposure to the state insurer of last
15 resort, Citizens Property Insurance Corporation, and
16 threatening to increase the deficit of the corporation,
17 currently estimated to be over \$1.7 billion. This deficit must
18 be funded by assessments against insurers and policyholders,
19 unless otherwise funded by the state.

20 (f) Policyholders are subject to increased premiums
21 and assessments that are increasingly making such coverage
22 unaffordable and that may force policyholders to sell their
23 homes and even leave the state.

24 (g) The increased risk to the public sector and
25 private sector poses a serious threat to the economy of this
26 state, particularly the building and financing of residential
27 structures, and existing mortgages may be placed in default.

28 (h) The losses from 2004 and 2005, combined with the
29 expectation that the increase in hurricane activity will
30 continue for the foreseeable future, have caused both insurers
31 and reinsurers to limit the capital they are willing to commit

1 to covering the hurricane risk in Florida; attracting new
 2 capital to the Florida market is a critical priority; and
 3 providing a low-cost source of capital would enable insurers
 4 to write additional residential property insurance coverage
 5 and act to mitigate premium increases.

6 (i) Appropriating state funds to be used as surplus
 7 notes for residential property insurers, under conditions
 8 requiring the insurer to contribute additional private-sector
 9 capital and to write a minimum level of premiums for
 10 residential hurricane coverage, is a valid and important
 11 public purpose.

12 (2) The purpose of this section is to provide surplus
 13 notes to new or existing authorized residential property
 14 insurers under the Insurance Capital Build-Up Incentive
 15 Program administered by the State Board of Administration,
 16 under the following conditions:

17 (a) The amount of the surplus note for any insurer or
 18 insurer group may not exceed \$25 million or 20 percent of the
 19 total amount of funds available under the program, whichever
 20 is greater.

21 (b) The insurer must contribute an amount of new
 22 capital to its surplus which is at least equal to the amount
 23 of the surplus note and must apply to the board by July 1,
 24 2006. If an insurer applies after July 1, 2006, but before
 25 June 1, 2007, the amount of the surplus note is limited to
 26 one-half of the new capital that the insurer contributes to
 27 its surplus. For purposes of this section, new capital must be
 28 in the form of cash or cash equivalents as specified in s.
 29 625.012(1).

30 (c) The insurer's surplus, new capital, and the
 31 surplus note must total at least \$50 million.

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1 (d) The insurer must commit to meeting a minimum
2 writing ratio of net written premium to surplus of at least
3 2:1 for the term of the surplus note, which shall be
4 determined by the Office of Insurance Regulation and certified
5 quarterly to the board. For this purpose, the term "net
6 written premium" means net written premium for residential
7 property insurance in Florida, including the peril of wind,
8 and "surplus" refers to the entire surplus of the insurer. If
9 the required ratio is not maintained during the term of the
10 surplus note, the board may increase the interest rate,
11 accelerate the repayment of interest and principal, or shorten
12 the term of the surplus note, subject to approval by the
13 Commissioner of Insurance of payments by the insurer of
14 principal and interest as provided in paragraph (f).

15 (e) If the requirements of this section are met, the
16 board may approve an application by an insurer for a surplus
17 note, unless the board determines that the financial condition
18 of the insurer and its business plan for writing residential
19 property insurance in Florida places an unreasonably high
20 level of financial risk to the state of nonpayment in full of
21 the interest and principal. The board shall consult with the
22 Office of Insurance Regulation and may contract with
23 independent financial and insurance consultants in making this
24 determination.

25 (f) The surplus note must be repayable to the state
26 with a term of 20 years. The surplus note shall accrue
27 interest on the unpaid principal balance at a rate equivalent
28 to the 10-year U.S. Treasury Bond rate, require the payment
29 only of interest during the first 3 years, and include such
30 other terms as approved by the board. Payment of principal or
31 interest by the insurer on the surplus note must be approved

1 by the Commissioner of Insurance, who shall approve such
 2 payment unless the commissioner determines that such payment
 3 will substantially impair the financial condition of the
 4 insurer. If such a determination is made, the commissioner
 5 shall approve such payment that will not substantially impair
 6 the financial condition of the insurer.

7 (g) The total amount of funds available for the
 8 program is limited to the amount appropriated by the
 9 Legislature for this purpose. If the amount of surplus notes
 10 requested by insurers exceeds the amount of funds available,
 11 the board may prioritize insurers that are eligible and
 12 approved, regardless of the date of application, based on the
 13 financial strength of the insurer, the viability of its
 14 proposed business plan for writing additional residential
 15 property insurance in the state, and the effect on competition
 16 in the residential property insurance market.

17 (h) The board may allocate portions of the funds
 18 available for the program and establish dates for insurers to
 19 apply for surplus notes from such allocation which are earlier
 20 than the dates established in paragraph (b).

21 (3) As used in this section, the term:

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

23 (b) "Program" means the Insurance Capital Build-Up
 24 Incentive Program established by this section.

25 (4) A surplus note provided to an insurer pursuant to
 26 this section is considered an asset of the insurer pursuant to
 27 s. 625.012.

28 (5) If an insurer that receives a surplus note
 29 pursuant to this section is rendered insolvent, the state is a
 30 class 3 creditor pursuant to s. 631.271 for the unpaid
 31 principal and interest on the surplus note.

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1 (6) The board shall adopt rules prescribing the
2 procedures, administration, and criteria for approving the
3 issuance of surplus notes pursuant to this section, which may
4 be adopted pursuant to the procedures for emergency rules of
5 chapter 120. Otherwise, actions and determinations by the
6 board pursuant to this section are exempt from chapter 120.

7 (7) The board shall invest and reinvest the funds
8 appropriated for the program in accordance with s. 215.47 and
9 consistent with board policy.

10 Section 4. Section 252.63, Florida Statutes, is
11 created to read:

12 252.63 Commissioner of Insurance Regulation; powers in
13 a state of emergency.--

14 (1) When the Governor declares a state of emergency
15 pursuant to s. 252.36, the commissioner may issue one or more
16 general orders applicable to all insurance companies,
17 entities, and persons, as defined in s. 624.04, that are
18 subject to the Florida Insurance Code and that serve any
19 portion of the area of the state under the state of emergency.

20 (2) An order issued by the commissioner under this
21 section becomes effective upon issuance and continues for 120
22 days unless terminated sooner by the commissioner. The
23 commissioner may extend an order for one additional period of
24 120 days if he or she determines that the emergency conditions
25 that gave rise to the initial order still exist. By concurrent
26 resolution, the Legislature may terminate any order issued
27 under this section.

28 (3) The commissioner shall publish in the next
29 available publication of the Florida Administrative Weekly a
30 copy of the text of any order issued under this section,
31 together with a statement describing the modification or

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1 suspension and explaining how the modification or suspension
2 will facilitate recovery from the emergency.

3 Section 5. Section 626.8795, Florida Statutes, is
4 created to read:

5 626.8795 Public adjusters; prohibition of conflict of
6 interest.--A public adjuster may not participate, directly or
7 indirectly, in the reconstruction, repair, or restoration of
8 damaged property that is the subject of a claim adjusted by
9 the licensee; may not engage in any other activities that may
10 be reasonably construed as a conflict of interest, including
11 soliciting or accepting any remuneration from, of any kind or
12 nature, directly or indirectly; and may not have a financial
13 interest in any salvage, repair, or any other business entity
14 that obtains business in connection with any claim that the
15 public adjuster has a contract or an agreement to adjust.

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

18 626.918 Eligible surplus lines insurers.--

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

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

26 (a) Eligibility of the insurer must be requested in
27 writing by the Florida Surplus Lines Service Office.+

28 (b) The insurer must be currently an authorized
29 insurer in the state or country of its domicile as to the kind
30 or kinds of insurance proposed to be so placed and must have
31 been such an insurer for not less than the 3 years next

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1 preceding or must be the wholly owned subsidiary of such
 2 authorized insurer or must be the wholly owned subsidiary of
 3 an already eligible surplus lines insurer as to the kind or
 4 kinds of insurance proposed for a period of not less than the
 5 3 years next preceding. However, the office may waive the
 6 3-year requirement if the insurer provides a product or
 7 service not readily available to the consumers of this state
 8 or has operated successfully for a period of at least 1 year
 9 next preceding and has capital and surplus of not less than
 10 \$25 million.†

11 (c) Before granting eligibility, the requesting
 12 surplus lines agent or the insurer shall furnish the office
 13 with a duly authenticated copy of its current annual financial
 14 statement in the English language and with all monetary values
 15 therein expressed in United States dollars, at an exchange
 16 rate (in the case of statements originally made in the
 17 currencies of other countries) then-current and shown in the
 18 statement, and with such additional information relative to
 19 the insurer as the office may request.†

20 (d)1.a. The insurer must have and maintain surplus as
 21 to policyholders of not less than \$15 million; in addition, an
 22 alien insurer must also have and maintain in the United States
 23 a trust fund for the protection of all its policyholders in
 24 the United States under terms deemed by the office to be
 25 reasonably adequate, in an amount not less than \$5.4 million.
 26 Any such surplus as to policyholders or trust fund shall be
 27 represented by investments consisting of eligible investments
 28 for like funds of like domestic insurers under part II of
 29 chapter 625 provided, however, that in the case of an alien
 30 insurance company, any such surplus as to policyholders may be
 31 represented by investments permitted by the domestic regulator

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1 of such alien insurance company if such investments are
 2 substantially similar in terms of quality, liquidity, and
 3 security to eligible investments for like funds of like
 4 domestic insurers under part II of chapter 625. Clean,
 5 irrevocable, unconditional, and evergreen letters of credit
 6 issued or confirmed by a qualified United States financial
 7 institution, as defined in subparagraph 2., may be used to
 8 fund the trust.†

9 **b.2.** For those surplus lines insurers that were
 10 eligible on January 1, 1994, and that maintained their
 11 eligibility thereafter, the required surplus as to
 12 policyholders shall be:

13 **(I)a.** On December 31, 1994, and until December 30,
 14 1995, \$2.5 million.

15 **(II)b.** On December 31, 1995, and until December 30,
 16 1996, \$3.5 million.

17 **(III)c.** On December 31, 1996, and until December 30,
 18 1997, \$4.5 million.

19 **(IV)d.** On December 31, 1997, and until December 30,
 20 1998, \$5.5 million.

21 **(V)e.** On December 31, 1998, and until December 30,
 22 1999, \$6.5 million.

23 **(VI)f.** On December 31, 1999, and until December 30,
 24 2000, \$8 million.

25 **(VII)g.** On December 31, 2000, and until December 30,
 26 2001, \$9.5 million.

27 **(VIII)h.** On December 31, 2001, and until December 30,
 28 2002, \$11 million.

29 **(IX)i.** On December 31, 2002, and until December 30,
 30 2003, \$13 million.

31 **(X)j.** On December 31, 2003, and thereafter, \$15

1 million.

2 ~~c.3.~~ The capital and surplus requirements as set forth
3 in sub-subparagraph b. ~~subparagraph 2.~~ do not apply in the
4 case of an insurance exchange created by the laws of
5 individual states, where the exchange maintains capital and
6 surplus pursuant to the requirements of that state, or
7 maintains capital and surplus in an amount not less than \$50
8 million in the aggregate. For an insurance exchange which
9 maintains funds in the amount of at least \$12 million for the
10 protection of all insurance exchange policyholders, each
11 individual syndicate shall maintain minimum capital and
12 surplus in an amount not less than \$3 million. If the
13 insurance exchange does not maintain funds in the amount of at
14 least \$12 million for the protection of all insurance exchange
15 policyholders, each individual syndicate shall meet the
16 minimum capital and surplus requirements set forth in
17 sub-subparagraph b. ~~subparagraph 2.~~

18 ~~d.4.~~ A surplus lines insurer which is a member of an
19 insurance holding company that includes a member which is a
20 Florida domestic insurer as set forth in its holding company
21 registration statement, as set forth in s. 628.801 and rules
22 adopted thereunder, may elect to maintain surplus as to
23 policyholders in an amount equal to the requirements of s.
24 624.408, subject to the requirement that the surplus lines
25 insurer shall at all times be in compliance with the
26 requirements of chapter 625.

27
28 The election shall be submitted to the office and shall be
29 effective upon the office's being satisfied that the
30 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
31 met. The initial date of election shall be the date of office

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1 approval. The election approval application shall be on a form
 2 adopted by commission rule. The office may approve an election
 3 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
 4 only if it was on file with the former Department of Insurance
 5 before February 28, 1998.~~†~~

6 2. For purposes of letters of credit under
 7 subparagraph 1., the term "qualified United States financial
 8 institution" means an institution that:

9 a. Is organized or, in the case of a United States
 10 office of a foreign banking organization, is licensed under
 11 the laws of the United States or any state.

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

15 c. Has been determined by the office or the Securities
 16 Valuation Office of the National Association of Insurance
 17 Commissioners to meet such standards of financial condition
 18 and standing as are considered necessary and appropriate to
 19 regulate the quality of financial institutions whose letters
 20 of credit are acceptable to the office.

21 (e) The insurer must be of good reputation as to the
 22 providing of service to its policyholders and the payment of
 23 losses and claims.~~†~~

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

26 (g) This subsection does not apply as to unauthorized
 27 insurers made eligible under s. 626.917 as to wet marine and
 28 aviation risks.

29 Section 7. Effective July 1, 2006, paragraph (b) of
 30 subsection (2) of section 627.062, Florida Statutes, is
 31 amended, and subsection (9) is added to that section, to read:

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1 627.062 Rate standards.--

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

3 (b) Upon receiving a rate filing, the office shall
4 review the rate filing to determine if a rate is excessive,
5 inadequate, or unfairly discriminatory. In making that
6 determination, the office shall, in accordance with generally
7 accepted and reasonable actuarial techniques, consider the
8 following factors:

9 1. Past and prospective loss experience within and
10 without this state.

11 2. Past and prospective expenses.

12 3. The degree of competition among insurers for the
13 risk insured.

14 4. Investment income reasonably expected by the
15 insurer, consistent with the insurer's investment practices,
16 from investable premiums anticipated in the filing, plus any
17 other expected income from currently invested assets
18 representing the amount expected on unearned premium reserves
19 and loss reserves. The commission may adopt rules utilizing
20 reasonable techniques of actuarial science and economics to
21 specify the manner in which insurers shall calculate
22 investment income attributable to such classes of insurance
23 written in this state and the manner in which such investment
24 income shall be used in the calculation of insurance rates.
25 Such manner shall contemplate allowances for an underwriting
26 profit factor and full consideration of investment income
27 which produce a reasonable rate of return; however, investment
28 income from invested surplus shall not be considered.

29 5. The reasonableness of the judgment reflected in the
30 filing.

31 6. Dividends, savings, or unabsorbed premium deposits

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1 allowed or returned to Florida policyholders, members, or
2 subscribers.

3 7. The adequacy of loss reserves.

4 8. The cost of reinsurance.

5 9. Trend factors, including trends in actual losses
6 per insured unit for the insurer making the filing.

7 10. Conflagration and catastrophe hazards, if
8 applicable.

9 11. A reasonable margin for underwriting profit and
10 contingencies. For that portion of the rate covering the risk
11 of hurricanes and other catastrophic losses for which the
12 insurer has not purchased reinsurance and has exposed its
13 capital and surplus to such risk, the office must approve a
14 rating factor that provides the insurer a reasonable rate of
15 return that is commensurate with such risk.

16 12. The cost of medical services, if applicable.

17 13. Other relevant factors which impact upon the
18 frequency or severity of claims or upon expenses.

19
20 The provisions of this subsection shall not apply to workers'
21 compensation and employer's liability insurance and to motor
22 vehicle insurance.

23 (9) The burden is on the office to establish that
24 rates are excessive for personal lines residential coverage
25 with a dwelling replacement cost of \$1 million or more or for
26 a single condominium unit with a combined dwelling and
27 contents replacement cost of \$1 million or more. Upon request
28 of the office, the insurer shall provide to the office such
29 loss and expense information as the office reasonably needs to
30 meet this burden.

31 Section 8. Paragraph (c) of subsection (3) of section

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1 627.0628, Florida Statutes, is amended to read:

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

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

6 (c) With respect to a rate filing under s. 627.062, an
7 insurer may employ actuarial methods, principles, standards,
8 models, or output ranges found by the commission to be
9 accurate or reliable to determine hurricane loss factors for
10 use in a rate filing under s. 627.062. Such findings and
11 factors are admissible and relevant in consideration of a rate
12 filing by the office or in any arbitration or administrative
13 or judicial review only if the office and the consumer
14 advocate appointed pursuant to s. 627.0613 have access to all
15 of the assumptions and factors that were used in developing
16 the actuarial methods, principles, standards, models, or
17 output ranges, and are not precluded from disclosing such
18 information in a rate proceeding. In any rate hearing under s.
19 120.57 or in any arbitration proceeding under s. 627.062(6),
20 the hearing officer, judge, or arbitration panel may determine
21 whether the office and the consumer advocate were provided
22 with access to all of the assumptions and factors that were
23 used in developing the actuarial methods, principles,
24 standards, models, or output ranges and to determine their
25 admissibility.

26 Section 9. Section 627.06281, Florida Statutes, is
27 amended to read:

28 627.06281 Public hurricane loss projection model;
29 reporting of data by insurers.--

30 (1) Within 30 days after a written request for loss
31 data and associated exposure data by the office or a type I

1 center within the State University System established to study
 2 mitigation, residential property insurers and licensed rating
 3 and advisory organizations that compile residential property
 4 insurance loss data shall provide loss data and associated
 5 exposure data for residential property insurance policies to
 6 the office or to a type I center within the State University
 7 System established to study mitigation, as directed by the
 8 office, for the purposes of developing, maintaining, and
 9 updating a public model for hurricane loss projections. The
 10 loss data and associated exposure data provided shall be in
 11 writing.

12 (2) The public model must be submitted to the Florida
 13 Commission on Hurricane Loss Projection Methodology for review
 14 under s. 627.0628 by October 1, 2006. The office may continue
 15 to use the model for its review of rate filings pursuant to
 16 ss. 627.062 and 627.351 until such time as the Florida
 17 Commission on Hurricane Loss Projection Methodology determines
 18 that the public model is not accurate or reliable pursuant to
 19 the same process and standards as the commission uses for the
 20 review of other hurricane loss projection models.

21 Section 10. Subsection (1) of section 627.0629,
 22 Florida Statutes, is amended to read:

23 627.0629 Residential property insurance; rate
 24 filings.--

25 (1) Effective June 1, 2002, a rate filing for
 26 residential property insurance must include actuarially
 27 reasonable discounts, credits, or other rate differentials, or
 28 appropriate reductions in deductibles, for properties on which
 29 fixtures or construction techniques demonstrated to reduce the
 30 amount of loss in a windstorm have been installed or
 31 implemented. The fixtures or construction techniques shall

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1 include, but not be limited to, fixtures or construction
2 techniques which enhance roof strength, roof covering
3 performance, roof-to-wall strength,
4 wall-to-floor-to-foundation strength, opening protection, and
5 window, door, and skylight strength. Credits, discounts, or
6 other rate differentials for fixtures and construction
7 techniques which meet the minimum requirements of the Florida
8 Building Code must be included in the rate filing. All
9 insurance companies must make a rate filing which includes the
10 credits, discounts, or other rate differentials by February
11 28, 2003. By January 1, 2007, the office shall reevaluate the
12 discounts, credits, other rate differentials, and appropriate
13 reductions in deductibles for fixtures and construction
14 techniques that meet the minimum requirements of the Florida
15 Building Code, based upon actual experience or any other loss
16 relativity studies available to the office. The office shall
17 determine the discounts, credits, other rate differentials,
18 and appropriate reductions in deductibles that reflect the
19 full actuarial value of such revaluation, which may be used by
20 insurers in rate filings.

21 Section 11. Effective July 1, 2006, subsection (6) of
22 section 627.351, Florida Statutes, is amended to read:

23 627.351 Insurance risk apportionment plans.--

24 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

25 (a)1. The Legislature finds that actual and threatened
26 catastrophic losses to property in this state from hurricanes
27 have caused insurers to be unwilling or unable to provide
28 property insurance coverage to the extent sought and needed.
29 It is in the public interest and a public purpose to assist in
30 assuring that property in the state is insured so as to
31 facilitate the remediation, reconstruction, and replacement of

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1 | damaged or destroyed property in order to reduce or avoid the
 2 | negative effects otherwise resulting to the public health,
 3 | safety, and welfare; to the economy of the state; and to the
 4 | revenues of the state and local governments needed to provide
 5 | for the public welfare. It is necessary, therefore, to provide
 6 | property insurance to applicants who are in good faith
 7 | entitled to procure insurance through the voluntary market but
 8 | are unable to do so. The Legislature intends by this
 9 | subsection that property insurance be provided and that it
 10 | continues, as long as necessary, through an entity organized
 11 | to achieve efficiencies and economies, while providing service
 12 | to policyholders, applicants, and agents that is no less than
 13 | the quality generally provided in the voluntary market, all
 14 | toward the achievement of the foregoing public purposes.
 15 | Because it is essential for the corporation to have the
 16 | maximum financial resources to pay claims following a
 17 | catastrophic hurricane, it is the intent of the Legislature
 18 | that the income of the corporation be exempt from federal
 19 | income taxation and that interest on the debt obligations
 20 | issued by the corporation be exempt from federal income
 21 | taxation.

22 | 2. The Residential Property and Casualty Joint
 23 | Underwriting Association originally created by this statute
 24 | shall be known, as of July 1, 2002, as the Citizens Property
 25 | Insurance Corporation. The corporation shall provide insurance
 26 | for residential and commercial property, for applicants who
 27 | are in good faith entitled, but are unable, to procure
 28 | insurance through the voluntary market. The corporation shall
 29 | operate pursuant to a plan of operation approved by order of
 30 | the Financial Services Commission ~~office~~. The plan is subject
 31 | to continuous review by the commission ~~office~~. The commission

1 ~~office~~ may, by order, withdraw approval of all or part of a
 2 plan if the commission ~~office~~ determines that conditions have
 3 changed since approval was granted and that the purposes of
 4 the plan require changes in the plan. The corporation shall
 5 continue to operate pursuant to the plan of operation approved
 6 by the Office of Insurance Regulation until October 1, 2006.
 7 For the purposes of this subsection, residential coverage
 8 includes both personal lines residential coverage, which
 9 consists of the type of coverage provided by homeowner's,
 10 mobile home owner's, dwelling, tenant's, condominium unit
 11 owner's, and similar policies, and commercial lines
 12 residential coverage, which consists of the type of coverage
 13 provided by condominium association, apartment building, and
 14 similar policies.

15 3. For the purposes of this subsection, the term
 16 "homestead property" means:

17 a. Property that has been granted a homestead
 18 exemption under chapter 196;

19 b. Property for which the owner has a current, written
 20 lease with a renter for a term of at least 6 months and for
 21 which the dwelling is insured by the corporation for \$200,000
 22 or less;

23 c. An owner-occupied mobile home or manufactured home,
 24 as defined in s. 320.01, which is permanently affixed to real
 25 property, is owned by a Florida resident, and has been granted
 26 a homestead exemption under chapter 196 or, if the owner does
 27 not own the real property, the owner certifies that the mobile
 28 home or manufactured home is his or her principal place of
 29 residence.

30 d. Tenants coverage; or

31 e. Commercial lines coverage, including both

1 residential and nonresidential.

2 4. For the purposes of this subsection, the term
3 "nonhomestead property" means property that is not homestead
4 property.

5 5. Effective July 1, 2011, a personal lines
6 residential structure with a dwelling replacement cost of \$1
7 million or more, or a single condominium unit with combined
8 dwelling and content replacement cost of \$1 million or more,
9 is not eligible for coverage by the corporation.

10 ~~6.3~~ It is the intent of the Legislature that
11 policyholders, applicants, and agents of the corporation
12 receive service and treatment of the highest possible level
13 but never less than that generally provided in the voluntary
14 market. It also is intended that the corporation be held to
15 service standards no less than those applied to insurers in
16 the voluntary market by the office with respect to
17 responsiveness, timeliness, customer courtesy, and overall
18 dealings with policyholders, applicants, or agents of the
19 corporation.

20 (b)1. All insurers authorized to write one or more
21 subject lines of business in this state are subject to
22 assessment by the corporation and, for the purposes of this
23 subsection, are referred to collectively as "assessable
24 insurers." Insurers writing one or more subject lines of
25 business in this state pursuant to part VIII of chapter 626
26 are not assessable insurers, but insureds who procure one or
27 more subject lines of business in this state pursuant to part
28 VIII of chapter 626 are subject to assessment by the
29 corporation and are referred to collectively as "assessable
30 insureds." An authorized insurer's assessment liability shall
31 begin on the first day of the calendar year following the year

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1 in which the insurer was issued a certificate of authority to
 2 transact insurance for subject lines of business in this state
 3 and shall terminate 1 year after the end of the first calendar
 4 year during which the insurer no longer holds a certificate of
 5 authority to transact insurance for subject lines of business
 6 in this state.

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

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

20 (II) A commercial lines account for commercial
 21 residential policies issued by the corporation or issued by
 22 the Residential Property and Casualty Joint Underwriting
 23 Association and renewed by the corporation that provide
 24 coverage for basic property perils on risks that are not
 25 located in areas eligible for coverage in the Florida
 26 Windstorm Underwriting Association as those areas were defined
 27 on January 1, 2002, and for such policies that do not provide
 28 coverage for the peril of wind on risks that are located in
 29 such areas; and

30 (III) A high-risk account for personal residential
 31 policies and commercial residential and commercial

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1 nonresidential property policies issued by the corporation or
2 transferred to the corporation that provide coverage for the
3 peril of wind on risks that are located in areas eligible for
4 coverage in the Florida Windstorm Underwriting Association as
5 those areas were defined on January 1, 2002. The high-risk
6 account must also include quota share primary insurance under
7 subparagraph (c)2. The area eligible for coverage under the
8 high-risk account also includes the area within Port
9 Canaveral, which is bordered on the south by the City of Cape
10 Canaveral, bordered on the west by the Banana River, and
11 bordered on the north by Federal Government property. The
12 office may remove territory from the area eligible for
13 wind-only and quota share coverage if, after a public hearing,
14 the office finds that authorized insurers in the voluntary
15 market are willing and able to write sufficient amounts of
16 personal and commercial residential coverage for all perils in
17 the territory, including coverage for the peril of wind, such
18 that risks covered by wind-only policies in the removed
19 territory could be issued a policy by the corporation in
20 either the personal lines or commercial lines account without
21 a significant increase in the corporation's probable maximum
22 loss in such account. Removal of territory from the area
23 eligible for wind-only or quota share coverage does not alter
24 the assignment of wind coverage written in such areas to the
25 high-risk account.

26 b. The three separate accounts must be maintained as
27 long as financing obligations entered into by the Florida
28 Windstorm Underwriting Association or Residential Property and
29 Casualty Joint Underwriting Association are outstanding, in
30 accordance with the terms of the corresponding financing
31 documents. When the financing obligations are no longer

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1 outstanding, in accordance with the terms of the corresponding
 2 financing documents, the corporation may use a single account
 3 for all revenues, assets, liabilities, losses, and expenses of
 4 the corporation. Consistent with the requirement of this
 5 subparagraph and prudent investment policies that minimize the
 6 cost of carrying debt, the board shall exercise its best
 7 efforts to retire existing debt or to obtain approval of
 8 necessary parties to amend the terms of existing debt, so as
 9 to structure the most efficient plan to consolidate the three
 10 separate accounts into a single account. By February 1, 2007,
 11 the board shall submit a report to the Financial Services
 12 Commission, the President of the Senate, and the Speaker of
 13 the House of Representatives which includes an analysis of
 14 consolidating the accounts, the actions the board has taken to
 15 minimize the cost of carrying debt, and its recommendations
 16 for executing the most efficient plan.

17 c. Creditors of the Residential Property and Casualty
 18 Joint Underwriting Association shall have a claim against, and
 19 recourse to, the accounts referred to in sub-sub-subparagraphs
 20 a.(I) and (II) and shall have no claim against, or recourse
 21 to, the account referred to in sub-sub-subparagraph a.(III).
 22 Creditors of the Florida Windstorm Underwriting Association
 23 shall have a claim against, and recourse to, the account
 24 referred to in sub-sub-subparagraph a.(III) and shall have no
 25 claim against, or recourse to, the accounts referred to in
 26 sub-sub-subparagraphs a.(I) and (II).

27 d. Revenues, assets, liabilities, losses, and expenses
 28 not attributable to particular accounts shall be prorated
 29 among the accounts.

30 e. The Legislature finds that the revenues of the
 31 corporation are revenues that are necessary to meet the

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1 requirements set forth in documents authorizing the issuance
2 of bonds under this subsection.

3 f. No part of the income of the corporation may inure
4 to the benefit of any private person.

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

6 a. When the deficit incurred in a particular calendar
7 year is not greater than 10 percent of the aggregate statewide
8 direct written premium for the subject lines of business for
9 the prior calendar year, the entire deficit shall be recovered
10 through regular assessments of assessable insurers under
11 paragraph(p) ~~(g)~~ and assessable insureds.

12 b. When the deficit incurred in a particular calendar
13 year exceeds 10 percent of the aggregate statewide direct
14 written premium for the subject lines of business for the
15 prior calendar year, the corporation shall levy regular
16 assessments on assessable insurers under paragraph(p) ~~(g)~~ and
17 on assessable insureds in an amount equal to the greater of 10
18 percent of the deficit or 10 percent of the aggregate
19 statewide direct written premium for the subject lines of
20 business for the prior calendar year. Any remaining deficit
21 shall be recovered through emergency assessments under
22 sub-subparagraph d.

23 c. Each assessable insurer's share of the amount being
24 assessed under sub-subparagraph a. or sub-subparagraph b.
25 shall be in the proportion that the assessable insurer's
26 direct written premium for the subject lines of business for
27 the year preceding the assessment bears to the aggregate
28 statewide direct written premium for the subject lines of
29 business for that year. The assessment percentage applicable
30 to each assessable insured is the ratio of the amount being
31 assessed under sub-subparagraph a. or sub-subparagraph b. to

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1 the aggregate statewide direct written premium for the subject
2 lines of business for the prior year. Assessments levied by
3 the corporation on assessable insurers under sub-subparagraphs
4 a. and b. shall be paid as required by the corporation's plan
5 of operation and paragraph(p) ~~(s)~~. Notwithstanding any other
6 provision of this subsection, the aggregate amount of a
7 regular assessment for a deficit incurred in a particular
8 calendar year shall be reduced by the estimated amount to be
9 received by the corporation from surcharges on corporation
10 policyholders under subparagraph (c)11. Assessments levied by
11 the corporation on assessable insureds under sub-subparagraphs
12 a. and b. shall be collected by the surplus lines agent at the
13 time the surplus lines agent collects the surplus lines tax
14 required by s. 626.932 and shall be paid to the Florida
15 Surplus Lines Service Office at the time the surplus lines
16 agent pays the surplus lines tax to the Florida Surplus Lines
17 Service Office. Upon receipt of regular assessments from
18 surplus lines agents, the Florida Surplus Lines Service Office
19 shall transfer the assessments directly to the corporation as
20 determined by the corporation.

21 d. Upon a determination by the board of governors that
22 a deficit in an account exceeds the amount that will be
23 recovered through regular assessments under sub-subparagraph
24 a. or sub-subparagraph b., the board shall levy, after
25 verification by the office, emergency assessments, for as many
26 years as necessary to cover the deficits, to be collected by
27 assessable insurers and the corporation and collected from
28 assessable insureds upon issuance or renewal of policies for
29 subject lines of business, excluding National Flood Insurance
30 policies. The amount of the emergency assessment collected in
31 a particular year shall be a uniform percentage of that year's

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

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1 with financing the original deficit.

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

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

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

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

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

26 1. Must provide for adoption of residential property
27 and casualty insurance policy forms and commercial residential
28 and nonresidential property insurance forms, which forms must
29 be approved by the office prior to use. The corporation shall
30 adopt the following policy forms:

31 a. Standard personal lines policy forms that are

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1 comprehensive multiperil policies providing full coverage of a
2 residential property equivalent to the coverage provided in
3 the private insurance market under an HO-3, HO-4, or HO-6
4 policy.

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

10 c. Commercial lines residential policy forms that are
11 generally similar to the basic perils of full coverage
12 obtainable for commercial residential structures in the
13 admitted voluntary market.

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

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

24 f. The corporation may adopt variations of the policy
25 forms listed in sub-subparagraphs a.-e. that contain more
26 restrictive coverage.

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

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1 cover the peril of wind only. As used in this subsection, the
2 term:

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

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

31 b. The corporation may enter into quota share primary

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1 insurance agreements with authorized insurers at corporation
2 coverage levels of 90 percent and 50 percent.

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

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

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

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

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1 insurer shall each maintain duplicate copies of policy
2 declaration pages and supporting claims documents.

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

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

22 3. May provide that the corporation may employ or
23 otherwise contract with individuals or other entities to
24 provide administrative or professional services that may be
25 appropriate to effectuate the plan. The corporation shall have
26 the power to borrow funds, by issuing bonds or by incurring
27 other indebtedness, and shall have other powers reasonably
28 necessary to effectuate the requirements of this subsection,
29 including, without limitation, the power to issue bonds and
30 incur other indebtedness in order to refinance outstanding
31 bonds or other indebtedness. The corporation may, but is not

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1 required to, seek judicial validation of its bonds or other
2 indebtedness under chapter 75. The corporation may issue bonds
3 or incur other indebtedness, or have bonds issued on its
4 behalf by a unit of local government pursuant to subparagraph
5 (g)2., in the absence of a hurricane or other weather-related
6 event, upon a determination by the corporation, subject to
7 approval by the office, that such action would enable it to
8 efficiently meet the financial obligations of the corporation
9 and that such financings are reasonably necessary to
10 effectuate the requirements of this subsection. The
11 corporation is authorized to take all actions needed to
12 facilitate tax-free status for any such bonds or indebtedness,
13 including formation of trusts or other affiliated entities.
14 The corporation shall have the authority to pledge
15 assessments, projected recoveries from the Florida Hurricane
16 Catastrophe Fund, other reinsurance recoverables, market
17 equalization and other surcharges, and other funds available
18 to the corporation as security for bonds or other
19 indebtedness. In recognition of s. 10, Art. I of the State
20 Constitution, prohibiting the impairment of obligations of
21 contracts, it is the intent of the Legislature that no action
22 be taken whose purpose is to impair any bond indenture or
23 financing agreement or any revenue source committed by
24 contract to such bond or other indebtedness.

25 4.a. Must require that the corporation operate subject
26 to the supervision and approval of a board of governors
27 consisting of 8 individuals who are residents of this state,
28 from different geographical areas of this state. The Governor,
29 the Chief Financial Officer, the President of the Senate, and
30 the Speaker of the House of Representatives shall each appoint
31 two members of the board, ~~effective August 1, 2005~~. At least

1 one of the two members appointed by each appointing officer
2 must have demonstrated expertise in insurance. The Chief
3 Financial Officer shall designate one of the appointees as
4 chair. All board members serve at the pleasure of the
5 appointing officer. All board members, including the chair,
6 must be appointed to serve for 3-year terms beginning annually
7 on a date designated by the plan. Any board vacancy shall be
8 filled for the unexpired term by the appointing officer. The
9 Chief Financial Officer shall appoint a technical advisory
10 group to provide information and advice to the board of
11 governors in connection with the board's duties under this
12 subsection. The executive director and senior managers of the
13 corporation shall be engaged by the board, ~~as recommended by~~
14 ~~the Chief Financial Officer~~, and serve at the pleasure of the
15 board. Any executive director appointed on or after July 1,
16 2006, is subject to confirmation by the Senate. The executive
17 director is responsible for employing other staff as the
18 corporation may require, subject to review and concurrence by
19 the board ~~and the Chief Financial Officer.~~

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

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

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

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

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1 under subparagraph 8. The corporation shall determine the type
2 of policy to be provided on the basis of objective standards
3 specified in the underwriting manual and based on generally
4 accepted underwriting practices.

5 (I) If the risk accepts an offer of coverage through
6 the market assistance plan or an offer of coverage through a
7 mechanism established by the corporation before a policy is
8 issued to the risk by the corporation or during the first 30
9 days of coverage by the corporation, and the producing agent
10 who submitted the application to the plan or to the
11 corporation is not currently appointed by the insurer, the
12 insurer shall:

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

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

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

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

31 (A) Pay to the producing agent of record of the

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1 corporation policy, for the first year, an amount that is the
 2 greater of the insurer's usual and customary commission for
 3 the type of policy written or a fee equal to the usual and
 4 customary commission of the corporation; or

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

10

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

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

21 (I) If the risk accepts an offer of coverage through
 22 the market assistance plan or an offer of coverage through a
 23 mechanism established by the corporation before a policy is
 24 issued to the risk by the corporation or during the first 30
 25 days of coverage by the corporation, and the producing agent
 26 who submitted the application to the plan or the corporation
 27 is not currently appointed by the insurer, the insurer shall:

28 (A) Pay to the producing agent of record of the
 29 policy, for the first year, an amount that is the greater of
 30 the insurer's usual and customary commission for the type of
 31 policy written or a fee equal to the usual and customary

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1 commission of the corporation; or

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

7

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

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

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

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

25

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

29 6. Must provide by July 1, 2007, that an application
30 for coverage for a new policy is subject to a waiting period
31 of 10 days before coverage is effective, during which time the

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1 corporation shall make such application available for review
 2 by general lines agents and authorized property and casualty
 3 insurers. The board may approve exceptions that allow for
 4 coverage to be effective before the end of the 10-day waiting
 5 period, for coverage issued in conjunction with a real estate
 6 closing, and for such other exceptions as the board determines
 7 are necessary to prevent lapses in coverage.

8 ~~7.6.~~ Must include rules for classifications of risks
 9 and rates therefor.

10 ~~8.7.~~ Must provide that if premium and investment
 11 income for an account attributable to a particular calendar
 12 year are in excess of projected losses and expenses for the
 13 account attributable to that year, such excess shall be held
 14 in surplus in the account. Such surplus shall be available to
 15 defray deficits in that account as to future years and shall
 16 be used for that purpose prior to assessing assessable
 17 insurers and assessable insureds as to any calendar year.

18 ~~9.8.~~ Must provide objective criteria and procedures to
 19 be uniformly applied for all applicants in determining whether
 20 an individual risk is so hazardous as to be uninsurable. In
 21 making this determination and in establishing the criteria and
 22 procedures, the following shall be considered:

23 a. Whether the likelihood of a loss for the individual
 24 risk is substantially higher than for other risks of the same
 25 class; and

26 b. Whether the uncertainty associated with the
 27 individual risk is such that an appropriate premium cannot be
 28 determined.

29
 30 The acceptance or rejection of a risk by the corporation shall
 31 be construed as the private placement of insurance, and the

1 provisions of chapter 120 shall not apply.

2 ~~10.9.~~ Must provide that the corporation shall make its
3 best efforts to procure catastrophe reinsurance at reasonable
4 rates, to cover its projected 100-year probable maximum loss
5 as determined by the board of governors.

6 ~~11.10.~~ Must provide that in the event of regular
7 deficit assessments under sub-subparagraph (b)3.a. or
8 sub-subparagraph (b)3.b., in the personal lines account, the
9 commercial lines residential account, or the high-risk
10 account, the corporation shall levy upon corporation
11 policyholders in its next rate filing, or by a separate rate
12 filing solely for this purpose, the following surcharges:

13 a. A Citizens policyholder market equalization
14 surcharge arising from a regular assessment in such account in
15 a percentage equal to the total amount of such regular
16 assessments divided by the aggregate statewide direct written
17 premium for subject lines of business for the prior calendar
18 year. For purposes of calculating the Citizens policyholder
19 surcharge to be levied under this subparagraph, the total
20 amount of the regular assessment to which this surcharge is
21 related shall be determined as set forth in subparagraph
22 (b)3., without deducting the estimated Citizens policyholder
23 surcharge. Market equalization surcharges under this
24 subparagraph are not considered premium and are not subject to
25 commissions, fees, or premium taxes; however, failure to pay a
26 market equalization surcharge shall be treated as failure to
27 pay premium.

28 b. A deficit surcharge of 25 percent of the total
29 premium on nonhomestead property owned by a nonresident of
30 this state.

31

1 Surcharges under this subparagraph are not considered a
 2 premium and are not subject to commissions, fees, or premium
 3 taxes; however, failure to pay a surcharge shall be treated in
 4 the same manner as failure to pay premium.

5 ~~12.11.~~ The policies issued by the corporation must
 6 provide that, if the corporation or the market assistance plan
 7 obtains an offer from an authorized insurer to cover the risk
 8 at its approved rates, the risk is no longer eligible for
 9 renewal through the corporation.

10 ~~13.12.~~ Corporation policies and applications must
 11 include a notice that the corporation policy could, under this
 12 section, be replaced with a policy issued by an authorized
 13 insurer that does not provide coverage identical to the
 14 coverage provided by the corporation. The notice shall also
 15 specify that acceptance of corporation coverage creates a
 16 conclusive presumption that the applicant or policyholder is
 17 aware of this potential.

18 ~~14.13.~~ May establish, subject to approval by the
 19 office, different eligibility requirements and operational
 20 procedures for any line or type of coverage for any specified
 21 county or area if the board determines that such changes to
 22 the eligibility requirements and operational procedures are
 23 justified due to the voluntary market being sufficiently
 24 stable and competitive in such area or for such line or type
 25 of coverage and that consumers who, in good faith, are unable
 26 to obtain insurance through the voluntary market through
 27 ordinary methods would continue to have access to coverage
 28 from the corporation. When coverage is sought in connection
 29 with a real property transfer, such requirements and
 30 procedures shall not provide for an effective date of coverage
 31 later than the date of the closing of the transfer as

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1 established by the transferor, the transferee, and, if
2 applicable, the lender.

3 ~~15.14.~~ Must provide that, with respect to the
4 high-risk account, any assessable insurer with a surplus as to
5 policyholders of \$25 million or less writing 25 percent or
6 more of its total countrywide property insurance premiums in
7 this state may petition the office, within the first 90 days
8 of each calendar year, to qualify as a limited apportionment
9 company. A regular assessment levied by the corporation on a
10 limited apportionment company for a deficit incurred by the
11 corporation for the high-risk account in 2006 or thereafter
12 may be paid to the corporation on a monthly basis as the
13 assessments are collected by the limited apportionment company
14 from its insureds pursuant to s. 627.3512, but the regular
15 assessment must be paid in full within 12 months after being
16 levied by the corporation. ~~In no event shall a limited~~
17 ~~apportionment company be required to participate in the~~
18 ~~portion of any assessment, within the high-risk account,~~
19 ~~pursuant to sub-subparagraph (b)3.a. or sub-subparagraph~~
20 ~~(b)3.b. in the aggregate which exceeds \$50 million after~~
21 ~~payment of available high-risk account funds in any calendar~~
22 ~~year. However,~~ A limited apportionment company shall collect
23 from its policyholders any emergency assessment imposed under
24 sub-subparagraph (b)3.d. The plan shall provide that, if the
25 office determines that any regular assessment will result in
26 an impairment of the surplus of a limited apportionment
27 company, the office may direct that all or part of such
28 assessment be deferred as provided in subparagraph (g)4.
29 However, there shall be no limitation or deferment of an
30 emergency assessment to be collected from policyholders under
31 sub-subparagraph (b)3.d.

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1 ~~16.15.~~ Must provide that the corporation appoint as
 2 its licensed agents only those agents who also hold an
 3 appointment as defined in s. 626.015(3) with an insurer who at
 4 the time of the agent's initial appointment by the corporation
 5 is authorized to write and is actually writing personal lines
 6 residential property coverage, commercial residential property
 7 coverage, or commercial nonresidential property coverage
 8 within the state.

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

12 18. Must provide, effective July 1, 2007, that the
 13 corporation contract with each insurer providing the non-wind
 14 coverage for risks insured by the corporation in the high-risk
 15 account, requiring that the insurer provide claims-adjusting
 16 services for the wind coverage provided by the corporation for
 17 such risks. An insurer is required to enter into this contract
 18 as a condition of providing non-wind coverage for a risk that
 19 is insured by the corporation in the high-risk account unless
 20 the board finds, after a hearing, that the insurer is not
 21 capable of providing adjusting services at an acceptable level
 22 of quality to corporation policyholders. The terms and
 23 conditions of such contracts must be substantially the same as
 24 the contracts that the corporation executed with insurers
 25 under the "adjust-your-own" program in 2006, except as may be
 26 mutually agreed to by the parties and except for such changes
 27 that the board determines are necessary to ensure that claims
 28 are adjusted appropriately. The corporation shall provide a
 29 process for neutral arbitration of any dispute between the
 30 corporation and the insurer regarding the terms of the
 31 contract. The corporation shall review and monitor the

1 performance of insurers under these contracts.

2 19. Must limit coverage on mobile homes or
3 manufactured homes built prior to 1994 to actual cash value of
4 the dwelling rather than replacement costs of the dwelling.

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

10 2. On or before July 1 of each year, employees of the
11 corporation are required to sign and submit a statement
12 attesting that they do not have a conflict of interest, as
13 defined in part III of chapter 112. As a condition of
14 employment, all prospective employees are required to sign and
15 submit to the corporation a conflict-of-interest statement.

16 3. Senior managers and members of the board of
17 governors are subject to the provisions of part III of chapter
18 112, including, but not limited to, the code of ethics and
19 public disclosure and reporting of financial interests,
20 pursuant to s. 112.3145. Senior managers and board members are
21 also required to file such disclosures with the Office of
22 Insurance Regulation. The executive director of the
23 corporation or his or her designee shall notify each newly
24 appointed and existing appointed member of the board of
25 governors and senior managers of their duty to comply with the
26 reporting requirements of part III of chapter 112. At least
27 quarterly, the executive director or his or her designee shall
28 submit to the Commission on Ethics a list of names of the
29 senior managers and members of the board of governors that are
30 subject to the public disclosure requirements under s.
31 112.3145.

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1 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
 2 other provision of law, an employee or board member may not
 3 knowingly accept, directly or indirectly, any gift or
 4 expenditure from a person or entity, or an employee or
 5 representative of such person or entity, that has a
 6 contractual relationship with the corporation or who is under
 7 consideration for a contract. An employee or board member that
 8 fails to comply with this subparagraph is subject to penalties
 9 provided under ss. 112.317 and 112.3173.

10 5. Any senior manager of the corporation who is
 11 employed on or after January 1, 2007, regardless of the date
 12 of hire, who subsequently retires or terminates employment is
 13 prohibited from representing another person or entity before
 14 the corporation for 2 years after retirement or termination of
 15 employment from the corporation.

16 6. Any employee of the corporation who is employed on
 17 or after January 1, 2007, regardless of the date of hire, who
 18 subsequently retires or terminates employment is prohibited
 19 from having any employment or contractual relationship for 2
 20 years with an insurer that has received a take-out bonus from
 21 the corporation.

22 (e) Purchases that equal or exceed \$2,500, but are
 23 less than \$25,000, shall be made by receipt of written quotes,
 24 written record of telephone quotes, or informal bids, whenever
 25 practical. The procurement of goods or services valued at or
 26 over \$25,000 shall be subject to competitive solicitation,
 27 except in situations where the goods or services are provided
 28 by a sole source or are deemed an emergency purchase; the
 29 services are exempted from competitive solicitation
 30 requirements under s. 287.057(5)(f); or the procurement of
 31 services is subject to s. 627.3513. Justification for the

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1 sole-sourcing or emergency procurement must be documented.
2 Contracts for goods or services valued at or over \$100,000 are
3 subject to approval by the board.

4 (f) The board shall determine whether it is more
5 cost-effective and in the best interests of the corporation to
6 use legal services provided by in-house attorneys employed by
7 the corporation rather than contracting with outside counsel.
8 In making such determination, the board shall document its
9 findings and shall consider: the expertise needed; whether
10 time commitments exceed in-house staff resources; whether
11 local representation is needed; the travel, lodging and other
12 costs associated with in-house representation; and such other
13 factors that the board determines are relevant.

14 (g) The corporation may not retain a lobbyist to
15 represent it before the legislative branch or executive
16 branch. However, full-time employees of the corporation may
17 register as lobbyists and represent the corporation before the
18 legislative branch or executive branch.

19 (h)1. The Office of the Internal Auditor is
20 established within the corporation to provide a central point
21 for coordination of and responsibility for activities that
22 promote accountability, integrity, and efficiency to the
23 policyholders and to the taxpayers of this state. The internal
24 auditor shall be appointed by the board of governors, shall
25 report to and be under the general supervision of the board of
26 governors, and is not subject to supervision by any employee
27 of the corporation. Administrative staff and support shall be
28 provided by the corporation. The internal auditor shall be
29 appointed without regard to political affiliation. It is the
30 duty and responsibility of the internal auditor to:

31 a. Provide direction for, supervise, conduct, and

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1 coordinate audits, investigations, and management reviews
2 relating to the programs and operations of the corporation.

3 b. Conduct, supervise, or coordinate other activities
4 carried out or financed by the corporation for the purpose of
5 promoting efficiency in the administration of, or preventing
6 and detecting fraud, abuse, and mismanagement in, its programs
7 and operations.

8 c. Submit final audit reports, reviews, or
9 investigative reports to the board of governors, the executive
10 director, the members of the Financial Services Commission,
11 and the President of the Senate and the Speaker of the House
12 of Representatives.

13 d. Keep the board of governors informed concerning
14 fraud, abuses, and internal control deficiencies relating to
15 programs and operations administered or financed by the
16 corporation, recommend corrective action, and report on the
17 progress made in implementing corrective action.

18 e. Report expeditiously to the Department of Law
19 Enforcement or other law enforcement agencies, as appropriate,
20 whenever the internal auditor has reasonable grounds to
21 believe there has been a violation of criminal law.

22 2. On or before February 15, the internal auditor
23 shall prepare an annual report evaluating the effectiveness of
24 the internal controls of the corporation and providing
25 recommendations for corrective action, if necessary, and
26 summarizing the audits, reviews, and investigations conducted
27 by the office during the preceding fiscal year. The final
28 report shall be furnished to the board of governors and the
29 executive director, the President of the Senate, the Speaker
30 of the House of Representatives, and the Financial Services
31 Commission.

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1 (i) All records of the corporation, except as
2 otherwise provided by law, are subject to the record retention
3 requirements of s. 119.021.

4 (j)1. The corporation shall establish and maintain a
5 unit or division to investigate possible fraudulent claims by
6 insureds or by persons making claims for services or repairs
7 against policies held by insureds; or it may contract with
8 others to investigate possible fraudulent claims for services
9 or repairs against policies held by the corporation pursuant
10 to s. 626.9891. The corporation must comply with reporting
11 requirements of s. 626.9891. An employee of the corporation
12 shall notify the Division of Insurance Fraud within 48 hours
13 after having information that would lead a reasonable person
14 to suspect that fraud may have been committed by any employee
15 of the corporation.

16 2. The corporation shall establish a unit or division
17 responsible for receiving and responding to consumer
18 complaints, which unit or division is the sole responsibility
19 of a senior manager of the corporation.

20 (k) The office shall conduct a comprehensive market
21 conduct examination of the corporation every 2 years to
22 determine compliance with its plan of operation and internal
23 operations procedures. The first market conduct examination
24 report shall be submitted to the President of the Senate and
25 the Speaker of the House of Representatives no later than
26 February 1, 2009. Subsequent reports shall be submitted on or
27 before February 1 every 2 years thereafter.

28 (l) The Auditor General shall conduct an operational
29 audit of the corporations every 3 years to evaluate
30 management's performance in administering laws, policies, and
31 procedures governing the operations of the corporation in an

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1 efficient and effective manner. The scope of the review shall
 2 include, but is not limited to, evaluating claims handling,
 3 customer service, take-out programs and bonuses, financing
 4 arrangements, procurement of goods and services, internal
 5 controls, and the internal audit function. The initial audit
 6 must be completed by February 1, 2009.

7 ~~(m)(d)~~1. ~~It is the intent of the Legislature that the~~
 8 Rates for coverage provided by the corporation shall be
 9 actuarially sound and not competitive with approved rates
 10 charged in the admitted voluntary market, so that the
 11 corporation functions as a residual market mechanism to
 12 provide insurance only when the insurance cannot be procured
 13 in the voluntary market. Rates shall include an appropriate
 14 catastrophe loading factor that reflects the actual
 15 catastrophic exposure of the corporation.

16 2. For each county, the average rates of the
 17 corporation for each line of business for personal lines
 18 residential policies excluding rates for wind-only policies
 19 shall be no lower than the average rates charged by the
 20 insurer that had the highest average rate in that county among
 21 the 20 insurers with the greatest total direct written premium
 22 in the state for that line of business in the preceding year,
 23 except that with respect to mobile home coverages, the average
 24 rates of the corporation shall be no lower than the average
 25 rates charged by the insurer that had the highest average rate
 26 in that county among the 5 insurers with the greatest total
 27 written premium for mobile home owner's policies in the state
 28 in the preceding year.

29 3. Rates for personal lines residential wind-only
 30 policies must be actuarially sound and not competitive with
 31 approved rates charged by authorized insurers. If the filing

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1 under this subparagraph is made at least 90 days before the
2 proposed effective date and the filing is not implemented
3 during the office's review of the filing and any proceeding
4 and judicial review, such filing shall be considered a file
5 and use filing. In such case, the office shall finalize its
6 review by issuance of a notice of intent to approve or a
7 notice of intent to disapprove within 90 days after receipt of
8 the filing. The notice of intent to approve and the notice of
9 intent to disapprove constitute agency action for purposes of
10 the Administrative Procedure Act. Requests for supporting
11 information, requests for mathematical or mechanical
12 corrections, or notification to the insurer by the office of
13 its preliminary findings shall not toll the 90-day period
14 during any such proceedings and subsequent judicial review.
15 The rate shall be deemed approved if the office does not issue
16 a notice of intent to approve or a notice of intent to
17 disapprove within 90 days after receipt of the filing.

18 Corporation rate manuals shall include a rate surcharge for
19 seasonal occupancy. To ensure that personal lines residential
20 wind-only rates are not competitive with approved rates
21 charged by authorized insurers, the corporation, in
22 conjunction with the office, shall develop a wind-only
23 ratemaking methodology, which methodology shall be contained
24 in each rate filing made by the corporation with the office.
25 If the office determines that the wind-only rates or rating
26 factors filed by the corporation fail to comply with the
27 wind-only ratemaking methodology provided for in this
28 subsection, it shall so notify the corporation and require the
29 corporation to amend its rates or rating factors to come into
30 compliance within 90 days of notice from the office.

31 4.a. For policies issued or renewed on or after

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1 January 1, 2007, rates for coverage provided by the
2 corporation for nonhomestead property shall include a
3 25-percent surcharge.

4 b. For policies issued or renewed on or after January
5 1, 2007, rates for coverage provided by the corporation in the
6 high-risk account shall include a 25-percent surcharge for a
7 personal lines residential structure with a dwelling
8 replacement cost of \$1 million or more or for a single
9 condominium unit with a combined dwelling and content
10 replacement cost of \$1 million or more.

11 5. The requirements of paragraph (m) that rates not be
12 competitive with approved rates charged by authorized insurers
13 do not apply in a county or area for which the office
14 determines that no authorized insurer is offering coverage.
15 The corporation shall amend its rates or rating factors for
16 the affected county or area in conjunction with its next rate
17 filing after such determination is made.

18 ~~6.4.~~ For the purposes of establishing a pilot program
19 to evaluate issues relating to the availability and
20 affordability of insurance in an area where historically there
21 has been little market competition, the provisions of
22 subparagraph 2. do not apply to coverage provided by the
23 corporation in Monroe County if the office determines that a
24 reasonable degree of competition does not exist for personal
25 lines residential policies. The provisions of subparagraph 3.
26 do not apply to coverage provided by the corporation in Monroe
27 County if the office determines that a reasonable degree of
28 competition does not exist for personal lines residential
29 policies in the area of that county which is eligible for
30 wind-only coverage. In this county, the rates for personal
31 lines residential coverage shall be actuarially sound and not

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1 excessive, inadequate, or unfairly discriminatory and are
 2 subject to the other provisions of the paragraph and s.
 3 627.062. The commission shall adopt rules establishing the
 4 criteria for determining whether a reasonable degree of
 5 competition exists for personal lines residential policies in
 6 Monroe County. By March 1, 2006, the office shall submit a
 7 report to the Legislature providing an evaluation of the
 8 implementation of the pilot program affecting Monroe County.

9 ~~7.5.~~ Rates for commercial lines coverage shall not be
 10 subject to the requirements of subparagraph 2., but shall be
 11 subject to all other requirements of this paragraph and s.
 12 627.062.

13 ~~8.6.~~ Nothing in this paragraph shall require or allow
 14 the corporation to adopt a rate that is inadequate under s.
 15 627.062.

16 ~~9.7.~~ The corporation shall certify to the office at
 17 least twice annually that its personal lines rates comply with
 18 the requirements of subparagraphs 1. and 2. If any adjustment
 19 in the rates or rating factors of the corporation is necessary
 20 to ensure such compliance, the corporation shall make and
 21 implement such adjustments and file its revised rates and
 22 rating factors with the office. If the office thereafter
 23 determines that the revised rates and rating factors fail to
 24 comply with the provisions of subparagraphs 1. and 2., it
 25 shall notify the corporation and require the corporation to
 26 amend its rates or rating factors in conjunction with its next
 27 rate filing. The office must notify the corporation by
 28 electronic means of any rate filing it approves for any
 29 insurer among the insurers referred to in subparagraph 2.

30 ~~10.8.~~ In addition to the rates otherwise determined
 31 pursuant to this paragraph, the corporation shall impose and

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1 collect an amount equal to the premium tax provided for in s.
2 624.509 to augment the financial resources of the corporation.

3 ~~9.a. To assist the corporation in developing~~
4 ~~additional ratemaking methods to assure compliance with~~
5 ~~subparagraphs 1. and 4., the corporation shall appoint a rate~~
6 ~~methodology panel consisting of one person recommended by the~~
7 ~~Florida Association of Insurance Agents, one person~~
8 ~~recommended by the Professional Insurance Agents of Florida,~~
9 ~~one person recommended by the Florida Association of Insurance~~
10 ~~and Financial Advisors, one person recommended by the insurer~~
11 ~~with the highest voluntary market share of residential~~
12 ~~property insurance business in the state, one person~~
13 ~~recommended by the insurer with the second-highest voluntary~~
14 ~~market share of residential property insurance business in the~~
15 ~~state, one person recommended by an insurer writing commercial~~
16 ~~residential property insurance in this state, one person~~
17 ~~recommended by the Office of Insurance Regulation, and one~~
18 ~~board member designated by the board chairman, who shall serve~~
19 ~~as chairman of the panel.~~

20 ~~b. By January 1, 2004, the rate methodology panel~~
21 ~~shall provide a report to the corporation of its findings and~~
22 ~~recommendations for the use of additional ratemaking methods~~
23 ~~and procedures, including the use of a rate equalization~~
24 ~~surcharge in an amount sufficient to assure that the total~~
25 ~~cost of coverage for policyholders or applicants to the~~
26 ~~corporation is sufficient to comply with subparagraph 1.~~

27 ~~c. Within 30 days after such report, the corporation~~
28 ~~shall present to the President of the Senate, the Speaker of~~
29 ~~the House of Representatives, the minority party leaders of~~
30 ~~each house of the Legislature, and the chairs of the standing~~
31 ~~committees of each house of the Legislature having~~

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1 ~~jurisdiction of insurance issues, a plan for implementing the~~
2 ~~additional ratemaking methods and an outline of any~~
3 ~~legislation needed to facilitate use of the new methods.~~

4 ~~d. The plan must include a provision that producer~~
5 ~~commissions paid by the corporation shall not be calculated in~~
6 ~~such a manner as to include any rate equalization surcharge.~~
7 ~~However, without regard to the plan to be developed or its~~
8 ~~implementation, producer commissions paid by the corporation~~
9 ~~for each account, other than the quota share primary program,~~
10 ~~shall remain fixed as to percentage, effective rate,~~
11 ~~calculation, and payment method until January 1, 2004.~~

12 11.10. ~~By January 1, 2004,~~ The corporation shall
13 develop a notice to policyholders or applicants that the rates
14 of Citizens Property Insurance Corporation are intended to be
15 higher than the rates of any admitted carrier and providing
16 other information the corporation deems necessary to assist
17 consumers in finding other voluntary admitted insurers willing
18 to insure their property.

19 12. After the public hurricane loss-projection model
20 under s. 627.06281 has been found to be accurate and reliable
21 by the Florida Commission on Hurricane Loss Projection
22 Methodology, that model shall serve as the minimum benchmark
23 for determining the windstorm portion of the corporation's
24 rates. This subparagraph does not require or allow the
25 corporation to adopt rates lower than the rates otherwise
26 required or allowed by this paragraph.

27 ~~(n)(e)~~ If coverage in an account is deactivated
28 pursuant to paragraph (f), coverage through the corporation
29 shall be reactivated by order of the office only under one of
30 the following circumstances:

31 1. If the market assistance plan receives a minimum of

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1 100 applications for coverage within a 3-month period, or 200
 2 applications for coverage within a 1-year period or less for
 3 residential coverage, unless the market assistance plan
 4 provides a quotation from admitted carriers at their filed
 5 rates for at least 90 percent of such applicants. Any market
 6 assistance plan application that is rejected because an
 7 individual risk is so hazardous as to be uninsurable using the
 8 criteria specified in subparagraph (c)8. shall not be included
 9 in the minimum percentage calculation provided herein. In the
 10 event that there is a legal or administrative challenge to a
 11 determination by the office that the conditions of this
 12 subparagraph have been met for eligibility for coverage in the
 13 corporation, any eligible risk may obtain coverage during the
 14 pendency of such challenge.

15 2. In response to a state of emergency declared by the
 16 Governor under s. 252.36, the office may activate coverage by
 17 order for the period of the emergency upon a finding by the
 18 office that the emergency significantly affects the
 19 availability of residential property insurance.

20 ~~(o)(f)~~1. The corporation shall file with the office
 21 quarterly statements of financial condition, an annual
 22 statement of financial condition, and audited financial
 23 statements in the manner prescribed by law. In addition, the
 24 corporation shall report to the office monthly on the types,
 25 premium, exposure, and distribution by county of its policies
 26 in force, and shall submit other reports as the office
 27 requires to carry out its oversight of the corporation.

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

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1 ~~(p)(g)~~1. The corporation shall certify to the office
2 its needs for annual assessments as to a particular calendar
3 year, and for any interim assessments that it deems to be
4 necessary to sustain operations as to a particular year
5 pending the receipt of annual assessments. Upon verification,
6 the office shall approve such certification, and the
7 corporation shall levy such annual or interim assessments.
8 Such assessments shall be prorated as provided in paragraph
9 (b). The corporation shall take all reasonable and prudent
10 steps necessary to collect the amount of assessment due from
11 each assessable insurer, including, if prudent, filing suit to
12 collect such assessment. If the corporation is unable to
13 collect an assessment from any assessable insurer, the
14 uncollected assessments shall be levied as an additional
15 assessment against the assessable insurers and any assessable
16 insurer required to pay an additional assessment as a result
17 of such failure to pay shall have a cause of action against
18 such nonpaying assessable insurer. Assessments shall be
19 included as an appropriate factor in the making of rates. The
20 failure of a surplus lines agent to collect and remit any
21 regular or emergency assessment levied by the corporation is
22 considered to be a violation of s. 626.936 and subjects the
23 surplus lines agent to the penalties provided in that section.

24 2. The governing body of any unit of local government,
25 any residents of which are insured by the corporation, may
26 issue bonds as defined in s. 125.013 or s. 166.101 from time
27 to time to fund an assistance program, in conjunction with the
28 corporation, for the purpose of defraying deficits of the
29 corporation. In order to avoid needless and indiscriminate
30 proliferation, duplication, and fragmentation of such
31 assistance programs, any unit of local government, any

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

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1 extent that the office determines that the purchase would
2 endanger or impair the solvency of the insurer.

3 3.a. The corporation shall adopt one or more programs
4 subject to approval by the office for the reduction of both
5 new and renewal writings in the corporation. Beginning January
6 1, 2008, any program the corporation adopts for the payment of
7 bonuses to an insurer for each risk the insurer removes from
8 the corporation shall comply with s. 627.3511(2) and may not
9 exceed the amount referenced in s. 627.3511(2) for each risk
10 removed. The corporation may consider any prudent and not
11 unfairly discriminatory approach to reducing corporation
12 writings, and may adopt a credit against assessment liability
13 or other liability that provides an incentive for insurers to
14 take risks out of the corporation and to keep risks out of the
15 corporation by maintaining or increasing voluntary writings in
16 counties or areas in which corporation risks are highly
17 concentrated and a program to provide a formula under which an
18 insurer voluntarily taking risks out of the corporation by
19 maintaining or increasing voluntary writings will be relieved
20 wholly or partially from assessments under sub-subparagraphs
21 (b)3.a. and b. However, any "take-out bonus" or payment to an
22 insurer must be conditioned on the property being insured for
23 at least 5 years by the insurer, unless canceled or nonrenewed
24 by the policyholder. If the policy is canceled or nonrenewed
25 by the policyholder before the end of the 5-year period, the
26 amount of the take-out bonus must be prorated for the time
27 period the policy was insured. When the corporation enters
28 into a contractual agreement for a take-out plan, the
29 producing agent of record of the corporation policy is
30 entitled to retain any unearned commission on such policy, and
31 the insurer shall either:

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1 (I) Pay to the producing agent of record of the
 2 policy, for the first year, an amount which is the greater of
 3 the insurer's usual and customary commission for the type of
 4 policy written or a policy fee equal to the usual and
 5 customary commission of the corporation; or

6 (II) Offer to allow the producing agent of record of
 7 the policy to continue servicing the policy for a period of
 8 not less than 1 year and offer to pay the agent the insurer's
 9 usual and customary commission for the type of policy written.
 10 If the producing agent is unwilling or unable to accept
 11 appointment by the new insurer, the new insurer shall pay the
 12 agent in accordance with sub-sub-subparagraph (I).

13 b. Any credit or exemption from regular assessments
 14 adopted under this subparagraph shall last no longer than the
 15 3 years following the cancellation or expiration of the policy
 16 by the corporation. With the approval of the office, the board
 17 may extend such credits for an additional year if the insurer
 18 guarantees an additional year of renewability for all policies
 19 removed from the corporation, or for 2 additional years if the
 20 insurer guarantees 2 additional years of renewability for all
 21 policies so removed.

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

25 4. The plan shall provide for the deferment, in whole
 26 or in part, of the assessment of an assessable insurer, other
 27 than an emergency assessment collected from policyholders
 28 pursuant to sub-subparagraph (b)3.d., if the office finds that
 29 payment of the assessment would endanger or impair the
 30 solvency of the insurer. In the event an assessment against an
 31 assessable insurer is deferred in whole or in part, the amount

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1 | by which such assessment is deferred may be assessed against
2 | the other assessable insurers in a manner consistent with the
3 | basis for assessments set forth in paragraph (b).

4 | 5. Effective July 1, 2007, in order to evaluate the
5 | costs and benefits of approved take-out plans, if the
6 | corporation pays a bonus or other payment to an insurer for an
7 | approved take-out plan, it shall maintain a record of the
8 | address or such other identifying information on the property
9 | or risk removed in order to track if and when the property or
10 | risk is later insured by the corporation.

11 | ~~(g)(h)~~ Nothing in this subsection shall be construed
12 | to preclude the issuance of residential property insurance
13 | coverage pursuant to part VIII of chapter 626.

14 | ~~(r)(i)~~ There shall be no liability on the part of, and
15 | no cause of action of any nature shall arise against, any
16 | assessable insurer or its agents or employees, the corporation
17 | or its agents or employees, members of the board of governors
18 | or their respective designees at a board meeting, corporation
19 | committee members, or the office or its representatives, for
20 | any action taken by them in the performance of their duties or
21 | responsibilities under this subsection. Such immunity does not
22 | apply to:

23 | 1. Any of the foregoing persons or entities for any
24 | willful tort;

25 | 2. The corporation or its producing agents for breach
26 | of any contract or agreement pertaining to insurance coverage;

27 | 3. The corporation with respect to issuance or payment
28 | of debt; or

29 | 4. Any assessable insurer with respect to any action
30 | to enforce an assessable insurer's obligations to the
31 | corporation under this subsection.

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1 ~~(s)(j)~~ For the purposes of s. 199.183(1), the
2 corporation shall be considered a political subdivision of the
3 state and shall be exempt from the corporate income tax. The
4 premiums, assessments, investment income, and other revenue of
5 the corporation are funds received for providing property
6 insurance coverage as required by this subsection, paying
7 claims for Florida citizens insured by the corporation,
8 securing and repaying debt obligations issued by the
9 corporation, and conducting all other activities of the
10 corporation, and shall not be considered taxes, fees,
11 licenses, or charges for services imposed by the Legislature
12 on individuals, businesses, or agencies outside state
13 government. Bonds and other debt obligations issued by or on
14 behalf of the corporation are not to be considered "state
15 bonds" within the meaning of s. 215.58(8). The corporation is
16 not subject to the procurement provisions of chapter 287, and
17 policies and decisions of the corporation relating to
18 incurring debt, levying of assessments and the sale, issuance,
19 continuation, terms and claims under corporation policies, and
20 all services relating thereto, are not subject to the
21 provisions of chapter 120. The corporation is not required to
22 obtain or to hold a certificate of authority issued by the
23 office, nor is it required to participate as a member insurer
24 of the Florida Insurance Guaranty Association. However, the
25 corporation is required to pay, in the same manner as an
26 authorized insurer, assessments pledged by the Florida
27 Insurance Guaranty Association to secure bonds issued or other
28 indebtedness incurred to pay covered claims arising from
29 insurer insolvencies caused by, or proximately related to,
30 hurricane losses. It is the intent of the Legislature that the
31 tax exemptions provided in this paragraph will augment the

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1 financial resources of the corporation to better enable the
 2 corporation to fulfill its public purposes. Any debt
 3 obligations ~~bonds~~ issued by the corporation, their transfer,
 4 and the income therefrom, including any profit made on the
 5 sale thereof, shall at all times be free from taxation of
 6 every kind by the state and any political subdivision or local
 7 unit or other instrumentality thereof; however, this exemption
 8 does not apply to any tax imposed by chapter 220 on interest,
 9 income, or profits on debt obligations owned by corporations
 10 other than the corporation.

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

26 (u)~~(l)~~1. Effective July 1, 2002, policies of the
 27 Residential Property and Casualty Joint Underwriting
 28 Association shall become policies of the corporation. All
 29 obligations, rights, assets and liabilities of the Residential
 30 Property and Casualty Joint Underwriting Association,
 31 including bonds, note and debt obligations, and the financing

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1 documents pertaining to them become those of the corporation
 2 as of July 1, 2002. The corporation is not required to issue
 3 endorsements or certificates of assumption to insureds during
 4 the remaining term of in-force transferred policies.

5 2. Effective July 1, 2002, policies of the Florida
 6 Windstorm Underwriting Association are transferred to the
 7 corporation and shall become policies of the corporation. All
 8 obligations, rights, assets, and liabilities of the Florida
 9 Windstorm Underwriting Association, including bonds, note and
 10 debt obligations, and the financing documents pertaining to
 11 them are transferred to and assumed by the corporation on July
 12 1, 2002. The corporation is not required to issue endorsement
 13 or certificates of assumption to insureds during the remaining
 14 term of in-force transferred policies.

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

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1 the moneys, investments, receivables, choses in action, and
 2 other intangibles of the Florida Windstorm Underwriting
 3 Association shall be credited to the high-risk account of the
 4 corporation, and those of the personal lines residential
 5 coverage account and the commercial lines residential coverage
 6 account of the Residential Property and Casualty Joint
 7 Underwriting Association shall be credited to the personal
 8 lines account and the commercial lines account, respectively,
 9 of the corporation.

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

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

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

16 | (v)~~(m)~~ Notwithstanding any other provision of law:

17 | 1. The pledge or sale of, the lien upon, and the
 18 | security interest in any rights, revenues, or other assets of
 19 | the corporation created or purported to be created pursuant to
 20 | any financing documents to secure any bonds or other
 21 | indebtedness of the corporation shall be and remain valid and
 22 | enforceable, notwithstanding the commencement of and during
 23 | the continuation of, and after, any rehabilitation,
 24 | insolvency, liquidation, bankruptcy, receivership,
 25 | conservatorship, reorganization, or similar proceeding against
 26 | the corporation under the laws of this state.

27 | 2. No such proceeding shall relieve the corporation of
 28 | its obligation, or otherwise affect its ability to perform its
 29 | obligation, to continue to collect, or levy and collect,
 30 | assessments, market equalization or other surcharges under
 31 | subparagraph (c)10., or any other rights, revenues, or other

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1 assets of the corporation pledged pursuant to any financing
2 documents.

3 3. Each such pledge or sale of, lien upon, and
4 security interest in, including the priority of such pledge,
5 lien, or security interest, any such assessments, market
6 equalization or other surcharges, or other rights, revenues,
7 or other assets which are collected, or levied and collected,
8 after the commencement of and during the pendency of, or
9 after, any such proceeding shall continue unaffected by such
10 proceeding. As used in this subsection, the term "financing
11 documents" means any agreement or agreements, instrument or
12 instruments, or other document or documents now existing or
13 hereafter created evidencing any bonds or other indebtedness
14 of the corporation or pursuant to which any such bonds or
15 other indebtedness has been or may be issued and pursuant to
16 which any rights, revenues, or other assets of the corporation
17 are pledged or sold to secure the repayment of such bonds or
18 indebtedness, together with the payment of interest on such
19 bonds or such indebtedness, or the payment of any other
20 obligation or financial product, as defined in the plan of
21 operation of the corporation related to such bonds or
22 indebtedness.

23 4. Any such pledge or sale of assessments, revenues,
24 contract rights, or other rights or assets of the corporation
25 shall constitute a lien and security interest, or sale, as the
26 case may be, that is immediately effective and attaches to
27 such assessments, revenues, or contract rights or other rights
28 or assets, whether or not imposed or collected at the time the
29 pledge or sale is made. Any such pledge or sale is effective,
30 valid, binding, and enforceable against the corporation or
31 other entity making such pledge or sale, and valid and binding

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1 against and superior to any competing claims or obligations
 2 owed to any other person or entity, including policyholders in
 3 this state, asserting rights in any such assessments,
 4 revenues, or contract rights or other rights or assets to the
 5 extent set forth in and in accordance with the terms of the
 6 pledge or sale contained in the applicable financing
 7 documents, whether or not any such person or entity has notice
 8 of such pledge or sale and without the need for any physical
 9 delivery, recordation, filing, or other action.

10 5. As long as the corporation has any bonds
 11 outstanding, the corporation may not file a voluntary petition
 12 under chapter 9 of the federal Bankruptcy Code or such
 13 corresponding chapter or sections as may be in effect, from
 14 time to time, and a public officer or any organization,
 15 entity, or other person may not authorize the corporation to
 16 be or become a debtor under chapter 9 of the federal
 17 Bankruptcy Code or such corresponding chapter or sections as
 18 may be in effect, from time to time, during any such period.

19 6. If ordered by a court of competent jurisdiction,
 20 the corporation may assume policies or otherwise provide
 21 coverage for policyholders of an insurer placed in liquidation
 22 under chapter 631, under such forms, rates, terms, and
 23 conditions as the corporation deems appropriate, subject to
 24 approval by the office.

25 (w)(n)1. The following records of the corporation are
 26 confidential and exempt from the provisions of s. 119.07(1)
 27 and s. 24(a), Art. I of the State Constitution:

28 a. Underwriting files, except that a policyholder or
 29 an applicant shall have access to his or her own underwriting
 30 files.

31 b. Claims files, until termination of all litigation

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1 and settlement of all claims arising out of the same incident,
 2 although portions of the claims files may remain exempt, as
 3 otherwise provided by law. Confidential and exempt claims file
 4 records may be released to other governmental agencies upon
 5 written request and demonstration of need; such records held
 6 by the receiving agency remain confidential and exempt as
 7 provided for herein.

8 c. Records obtained or generated by an internal
 9 auditor pursuant to a routine audit, until the audit is
 10 completed, or if the audit is conducted as part of an
 11 investigation, until the investigation is closed or ceases to
 12 be active. An investigation is considered "active" while the
 13 investigation is being conducted with a reasonable, good faith
 14 belief that it could lead to the filing of administrative,
 15 civil, or criminal proceedings.

16 d. Matters reasonably encompassed in privileged
 17 attorney-client communications.

18 e. Proprietary information licensed to the corporation
 19 under contract and the contract provides for the
 20 confidentiality of such proprietary information.

21 f. All information relating to the medical condition
 22 or medical status of a corporation employee which is not
 23 relevant to the employee's capacity to perform his or her
 24 duties, except as otherwise provided in this paragraph.
 25 Information which is exempt shall include, but is not limited
 26 to, information relating to workers' compensation, insurance
 27 benefits, and retirement or disability benefits.

28 g. Upon an employee's entrance into the employee
 29 assistance program, a program to assist any employee who has a
 30 behavioral or medical disorder, substance abuse problem, or
 31 emotional difficulty which affects the employee's job

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1 performance, all records relative to that participation shall
 2 be confidential and exempt from the provisions of s. 119.07(1)
 3 and s. 24(a), Art. I of the State Constitution, except as
 4 otherwise provided in s. 112.0455(11).

5 h. Information relating to negotiations for financing,
 6 reinsurance, depopulation, or contractual services, until the
 7 conclusion of the negotiations.

8 i. Minutes of closed meetings regarding underwriting
 9 files, and minutes of closed meetings regarding an open claims
 10 file until termination of all litigation and settlement of all
 11 claims with regard to that claim, except that information
 12 otherwise confidential or exempt by law will be redacted.

13

14 When an authorized insurer is considering underwriting a risk
 15 insured by the corporation, relevant underwriting files and
 16 confidential claims files may be released to the insurer
 17 provided the insurer agrees in writing, notarized and under
 18 oath, to maintain the confidentiality of such files. When a
 19 file is transferred to an insurer that file is no longer a
 20 public record because it is not held by an agency subject to
 21 the provisions of the public records law. Underwriting files
 22 and confidential claims files may also be released to staff of
 23 and the board of governors of the market assistance plan
 24 established pursuant to s. 627.3515, who must retain the
 25 confidentiality of such files, except such files may be
 26 released to authorized insurers that are considering assuming
 27 the risks to which the files apply, provided the insurer
 28 agrees in writing, notarized and under oath, to maintain the
 29 confidentiality of such files. Finally, the corporation or
 30 the board or staff of the market assistance plan may make the
 31 following information obtained from underwriting files and

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1 confidential claims files available to licensed general lines
 2 insurance agents: name, address, and telephone number of the
 3 residential property owner or insured; location of the risk;
 4 rating information; loss history; and policy type. The
 5 receiving licensed general lines insurance agent must retain
 6 the confidentiality of the information received.

7 2. Portions of meetings of the corporation are exempt
 8 from the provisions of s. 286.011 and s. 24(b), Art. I of the
 9 State Constitution wherein confidential underwriting files or
 10 confidential open claims files are discussed. All portions of
 11 corporation meetings which are closed to the public shall be
 12 recorded by a court reporter. The court reporter shall record
 13 the times of commencement and termination of the meeting, all
 14 discussion and proceedings, the names of all persons present
 15 at any time, and the names of all persons speaking. No
 16 portion of any closed meeting shall be off the record.
 17 Subject to the provisions hereof and s. 119.07(1)(b)-(d), the
 18 court reporter's notes of any closed meeting shall be retained
 19 by the corporation for a minimum of 5 years. A copy of the
 20 transcript, less any exempt matters, of any closed meeting
 21 wherein claims are discussed shall become public as to
 22 individual claims after settlement of the claim.

23 ~~(x)(e)~~ It is the intent of the Legislature that the
 24 amendments to this subsection enacted in 2002 should, over
 25 time, reduce the probable maximum windstorm losses in the
 26 residual markets and should reduce the potential assessments
 27 to be levied on property insurers and policyholders statewide.
 28 In furtherance of this intent:

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

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1 or increase in the 100-year probable maximum loss attributable
 2 to wind-only coverages and the quota share program under this
 3 subsection combined, as compared to the benchmark 100-year
 4 probable maximum loss of the Florida Windstorm Underwriting
 5 Association. For purposes of this paragraph, the benchmark
 6 100-year probable maximum loss of the Florida Windstorm
 7 Underwriting Association shall be the calculation dated
 8 February 2001 and based on November 30, 2000, exposures. In
 9 order to ensure comparability of data, the board shall use the
 10 same methods for calculating its probable maximum loss as were
 11 used to calculate the benchmark probable maximum loss.

12 2. Beginning February 1, 2010 ~~2007~~, if the report
 13 under subparagraph 1. for any year indicates that the 100-year
 14 probable maximum loss attributable to wind-only coverages and
 15 the quota share program combined does not reflect a reduction
 16 of at least 25 percent from the benchmark, the board shall
 17 reduce the boundaries of the high-risk area eligible for
 18 wind-only coverages under this subsection in a manner
 19 calculated to reduce such probable maximum loss to an amount
 20 at least 25 percent below the benchmark.

21 3. Beginning February 1, 2015 ~~2012~~, if the report
 22 under subparagraph 1. for any year indicates that the 100-year
 23 probable maximum loss attributable to wind-only coverages and
 24 the quota share program combined does not reflect a reduction
 25 of at least 50 percent from the benchmark, the boundaries of
 26 the high-risk area eligible for wind-only coverages under this
 27 subsection shall be reduced by the elimination of any area
 28 that is not seaward of a line 1,000 feet inland from the
 29 Intracoastal Waterway.

30 (y)(p) In enacting the provisions of this section, the
 31 Legislature recognizes that both the Florida Windstorm

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1 Underwriting Association and the Residential Property and
2 Casualty Joint Underwriting Association have entered into
3 financing arrangements that obligate each entity to service
4 its debts and maintain the capacity to repay funds secured
5 under these financing arrangements. It is the intent of the
6 Legislature that nothing in this section be construed to
7 compromise, diminish, or interfere with the rights of
8 creditors under such financing arrangements. It is further the
9 intent of the Legislature to preserve the obligations of the
10 Florida Windstorm Underwriting Association and Residential
11 Property and Casualty Joint Underwriting Association with
12 regard to outstanding financing arrangements, with such
13 obligations passing entirely and unchanged to the corporation
14 and, specifically, to the applicable account of the
15 corporation. So long as any bonds, notes, indebtedness, or
16 other financing obligations of the Florida Windstorm
17 Underwriting Association or the Residential Property and
18 Casualty Joint Underwriting Association are outstanding, under
19 the terms of the financing documents pertaining to them, the
20 governing board of the corporation shall have and shall
21 exercise the authority to levy, charge, collect, and receive
22 all premiums, assessments, surcharges, charges, revenues, and
23 receipts that the associations had authority to levy, charge,
24 collect, or receive under the provisions of subsection (2) and
25 this subsection, respectively, as they existed on January 1,
26 2002, to provide moneys, without exercise of the authority
27 provided by this subsection, in at least the amounts, and by
28 the times, as would be provided under those former provisions
29 of subsection (2) or this subsection, respectively, so that
30 the value, amount, and collectability of any assets, revenues,
31 or revenue source pledged or committed to, or any lien thereon

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1 | securing such outstanding bonds, notes, indebtedness, or other
 2 | financing obligations will not be diminished, impaired, or
 3 | adversely affected by the amendments made by this act and to
 4 | permit compliance with all provisions of financing documents
 5 | pertaining to such bonds, notes, indebtedness, or other
 6 | financing obligations, or the security or credit enhancement
 7 | for them, and any reference in this subsection to bonds,
 8 | notes, indebtedness, financing obligations, or similar
 9 | obligations, of the corporation shall include like instruments
 10 | or contracts of the Florida Windstorm Underwriting Association
 11 | and the Residential Property and Casualty Joint Underwriting
 12 | Association to the extent not inconsistent with the provisions
 13 | of the financing documents pertaining to them.

14 | ~~(z)~~~~(q)~~ The corporation shall not require the securing
 15 | of flood insurance as a condition of coverage if the insured
 16 | or applicant executes a form approved by the office affirming
 17 | that flood insurance is not provided by the corporation and
 18 | that if flood insurance is not secured by the applicant or
 19 | insured in addition to coverage by the corporation, the risk
 20 | will not be covered for flood damage. A corporation
 21 | policyholder electing not to secure flood insurance and
 22 | executing a form as provided herein making a claim for water
 23 | damage against the corporation shall have the burden of
 24 | proving the damage was not caused by flooding. Notwithstanding
 25 | other provisions of this subsection, the corporation may deny
 26 | coverage to an applicant or insured who refuses to execute the
 27 | form described herein.

28 | ~~(aa)~~~~(r)~~ A salaried employee of the corporation who
 29 | performs policy administration services subsequent to the
 30 | effectuation of a corporation policy is not required to be
 31 | licensed as an agent under the provisions of s. 626.112.

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1 (bb) By February 1, 2007, the corporation shall submit
2 a report to the President of the Senate, the Speaker of the
3 House of Representatives, the minority party leaders of the
4 Senate and the House of Representatives, and the chairs of the
5 standing committees of the Senate and the House of
6 Representatives having jurisdiction over matters relating to
7 property and casualty insurance. In preparing the report, the
8 corporation shall consult with the Office of Insurance
9 Regulation, the Department of Financial Services, and any
10 other party the corporation determines appropriate. The report
11 must include all findings and recommendations on the
12 feasibility of requiring authorized insurers that issue and
13 service personal and commercial residential policies and
14 commercial nonresidential policies that provide coverage for
15 basic property perils except for the peril of wind to issue
16 and service for a fee personal and commercial residential
17 policies and commercial nonresidential policies providing
18 coverage for the peril of wind issued by the corporation. The
19 report must include:

20 1. The expense savings to the corporation of issuing
21 and servicing such policies as determined by a cost-benefit
22 analysis.

23 2. The expenses and liability to authorized insurers
24 associated with issuing and servicing such policies.

25 3. The effect on service to policyholders of the
26 corporation relating to issuing and servicing such policies.

27 4. The effect on the producing agent of the
28 corporation of issuing and servicing such policies.

29 5. Recommendations as to the amount of the fee which
30 should be paid to authorized insurers for issuing and
31 servicing such policies.

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1 6. The effect that issuing and servicing such policies
2 will have on the corporation's number of policies, total
3 insured value, and probable maximum loss.

4 (cc) There shall be no liability on the part of, and
5 no cause of action of any nature shall arise against,
6 producing agents of record of the corporation or employees of
7 such agents for insolvency of any take-out insurer.

8 Section 12. The amendments made by this act to s.
9 627.351(6), Florida Statutes, which change the method for
10 calculating and determining the assessments and surcharges
11 that must be levied or collected to fund deficits in Citizens
12 Property Insurance Corporation apply to a deficit incurred by
13 the corporation for calendar year 2006 and thereafter.

14 Section 13. Effective July 1, 2006, paragraph (a) of
15 subsection (5) of section 627.3511, Florida Statutes, is
16 amended to read:

17 627.3511 Depopulation of Citizens Property Insurance
18 Corporation.--

19 (5) APPLICABILITY.--

20 (a) The take-out bonus provided by subsection (2) and
21 the exemption from assessment provided by paragraph (3)(a)
22 apply only if the corporation policy is replaced by either a
23 standard policy including wind coverage or, if consistent with
24 the insurer's underwriting rules as filed with the office, a
25 basic policy including wind coverage; however, with respect to
26 risks located in areas where coverage through the high-risk
27 account of the corporation is available, the replacement
28 policy need not provide wind coverage. The insurer must renew
29 the replacement policy at approved rates on substantially
30 similar terms for four ~~two~~ additional 1-year terms, unless
31 canceled or not renewed by the policyholder ~~insurer for a~~

1 ~~lawful reason other than reduction of hurricane exposure.~~ If
2 an insurer assumes the corporation's obligations for a policy,
3 it must issue a replacement policy for a 1-year term upon
4 expiration of the corporation policy and must renew the
5 replacement policy at approved rates on substantially similar
6 terms for four ~~two~~ additional 1-year terms, unless canceled or
7 not renewed by the policyholder ~~insurer for a lawful reason~~
8 ~~other than reduction of hurricane exposure.~~ For each
9 replacement policy canceled or nonrenewed by the insurer for
10 any reason during the 5-year ~~3-year~~ coverage period required
11 by this paragraph, the insurer must remove from the
12 corporation one additional policy covering a risk similar to
13 the risk covered by the canceled or nonrenewed policy. In
14 addition to these requirements, the corporation must place the
15 bonus moneys in escrow for a period of 5 ~~3~~ years; such moneys
16 may be released from escrow only to pay claims. If the policy
17 is canceled or nonrenewed before the end of the 5-year period,
18 the amount of the take-out bonus must be prorated for the time
19 period the policy was insured. A take-out bonus provided by
20 subsection (2) or subsection (6) shall not be considered
21 premium income for purposes of taxes and assessments under the
22 Florida Insurance Code and shall remain the property of the
23 corporation, subject to the prior security interest of the
24 insurer under the escrow agreement until it is released from
25 escrow, and after it is released from escrow it shall be
26 considered an asset of the insurer and credited to the
27 insurer's capital and surplus.

28 Section 14. Subsection (1) of section 627.3512,
29 Florida Statutes, is amended to read:

30 627.3512 Recoupment of residual market deficit
31 assessments.--

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1 (1) An insurer or insurer group may recoup any
2 assessments that have been paid during or after 1995 by the
3 insurer or insurer group to defray deficits of an insurance
4 risk apportionment plan or assigned risk plan under ss.
5 627.311 and 627.351, net of any earnings returned to the
6 insurer or insurer group by the association or plan for any
7 year after 1993. A limited apportionment company as defined in
8 s. 627.351(6)(c) may recoup any regular assessment that has
9 been levied by, or paid to, Citizens Property Insurance
10 Corporation. The recoupment shall be made by applying a
11 separate assessment factor on policies of the same line or
12 type as were considered by the residual markets in determining
13 the assessment liability of the insurer or insurer group. An
14 insurer or insurer group shall calculate a separate assessment
15 factor for personal lines and commercial lines. The separate
16 assessment factor shall provide for full recoupment of the
17 assessments over a period of 1 year, unless the insurer or
18 insurer group, at its option, elects to recoup the assessments
19 over a longer period. The assessment factor expires upon
20 collection of the full amount allowed to be recouped. Amounts
21 recouped under this section are not subject to premium taxes,
22 fees, or commissions.

23 Section 15. Effective July 1, 2006, section 627.3517,
24 Florida Statutes, is amended to read:

25 627.3517 Consumer choice.--

26 (1) Except as provided in subsection (2), no provision
27 of s. 627.351, s. 627.3511, or s. 627.3515 shall be construed
28 to impair the right of any insurance risk apportionment plan
29 policyholder, upon receipt of any keepout or take-out offer,
30 to retain his or her current agent, so long as that agent is
31 duly licensed and appointed by the insurance risk

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1 apportionment plan or otherwise authorized to place business
2 with the insurance risk apportionment plan. This right shall
3 not be canceled, suspended, impeded, abridged, or otherwise
4 compromised by any rule, plan of operation, or depopulation
5 plan, whether through keepout, take-out, midterm assumption,
6 or any other means, of any insurance risk apportionment plan
7 or depopulation plan, including, but not limited to, those
8 described in s. 627.351, s. 627.3511, or s. 627.3515. The
9 commission shall adopt any rules necessary to cause any
10 insurance risk apportionment plan or market assistance plan
11 under such sections to demonstrate that the operations of the
12 plan do not interfere with, promote, or allow interference
13 with the rights created under this section. If the
14 policyholder's current agent is unable or unwilling to be
15 appointed with the insurer making the take-out or keepout
16 offer, the policyholder shall not be disqualified from
17 participation in the appropriate insurance risk apportionment
18 plan because of an offer of coverage in the voluntary market.
19 An offer of full property insurance coverage by the insurer
20 currently insuring either the ex-wind or wind-only coverage on
21 the policy to which the offer applies shall not be considered
22 a take-out or keepout offer. Any rule, plan of operation, or
23 plan of depopulation, through keepout, take-out, midterm
24 assumption, or any other means, of any property insurance risk
25 apportionment plan under s. 627.351(2) or (6) is subject to
26 ss. 627.351(2)(b) and (6)(c) and 627.3511(4).

27 (2) This section does not apply during the first 10
28 days after a new application for coverage has been submitted
29 to Citizens Property Insurance Corporation under s.
30 627.351(6), whether or not coverage is bound during this
31 period.

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1 Section 16. Section 627.3519, Florida Statutes, is
2 created to read:

3 627.3519 Annual report of aggregate net probable
4 maximum losses, financing options, and potential
5 assessments.--No later than February 1 of each year, the
6 Financial Services Commission shall provide to the Legislature
7 a report of the aggregate net probable maximum losses,
8 financing options, and potential assessments of the Florida
9 Hurricane Catastrophe Fund and Citizens Property Insurance
10 Corporation. The report must include the respective 50-year,
11 100-year, and 250-year probable maximum losses of the fund and
12 the corporation; analysis of all reasonable financing
13 strategies for each such probable maximum loss, including the
14 amount and term of debt instruments; specification of the
15 percentage assessments that would be needed to support each of
16 the financing strategies; and calculations of the aggregate
17 assessment burden on Florida property and casualty
18 policyholders for each of the probable maximum losses. The
19 commission shall require the fund and the corporation to
20 provide the commission with such data and analysis as the
21 commission considers necessary to prepare the report.

22 Section 17. Paragraph (b) of subsection (3) of section
23 627.4035, Florida Statutes, is amended to read:

24 627.4035 Cash payment of premiums; claims.--

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

27 (b) If authorized in writing by the recipient or the
28 recipient's representative, by debit card or any other form of
29 electronic transfer. Any fees or costs to be charged against
30 the recipient must be disclosed in writing to the recipient or
31 the recipient's representative at the time of written

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1 authorization. However, the written authorization requirement
 2 may be waived by the recipient or the recipient's
 3 representative if the insurer verifies the identity of the
 4 insured or the insured's recipient and does not charge a fee
 5 for the transaction. If the funds are misdirected, the insurer
 6 remains liable for the payment of the claim.

7 Section 18. Section 627.6121, Florida Statutes, is
 8 created to read:

9 627.6121 Payment of claims for dual interest
 10 property.--For policies issued or renewed on or after October
 11 1, 2006, a property insurer shall transmit claims payments
 12 directly to the primary policyholder by check or other
 13 allowable payment method, payable to the primary policyholder
 14 only, without requiring a dual endorsement from any
 15 mortgageholder or lienholder, for the following:

16 (1) Amounts payable under the policy for personal
 17 property and contents, additional living expenses, and other
 18 covered items that are not subject to a recorded security
 19 interest that is noted in the dual interest provision of the
 20 policy.

21 (2) Amounts payable under the policy for the lesser of
 22 \$20,000 or the first 20 percent of the insurer's estimate of
 23 the total projected covered claim amount, for the repair or
 24 replacement of property subject to a recorded security
 25 interest that is noted in the dual interest provision of the
 26 policy. The insurer shall provide written notice to the
 27 mortgageholder or lienholder of such payments made pursuant to
 28 this subsection.

29 Section 19. Subsection (2) of section 627.7011,
 30 Florida Statutes, is amended, and subsection (6) is added to
 31 that section, to read:

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1 627.7011 Homeowners' policies; offer of replacement
 2 cost coverage and law and ordinance coverage.--

3 (2) Unless the insurer obtains the policyholder's
 4 written refusal of the policies or endorsements specified in
 5 subsection (1), any policy covering the dwelling is deemed to
 6 include the law and ordinance coverage limited to 25 percent
 7 of the dwelling limit ~~specified in paragraph (1)(b)~~. The
 8 rejection or selection of alternative coverage shall be made
 9 on a form approved by the office. The form shall fully advise
 10 the applicant of the nature of the coverage being rejected. If
 11 this form is signed by a named insured, it will be
 12 conclusively presumed that there was an informed, knowing
 13 rejection of the coverage or election of the alternative
 14 coverage on behalf of all insureds. Unless the policyholder
 15 requests in writing the coverage specified in this section, it
 16 need not be provided in or supplemental to any other policy
 17 that renews, insures, extends, changes, supersedes, or
 18 replaces an existing policy when the policyholder has rejected
 19 the coverage specified in this section or has selected
 20 alternative coverage. The insurer must provide such
 21 policyholder with notice of the availability of such coverage
 22 in a form approved by the office at least once every 3 years.
 23 The failure to provide such notice constitutes a violation of
 24 this code, but does not affect the coverage provided under the
 25 policy.

26 (6) This section does not prohibit an insurer from
 27 limiting its liability under a policy or endorsement providing
 28 that loss will be adjusted on the basis of replacement costs
 29 to the lesser of:

30 (a) The limit of liability shown on the policy
 31 declarations page;

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

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

5 Section 20. Section 627.7019, Florida Statutes, is
6 created to read:

7 627.7019 Standardization of requirements applicable to
8 insurers after natural disasters.--

9 (1) The commission shall adopt by rule, pursuant to s.
10 120.54(1)-(3), standardized requirements that may be applied
11 to insurers as a consequence of a hurricane or other natural
12 disaster. The rules shall address the following areas:

13 (a) Claims reporting requirements.

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

16 (c) Temporary postponement of cancellations and
17 nonrenewals.

18 (2) The rules adopted under this section shall require
19 the office to issue an order within 72 hours after the
20 occurrence of a hurricane or other natural disaster
21 specifying, by line of insurance, which of the standardized
22 requirements apply, the geographic areas in which they apply,
23 the time at which applicability commences, and the time at
24 which applicability terminates.

25 (3) Any emergency rule adopted under s. 120.54(4)
26 which is in conflict with any provision of the rules adopted
27 under this section must be by unanimous vote of the
28 commission.

29 Section 21. Effective October 1, 2006, subsection (1)
30 and paragraph (d) of subsection (2) of section 627.706,
31 Florida Statutes, are amended to read:

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1 627.706 Sinkhole insurance; definitions.--

2 (1) Every insurer authorized to transact property
3 insurance in this state shall make available coverage for
4 insurable sinkhole losses on any structure, including contents
5 of personal property contained therein, to the extent provided
6 in the form to which the sinkhole coverage attaches. A policy
7 for residential property insurance may include a deductible
8 amount applicable to sinkhole losses equal to 1 percent, 2
9 percent, 5 percent, or 10 percent of the policy dwelling
10 limits, with appropriate premium discounts offered with each
11 deductible amount.

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

15 (d) "Professional engineer" means a person, as defined
16 in s. 471.005, who has a bachelor's degree or higher in
17 engineering with a specialty in the geotechnical engineering
18 field. A professional ~~an~~ engineer must have geotechnical
19 experience and expertise in the identification of sinkhole
20 activity as well as other potential causes of damage to the
21 structure.

22 Section 22. Subsections (2), (3), (5), (6), and (9) of
23 section 627.707, Florida Statutes, are amended to read:

24 627.707 Standards for investigation of sinkhole claims
25 by insurers; nonrenewals.--Upon receipt of a claim for a
26 sinkhole loss, an insurer must meet the following standards in
27 investigating a claim:

28 (2) Following the insurer's initial inspection, the
29 insurer shall engage a professional ~~an~~ engineer or a
30 professional geologist to conduct testing as provided in s.
31 627.7072 to determine the cause of the loss within a

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1 reasonable professional probability and issue a report as
2 provided in s. 627.7073, if:

3 (a) The insurer is unable to identify a valid cause of
4 the damage or discovers damage to the structure which is
5 consistent with sinkhole loss; or

6 (b) The policyholder demands testing in accordance
7 with this section or s. 627.7072.

8 (3) Following the initial inspection of the insured
9 premises, the insurer shall provide written notice to the
10 policyholder disclosing the following information:

11 (a) What the insurer has determined to be the cause of
12 damage, if the insurer has made such a determination.

13 (b) A statement of the circumstances under which the
14 insurer is required to engage a professional ~~an~~ engineer or a
15 professional geologist to verify or eliminate sinkhole loss
16 and to engage a professional ~~an~~ engineer to make
17 recommendations regarding land and building stabilization and
18 foundation repair.

19 (c) A statement regarding the right of the
20 policyholder to request testing by a professional ~~an~~ engineer
21 or a professional geologist and the circumstances under which
22 the policyholder may demand certain testing.

23 (5)(a) Subject to paragraph (b), if a sinkhole loss is
24 verified, the insurer shall pay to stabilize the land and
25 building and repair the foundation in accordance with the
26 recommendations of the professional engineer as provided under
27 s. 627.7073, and in consultation with the policyholder,
28 subject to the coverage and terms of the policy. The insurer
29 shall pay for other repairs to the structure and contents in
30 accordance with the terms of the policy.

31 (b) The insurer may limit its payment to the actual

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1 cash value of the sinkhole loss, not including underpinning or
 2 grouting or any other repair technique performed below the
 3 existing foundation of the building, until the policyholder
 4 enters into a contract for the performance of building
 5 stabilization or foundation repairs. After the policyholder
 6 enters into the contract, the insurer shall pay the amounts
 7 necessary to begin and perform such repairs as the work is
 8 performed and the expenses are incurred. The insurer may not
 9 require the policyholder to advance payment for such repairs.
 10 If repair covered by a personal lines residential property
 11 insurance policy has begun and the professional engineer
 12 selected or approved by the insurer determines that the repair
 13 cannot be completed within the policy limits, the insurer must
 14 either complete the professional engineer's recommended repair
 15 or tender the policy limits to the policyholder without a
 16 reduction for the repair expenses incurred.

17 (c) Upon the insurer's obtaining the written approval
 18 of the policyholder and any lienholder, the insurer may make
 19 payment directly to the persons selected by the policyholder
 20 to perform the land and building stabilization and foundation
 21 repairs. The decision by the insurer to make payment to such
 22 persons does not hold the insurer liable for the work
 23 performed.

24 (6) Except as provided in subsection (7), the fees and
 25 costs of the professional engineer or the professional
 26 geologist shall be paid by the insurer.

27 (9) The insurer may engage a professional structural
 28 engineer to make recommendations as to the repair of the
 29 structure.

30 Section 23. Section 627.7072, Florida Statutes, is
 31 amended to read:

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1 627.7072 Testing standards for sinkholes.--

2 (1) The professional engineer and professional
3 geologist shall perform such tests as sufficient, in their
4 professional opinion, to determine the presence or absence of
5 sinkhole loss or other cause of damage within reasonable
6 professional probability and for the professional engineer to
7 make recommendations regarding necessary building
8 stabilization and foundation repair.

9 ~~(2) Testing by a professional geologist shall be
10 conducted in compliance with the Florida Geological Survey
11 Special Publication No. 57 (2005).~~

12 Section 24. Subsections (1) and (2) of section
13 627.7073, Florida Statutes, are amended to read:

14 627.7073 Sinkhole reports.--

15 (1) Upon completion of testing as provided in s.
16 627.7072, the professional engineer or ~~and~~ professional
17 geologist shall issue a report and certification to the
18 insurer and the policyholder as provided in this section.

19 (a) Sinkhole loss is verified if, based upon tests
20 performed in accordance with s. 627.7072, a professional ~~an~~
21 engineer or ~~and~~ a professional geologist issues ~~issue~~ a
22 written report and certification stating:

23 1. That the cause of the actual physical and
24 structural damage is sinkhole activity within a reasonable
25 professional probability.

26 2. That the analyses conducted were of sufficient
27 scope to identify sinkhole activity as the cause of damage
28 within a reasonable professional probability.

29 3. A description of the tests performed.

30 4. A recommendation by the professional engineer of
31 methods for stabilizing the land and building and for making

1 repairs to the foundation.

2 (b) If sinkhole activity is eliminated as the cause of
3 damage to the structure, the professional engineer or ~~and~~
4 professional geologist shall issue a written report and
5 certification to the policyholder and the insurer stating:

6 1. That the cause of the damage is not sinkhole
7 activity within a reasonable professional probability.

8 2. That the analyses and tests conducted were of
9 sufficient scope to eliminate sinkhole activity as the cause
10 of damage within a reasonable professional probability.

11 3. A statement of the cause of the damage within a
12 reasonable professional probability.

13 4. A description of the tests performed.

14 (c) The respective findings, opinions, and
15 recommendations of the professional engineer or ~~and~~
16 professional geologist as to the cause of distress to the
17 property ~~verification or elimination of a sinkhole loss~~ and
18 the findings, opinions, and recommendations of the
19 professional engineer as to land and building stabilization
20 and foundation repair shall be presumed correct.

21 (2)(a) Any insurer that has paid a claim for a
22 sinkhole loss shall file a copy of the report and
23 certification, prepared pursuant to subsection (1), including
24 the legal description of the real property and the name of the
25 property owner, with the county clerk of court ~~property~~
26 ~~appraiser~~, who shall record the report and certification ~~with~~
27 ~~the parcel number~~. The insurer shall bear the cost of filing
28 and recording the report and certification. There shall be no
29 cause of action or liability against an insurer for compliance
30 with this section. The recording of the report and
31 certification does not:

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1 1. Constitute a lien, encumbrance, or restriction on
2 the title to the real property or constitute a defect in the
3 title to the real property;

4 2. Create any cause of action or liability against any
5 grantor of the real property for breach of any warranty of
6 good title or warranty against encumbrances; or

7 3. Create any cause of action or liability against any
8 title insurer that insures the title to the real property.

9 (b) The seller of real property upon which a sinkhole
10 claim has been made by the seller and paid by the insurer
11 shall disclose to the buyer of such property that a claim has
12 been paid and whether or not the full amount of the proceeds
13 were used to repair the sinkhole damage.

14 Section 25. Effective October 1, 2006, section
15 627.7074, Florida Statutes, is created to read:

16 627.7074 Alternative procedure for resolution of
17 disputed sinkhole insurance claims.--

18 (1) As used in this section, the term:

19 (a) "Neutral evaluation" means the alternative dispute
20 resolution provided for in this section.

21 (b) "Neutral evaluator" means a professional engineer
22 or a professional geologist who has completed a course of
23 study in alternative dispute resolution designed or approved
24 by the department for use in the neutral evaluation process,
25 who is determined to be fair and impartial.

26 (2)(a) The department shall certify and maintain a
27 list of persons who are neutral evaluators.

28 (b) The department shall prepare a consumer
29 information pamphlet for distribution by insurers to
30 policyholders which clearly describes the neutral evaluation
31 process and includes information and forms necessary for the

1 policyholder to request a neutral evaluation.

2 (3) Following the receipt of the report provided under
3 s. 627.7073 or the denial of a claim for a sinkhole loss, the
4 insurer shall notify the policyholder of his or her right to
5 participate in the neutral evaluation program under this
6 section. Neutral evaluation supersedes the alternative dispute
7 resolution process under s. 627.7015. The insurer shall
8 provide to the policyholder the consumer information pamphlet
9 prepared by the department pursuant to paragraph (2)(b).

10 (4) Neutral evaluation is optional and nonbinding.
11 Either the policyholder or the insurer may decline to
12 participate. A request for neutral evaluation may be filed
13 with the department by the policyholder or the insurer on a
14 form approved by the department. The request for neutral
15 evaluation must state the reason for the request and must
16 include an explanation of all the issues in dispute at the
17 time of the request. Filing a request for neutral evaluation
18 tolls the applicable time requirements for filing suit for a
19 period of 60 days following the conclusion of the neutral
20 evaluation process or the time prescribed in s. 95.11,
21 whichever is later.

22 (5) Neutral evaluation shall be conducted as an
23 informal process in which formal rules of evidence and
24 procedure need not be observed. A party to neutral evaluation
25 is not required to attend neutral evaluation if a
26 representative of the party attends and has the authority to
27 make a binding decision on behalf of the party. All parties
28 shall participate in the evaluation in good faith.

29 (6) The insurer shall pay the costs associated with
30 the neutral evaluation.

31 (7) Upon receipt of a request for neutral evaluation,

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1 the department shall provide the parties a list of certified
2 neutral evaluators. The parties shall mutually select a
3 neutral evaluator from the list and promptly inform the
4 department. If the parties cannot agree to a neutral evaluator
5 within 10 business days, the department shall appoint a
6 neutral evaluator from the department list. Upon selection or
7 appointment, the department shall promptly refer the request
8 to the neutral evaluator. Within 5 business days after the
9 referral, the neutral evaluator shall notify the policyholder
10 and the insurer of the date, time, and place of the neutral
11 evaluation conference. The conference may be held by
12 telephone, if feasible and desirable. The neutral evaluation
13 conference shall be held within 45 days after the receipt of
14 the request by the department.

15 (8) The department shall adopt rules of procedure for
16 the neutral evaluation process.

17 (9) For policyholders not represented by an attorney,
18 a consumer affairs specialist of the department or an employee
19 designated as the primary contact for consumers on issues
20 relating to sinkholes under s. 20.121 shall be available for
21 consultation to the extent that he or she may lawfully do so.

22 (10) Evidence of an offer to settle a claim during the
23 neutral evaluation process, as well as any relevant conduct or
24 statements made in negotiations concerning the offer to settle
25 a claim, is inadmissible to prove liability or absence of
26 liability for the claim or its value, except as provided in
27 subsection (13).

28 (11) Any court proceeding related to the subject
29 matter of the neutral evaluation shall be stayed pending
30 completion of the neutral evaluation.

31 (12) For matters that are not resolved by the parties

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1 at the conclusion of the neutral evaluation, the neutral
 2 evaluator shall prepare a report stating that in his or her
 3 opinion the sinkhole loss has been verified or eliminated and,
 4 if verified, the need for and estimated costs of stabilizing
 5 the land and any covered structures or buildings and other
 6 appropriate remediation or structural repairs. The evaluator's
 7 report shall be sent to all parties in attendance at the
 8 neutral evaluation and to the department.

9 (13) The recommendation of the neutral evaluator is
 10 not binding on any party, and the parties retain access to
 11 courts. The neutral evaluator's written recommendation is
 12 admissible in any subsequent action or proceeding relating to
 13 the claim or to the cause of action giving rise to the claim
 14 only for purposes of determining the award of attorney's fees.

15 (14) If the neutral evaluator first verifies the
 16 existence of a sinkhole and, second, recommends the need for
 17 and estimates costs of stabilizing the land and any covered
 18 structures or buildings and other appropriate remediation or
 19 structural repairs, which costs exceed the amount that the
 20 insurer has offered to pay the policyholder, the insurer is
 21 liable to the policyholder for up to \$2,500 in attorney's fees
 22 for the attorney's participation in the neutral evaluation
 23 process. For purposes of this subsection, the term "offer to
 24 pay" means a written offer signed by the insurer or its legal
 25 representative and delivered to the policyholder within 10
 26 days after the insurer receives notice that a request for
 27 neutral evaluation has been made under this section.

28 (15) If the policyholder declines to participate in
 29 neutral evaluation requested by the insurer or declines to
 30 resolve the matter in accordance with the recommendation of
 31 the neutral evaluator pursuant to this section, the insurer is

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1 not liable for attorney's fees under s. 627.428 or other
2 provisions of the insurance code or for extra-contractual
3 damages related to a claim for a sinkhole loss.

4 (16) A party may seek judicial review of the
5 recommendation of the neutral evaluator to determine whether
6 the recommendation is reasonable. A recommendation is
7 reasonable unless: it was procured by corruption, fraud, or
8 other undue means; there was evident partiality by the neutral
9 evaluator or misconduct prejudicing the rights of any party;
10 or the neutral evaluator exceeded the authority and power
11 granted by this section. If the court declares the
12 recommendation is not reasonable, the neutral evaluation
13 recommendation shall be vacated.

14 Section 26. Subsection (5) of section 627.727, Florida
15 Statutes, is amended to read:

16 627.727 Motor vehicle insurance; uninsured and
17 underinsured vehicle coverage; insolvent insurer protection.--

18 (5) Any person having a claim against an insolvent
19 insurer as defined in s. 631.54(6) ~~s. 631.54(5)~~ under the
20 provisions of this section shall present such claim for
21 payment to the Florida Insurance Guaranty Association only. In
22 the event of a payment to any person in settlement of a claim
23 arising under the provisions of this section, the association
24 is not subrogated or entitled to any recovery against the
25 claimant's insurer. The association, however, has the rights
26 of recovery as set forth in chapter 631 in the proceeds
27 recoverable from the assets of the insolvent insurer.

28 Section 27. Paragraph (f) is added to subsection (2)
29 of section 631.181, Florida Statutes, to read:

30 631.181 Filing and proof of claim.--

31 (2)

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1 (f) The signed statement required by this section
2 shall not be required on claims for which adequate claims file
3 documentation exists within the records of the insolvent
4 insurer. Claims for payment of unearned premium shall not be
5 required to use the signed statement required by this section
6 if the receiver certifies to the guaranty fund that the
7 records of the insolvent insurer are sufficient to determine
8 the amount of unearned premium owed to each policyholder of
9 the insurer and such information is remitted to the guaranty
10 fund by the receiver in electronic or other mutually
11 agreed-upon format.

12 Section 28. Subsection (3) of section 631.54, Florida
13 Statutes, is amended, present subsections (5), (6), (7), and
14 (8) of that section are renumbered as subsections (6), (7),
15 (8), and (9), respectively, and a new subsection (5) is added
16 to that section to read:

17 631.54 Definitions.--As used in this part:

18 (3) "Covered claim" means an unpaid claim, including
19 one of unearned premiums, which arises out of, and is within
20 the coverage, and not in excess of, the applicable limits of
21 an insurance policy to which this part applies, issued by an
22 insurer, if such insurer becomes an insolvent insurer and the
23 claimant or insured is a resident of this state at the time of
24 the insured event or the property from which the claim arises
25 is permanently located in this state. For entities other than
26 individuals, the residence of a claimant, insured, or
27 policyholder is the state in which the entity's principal
28 place of business is located at the time of the insured event.

29 "Covered claim" shall not include:

30 (a) Any amount due any reinsurer, insurer, insurance
31 pool, or underwriting association, sought directly or

1 indirectly through a third party, as subrogation,
2 contribution, indemnification, or otherwise; or

3 (b) Any claim that would otherwise be a covered claim
4 under this part that has been rejected by any other state
5 guaranty fund on the grounds that an insured's net worth is
6 greater than that allowed under that state's guaranty law.
7 Member insurers shall have no right of subrogation,
8 contribution, indemnification, or otherwise, sought directly
9 or indirectly through a third party, against the insured of
10 any insolvent member.

11 (5) "Homeowner's insurance" means personal lines
12 residential property insurance coverage that consists of the
13 type of coverage provided under homeowner's, dwelling, and
14 similar policies for repair or replacement of the insured
15 structure and contents, which policies are written directly to
16 the individual homeowner. Residential coverage for personal
17 lines as set forth in this section includes policies that
18 provide coverage for particular perils such as windstorm and
19 hurricane coverage but excludes all coverage for mobile homes,
20 renter's insurance, or tenant's coverage. The term
21 "homeowner's insurance" excludes commercial residential
22 policies covering condominium associations or homeowners'
23 associations, which associations have a responsibility to
24 provide insurance coverage on residential units within the
25 association, and also excludes coverage for the common
26 elements of a homeowners' association.

27 Section 29. Subsection (1) of section 631.55, Florida
28 Statutes, is amended to read:

29 631.55 Creation of the association.--

30 (1) There is created a nonprofit corporation to be
31 known as the "Florida Insurance Guaranty Association,

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1 Incorporated." All insurers defined as member insurers in s.
2 631.54(7) ~~s. 631.54(6)~~ shall be members of the association as
3 a condition of their authority to transact insurance in this
4 state, and, further, as a condition of such authority, an
5 insurer shall agree to reimburse the association for all claim
6 payments the association makes on said insurer's behalf if
7 such insurer is subsequently rehabilitated. The association
8 shall perform its functions under a plan of operation
9 established and approved under s. 631.58 and shall exercise
10 its powers through a board of directors established under s.
11 631.56. The corporation shall have all those powers granted or
12 permitted nonprofit corporations, as provided in chapter 617.

13 Section 30. Paragraph (a) of subsection (1), paragraph
14 (d) of subsection (2), and paragraph (a) of subsection (3) of
15 section 631.57, Florida Statutes, are amended, and paragraph
16 (e) is added to subsection (3) of that section, to read:

17 631.57 Powers and duties of the association.--

18 (1) The association shall:

19 (a)1. Be obligated to the extent of the covered claims
20 existing:

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

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

25 c. Before the insured replaces the policy or causes
26 its cancellation, if she or he does so within 30 days of the
27 determination.

28 2. The obligation under subparagraph 1. includes only
29 the amount of each covered claim which is in excess of \$100
30 and is less than \$300,000, except that policies providing
31 coverage for homeowner's insurance shall provide for an

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1 additional \$200,000 for the portion of a covered claim which
2 relates only to the damage to the structure and contents.

3 3.a.2. Notwithstanding subparagraph 2., the obligation
4 under subparagraph 1. for shall include only that amount of
5 each covered claim which is in excess of \$100 and is less than
6 \$300,000, except with respect to policies covering condominium
7 associations or homeowners' associations, which associations
8 have a responsibility to provide insurance coverage on
9 residential units within the association, the obligation shall
10 include that amount of each covered property insurance claim
11 which is less than \$100,000 multiplied by the number of
12 condominium units or other residential units; however, as to
13 homeowners' associations, this sub-subparagraph subparagraph
14 applies only to claims for damage or loss to residential units
15 and structures attached to residential units.

16 b. Notwithstanding sub-subparagraph a., the
17 association has no obligation to pay covered claims that are
18 to be paid from the proceeds of bonds issued under s. 631.695.
19 However, the association shall assign and pledge the first
20 available moneys from all or part of the assessments to be
21 made under paragraph (3)(a) to or on behalf of the issuer of
22 such bonds for the benefit of the holders of such bonds. The
23 association shall administer any such covered claims and
24 present valid covered claims for payment in accordance with
25 the provisions of the assistance program in connection with
26 which such bonds have been issued.

27 4.3. In no event shall the association be obligated to
28 a policyholder or claimant in an amount in excess of the
29 obligation of the insolvent insurer under the policy from
30 which the claim arises.

31 (2) The association may:

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1 (d) Negotiate and become a party to such contracts as
 2 are necessary to carry out the purpose of this part.
 3 Additionally, the association may enter into such contracts
 4 with a municipality, a county, or a legal entity created
 5 pursuant to s. 163.01(7)(g) as are necessary in order for the
 6 municipality, county, or legal entity to issue bonds under s.
 7 631.695. In connection with the issuance of any such bonds and
 8 the entering into of any such necessary contracts, the
 9 association may agree to such terms and conditions as the
 10 association deems necessary and proper.

11 (3)(a) To the extent necessary to secure the funds for
 12 the respective accounts for the payment of covered claims, ~~and~~
 13 ~~also~~ to pay the reasonable costs to administer the same, and
 14 to the extent necessary to secure the funds for the account
 15 specified in s. 631.55(2)(c) or to retire indebtedness,
 16 including, without limitation, the principal, redemption
 17 premium, if any, and interest on, and related costs of
 18 issuance of, bonds issued under s. 631.695 and the funding of
 19 any reserves and other payments required under the bond
 20 resolution or trust indenture pursuant to which such bonds
 21 have been issued, the office, upon certification of the board
 22 of directors, shall levy assessments in the proportion that
 23 each insurer's net direct written premiums in this state in
 24 the classes protected by the account bears to the total of
 25 said net direct written premiums received in this state by all
 26 such insurers for the preceding calendar year for the kinds of
 27 insurance included within such account. Assessments shall be
 28 remitted to and administered by the board of directors in the
 29 manner specified by the approved plan. Each insurer so
 30 assessed shall have at least 30 days' written notice as to the
 31 date the assessment is due and payable. Every assessment shall

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1 be made as a uniform percentage applicable to the net direct
 2 written premiums of each insurer in the kinds of insurance
 3 included within the account in which the assessment is made.
 4 The assessments levied against any insurer shall not exceed in
 5 any one year more than 2 percent of that insurer's net direct
 6 written premiums in this state for the kinds of insurance
 7 included within such account during the calendar year next
 8 preceding the date of such assessments.

9 (e)1.a. In addition to assessments otherwise
 10 authorized in paragraph (a) and to the extent necessary to
 11 secure the funds for the account specified in s. 631.55(2)(c)
 12 or to retire indebtedness, including, without limitation, the
 13 principal, redemption premium, if any, and interest on, and
 14 related costs of issuance of, bonds issued under s. 631.695
 15 and the funding of any reserves and other payments required
 16 under the bond resolution or trust indenture pursuant to which
 17 such bonds have been issued, the office, upon certification of
 18 the board of directors, shall levy emergency assessments upon
 19 insurers holding a certificate of authority. The emergency
 20 assessments payable under this paragraph by any insurer shall
 21 not exceed in any single year more than 2 percent of that
 22 insurer's direct written premiums, net of refunds, in this
 23 state during the preceding calendar year for the kinds of
 24 insurance within the account specified in s. 631.55(2)(c).

25 b. Any emergency assessments authorized under this
 26 paragraph shall be levied by the office upon insurers referred
 27 to in sub-subparagraph a., upon certification as to the need
 28 for such assessments by the board of directors, in each year
 29 that bonds issued under s. 631.695 and secured by such
 30 emergency assessments are outstanding, in such amounts up to
 31 such 2-percent limit as required in order to provide for the

1 full and timely payment of the principal of, redemption
 2 premium, if any, and interest on, and related costs of
 3 issuance of, such bonds. The emergency assessments provided
 4 for in this paragraph are assigned and pledged to the
 5 municipality, county, or legal entity issuing bonds under s.
 6 631.695 for the benefit of the holders of such bonds, in order
 7 to enable such municipality, county, or legal entity to
 8 provide for the payment of the principal of, redemption
 9 premium, if any, and interest on such bonds, the cost of
 10 issuance of such bonds, and the funding of any reserves and
 11 other payments required under the bond resolution or trust
 12 indenture pursuant to which such bonds have been issued,
 13 without the necessity of any further action by the
 14 association, the office, or any other party. To the extent
 15 bonds are issued under s. 631.695 and the association
 16 determines to secure such bonds by a pledge of revenues
 17 received from the emergency assessments, such bonds, upon such
 18 pledge of revenues, shall be secured by and payable from the
 19 proceeds of such emergency assessments, and the proceeds of
 20 emergency assessments levied under this paragraph shall be
 21 remitted directly to and administered by the trustee or
 22 custodian appointed for such bonds.

23 c. Emergency assessments under this paragraph may be
 24 payable in a single payment or, at the option of the
 25 association, may be payable in 12 monthly installments with
 26 the first installment being due and payable at the end of the
 27 month after an emergency assessment is levied and subsequent
 28 installments being due not later than the end of each
 29 succeeding month.

30 d. If emergency assessments are imposed, the report
 31 required by s. 631.695(7) shall include an analysis of the

1 revenues generated from the emergency assessments imposed
2 under this paragraph.

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

7 2. In order to ensure that insurers paying emergency
8 assessments levied under this paragraph continue to charge
9 rates that are neither inadequate nor excessive, within 90
10 days after being notified of such assessments, each insurer
11 that is to be assessed pursuant to this paragraph shall submit
12 a rate filing for coverage included within the account
13 specified in s. 631.55(2)(c) and for which rates are required
14 to be filed under s. 627.062. If the filing reflects a rate
15 change that, as a percentage, is equal to the difference
16 between the rate of such assessment and the rate of the
17 previous year's assessment under this paragraph, the filing
18 shall consist of a certification so stating and shall be
19 deemed approved when made. Any rate change of a different
20 percentage shall be subject to the standards and procedures of
21 s. 627.062.

22 3. An annual assessment under this paragraph shall
23 continue while the bonds issued with respect to which the
24 assessment was imposed are outstanding, including any bonds
25 the proceeds of which were used to refund bonds issued
26 pursuant to s. 631.695, unless adequate provision has been
27 made for the payment of the bonds in the documents authorizing
28 the issuance of such bonds.

29 4. Emergency assessments under this paragraph are not
30 premium and are not subject to the premium tax, to any fees,
31 or to any commissions. An insurer is liable for all emergency

1 assessments that the insurer collects and shall treat the
 2 failure of an insured to pay an emergency assessment as a
 3 failure to pay the premium. An insurer is not liable for
 4 uncollectible emergency assessments.

5 Section 31. Section 631.695, Florida Statutes, is
 6 created to read:

7 631.695 Revenue bond issuance through counties or
 8 municipalities.--

9 (1) The Legislature finds:

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

15 (b) The inability of insureds within this state to
 16 receive payment of covered claims or to timely receive such
 17 payment creates financial and other hardships for such
 18 insureds and places undue burdens on the state, the affected
 19 units of local government, and the community at large.

20 (c) In addition, the failure of insurers to pay
 21 covered claims or to timely pay such claims due to the
 22 insolvency of such insurers can undermine the public's
 23 confidence in insurers operating within this state, thereby
 24 adversely affecting the stability of the insurance industry in
 25 this state.

26 (d) The state has previously taken action to address
 27 these problems by adopting the Florida Insurance Guaranty
 28 Association Act, which, among other things, provides a
 29 mechanism for the payment of covered claims under certain
 30 insurance policies to avoid excessive delay in payment and to
 31 avoid financial loss to claimants or policyholders because of

1 the insolvency of an insurer.

2 (e) In the wake of the unprecedented destruction
3 caused by various hurricanes that have made landfall in this
4 state, the resultant covered claims, and the number of
5 insurers rendered insolvent thereby, make it evident that
6 alternative programs must be developed to allow the Florida
7 Insurance Guaranty Association to more expeditiously and
8 effectively provide for the payment of covered claims.

9 (f) It is therefore determined to be in the best
10 interests of, and necessary for, the protection of the public
11 health, safety, and general welfare of the residents of this
12 state and for the protection and preservation of the economic
13 stability of insurers operating in this state, and it is
14 declared to be an essential public purpose, to permit certain
15 municipalities and counties to take such actions as will
16 provide relief to claimants and policyholders having covered
17 claims against insolvent insurers operating in this state by
18 expediting the handling and payment of covered claims.

19 (g) To achieve the foregoing purposes, it is proper to
20 authorize municipalities and counties of this state
21 substantially affected by the landfall of a hurricane to issue
22 bonds to assist the Florida Insurance Guaranty Association in
23 expediting the handling and payment of covered claims of
24 insolvent insurers.

25 (h) In order to avoid the needless and indiscriminate
26 proliferation, duplication, and fragmentation of such
27 assistance programs, it is in the best interests of the
28 residents of this state to authorize municipalities and
29 counties severely affected by a hurricane to provide for the
30 payment of covered claims beyond their territorial limits in
31 the implementation of such programs.

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1 (i) It is a paramount public purpose for
2 municipalities and counties substantially affected by the
3 landfall of a hurricane to be able to issue bonds for the
4 purposes described in this section. Such issuance shall
5 provide assistance to residents of those municipalities and
6 counties as well as to other residents of this state.

7 (2) The governing body of any municipality or county,
8 the residents of which have been substantially affected by a
9 hurricane, may issue bonds to fund an assistance program in
10 conjunction with, and with the consent of, the Florida
11 Insurance Guaranty Association for the purpose of paying
12 claimants' or policyholders' covered claims, as defined in s.
13 631.54, arising through the insolvency of an insurer, which
14 insolvency is determined by the Florida Insurance Guaranty
15 Association to have been a result of a hurricane, regardless
16 of whether the claimants or policyholders are residents of
17 such municipality or county or the property to which the claim
18 relates is located within or outside the territorial
19 jurisdiction of the municipality or county. The power of a
20 municipality or county to issue bonds, as described in this
21 section, is in addition to any powers granted by law and may
22 not be abrogated or restricted by any provisions in such
23 municipality's or county's charter. A municipality or county
24 issuing bonds for this purpose shall enter into such contracts
25 with the Florida Insurance Guaranty Association or any entity
26 acting on behalf of the Florida Insurance Guaranty Association
27 as are necessary to implement the assistance program. Any
28 bonds issued by a municipality or county or a combination
29 thereof under this subsection shall be payable from and
30 secured by moneys received by or on behalf of the municipality
31 or county from assessments levied under s. 631.57(3)(a) and

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1 assigned and pledged to or on behalf of the municipality or
 2 county for the benefit of the holders of the bonds in
 3 connection with the assistance program. The funds, credit,
 4 property, and taxing power of the state or any municipality or
 5 county shall not be pledged for the payment of such bonds.

6 (3) Bonds may be validated by the municipality or
 7 county pursuant to chapter 75. The proceeds of the bonds may
 8 be used to pay covered claims of insolvent insurers; to
 9 refinance or replace previously existing borrowings or
 10 financial arrangements; to pay interest on bonds; to fund
 11 reserves for the bonds; to pay expenses incident to the
 12 issuance or sale of any bond issued under this section,
 13 including costs of validating, printing, and delivering the
 14 bonds, costs of printing the official statement, costs of
 15 publishing notices of sale of the bonds, costs of obtaining
 16 credit enhancement or liquidity support, and related
 17 administrative expenses; or for such other purposes related to
 18 the financial obligations of the fund as the association may
 19 determine. The term of the bonds may not exceed 30 years.

20 (4) The state covenants with holders of bonds of the
 21 assistance program that the state will not take any action
 22 that will have a material adverse effect on the holders and
 23 will not repeal or abrogate the power of the board of
 24 directors of the association to direct the Office of Insurance
 25 Regulation to levy the assessments and to collect the proceeds
 26 of the revenues pledged to the payment of the bonds as long as
 27 any of the bonds remain outstanding, unless adequate provision
 28 has been made for the payment of the bonds in the documents
 29 authorizing the issuance of the bonds.

30 (5) The accomplishment of the authorized purposes of
 31 such municipality or county under this section is in all

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1 respects for the benefit of the people of the state, for the
 2 increase of their commerce and prosperity, and for the
 3 improvement of their health and living conditions. The
 4 municipality or county, in performing essential governmental
 5 functions in accomplishing its purposes, is not required to
 6 pay any taxes or assessments of any kind whatsoever upon any
 7 property acquired or used by the county or municipality for
 8 such purposes or upon any revenues at any time received by the
 9 county or municipality. The bonds, notes, and other
 10 obligations of the municipality or county and the transfer of
 11 and income from such bonds, notes, and other obligations,
 12 including any profits made on the sale of such bonds, notes,
 13 and other obligations, are exempt from taxation of any kind by
 14 the state or by any political subdivision or other agency or
 15 instrumentality of the state. The exemption granted in this
 16 subsection is not applicable to any tax imposed by chapter 220
 17 on interest, income, or profits on debt obligations owned by
 18 corporations.

19 (6) Two or more municipalities or counties, the
 20 residents of which have been substantially affected by a
 21 hurricane, may create a legal entity pursuant to s.
 22 163.01(7)(g) to exercise the powers described in this section
 23 as well as those powers granted in s. 163.01(7)(g). References
 24 in this section to a municipality or county includes such
 25 legal entity.

26 (7) The association shall issue an annual report on
 27 the status of the use of bond proceeds as related to
 28 insolvencies caused by hurricanes. The report must contain the
 29 number and amount of claims paid. The association shall also
 30 include an analysis of the revenue generated from the
 31 assessment levied under s. 631.57(3)(a) to pay such bonds. The

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1 association shall submit a copy of the report to the President
 2 of the Senate, the Speaker of the House of Representatives,
 3 and the Chief Financial Officer within 90 days after the end
 4 of each calendar year in which bonds were outstanding.

5 Section 32. No provision of s. 631.57 or s. 631.695,
 6 Florida Statutes, shall be repealed until such time as the
 7 principal, redemption premium, if any, and interest on all
 8 bonds issued under s. 631.695, Florida Statutes, payable and
 9 secured from assessments levied under s. 631.57(3)(a), Florida
 10 Statutes, have been paid in full or adequate provision for
 11 such payment has been made in accordance with the bond
 12 resolution or trust indenture pursuant to which the bonds were
 13 issued.

14 Section 33. Subsection (2) of section 877.02, Florida
 15 Statutes, is amended to read:

16 877.02 Solicitation of legal services or retainers
 17 therefor; penalty.--

18 (2) It shall be unlawful for any person in the employ
 19 of or in any capacity attached to any hospital, sanitarium,
 20 police department, wrecker service or garage, prison or court,
 21 ~~or~~ for a person authorized to furnish bail bonds,
 22 investigators, photographers, insurance or public adjusters,
 23 or for a general or other contractor as defined in s. 489.105
 24 or other business providing sinkhole remediation services, to
 25 communicate directly or indirectly with any attorney or person
 26 acting on said attorney's behalf for the purpose of aiding,
 27 assisting or abetting such attorney in the solicitation of
 28 legal business or the procurement through solicitation of a
 29 retainer, written or oral, or any agreement authorizing the
 30 attorney to perform or render legal services.

31 Section 34. By January 1, 2007, the Office of

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1 Insurance Regulation shall submit a report to the President of
2 the Senate, the Speaker of the House of Representatives, the
3 minority party leaders of the Senate and the House of
4 Representatives, and the chairs of the standing committees of
5 the Senate and the House of Representatives having
6 jurisdiction over matters relating to property and casualty
7 insurance. In preparing the report, the office shall consult
8 with the Department of Highway Safety and Motor Vehicles, the
9 Department of Community Affairs, the Florida Building
10 Commission, the Florida Home Builders Association,
11 representatives of the mobile and manufactured home industry,
12 representatives of the property and casualty insurance
13 industry, and any other party the office determines is
14 appropriate. The report shall include findings and
15 recommendations on the insurability of attached or free
16 standing structures to residential homes, mobile, or
17 manufactured homes, such as carports or pool enclosures; the
18 increase or decrease in insurance costs associated with
19 insuring such structures; the feasibility of insuring such
20 structures; the impact on homeowners of not having insurance
21 coverage for such structures; the ability of mitigation
22 measures relating to such structures to reduce risk and loss;
23 and such other related information as the office determines is
24 appropriate for the Legislature to consider.

25 Section 35. (1) The Office of Insurance Regulation,
26 in consultation with the Department of Community Affairs, the
27 Department of Financial Services, the Federal Alliance for
28 Safe Homes, the Florida Insurance Council, the Florida Home
29 Builders Association, the Florida Manufactured Housing
30 Association, the Risk and Insurance Department of Florida
31 State University, and the Institute for Business and Homes

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1 Safety, shall study and develop a program that will provide an
2 objective rating system that will allow homeowners to evaluate
3 the relative ability of Florida properties to withstand the
4 wind load from a sustained severe tropical storm or hurricane.

5 (2) The rating system will be designed in a manner
6 that is easy to understand for the property owner, based on
7 proven readily verifiable mitigation techniques and devices,
8 and able to be implemented based on a visual inspection
9 program. The Department of Financial Services shall implement
10 a pilot program for use in the Florida Comprehensive Hurricane
11 Damage Mitigation Program.

12 (3) The Department shall provide a report to the
13 Governor, the President of the Senate, and the Speaker of the
14 House of Representatives by March 31, 2007, detailing the
15 nature and construction of the rating scale, its effectiveness
16 based on implementation in a pilot program, and an operational
17 plan for statewide implementation of the rating scale.

18 Section 36. (1) By September 1, 2006, the Office of
19 Insurance Regulation shall calculate a presumed factor to
20 reflect the impact to rates of the changes made by the
21 provisions of this act related to insurance claims for
22 sinkhole losses and by sections 17, 18, 19, 20, and 21 of
23 chapter 2005-111, Laws of Florida.

24 (2) In determining the presumed factor, the office
25 shall use generally accepted actuarial techniques and
26 standards in determining the expected impact on losses,
27 expenses, and investment income of the insurer.

28 (3) The office may contract with an appropriate vendor
29 to determine the presumed factor.

30 (4) Each residential property insurer shall, at its
31 next rate filing after October 1, 2006, reflect a rate change

1 that takes into account the presumed factor determined under
2 subsection (1).

3 (5) The sum of \$250,000 in nonrecurring funds is
4 appropriated from the Insurance Regulatory Trust Fund in the
5 Department of Financial Services to the Office of Insurance
6 Regulation for the 2006-2007 fiscal year for the purpose of
7 implementing this section.

8 Section 37. The sums of \$115,322 in recurring funds
9 and \$10,486 in nonrecurring funds are appropriated from the
10 Insurance Regulatory Trust Fund in the Department of Financial
11 Services for the 2006-2007 fiscal year for the purpose of
12 implementing the provisions this act related to the neutral
13 evaluation process for insurance claims, and two full-time
14 equivalent positions with \$59,435 in associated salary rate
15 are authorized.

16 Section 38. For the 2006-2007 fiscal year, the sum of
17 \$ million is appropriated from nonrecurring funds in the
18 General Revenue Fund to the Department of Financial Services
19 as a nonrecurring appropriation for the purposes of the
20 Florida Comprehensive Hurricane Damage Mitigation Program
21 specified in s. 215.5586, Florida Statutes, as created by this
22 act. The department may expend up to 1 percent of the funds
23 appropriated to administer the program.

24 Section 39. For the 2005-2006 fiscal year and the
25 2006-2007 fiscal year, the sum of \$ million is appropriated
26 from nonrecurring funds in the General Revenue Fund to the
27 Department of Financial Services for transfer to the State
28 Board of Administration as a nonrecurring appropriation for
29 the purposes of the Insurance Capital Build-Up Incentive
30 Program established pursuant to s. 215.5595, Florida Statutes,
31 as created by this act. Costs and fees incurred by the board

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1 in administering this program, including fees for investment
2 services and for administrative services associated with the
3 additional cost of the Florida Hurricane Catastrophe Fund,
4 shall be paid from funds appropriated by the Legislature for
5 this program, but are limited to 1 percent of the amount
6 appropriated. Unexpended funds remaining in the program shall
7 revert to the General Revenue Fund on June 30, 2007.

8 Section 40. (1) For the 2006-2007 fiscal year, the
9 sum of \$ _____ million is appropriated to the Department of
10 Financial Services from nonrecurring funds in the General
11 Revenue Fund, to be used as follows:

12 (a)1. The department shall first reimburse each
13 policyholder for the amount of the premium paid to the insurer
14 for the recoupment of the assessment by Citizens Property
15 Insurance Corporation, established pursuant to s. 627.351(6),
16 Florida Statutes, for the deficit incurred in the 2004 calendar
17 year.

18 2. Authorized insurers that were assessed by the
19 corporation for the 2004 deficit shall report to the
20 department the names and addresses of policyholders who paid a
21 premium that included a recoupment by the insurer of such
22 assessment, and the amount charged to that policyholder for
23 the amount recouped, in a manner required by the department.
24 The Florida Surplus Lines Services Office shall also report
25 such data to the department for surplus lines policyholders,
26 as assessable insureds of the corporation, for which the
27 surplus lines agent collected the assessment. Surplus lines
28 insurers and agents shall report such information to the
29 Florida Surplus Lines Services Office in such form as it may
30 require.

31 3. The department shall establish reporting periods

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1 for the information required by this paragraph in order to
2 enable the department to begin reimbursing policyholders a
3 soon as practical and to continue to reimburse policyholders
4 as soon as practical after they have paid a premium that
5 included a recoupment for the 2004 deficit of the corporation.
6 The department shall not provide reimbursement to a
7 policyholder if the amount is less than \$5. The department may
8 adopt rules to implement this paragraph, which may be adopted
9 pursuant to the emergency rule procedures of section
10 120.54(4), Florida Statutes.

11 (b) For the funds remaining after being paid or
12 reserved by the department for the purposes of paragraph (a),
13 the department shall transfer such remaining funds to Citizens
14 Property Insurance Corporation. The appropriation shall be
15 allocated to each of the personal lines and commercial lines
16 accounts so as to eliminate the deficit for the 2005 calendar
17 year in each of those two accounts, and the remaining moneys
18 shall be applied to reduce the portion of the deficit in the
19 high-risk account that would have been paid from the proceeds
20 of regular assessments except for the appropriation. The
21 moneys allocated to each account from the appropriation shall
22 be considered as proceeds of regular assessments for purposes
23 of the financing documents of Citizens Property Insurance
24 Corporation.

25 (2) Citizens Property Insurance Corporation shall
26 include in the notice of assessment to each assessable insurer
27 the amount by which the assessment has been reduced due to the
28 appropriation in paragraph (1)(b).

29 (3) Each insurer that recoups an assessment from its
30 policyholders as allowed by law for the regular assessment by
31 Citizens Property Insurance Corporation for its 2005 deficit

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1 shall include on the premium notice sent to policyholders, in
2 12-point type, the following statement with the appropriate
3 dollar amount shown:

4
5 "The \$ _____ SURCHARGE IN YOUR PREMIUM FOR THE ASSESSMENT
6 BY CITIZENS PROPERTY INSURANCE CORPORATION HAS BEEN REDUCED BY
7 \$ _____ DUE TO AN APPROPRIATION BY THE FLORIDA LEGISLATURE."

8
9 (5) A violation of this section by an insurer is a
10 violation of the Insurance Code and the insurer is subject to
11 the penalties provided in ss. 624.418 and 624.4211, Florida
12 Statutes.

13 (6) For the purposes of this section, the terms
14 "assessable insurer," "assessable insured," "corporation,"
15 "deficit," and "regular assessment," have the same meaning as
16 provided in s. 627.351(6), Florida Statutes.

17 Section 41. Effective July 1, 2006, subsection (3) of
18 s. 215.559, Florida Statutes, is repealed.

19 Section 42. Except as otherwise expressly provided in
20 this act, this act shall take effect upon becoming a law.

21
22
23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26
27 and insert:

28 A bill to be entitled
29 An act relating to property insurance; amending
30 s. 215.555, F.S.; redefining the term "losses"
31 for purposes of the Florida Hurricane

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1 Catastrophe Fund; allowing limited
2 apportionment companies to purchase additional
3 coverage amounts from the fund; revising
4 certain reimbursement contract criteria;
5 revising certain reimbursement premium
6 requirements; specifying procedures for
7 Citizens Property Insurance Corporation to
8 obtain coverage for certain policies from the
9 fund; deleting a requirement that bonds be
10 validated; revising certain revenue bond
11 emergency assessment requirements; specifying
12 premiums that are subject to assessment;
13 revising the date on which the exemption of
14 medical malpractice premiums from emergency
15 assessments is repealed; creating s. 215.5586,
16 F.S.; establishing the Florida Comprehensive
17 Hurricane Damage Mitigation Program within the
18 Department of Financial Services; providing
19 qualifications for the program administrator;
20 providing program components and requirements;
21 providing for wind certification and hurricane
22 mitigation inspections; providing inspection
23 requirements; providing inspector eligibility
24 requirements; providing for grants; providing
25 grant requirements; for loans; providing public
26 education and consumer awareness requirements;
27 creating s. 215.5595, F.S.; providing
28 legislative findings concerning the
29 appropriation of state funds to be used as
30 surplus notes for residential property
31 insurers; providing conditions and requirements

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1 for the issuance of surplus notes to new or
2 existing residential property insurers under
3 the Insurance Capital Build-Up Incentive
4 Program; providing for the program to be
5 administered by the State Board of
6 Administration; limiting the amount of a
7 surplus note; requiring that an insurer
8 maintain a specified ratio of net written
9 premium to surplus for the term of the note;
10 providing for the term of a surplus note and
11 the rate of interest; providing that the state
12 is a creditor for unpaid principal and interest
13 on a surplus note; requiring the board to adopt
14 emergency rules; providing requirements for the
15 investment of appropriated funds; creating s.
16 252.63, F.S.; providing purpose and intent;
17 providing powers of the Commissioner of
18 Insurance Regulation during a state of
19 emergency; authorizing the commissioner to
20 issue certain orders in a state of emergency;
21 providing for effect and duration of such
22 orders; providing for legislative termination
23 of such orders; requiring the commissioner to
24 publish such orders and an explanatory
25 statement; creating s. 626.8795, F.S.;

26 prohibiting a public adjuster from engaging in
27 certain activities that constitute a conflict
28 of interest; amending s. 626.918, F.S.;

29 authorizing certain letters of credit to fund a
30 surplus lines insurer's required policyholder
31 protection trust fund; defining the term

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1 "qualified United States financial
2 institution"; amending s. 627.062, F.S.;
3 requiring the Office of Insurance Regulation to
4 approve a rating factor relative to an
5 insurer's rate of return; providing that the
6 burden is on the Office of Insurance Regulation
7 to establish that certain rates are excessive;
8 amending s. 627.0628, F.S.; authorizing certain
9 determinations to be made in a rate hearing
10 regarding the assumptions and factors found to
11 be accurate or reliable by the Florida
12 Commission on Hurricane Loss Projection
13 Methodology; amending s. 627.06281, F.S.;
14 requiring the public hurricane loss-projection
15 model to be submitted for review by the Florida
16 Commission on Hurricane Loss Projection
17 Methodology; allowing the Office of Insurance
18 Regulation to use the public model until the
19 commission determines that the public model is
20 not accurate or reliable; amending s. 627.0629,
21 F.S.; requiring that the office reevaluate the
22 rate differentials for construction techniques
23 that meet the requirements of the Florida
24 Building Code; amending s. 627.351, F.S.;
25 providing that certain responsibilities of the
26 Office of Insurance Regulation with respect to
27 the plan of operation of Citizens Property
28 Insurance Corporation be assumed by the
29 Financial Services Commission; defining the
30 terms "homestead property" and "nonhomestead
31 property" for use with respect to Citizens

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1 Property Insurance Corporation; limiting
2 eligibility for personal lines coverage by the
3 corporation; directing the corporation board to
4 reduce or, with approval by necessary parties,
5 restructure existing debt; requiring a report
6 with respect thereto; providing for a reduction
7 in aggregate amount of a regular assessment in
8 certain circumstances; authorizing the
9 corporation to adopt policy forms that contain
10 more restrictive coverage; requiring the
11 executive director of the corporation to be
12 confirmed by the Senate; deleting authority of
13 the Chief Financial Officer to review corporate
14 employees; prescribing a 10-day waiting period
15 for applications for coverage for a new policy;
16 authorizing exceptions; redesignating the
17 market equalization surcharge as a Citizens
18 policyholder surcharge and providing for its
19 calculation; prescribing an additional
20 surcharge on deficit assessments for certain
21 nonhomestead property; revising the liability
22 of limited apportionment companies for regular
23 assessments; providing for optional payment
24 plans; requiring insurers to provide
25 claims-adjusting services for certain wind
26 coverage in certain circumstances; requiring
27 the corporation to limit coverage on certain
28 mobile homes; requiring prospective senior
29 management employees of the corporation to
30 successfully pass a background check; requiring
31 employees of the corporation to sign annually a

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1 statement that they have no conflict of
2 interest; providing that senior managers and
3 members of the board of governors are subject
4 to the code of ethics and must file financial
5 disclosure; prohibiting employees and members
6 of the board of governors from accepting gifts
7 or expenditures from a persons or entity, or
8 employee thereof, which has or is under
9 consideration for a contract with the
10 corporation; providing penalties; providing a
11 limitation on senior managers' representation
12 of persons before the corporation after
13 retirement or termination of employment and on
14 employment with an insurer that has received a
15 take-out bonus; prescribing guidelines for
16 purchases of goods and services; providing
17 guidelines on use of outside counsel;
18 prohibiting the corporation from retaining a
19 lobbyist; authorizing full-time employees to
20 register and engage in lobbying; creating the
21 Office of Internal Auditor and prescribing its
22 duties; providing record-retention
23 requirements; requiring establishment of a unit
24 or division to investigate claims involving
25 possible fraud against the corporation and
26 another to receive and respond to consumer
27 complaints; requiring employees of the
28 corporation to report suspected fraud;
29 requiring a periodic comprehensive market
30 conduct examination of the corporation;
31 requiring periodic operational audits of the

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1 corporation by the Auditor General; prescribing
2 elements to be included in such audits;
3 providing requirements for the office with
4 respect to rate filings; providing a rate
5 surcharge for certain nonhomestead property and
6 property valued at more than a certain amount;
7 providing that rates for the corporation are
8 not subject to the requirements for being
9 noncompetitive if the Office of Insurance
10 Regulation makes a certain determination;
11 deleting provisions relating to appointment of
12 a rate methodology panel; providing for use of
13 the public hurricane loss-projection model in
14 ratemaking; prescribing requirements for paying
15 takeout bonuses or payments to insurers;
16 requiring records of takeout bonuses or other
17 payments for certain purposes; clarifying that
18 debt obligations of the corporation are not
19 subject to taxation; prohibiting the
20 corporation and other persons from making
21 certain filings under, or becoming a debtor
22 under, the federal Bankruptcy Code; authorizing
23 the corporation to assume the policies of an
24 insurer placed in liquidation under conditions
25 approved by the office; postponing the dates by
26 which the boundaries of high-risk areas must be
27 reduced; requiring a study of the viability of
28 authorized insurers issuing and servicing, for
29 a fee, certain high-risk insurance policies;
30 requiring a report to legislative leaders;
31 providing that insurance agents are not liable

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1 for certain action; providing applicability of
2 specified provisions relating to assessments
3 and surcharges; amending s. 627.3511, F.S.;
4 extending the period for which an insurer that
5 assumes Citizens Property Insurance
6 Corporation's obligations under a policy must
7 renew the replacement policy; revising
8 circumstances under which replacement is not
9 required; amending s. 627.3512, F.S.;
10 authorizing a limited apportionment company to
11 recoup assessments levied by Citizens Property
12 Insurance Corporation; amending s. 627.3517,
13 F.S.; providing that an insurance risk
14 apportionment plan policyholder's right to
15 retain his or her current agent does not apply
16 during the first 10 days after a new
17 application for coverage has been submitted to
18 Citizens Property Insurance Corporation;
19 creating s. 627.3519, F.S.; requiring the
20 Financial Services Commission to report
21 annually to the Legislature on probable maximum
22 losses, financing options, and assessment
23 potentials of the Florida Hurricane Catastrophe
24 Fund and Citizens Property Insurance
25 Corporation; amending s. 627.4035, F.S.;
26 providing for a waiver of a written
27 authorization requirement to pay claims by
28 debit card or other electronic transfer;
29 creating s. 627.6121, F.S.; prescribing
30 circumstances under which an insurer must pay
31 benefits to a primary policyholder of dual

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1 interest property; requiring mortgageholders
2 and lienholders be given notice of such
3 payment; amending s. 627.7011, F.S.; limiting
4 certain law and ordinance coverage; providing
5 that the section does not prohibit an insurer
6 from limiting its liability concerning certain
7 replacement costs; creating s. 627.7019, F.S.;
8 requiring the Financial Services Commission to
9 adopt rules imposing standardized requirements
10 applicable to insurers after certain natural
11 events; providing criteria; providing
12 requirements of the Office of Insurance
13 Regulation; amending s. 627.706, F.S.; allowing
14 for a deductible amount applicable to sinkhole
15 losses in a policy for residential property
16 insurance; defining the term "professional
17 engineer"; amending s. 627.707, F.S.; revising
18 references to certain engineers; authorizing
19 insurers to make direct payment for certain
20 repairs; excluding insurers from liability for
21 repairs under certain circumstances; amending
22 s. 627.7072, F.S.; revising references to
23 certain engineers; deleting a standard for
24 testing; amending s. 627.7073, F.S.; revising
25 requirements for sinkhole reports by
26 professional engineers and professional
27 geologists; providing for the recording of
28 sinkhole reports by the clerk of court rather
29 than the property appraiser; providing that the
30 recording of the report and certification does
31 not constitute certain restrictions or create

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1 certain causes of action or liabilities;
2 creating s. 627.7074, F.S.; prescribing an
3 alternative method for resolving disputed
4 sinkhole insurance claims; providing
5 definitions; prescribing procedures for
6 invoking the alternative method; providing that
7 a recommendation by a neutral evaluator is not
8 binding on any party; providing for payments of
9 costs; requiring the insurer to pay attorney's
10 fees of the policyholder up to a specified
11 amount under certain conditions; providing that
12 an insurer is not liable for attorney's fees or
13 for certain damages under certain conditions;
14 providing for judicial review; amending s.
15 627.727, F.S.; conforming a cross-reference;
16 amending s. 631.181, F.S.; providing an
17 exception to certain requirements for a signed
18 statement for certain claims related to the
19 insolvency of an insurer; providing
20 requirements; amending s. 631.54, F.S.;
21 redefining the term "covered claim" and
22 defining the term "homeowner's insurance" for
23 purposes of the Florida Insurance Guaranty
24 Association; amending s. 631.55, F.S.;
25 conforming a cross-reference; amending s.
26 631.57, F.S.; revising requirements and
27 limitations for obligations of the Florida
28 Insurance Guaranty Association for covered
29 claims; authorizing the association to contract
30 with counties, municipalities, and legal
31 entities to issue revenue bonds for certain

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1 purposes; authorizing the Office of Insurance
2 Regulation to levy assessments and emergency
3 assessments on insurers under certain
4 circumstances for certain bond repayment
5 purposes; providing requirements for and
6 limitations on such assessments; providing for
7 payment, collection, and distribution of such
8 assessments; requiring insurers to include an
9 analysis of revenues from such assessments in a
10 required report; providing rate filing
11 requirements for insurers relating to such
12 assessments; providing for continuing annual
13 assessments under certain circumstances;
14 specifying emergency assessments as not premium
15 and not subject to certain taxes, fees, or
16 commissions; specifying insurer liability for
17 emergency assessments; providing an exception;
18 creating s. 631.695, F.S.; providing
19 legislative findings and purposes; providing
20 for issuance of revenue bonds through counties
21 and municipalities to fund assistance programs
22 for paying covered claims for hurricane damage;
23 providing procedures, requirements, and
24 limitations for counties, municipalities, and
25 the Florida Insurance Guaranty Association,
26 Inc., relating to issuance and validation of
27 such bonds; prohibiting pledging the funds,
28 credit, property, and taxing power of the
29 state, counties, and municipalities for payment
30 of bonds; specifying authorized uses of bond
31 proceeds; limiting the term of bonds;

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1 specifying a state covenant to protect
2 bondholders from adverse actions relating to
3 such bonds; specifying exemptions for bonds,
4 notes, and other obligations of counties and
5 municipalities from certain taxes or
6 assessments on property and revenues;
7 authorizing counties and municipalities to
8 create a legal entity to exercise certain
9 powers; requiring the association to issue an
10 annual report on the status of certain uses of
11 bond proceeds; providing report requirements;
12 requiring the association to provide a copy of
13 the report to the Legislature and Chief
14 Financial Officer; prohibiting repeal of
15 certain provisions relating to certain bonds
16 under certain circumstances; amending s.
17 877.02, F.S.; prohibiting certain solicitations
18 by contractors and other persons providing
19 sinkhole remediation services; providing
20 penalties; requiring the Office of Insurance
21 Regulation to submit reports to the Legislature
22 relating to the insurability of certain
23 attached or free-standing structures and
24 relating to an objective rating system for
25 homes; requiring the Office of Insurance
26 Regulation to calculate a presumed factor that
27 reflects certain provisions of the act related
28 to sinkhole claims and by ss. 17, 18, 19, 20,
29 and 21 of ch. 2005-111, Laws of Florida;
30 providing procedures; requiring residential
31 property insurers to use the presumed factor in

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1 calculating rates after a specified date;
2 providing appropriations; requiring the
3 Department of Financial Services to reimburse
4 policyholders for the amount of a premium paid
5 to an insurer for the assessment by Citizens
6 Property Insurance Corporation; requiring
7 insurers and the Florida Surplus Lines Service
8 Office to report data to the department;
9 requiring surplus lines insurers and agents to
10 report certain information; authorizing the
11 department to adopt rules; requiring that an
12 appropriation be transferred to Citizens
13 Property Insurance Corporation to reduce the
14 amount of the regular assessment for a
15 specified deficit; requiring the corporation to
16 notify assessable insurers of the amount by
17 which assessments have been reduced; requiring
18 insurers who recoup assessments to notify
19 policyholders of the amount by which the
20 surcharge has been reduced; providing penalties
21 for a violation; defining terms; repealing s.
22 215.559(3), F.S.; deleting the requirement that
23 the Department of Community Affairs develop a
24 low-interest loan program for retrofitting
25 homes; providing effective dates.

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