

CHAMBER ACTION

1 The Fiscal Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to property and casualty insurance;
7 amending s. 215.555, F.S.; revising a definition; revising
8 certain reimbursement contract criteria; revising certain
9 reimbursement premium requirements; revising certain
10 revenue bond emergency assessment requirements; creating
11 s. 215.558, F.S.; creating the Florida Hurricane Damage
12 Prevention Endowment; providing a purpose and legislative
13 intent; providing definitions; providing requirements and
14 authority for investment of endowment assets by the State
15 Board of Administration; requiring a report to the
16 Legislature; providing for payment of the board's
17 investment services' costs and fees from the endowment;
18 providing requirements of the Department of Financial
19 Services in providing financial incentives for residential
20 hurricane damage prevention activities; providing for an
21 interest-free loan program; providing program criteria and
22 requirements; creating an advisory council for certain
23 purposes; providing for appointment of members; requiring

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24 | members to serve without compensation; providing for per
25 | diem and travel expenses; creating s. 215.5586, F.S.;
26 | establishing the Florida Comprehensive Hurricane Damage
27 | Mitigation Program within the Department of Financial
28 | Services; providing qualifications for the program
29 | administrator; providing program components; requiring the
30 | department to adopt rules; requiring the department to
31 | adopt rules; creating s. 252.63, F.S.; providing purpose
32 | and intent; providing powers of the Commissioner of
33 | Insurance Regulation during a state of emergency;
34 | providing a purpose and intent; authorizing the
35 | commissioner to issue certain orders in a state of
36 | emergency; providing for effect and duration of such
37 | orders; providing for legislative termination of such
38 | orders; requiring the commissioner to publish such orders
39 | and an explanatory statement; amending s. 626.918, F.S.;
40 | authorizing certain letters of credit to fund an insurer's
41 | required policyholder protection trust fund; providing a
42 | definition; amending s. 627.062, F.S.; specifying certain
43 | rate filings as not subject to office determination as
44 | excessive or unfairly discriminatory; providing
45 | limitations; providing a definition; prohibiting certain
46 | rate filings under certain circumstances; preserving the
47 | office's authority to disapprove certain rate filings
48 | under certain circumstances; providing procedures for
49 | insurers submitting certain rate filings; specifying
50 | nonapplication to certain types of insurance; specifying
51 | approval of certain rate filings under certain

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52 | circumstances; providing an exception; requiring the
53 | office to provide annual reports on the impact of certain
54 | rate regulations; specifying report requirements; amending
55 | s. 627.0628, F.S.; prohibiting certain office or consumer
56 | advocate questions of certain models reviewed by the
57 | commission; amending s. 627.06281, F.S.; prohibiting the
58 | office from using certain hurricane loss projection models
59 | under certain circumstances; amending s. 627.351, F.S.,
60 | relating to the Citizens Property Insurance Corporation;
61 | providing additional legislative intent; specifying
62 | application to homestead property; specifying the existing
63 | three separate accounts of the corporation as providing
64 | coverage only for homestead property; providing a
65 | definition; providing for an additional separate account
66 | for nonhomestead property; requiring separate maintenance
67 | of revenues, assets, liabilities, losses, and expenses
68 | attributable to the nonhomestead account; providing
69 | authority and requirements for coverage rates for
70 | nonhomestead properties; providing for office review of
71 | such rates or rating plans for being inadequate or
72 | unfairly discriminatory; authorizing the office to order
73 | discontinuance of certain policies under certain
74 | circumstances; requiring insurers to maintain certain
75 | records; providing for reducing regular assessments by the
76 | Citizen policyholder surcharge under certain
77 | circumstances; providing for deficit assessments against
78 | nonhomestead account policyholders under certain
79 | circumstances; authorizing the board of governors of the

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80 corporation to make loans from the homestead accounts to
81 the nonhomestead account under certain circumstances;
82 specifying ineligibility of certain nonhomestead account
83 policyholders for certain coverage under certain
84 circumstances; revising the requirements of the plan of
85 operation of the corporation; requiring additional
86 procedures for determining eligibility of a risk for
87 coverage; providing for determination of regular
88 assessments to which the Citizen policyholder surcharge
89 applies; specifying a minimum requirement for a hurricane
90 deductible for certain property; specifying contents of
91 required statements in applications for nonhomestead and
92 homestead account coverage; requiring the corporation to
93 purchase certain catastrophe reinsurance; providing
94 additional legislative intent relating to rate adequacy in
95 the residual market; deleting provisions relating to a
96 rate methodology panel appointed by the corporation;
97 providing requirements and limitations for a corporation
98 adopted bonus payment program; providing a criterion for
99 calculating reduction or increase in probable maximum
100 loss; delaying application of certain high-risk area
101 boundary reduction provisions; providing for application
102 of provisions relating to homestead and nonhomestead
103 accounts to certain policies; requiring certain
104 corporation employees to comply with certain ethics code
105 requirements; requiring corporation employees to notify
106 the Division of Insurance Fraud of probable commissions of
107 fraud by corporation employees; requiring the corporation

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108 | to report on the feasibility of requiring authorized
109 | insurers to issue and service specified policies of the
110 | corporation; specifying report requirements; providing
111 | immunity to producing agents and employees for specified
112 | actions taken relating to removal of policies from the
113 | corporation; providing a limitation; providing legislative
114 | intent; creating a High Risk Eligibility Panel; providing
115 | for appointment of panel members and member's terms;
116 | providing for administration of the panel by the
117 | corporation; prohibiting compensation and per diem and
118 | travel expenses; providing an exception; requiring the
119 | panel to report annually to the Legislature on the certain
120 | areas that should be included in the Citizens Property
121 | Insurance Corporation high risk account; specifying
122 | factors to be considered by the panel; providing duties of
123 | the office; authorizing the office to conduct public
124 | hearings; requiring the panel to conduct an analysis of
125 | property eligible for the high-risk account in specified
126 | areas; requiring the panel to submit a report to the
127 | office and corporation; providing requirements of the
128 | report; amending s. 627.4035, F.S.; providing for a waiver
129 | of a written authorization requirement to pay claims by
130 | debit card or other electronic transfer; providing
131 | construction relating to limiting the liability of an
132 | insurer for certain replacement costs; amending s.
133 | 627.7011, F.S.; limiting certain law and ordinance
134 | coverage; deleting application to personal property;
135 | requiring insurers to issue separate checks for certain

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136 expenses and requiring certain checks to be issued
137 directly to a policyholder; creating s. 627.7019, F.S.;
138 requiring the Financial Services Commission to adopt rules
139 imposing standardized requirements applicable to insurers
140 after certain natural events; providing criteria;
141 providing requirements of the Office of Insurance
142 Regulation; prohibiting certain conflicting emergency
143 rules; amending s. 627.727, F.S.; correcting a cross-
144 reference; amending s. 631.181, F.S.; providing an
145 exception to certain requirements for a signed statement
146 for certain claims; providing requirements; amending s.
147 631.54, F.S.; defining the term "homeowner's insurance";
148 amending s. 631.55, F.S.; correcting a cross-reference;
149 amending s. 631.57, F.S.; revising requirements and
150 limitations for obligations of the Florida Insurance
151 Guaranty Association for covered claims; authorizing the
152 association to contract with counties, municipalities, and
153 legal entities to issue revenue bonds for certain
154 purposes; authorizing the Office of Insurance Regulation
155 to levy assessments and emergency assessments on insurers
156 under certain circumstances for certain bond repayment
157 purposes; providing requirements for and limitations on
158 such assessments; providing for payment, collection, and
159 distribution of such assessments; requiring insurers to
160 include an analysis of revenues from such assessments in a
161 required report; providing rate filing requirements for
162 insurers relating to such assessments; providing for
163 continuing annual assessments under certain circumstances;

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164 specifying emergency assessments as not premium and not
165 subject to certain taxes, fees, or commissions; specifying
166 insurer liability for emergency assessments; providing an
167 exception; creating s. 631.695, F.S.; providing
168 legislative findings and purposes; providing for issuance
169 of revenue bonds through counties and municipalities to
170 fund assistance programs for paying covered claims for
171 hurricane damage; providing procedures, requirements, and
172 limitations for counties, municipalities, and the Florida
173 Insurance Guaranty Association, Inc., relating to issuance
174 and validation of such bonds; prohibiting pledging the
175 funds, credit, property, and taxing power of the state,
176 counties, and municipalities for payment of bonds;
177 specifying authorized uses of bond proceeds; limiting the
178 term of bonds; specifying a state covenant to protect
179 bondholders from adverse actions relating to such bonds;
180 specifying exemptions for bonds, notes, and other
181 obligations of counties and municipalities from certain
182 taxes or assessments on property and revenues; authorizing
183 counties and municipalities to create a legal entity to
184 exercise certain powers; requiring the association to
185 issue an annual report on the status of certain uses of
186 bond proceeds; providing report requirements; requiring
187 the association to provide a copy of the report to the
188 Legislature and Chief Financial Officer; prohibiting
189 repeal of certain provisions relating to certain bonds
190 under certain circumstances; amending s. 817.234, F.S.;
191 providing an additional circumstance that constitutes

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192 committing insurance fraud; creating the Task Force on
 193 Hurricane Mitigation and Hurricane Insurance for Mobile
 194 and Manufactured Homes; providing for administration by
 195 the office; specifying additional agency administrative
 196 staff; providing for appointment of task force members;
 197 requiring members to serve without compensation; providing
 198 for per diem and travel expenses; providing purpose and
 199 intent; requiring the task force to address specified
 200 issues; requiring a report to the Governor, Chief
 201 Financial Officer, and Legislature; providing for
 202 expiration of the task force; requiring the Office of
 203 Insurance Regulation to submit reports to the Legislature
 204 relating to the insurability of certain attached or free
 205 standing structures and decreases in policyholder
 206 hurricane deductibles based on policyholder hurricane
 207 damage mitigation measures; providing report requirements;
 208 providing duties of the office; providing appropriations;
 209 specifying uses and purposes of appropriations; providing
 210 effective dates.

211
 212 Be It Enacted by the Legislature of the State of Florida:

213
 214 Section 1. Paragraph (d) of subsection (2), paragraphs (c)
 215 and (d) of subsection (4), paragraph (b) of subsection (5), and
 216 paragraph (b) of subsection (6) of section 215.555, Florida
 217 Statutes, are amended to read:

218 215.555 Florida Hurricane Catastrophe Fund.--

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

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

227 (4) REIMBURSEMENT CONTRACTS.--

228 (c)1. The contract shall also provide that the obligation
229 of the board with respect to all contracts covering a particular
230 contract year shall not exceed the actual claims-paying capacity
231 of the fund up to a limit of \$15 billion for that contract year
232 adjusted based upon the reported exposure from the prior
233 contract year to reflect the percentage growth in exposure to
234 the fund for covered policies since 2003, provided the dollar
235 growth in the limit may not increase in any year by an amount
236 greater than the dollar growth of the ~~cash~~ balance of the fund
237 as of December 31 as defined by rule which occurred over the
238 prior calendar year.

239 2. In May before the start of the upcoming contract year
240 and in October during the contract year, the board shall publish
241 in the Florida Administrative Weekly a statement of the fund's
242 estimated borrowing capacity and the projected balance of the
243 fund as of December 31. After the end of each calendar year, the
244 board shall notify insurers of the estimated borrowing capacity
245 and the balance of the fund as of December 31 to provide
246 insurers with data necessary to assist them in determining their
247 retention and projected payout from the fund for loss

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248 reimbursement purposes. In conjunction with the development of
249 the premium formula, as provided for in subsection (5), the
250 board shall publish factors or multiples that assist insurers in
251 determining their retention and projected payout for the next
252 contract year. For all regulatory and reinsurance purposes, an
253 insurer may calculate its projected payout from the fund as its
254 share of the total fund premium for the current contract year
255 multiplied by the sum of the projected balance of the fund as of
256 December 31 and the estimated borrowing capacity for that
257 contract year as reported under this subparagraph.

258 (d)1. For purposes of determining potential liability and
259 to aid in the sound administration of the fund, the contract
260 shall require each insurer to report such insurer's losses from
261 each covered event on an interim basis, as directed by the
262 board. The contract shall require the insurer to report to the
263 board no later than December 31 of each year, and quarterly
264 thereafter, its reimbursable losses from covered events for the
265 year. The contract shall require the board to determine and pay,
266 as soon as practicable after receiving these reports of
267 reimbursable losses, the initial amount of reimbursement due and
268 adjustments to this amount based on later loss information. The
269 adjustments to reimbursement amounts shall require the board to
270 pay, or the insurer to return, amounts reflecting the most
271 recent calculation of losses.

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

274 ~~a. First reimburse insurers writing covered policies,~~
275 ~~which insurers are in full compliance with this section and have~~

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276 ~~petitioned the Office of Insurance Regulation and qualified as~~
 277 ~~limited apportionment companies under s. 627.351(2)(b)3. The~~
 278 ~~amount of such reimbursement shall be the lesser of \$10 million~~
 279 ~~or an amount equal to 10 times the insurer's reimbursement~~
 280 ~~premium for the current year. The amount of reimbursement paid~~
 281 ~~under this sub-subparagraph may not exceed the full amount of~~
 282 ~~reimbursement promised in the reimbursement contract. This sub-~~
 283 ~~subparagraph does not apply with respect to any contract year in~~
 284 ~~which the year-end projected cash balance of the fund, exclusive~~
 285 ~~of any bonding capacity of the fund, exceeds \$2 billion. Only~~
 286 ~~one member of any insurer group may receive reimbursement under~~
 287 ~~this sub-subparagraph.~~

288 a.b. Next pay to each insurer such insurer's projected
 289 payout, which is the amount of reimbursement it is owed, up to
 290 an amount equal to the insurer's share of the actual premium
 291 paid for that contract year, multiplied by the actual claims-
 292 paying capacity available for that contract year; provided,
 293 entities created pursuant to s. 627.351 shall be further
 294 reimbursed in accordance with sub-subparagraph b. e.

295 b.e. Thereafter, establish the prorated reimbursement
 296 level at the highest level for which any remaining fund balance
 297 or bond proceeds are sufficient to reimburse entities created
 298 pursuant to s. 627.351 based on reimbursable losses exceeding
 299 the amounts payable pursuant to sub-subparagraph a. b. for the
 300 current contract year.

301 (5) REIMBURSEMENT PREMIUMS.--

302 (b) The State Board of Administration shall select an
 303 independent consultant to develop a formula for determining the

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304 actuarially indicated premium to be paid to the fund. The
305 formula shall specify, for each zip code or other limited
306 geographical area, the amount of premium to be paid by an
307 insurer for each \$1,000 of insured value under covered policies
308 in that zip code or other area. In establishing premiums, the
309 board shall consider the coverage elected under paragraph (4)(b)
310 and any factors that tend to enhance the actuarial
311 sophistication of ratemaking for the fund, including
312 deductibles, type of construction, type of coverage provided,
313 relative concentration of risks, ~~a factor providing for more~~
314 ~~rapid cash buildup in the fund until the fund capacity for a~~
315 ~~single hurricane season is fully funded~~, and other such factors
316 deemed by the board to be appropriate. The formula may provide
317 for a procedure to determine the premiums to be paid by new
318 insurers that begin writing covered policies after the beginning
319 of a contract year, taking into consideration when the insurer
320 starts writing covered policies, the potential exposure of the
321 insurer, the potential exposure of the fund, the administrative
322 costs to the insurer and to the fund, and any other factors
323 deemed appropriate by the board. The formula shall include a
324 factor of 25 percent of the fund's actuarially indicated premium
325 in order to provide for more rapid cash buildup in the fund. The
326 formula must be approved by unanimous vote of the board. The
327 board may, at any time, revise the formula pursuant to the
328 procedure provided in this paragraph.

329 (6) REVENUE BONDS.--

330 (b) Emergency assessments.--

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331 1. If the board determines that the amount of revenue
332 produced under subsection (5) is insufficient to fund the
333 obligations, costs, and expenses of the fund and the
334 corporation, including repayment of revenue bonds and that
335 portion of the debt service coverage not met by reimbursement
336 premiums, the board shall direct the Office of Insurance
337 Regulation to levy, by order, an emergency assessment on direct
338 premiums for all property and casualty lines of business in this
339 state, including property and casualty business of surplus lines
340 insurers regulated under part VIII of chapter 626, but not
341 including any workers' compensation premiums or medical
342 malpractice premiums. As used in this subsection, the term
343 "property and casualty business" includes all lines of business
344 identified on Form 2, Exhibit of Premiums and Losses, in the
345 annual statement required of authorized insurers by s. 624.424
346 and any rule adopted under this section, except for those lines
347 identified as accident and health insurance and except for
348 policies written under the National Flood Insurance Program. The
349 assessment shall be specified as a percentage of future premium
350 collections and is subject to annual adjustments by the board to
351 reflect changes in premiums subject to assessments collected
352 under this subparagraph in order to meet debt obligations. The
353 same percentage shall apply to all policies in lines of business
354 subject to the assessment issued or renewed during the 12-month
355 period beginning on the effective date of the assessment.

356 2. A premium is not subject to an annual assessment under
357 this paragraph in excess of 6 percent of premium with respect to
358 obligations arising out of losses attributable to any one

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359 contract year, and a premium is not subject to an aggregate
360 annual assessment under this paragraph in excess of 10 percent
361 of premium. An annual assessment under this paragraph shall
362 continue for as long as ~~until~~ the revenue bonds issued with
363 respect to which the assessment was imposed are outstanding,
364 including any bonds the proceeds of which were used to refund
365 the revenue bonds, unless adequate provision has been made for
366 the payment of the bonds under the documents authorizing
367 issuance of the bonds.

368 3. With respect to each insurer collecting premiums that
369 are subject to the assessment, the insurer shall collect the
370 assessment at the same time as it collects the premium payment
371 for each policy and shall remit the assessment collected to the
372 fund or corporation as provided in the order issued by the
373 Office of Insurance Regulation. The office shall verify the
374 accurate and timely collection and remittance of emergency
375 assessments and shall report the information to the board in a
376 form and at a time specified by the board. Each insurer
377 collecting assessments shall provide the information with
378 respect to premiums and collections as may be required by the
379 office to enable the office to monitor and verify compliance
380 with this paragraph.

381 4. With respect to assessments of surplus lines premiums,
382 each surplus lines agent shall collect the assessment at the
383 same time as the agent collects the surplus lines tax required
384 by s. 626.932, and the surplus lines agent shall remit the
385 assessment to the Florida Surplus Lines Service Office created
386 by s. 626.921 at the same time as the agent remits the surplus

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387 lines tax to the Florida Surplus Lines Service Office. The
388 emergency assessment on each insured procuring coverage and
389 filing under s. 626.938 shall be remitted by the insured to the
390 Florida Surplus Lines Service Office at the time the insured
391 pays the surplus lines tax to the Florida Surplus Lines Service
392 Office. The Florida Surplus Lines Service Office shall remit the
393 collected assessments to the fund or corporation as provided in
394 the order levied by the Office of Insurance Regulation. The
395 Florida Surplus Lines Service Office shall verify the proper
396 application of such emergency assessments and shall assist the
397 board in ensuring the accurate and timely collection and
398 remittance of assessments as required by the board. The Florida
399 Surplus Lines Service Office shall annually calculate the
400 aggregate written premium on property and casualty business,
401 other than workers' compensation and medical malpractice,
402 procured through surplus lines agents and insureds procuring
403 coverage and filing under s. 626.938 and shall report the
404 information to the board in a form and at a time specified by
405 the board.

406 5. Any assessment authority not used for a particular
407 contract year may be used for a subsequent contract year. If,
408 for a subsequent contract year, the board determines that the
409 amount of revenue produced under subsection (5) is insufficient
410 to fund the obligations, costs, and expenses of the fund and the
411 corporation, including repayment of revenue bonds and that
412 portion of the debt service coverage not met by reimbursement
413 premiums, the board shall direct the Office of Insurance
414 Regulation to levy an emergency assessment up to an amount not

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415 | exceeding the amount of unused assessment authority from a
416 | previous contract year or years, plus an additional 4 percent
417 | provided that the assessments in the aggregate do not exceed the
418 | limits specified in subparagraph 2.

419 | 6. The assessments otherwise payable to the corporation
420 | under this paragraph shall be paid to the fund unless and until
421 | the Office of Insurance Regulation and the Florida Surplus Lines
422 | Service Office have received from the corporation and the fund a
423 | notice, which shall be conclusive and upon which they may rely
424 | without further inquiry, that the corporation has issued bonds
425 | and the fund has no agreements in effect with local governments
426 | under paragraph (c). On or after the date of the notice and
427 | until the date the corporation has no bonds outstanding, the
428 | fund shall have no right, title, or interest in or to the
429 | assessments, except as provided in the fund's agreement with the
430 | corporation.

431 | 7. Emergency assessments are not premium and are not
432 | subject to the premium tax, to the surplus lines tax, to any
433 | fees, or to any commissions. An insurer is liable for all
434 | assessments that it collects and must treat the failure of an
435 | insured to pay an assessment as a failure to pay the premium. An
436 | insurer is not liable for uncollectible assessments.

437 | 8. When an insurer is required to return an unearned
438 | premium, it shall also return any collected assessment
439 | attributable to the unearned premium. A credit adjustment to the
440 | collected assessment may be made by the insurer with regard to
441 | future remittances that are payable to the fund or corporation,
442 | but the insurer is not entitled to a refund.

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443 9. When a surplus lines insured or an insured who has
444 procured coverage and filed under s. 626.938 is entitled to the
445 return of an unearned premium, the Florida Surplus Lines Service
446 Office shall provide a credit or refund to the agent or such
447 insured for the collected assessment attributable to the
448 unearned premium prior to remitting the emergency assessment
449 collected to the fund or corporation.

450 10. The exemption of medical malpractice insurance
451 premiums from emergency assessments under this paragraph is
452 repealed May 31, 2010 ~~2007~~, and medical malpractice insurance
453 premiums shall be subject to emergency assessments attributable
454 to loss events occurring in the contract years commencing on
455 June 1, 2010 ~~2007~~.

456 Section 2. Section 215.558, Florida Statutes, is created
457 to read:

458 215.558 Florida Hurricane Damage Prevention Endowment.--

459 (1) PURPOSE AND INTENT.--The purpose of this section is to
460 provide a continuing source of funding for financial incentives
461 to encourage residential property owners of this state to
462 retrofit their properties to make them less vulnerable to
463 hurricane damage, to help decrease the cost of residential
464 property and casualty insurance, and to provide matching funds
465 to local governments and nonprofit entities for projects that
466 will reduce hurricane damage to residential properties. It is
467 the intent of the Legislature that this section be construed
468 liberally to effectuate its purpose.

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

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

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471 (b) "Corpus" means the money that has been appropriated to
 472 the endowment by the 2006 Legislature, together with any amounts
 473 subsequently appropriated to the endowment that are specifically
 474 designated as contributions to the corpus and any grants, gifts,
 475 or donations to the endowment that are specifically designated
 476 as contributions to the corpus.

477 (c) "Earnings" means any money in the endowment in excess
 478 of the corpus, including any income generated by investments,
 479 any increase in the market value of investments net of decreases
 480 in market value, and any appropriations, grants, gifts, or
 481 donations to the endowment not specifically designated as
 482 contributions to the corpus.

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

485 (e) "Program administrator" means the Department of
 486 Financial Services.

487 (3) ADMINISTRATION.--

488 (a) The board shall invest endowment assets as provided in
 489 this section.

490 (b) The board may invest and reinvest funds of the
 491 endowment in accordance with s. 215.47 and consistent with board
 492 policy.

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

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

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

502 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE
503 PREVENTION ACTIVITIES.--

504 (a) Not less than 80 percent of the net earnings of the
505 endowment shall be expended for financial incentives to
506 residential property owners as described in paragraph (b), and
507 no more than the remainder of the net earnings of the endowment
508 shall be expended for matching fund grants to local governments
509 and nonprofit entities for projects that will reduce hurricane
510 damage to residential properties as described in paragraph (c).
511 Any funds authorized for expenditure but not expended for these
512 purposes shall be returned to the endowment.

513 (b)1. The program administrator, by rule, shall establish
514 a request for a proposal process to annually solicit proposals
515 from lending institutions under which the lending institution
516 will provide interest-free loans to homestead property owners to
517 pay for inspections of homestead property to determine what
518 mitigation measures are needed and for improvements to existing
519 residential properties intended to reduce the homestead
520 property's vulnerability to hurricane damage, in exchange for
521 funding from the endowment.

522 2. In order to qualify for funding under this paragraph,
523 an interest-free loan program must include an inspection of
524 homestead property to determine what mitigation measures are

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525 needed, a means for verifying that the improvements to be paid
526 for from loan proceeds have been demonstrated to reduce a
527 homestead property's vulnerability to hurricane damage, and a
528 means for verifying that the proceeds were actually spent on
529 such improvements. The program must include a method for
530 awarding loans according to the following priorities:

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

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

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

542 d. The next highest priority must be given to all other
543 single-family owner-occupied homestead dwellings insured at
544 \$500,000 or less.

545 3. The program administrator shall evaluate proposals
546 based on the following factors:

547 a. The degree to which the proposal meets the requirements
548 of subparagraph 2.

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

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

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552 4. The program administrator shall annually solicit
553 proposals from local governments and nonprofit entities for
554 projects that will reduce hurricane damage to homestead
555 properties. The program administrator may provide up to 50
556 percent of the funding for such projects. The projects may
557 include educational programs, repair services, property
558 inspections, and hurricane vulnerability analyses and such other
559 projects as the program administrator determines to be
560 consistent with the purposes of this section.

561 (5) ADVISORY COUNCIL.--There is created an advisory
562 council to provide advice and assistance to the program
563 administrator with regard to its administration of the
564 endowment. The advisory council shall consist of:

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

568 (b) A representative of residential property insurers,
569 selected by the Financial Services Commission from a list of at
570 least three persons recommended by the Florida Insurance
571 Council.

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

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

578 (e) Two members of the House of Representatives selected
579 by the Speaker of the House of Representatives.

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580 (f) Two members of the Senate selected by the President of
581 the Senate.

582 (g) The senior officer of the Florida Hurricane
583 Catastrophe Fund.

584 (h) The executive director of Citizens Property Insurance
585 Corporation.

586 (i) The director of the Division of Emergency Management
587 of the Department of Community Affairs.

588
589 Members appointed under paragraphs (a) - (d) shall serve at the
590 pleasure of the Financial Services Commission. Members appointed
591 under paragraphs (e) and (f) shall serve at the pleasure of the
592 appointing officer. All other members shall serve ex officio.
593 Members of the advisory council shall serve without compensation
594 but may receive reimbursement as provided in s. 112.061 for per
595 diem and travel expenses incurred in the performance of their
596 official duties.

597 Section 3. Section 215.5586, Florida Statutes, is created
598 to read:

599 215.5586 Florida Comprehensive Hurricane Damage Mitigation
600 Program.--There is established within the Department of
601 Financial Services the Florida Comprehensive Hurricane Damage
602 Mitigation Program. The program shall be administered by an
603 individual with prior executive experience in the private sector
604 in the areas of insurance, business, or construction. The
605 program shall develop and implement a comprehensive and
606 coordinated approach for hurricane damage mitigation that shall
607 include the following:

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608 (1) WIND CERTIFICATION AND HURRICANE MITIGATION

609 INSPECTIONS.--Free home-retrofit inspections of single-family
610 site-built, owner-occupied, residential property shall be
611 offered to determine what mitigation measures are needed and
612 what improvements to existing residential properties are needed
613 to reduce the property's vulnerability to hurricane damage. The
614 Department of Financial Services shall establish a request for
615 proposals to solicit proposals from wind certification entities
616 to provide at no cost to homeowners wind certification and
617 hurricane mitigation inspections. The inspections provided to
618 homeowners, at a minimum, must include:

619 (a) A home inspection and report that summarizes the
620 results and identifies corrective actions a homeowner may take
621 to mitigate hurricane damage.

622 (b) A range of cost estimates regarding the mitigation
623 features.

624 (c) Insurer-specific information regarding premium
625 discounts correlated to recommended mitigation features
626 identified by the inspection.

627 (d) A hurricane resistance rating scale specifying the
628 home's current as well as projected wind resistance
629 capabilities.

630 (2) GRANTS.--Financial grants shall be used to encourage
631 single-family, site-built, owner-occupied, residential property
632 owners to retrofit their properties to make them less vulnerable
633 to hurricane damage. The program shall create a process in which
634 mitigation contractors agree to participate and seek
635 reimbursement from the state and homeowners select from a list

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636 of participating contractors. Matching fund grants shall also be
637 made available to local governments and nonprofit entities for
638 projects that will reduce hurricane damage to single-family,
639 site-built, owner-occupied, residential property.

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

642 (4) EDUCATION AND CONSUMER AWARENESS.--Multimedia public
643 education, awareness, and advertising efforts designed to
644 specifically address mitigation techniques shall be employed, as
645 well as a component to support ongoing consumer resources and
646 referral services.

647 (5) RULES.--The Department of Financial Services shall
648 adopt rules pursuant to ss. 120.536(1) and 120.54 governing the
649 Florida Comprehensive Hurricane Damage Mitigation Program.

650 Section 4. Section 252.63, Florida Statutes, is created to
651 read:

652 252.63 Commissioner of Insurance Regulation; powers in a
653 state of emergency.--

654 (1) It is the purpose and intent of this section to
655 provide the Commissioner of Insurance Regulation the authority
656 to temporarily modify or suspend provisions of the Florida
657 Insurance Code in order to expedite the recovery of communities
658 affected by a disaster or other emergency and encourage
659 insurance companies, entities, and persons subject to the
660 Florida Insurance Code and the jurisdiction of the office to
661 meet the insurance needs of such communities.

662 (2) (a) When the Governor declares a state of emergency
663 pursuant to s. 252.36, the commissioner may issue:

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664 1. One or more general orders applicable to all insurance
665 companies, entities, and persons, as defined in s. 624.04, that
666 are subject to the Florida Insurance Code and that serve any
667 portion of the area of the state under the state of emergency;
668 or

669 2. One or more specific orders to particular insurance
670 companies, entities, and persons that are subject to the Florida
671 Insurance Code, as defined in s. 624.01, which orders may modify
672 or suspend, as to those companies, entities, and persons, all or
673 any part of the Florida Insurance Code, or any applicable rule,
674 consistent with the stated purposes of the Florida Insurance
675 Code.

676 (b) An order issued by the commissioner under this section
677 becomes effective upon issuance and continues for 120 days
678 unless terminated sooner by the commissioner. The commissioner
679 may extend an order for one additional period of 120 days if he
680 or she determines that the emergency conditions that gave rise
681 to the initial order still exist. By concurrent resolution, the
682 Legislature may terminate any order issued under this section.

683 (3) The commissioner shall publish in the next available
684 publication of the Florida Administrative Weekly a copy of the
685 text of any order issued under this section, together with a
686 statement describing the modification or suspension and
687 explaining how the modification or suspension will facilitate
688 recovery from the emergency.

689 Section 5. Subsections (1) and (2) of section 626.918,
690 Florida Statutes, are amended to read:

691 626.918 Eligible surplus lines insurers.--

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

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

699 (a) Eligibility of the insurer must be requested in
700 writing by the Florida Surplus Lines Service Office.‡

701 (b) The insurer must be currently an authorized insurer in
702 the state or country of its domicile as to the kind or kinds of
703 insurance proposed to be so placed and must have been such an
704 insurer for not less than the 3 years next preceding or must be
705 the wholly owned subsidiary of such authorized insurer or must
706 be the wholly owned subsidiary of an already eligible surplus
707 lines insurer as to the kind or kinds of insurance proposed for
708 a period of not less than the 3 years next preceding. However,
709 the office may waive the 3-year requirement if the insurer
710 provides a product or service not readily available to the
711 consumers of this state or has operated successfully for a
712 period of at least 1 year next preceding and has capital and
713 surplus of not less than \$25 million.‡

714 (c) Before granting eligibility, the requesting surplus
715 lines agent or the insurer shall furnish the office with a duly
716 authenticated copy of its current annual financial statement in
717 the English language and with all monetary values therein
718 expressed in United States dollars, at an exchange rate (in the
719 case of statements originally made in the currencies of other

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720 countries) then-current and shown in the statement, and with
721 such additional information relative to the insurer as the
722 office may request.†

723 (d)1.a. The insurer must have and maintain surplus as to
724 policyholders of not less than \$15 million; in addition, an
725 alien insurer must also have and maintain in the United States a
726 trust fund for the protection of all its policyholders in the
727 United States under terms deemed by the office to be reasonably
728 adequate, in an amount not less than \$5.4 million. Any such
729 surplus as to policyholders or trust fund shall be represented
730 by investments consisting of eligible investments for like funds
731 of like domestic insurers under part II of chapter 625 provided,
732 however, that in the case of an alien insurance company, any
733 such surplus as to policyholders may be represented by
734 investments permitted by the domestic regulator of such alien
735 insurance company if such investments are substantially similar
736 in terms of quality, liquidity, and security to eligible
737 investments for like funds of like domestic insurers under part
738 II of chapter 625. Clean, irrevocable, unconditional, and
739 evergreen letters of credit issued or confirmed by a qualified
740 United States financial institution, as defined in subparagraph
741 2., may be used to fund the trust.†

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

745 (I)a. On December 31, 1994, and until December 30, 1995,
746 \$2.5 million.

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747 (II)~~b.~~ On December 31, 1995, and until December 30, 1996,
748 \$3.5 million.

749 (III)~~e.~~ On December 31, 1996, and until December 30, 1997,
750 \$4.5 million.

751 (IV)~~d.~~ On December 31, 1997, and until December 30, 1998,
752 \$5.5 million.

753 (V)~~e.~~ On December 31, 1998, and until December 30, 1999,
754 \$6.5 million.

755 (VI)~~f.~~ On December 31, 1999, and until December 30, 2000,
756 \$8 million.

757 (VII)~~g.~~ On December 31, 2000, and until December 30, 2001,
758 \$9.5 million.

759 (VIII)~~h.~~ On December 31, 2001, and until December 30,
760 2002, \$11 million.

761 (IX)~~i.~~ On December 31, 2002, and until December 30, 2003,
762 \$13 million.

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

764 c.3.~~3.~~ The capital and surplus requirements as set forth in
765 sub-subparagraph b. ~~subparagraph 2.~~ do not apply in the case of
766 an insurance exchange created by the laws of individual states,
767 where the exchange maintains capital and surplus pursuant to the
768 requirements of that state, or maintains capital and surplus in
769 an amount not less than \$50 million in the aggregate. For an
770 insurance exchange which maintains funds in the amount of at
771 least \$12 million for the protection of all insurance exchange
772 policyholders, each individual syndicate shall maintain minimum
773 capital and surplus in an amount not less than \$3 million. If
774 the insurance exchange does not maintain funds in the amount of

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775 at least \$12 million for the protection of all insurance
776 exchange policyholders, each individual syndicate shall meet the
777 minimum capital and surplus requirements set forth in sub-
778 subparagraph b. ~~subparagraph 2.~~

779 d.4. A surplus lines insurer which is a member of an
780 insurance holding company that includes a member which is a
781 Florida domestic insurer as set forth in its holding company
782 registration statement, as set forth in s. 628.801 and rules
783 adopted thereunder, may elect to maintain surplus as to
784 policyholders in an amount equal to the requirements of s.
785 624.408, subject to the requirement that the surplus lines
786 insurer shall at all times be in compliance with the
787 requirements of chapter 625.

788
789 The election shall be submitted to the office and shall be
790 effective upon the office's being satisfied that the
791 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
792 met. The initial date of election shall be the date of office
793 approval. The election approval application shall be on a form
794 adopted by commission rule. The office may approve an election
795 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
796 only if it was on file with the former Department of Insurance
797 before February 28, 1998.

798 2. For purposes of letters of credit under subparagraph
799 1., the term "qualified United States financial institution"
800 means an institution that:

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801 a. Is organized or, in the case of a United States office
802 of a foreign banking organization, is licensed under the laws of
803 the United States or any state.

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

807 c. Has been determined by the office or the Securities
808 Valuation Office of the National Association of Insurance
809 Commissioners to meet such standards of financial condition and
810 standing as are considered necessary and appropriate to regulate
811 the quality of financial institutions whose letters of credit
812 are acceptable to the office.

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

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

818 (g) This subsection does not apply as to unauthorized
819 insurers made eligible under s. 626.917 as to wet marine and
820 aviation risks.

821 Section 6. Paragraph (j) is added to subsection (2) of
822 section 627.062, Florida Statutes, and subsections (9) and (10)
823 are added to that section, to read:

824 627.062 Rate standards.--

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

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

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828 1. With respect to any residential property insurance
829 subject to regulation under this section, a rate filing,
830 including, but not limited to, any rate changes, rating factors,
831 territories, classification, discounts, and credits, with
832 respect to any policy form, including endorsements issued with
833 the form, that results in an overall average statewide premium
834 increase or decrease of no more than 5 percent above or below
835 the premium that would result from the insurer's rates then in
836 effect shall not be subject to a determination by the office
837 that the rate is excessive or unfairly discriminatory except as
838 provided in subparagraph 3., or any other provision of law,
839 provided all changes specified in the filing do not result in an
840 overall premium increase of more than 10 percent for any one
841 territory, for reasons related solely to the rate change. As
842 used in this subparagraph, the term "insurer's rates then in
843 effect" includes only rates that have been lawfully in effect
844 under this section or rates that have been determined to be
845 lawful through administrative proceedings or judicial
846 proceedings.

847 2. An insurer may not make filings under this paragraph
848 with respect to any policy form, including endorsements issued
849 with the form, if the overall premium changes resulting from
850 such filings exceed the amounts specified in this paragraph in
851 any 12-month period. An insurer may proceed under other
852 provisions of this section or other provisions of law if the
853 insurer seeks to exceed the premium or rate limitations of this
854 paragraph.

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855 3. This paragraph does not affect the authority of the
856 office to disapprove a rate as inadequate or to disapprove a
857 filing for the unlawful use of unfairly discriminatory rating
858 factors that are prohibited by the laws of this state. An
859 insurer electing to implement a rate change under this paragraph
860 shall submit a filing to the office at least 30 days prior to
861 the effective date of the rate change. The office shall have 30
862 days after the filing's submission to review the filing and
863 determine if the rate is inadequate or uses unfairly
864 discriminatory rating factors. Absent a finding by the office
865 within such 30-day period that the rate is inadequate or that
866 the insurer has used unfairly discriminatory rating factors, the
867 filing is deemed approved. If the office finds during the 30-day
868 period that the filing will result in inadequate premiums or
869 otherwise endanger the insurer's solvency, the office shall
870 suspend the rate decrease. If the insurer is implementing an
871 overall rate increase, the results of which continue to produce
872 an inadequate rate, such increase shall proceed pending
873 additional action by the office to ensure the adequacy of the
874 rate.

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

877
878 The provisions of this subsection shall not apply to workers'
879 compensation and employer's liability insurance and to motor
880 vehicle insurance.

881 (9) Notwithstanding any other provision of this section,
882 any rate filing or applicable portion of the rate filing that

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883 includes the peril of wind in the high-risk account of the
884 Citizens Property Insurance Corporation shall be deemed approved
885 upon submission to the office if the filing or the applicable
886 portion of the filing requests approval of a rate that is less
887 than the approved rate for similar risks insured in the high-
888 risk account of the corporation unless the office determines
889 that such rate is inadequate or unfairly discriminatory as
890 provided in subsection (2).

891 (10) (a) Beginning January 1, 2007, the office shall
892 annually provide a report to the President of the Senate, the
893 Speaker of the House of Representatives, the minority party
894 leader of each house of the Legislature, and the chairs of the
895 standing committees of each house of the Legislature having
896 jurisdiction over insurance issues, specifying the impact of
897 flexible rate regulation under paragraph (2) (j) on the degree of
898 competition in insurance markets in this state.

899 (b) The report shall include a year-by-year comparison of
900 the number of companies participating in the market for each
901 class of insurance and the relative rate levels. The report
902 shall also specify:

903 1. The number of rate filings made under paragraph (2) (j),
904 the rate levels under those filings, and the market share
905 affected by those filings.

906 2. The number of filings made on a file and use basis, the
907 rate levels under those filings, and the market share affected
908 by those filings.

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909 3. The number of filings made on a use and file basis, the
 910 rate levels under those filings, and the market share affected
 911 by those filings.

912 4. Recommendations to promote competition in the insurance
 913 market and further protect insurance consumers.

914 Section 7. Paragraph (c) of subsection (3) of section
 915 627.0628, Florida Statutes, is amended to read:

916 627.0628 Florida Commission on Hurricane Loss Projection
 917 Methodology; public records exemption; public meetings
 918 exemption.--

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

920 (c) With respect to a rate filing under s. 627.062, an
 921 insurer may employ actuarial methods, principles, standards,
 922 models, or output ranges found by the commission to be accurate
 923 or reliable to determine hurricane loss factors for use in a
 924 rate filing under s. 627.062. Such findings and factors are
 925 admissible and relevant in consideration of a rate filing by the
 926 office or in any arbitration or administrative or judicial
 927 review only if the office and the consumer advocate appointed
 928 pursuant to s. 627.0613 have a reasonable opportunity to review
 929 ~~access to~~ all of the basic assumptions and factors that were
 930 used in developing the actuarial methods, principles, standards,
 931 models, or output ranges. After review of the specific models by
 932 the commission, the office and the consumer advocate may not
 933 pose any questions generated from their respective reviews that
 934 duplicate or compromise the conclusions of the commission
 935 relative to the accuracy or reliability of the models in
 936 producing hurricane loss factors for use in a rate filing under

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937 ~~s. 627.062, and are not precluded from disclosing such~~
938 ~~information in a rate proceeding.~~

939 Section 8. Section 627.06281, Florida Statutes, is amended
940 to read:

941 627.06281 Public hurricane loss projection model;
942 reporting of data by insurers.--

943 (1) Within 30 days after a written request for loss data
944 and associated exposure data by the office or a type I center
945 within the State University System established to study
946 mitigation, residential property insurers and licensed rating
947 and advisory organizations that compile residential property
948 insurance loss data shall provide loss data and associated
949 exposure data for residential property insurance policies to the
950 office or to a type I center within the State University System
951 established to study mitigation, as directed by the office, for
952 the purposes of developing, maintaining, and updating a public
953 model for hurricane loss projections. The loss data and
954 associated exposure data provided shall be in writing.

955 (2) The office may not use the public model for hurricane
956 loss projection referred to in subsection (1) for any purpose
957 under s. 627.062 or s. 627.351 until the model has been
958 submitted to the Florida Commission on Hurricane Loss Projection
959 Methodology for review under s. 627.0628 and the commission has
960 found the model to be accurate and reliable pursuant to the same
961 process and standards as the commission uses for the review of
962 other hurricane loss projection models.

963 Section 9. Subsection (6) of section 627.351, Florida
964 Statutes, is amended to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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965 | 627.351 Insurance risk apportionment plans.--
 966 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.--
 967 | (a)1.a. The Legislature finds that actual and threatened
 968 | catastrophic losses to property in this state from hurricanes
 969 | have caused insurers to be unwilling or unable to provide
 970 | property insurance coverage to the extent sought and needed. It
 971 | is in the public interest and a public purpose to assist in
 972 | ensuring ~~assuring~~ that homestead property in the state is
 973 | insured so as to facilitate the remediation, reconstruction, and
 974 | replacement of damaged or destroyed property in order to reduce
 975 | or avoid the negative effects otherwise resulting to the public
 976 | health, safety, and welfare; to the economy of the state; and to
 977 | the revenues of the state and local governments needed to
 978 | provide for the public welfare. It is necessary, therefore, to
 979 | provide property insurance to applicants who are in good faith
 980 | entitled to procure insurance through the voluntary market but
 981 | are unable to do so. The Legislature intends by this subsection
 982 | that property insurance be provided and that it continues, as
 983 | long as necessary, through an entity organized to achieve
 984 | efficiencies and economies, while providing service to
 985 | policyholders, applicants, and agents that is no less than the
 986 | quality generally provided in the voluntary market, all toward
 987 | the achievement of the foregoing public purposes. Because it is
 988 | essential for the corporation to have the maximum financial
 989 | resources to pay claims following a catastrophic hurricane, it
 990 | is the intent of the Legislature that the income of the
 991 | corporation be exempt from federal income taxation and that

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992 interest on the debt obligations issued by the corporation be
993 exempt from federal income taxation.

994 b. The Legislature finds and declares that:

995 (I) The commitment of the state, as expressed in sub-
996 subparagraph a., to providing a means of ensuring the
997 availability of property insurance through a residual market
998 mechanism is hereby reaffirmed.

999 (II) Despite legislative efforts to ensure that the
1000 residual market for property insurance is self-supporting to the
1001 greatest reasonable extent, residual market policyholders are to
1002 some degree subsidized by the general public through assessments
1003 on owners of property insured in the voluntary market and their
1004 insurers and through the potential use of general revenues of
1005 the state to eliminate or reduce residual market deficits.

1006 (III) The degree of such subsidy is a matter of public
1007 policy. It is the intent of the Legislature to better control
1008 the subsidy through at least the following means:

1009 (A) Restructuring the residual market mechanism to provide
1010 separate treatment of homestead and nonhomestead properties,
1011 with the intent of continuing to provide an insurance program
1012 with limited subsidies for homestead properties while providing
1013 a nonsubsidized insurance program for nonhomestead properties.

1014 (B) Redefining the concept of rate adequacy in the
1015 subsidized residual market with the intent of ensuring a rate
1016 structure that will enable the subsidized residual market to be
1017 self-supporting except in the event of hurricane losses of a
1018 legislatively specified magnitude. It is the intent of the
1019 Legislature that the funding of the subsidized residual market

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1020 be structured to be self-supporting up to the point of its 100-
1021 year probable maximum loss and that the funding be structured to
1022 make reliance on assessments or other sources of public funding
1023 necessary only in the event of a 100-year probable maximum loss
1024 or larger loss.

1025 2. The Residential Property and Casualty Joint
1026 Underwriting Association originally created by this statute
1027 shall be known, as of July 1, 2002, as the Citizens Property
1028 Insurance Corporation. The corporation shall provide insurance
1029 for homesteaded residential property and may provide insurance
1030 for residential and commercial property, for applicants who are
1031 in good faith entitled, but are unable, to procure insurance
1032 through the voluntary market. The corporation shall operate
1033 pursuant to a plan of operation approved by order of the office.
1034 The plan is subject to continuous review by the office. The
1035 office may, by order, withdraw approval of all or part of a plan
1036 if the office determines that conditions have changed since
1037 approval was granted and that the purposes of the plan require
1038 changes in the plan. For the purposes of this subsection,
1039 residential coverage includes both personal lines residential
1040 coverage, which consists of the type of coverage provided by
1041 homeowner's, mobile home owner's, dwelling, tenant's,
1042 condominium unit owner's, and similar policies, and commercial
1043 lines residential coverage, which consists of the type of
1044 coverage provided by condominium association, apartment
1045 building, and similar policies.

1046 3. It is the intent of the Legislature that policyholders,
1047 applicants, and agents of the corporation receive service and

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1048 treatment of the highest possible level but never less than that
 1049 generally provided in the voluntary market. It also is intended
 1050 that the corporation be held to service standards no less than
 1051 those applied to insurers in the voluntary market by the office
 1052 with respect to responsiveness, timeliness, customer courtesy,
 1053 and overall dealings with policyholders, applicants, or agents
 1054 of the corporation.

1055 (b)1. All insurers authorized to write one or more subject
 1056 lines of business in this state are subject to assessment by the
 1057 corporation and, for the purposes of this subsection, are
 1058 referred to collectively as "assessable insurers." Insurers
 1059 writing one or more subject lines of business in this state
 1060 pursuant to part VIII of chapter 626 are not assessable
 1061 insurers, but insureds who procure one or more subject lines of
 1062 business in this state pursuant to part VIII of chapter 626 are
 1063 subject to assessment by the corporation and are referred to
 1064 collectively as "assessable insureds." An authorized insurer's
 1065 assessment liability shall begin on the first day of the
 1066 calendar year following the year in which the insurer was issued
 1067 a certificate of authority to transact insurance for subject
 1068 lines of business in this state and shall terminate 1 year after
 1069 the end of the first calendar year during which the insurer no
 1070 longer holds a certificate of authority to transact insurance
 1071 for subject lines of business in this state.

1072 2.a. All revenues, assets, liabilities, losses, and
 1073 expenses of the corporation shall be divided into four ~~three~~
 1074 separate accounts as follows:

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1075 (I) Three separate homestead accounts that may provide
 1076 coverage only for homestead properties. The term "homestead
 1077 property" means a residential property that has been granted a
 1078 homestead exemption under chapter 196. The term also includes a
 1079 property that is qualified for such exemption but has not
 1080 applied for the exemption as of the date of issuance of the
 1081 policy, provided the policyholder obtains the exemption within 1
 1082 year after initial issuance of the policy. The term also
 1083 includes an owner-occupied mobile or manufactured home as
 1084 defined in s. 320.01 permanently affixed to real property
 1085 regardless of whether the owner of the mobile or manufactured
 1086 home is also the owner of the land on which the mobile or
 1087 manufactured home is permanently affixed. However, the term does
 1088 not include a mobile home that is being held for display by a
 1089 licensed mobile home dealer or a licensed mobile home
 1090 manufacturer and is not owner-occupied. For the purposes of this
 1091 sub-sub-subparagraph, the term "homestead property" also
 1092 includes property covered by tenant's insurance and commercial
 1093 lines residential policies. The accounts providing coverage only
 1094 for homestead properties are:

1095 (A)~~(I)~~ A personal lines account for personal residential
 1096 policies issued by the corporation or issued by the Residential
 1097 Property and Casualty Joint Underwriting Association and renewed
 1098 by the corporation that provide comprehensive, multiperil
 1099 coverage on risks that are not located in areas eligible for
 1100 coverage in the Florida Windstorm Underwriting Association as
 1101 those areas were defined on January 1, 2002, and for such

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1102 policies that do not provide coverage for the peril of wind on
1103 risks that are located in such areas;

1104 (B)~~(II)~~ A commercial lines account for commercial
1105 residential policies issued by the corporation or issued by the
1106 Residential Property and Casualty Joint Underwriting Association
1107 and renewed by the corporation that provide coverage for basic
1108 property perils on risks that are not located in areas eligible
1109 for coverage in the Florida Windstorm Underwriting Association
1110 as those areas were defined on January 1, 2002, and for such
1111 policies that do not provide coverage for the peril of wind on
1112 risks that are located in such areas; and

1113 (C)~~(III)~~ A high-risk account for personal residential
1114 policies and commercial residential ~~and commercial~~
1115 ~~nonresidential~~ property policies issued by the corporation or
1116 transferred to the corporation that provide coverage for the
1117 peril of wind on risks that are located in areas eligible for
1118 coverage in the Florida Windstorm Underwriting Association as
1119 those areas were defined on January 1, 2002. The high-risk
1120 account must also include quota share primary insurance under
1121 subparagraph (c)2. The area eligible for coverage under the
1122 high-risk account also includes the area within Port Canaveral,
1123 which is bordered on the south by the City of Cape Canaveral,
1124 bordered on the west by the Banana River, and bordered on the
1125 north by Federal Government property. The office may remove
1126 territory from the area eligible for wind-only and quota share
1127 coverage if, after a public hearing, the office finds that
1128 authorized insurers in the voluntary market are willing and able
1129 to write sufficient amounts of personal and commercial

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1130 residential coverage for all perils in the territory, including
1131 coverage for the peril of wind, such that risks covered by wind-
1132 only policies in the removed territory could be issued a policy
1133 by the corporation in either the personal lines or commercial
1134 lines account without a significant increase in the
1135 corporation's probable maximum loss in such account. Removal of
1136 territory from the area eligible for wind-only or quota share
1137 coverage does not alter the assignment of wind coverage written
1138 in such areas to the high-risk account.

1139 (II) (A) A separate nonhomestead account for all properties
1140 that otherwise meet all of the criteria for eligibility for
1141 coverage within one of the three homestead accounts described in
1142 sub-sub-subparagraph (I) but that do not meet the definition of
1143 homestead property specified in sub-sub-subparagraph (I). The
1144 nonhomestead account shall provide the same types of coverage as
1145 are provided by the three homestead accounts, including wind-
1146 only coverage in the high-risk account area. In order to be
1147 eligible for coverage in the nonhomestead account, at the
1148 initial issuance of the policy and at renewal the property owner
1149 shall provide the corporation with a sworn affidavit stating
1150 that the property has been rejected for coverage by at least
1151 three authorized insurers and at least three surplus lines
1152 insurers.

1153 (B) An authorized insurer may provide coverage to a
1154 nonhomestead property owner on an individual risk rate basis.
1155 Rates and forms of an authorized insurer for nonhomestead
1156 properties are not subject to ss. 627.062 and 627.0629, except
1157 s. 627.0629(2)(b). Such rates and forms are subject to all other

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1158 applicable provisions of this code and rules adopted under this
1159 code. During the course of an insurer's market conduct
1160 examination, the office may review the rate for any nonhomestead
1161 property to determine if such rate is inadequate or unfairly
1162 discriminatory. Rates on nonhomestead property may be found
1163 inadequate by the office if they are clearly insufficient,
1164 together with the investment income attributable to the insurer,
1165 to sustain projected losses and expenses in the class of
1166 business to which such rates apply. Rates on nonhomestead
1167 property may also be found inadequate as to the premium charged
1168 to a risk or group of risks if discounts or credits are allowed
1169 that exceed a reasonable reflection of expense savings and
1170 reasonably expected loss experience from the risk or group of
1171 risks. Rates on nonhomestead property may be found to be
1172 unfairly discriminatory as to a risk or group of risks by the
1173 office if the application of premium discounts, credits, or
1174 surcharges among such risks does not bear a reasonable
1175 relationship to the expected loss and expense experience among
1176 the various risks. A rating plan, including discounts, credits,
1177 or surcharges on nonhomestead property, may also be found to be
1178 unfairly discriminatory if the plan fails to clearly and
1179 equitably reflect consideration of the policyholder's
1180 participation in a risk management program adjusted pursuant to
1181 s. 627.0625. The office may order an insurer to discontinue
1182 using a rate for new policies or upon renewal of a policy if the
1183 office finds the rate to be inadequate or unfairly
1184 discriminatory. Insurers shall maintain records and
1185 documentation relating to rates and forms subject to this sub-

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1186 sub-sub-subparagraph for a period of at least 5 years after the
1187 effective date of the policy.

1188 b. The three separate homestead accounts must be
1189 maintained as long as financing obligations entered into by the
1190 Florida Windstorm Underwriting Association or Residential
1191 Property and Casualty Joint Underwriting Association are
1192 outstanding, in accordance with the terms of the corresponding
1193 financing documents. When the financing obligations are no
1194 longer outstanding, in accordance with the terms of the
1195 corresponding financing documents, the corporation may use a
1196 single homestead account for all revenues, assets, liabilities,
1197 losses, and expenses of the corporation. All revenues, assets,
1198 liabilities, losses, and expenses attributable to the
1199 nonhomestead account shall be maintained separately.

1200 c. Creditors of the Residential Property and Casualty
1201 Joint Underwriting Association shall have a claim against, and
1202 recourse to, the accounts referred to in sub-sub-sub-
1203 subparagraphs ~~sub-sub-subparagraphs~~ a. (I) (A) and (B) ~~(II)~~ and
1204 shall have no claim against, or recourse to, the account
1205 referred to in sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~
1206 a. (I) (C) ~~(III)~~. Creditors of the Florida Windstorm Underwriting
1207 Association shall have a claim against, and recourse to, the
1208 account referred to in sub-sub-sub-subparagraph ~~sub-sub-~~
1209 ~~subparagraph~~ a. (I) (C) ~~(III)~~ and shall have no claim against, or
1210 recourse to, the accounts referred to in sub-sub-sub-
1211 subparagraphs ~~sub-sub-subparagraphs~~ a. (I) (A) and (B) ~~(II)~~.

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1212 d. Revenues, assets, liabilities, losses, and expenses not
1213 attributable to particular accounts shall be prorated among the
1214 accounts.

1215 e. The Legislature finds that the revenues of the
1216 corporation are revenues that are necessary to meet the
1217 requirements set forth in documents authorizing the issuance of
1218 bonds under this subsection.

1219 f. No part of the income of the corporation may inure to
1220 the benefit of any private person.

1221 3. With respect to a deficit in any of the homestead
1222 accounts ~~an account~~:

1223 a. When the deficit incurred in a particular calendar year
1224 is not greater than 10 percent of the aggregate statewide direct
1225 written premium for the subject lines of business for the prior
1226 calendar year, the entire deficit shall be recovered through
1227 regular assessments of assessable insurers under paragraph (g)
1228 and assessable insureds.

1229 b. When the deficit incurred in a particular calendar year
1230 exceeds 10 percent of the aggregate statewide direct written
1231 premium for the subject lines of business for the prior calendar
1232 year, the corporation shall levy regular assessments on
1233 assessable insurers under paragraph (g) and on assessable
1234 insureds in an amount equal to the greater of 10 percent of the
1235 deficit or 10 percent of the aggregate statewide direct written
1236 premium for the subject lines of business for the prior calendar
1237 year. Any remaining deficit shall be recovered through emergency
1238 assessments under sub-subparagraph d.

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1239 c. Each assessable insurer's share of the amount being
1240 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1241 be in the proportion that the assessable insurer's direct
1242 written premium for the subject lines of business for the year
1243 preceding the year in which the deficit is incurred ~~assessment~~
1244 bears to the aggregate statewide direct written premium for the
1245 subject lines of business for that year. The assessment
1246 percentage applicable to each assessable insured is the ratio of
1247 the amount being assessed under sub-subparagraph a. or sub-
1248 subparagraph b. to the aggregate statewide direct written
1249 premium for the subject lines of business for the prior year.
1250 Assessments levied by the corporation on assessable insurers
1251 under sub-subparagraphs a. and b. shall be paid as required by
1252 the corporation's plan of operation and paragraph (g).
1253 Notwithstanding any other provision in this subsection, the
1254 aggregate amount of a regular assessment levied in connection
1255 with a deficit incurred in a particular calendar year shall be
1256 reduced by the aggregate amount of the Citizens Property
1257 Insurance Corporation policyholder surcharge imposed under
1258 subparagraph (c)10. Assessments levied by the corporation on
1259 assessable insureds under sub-subparagraphs a. and b. shall be
1260 collected by the surplus lines agent at the time the surplus
1261 lines agent collects the surplus lines tax required by s.
1262 626.932 and shall be paid to the Florida Surplus Lines Service
1263 Office at the time the surplus lines agent pays the surplus
1264 lines tax to the Florida Surplus Lines Service Office. Upon
1265 receipt of regular assessments from surplus lines agents, the
1266 Florida Surplus Lines Service Office shall transfer the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1267 assessments directly to the corporation as determined by the
1268 corporation.

1269 d. Upon a determination by the board of governors that a
1270 deficit in an account exceeds the amount that will be recovered
1271 through regular assessments under sub-subparagraph a. or sub-
1272 subparagraph b., the board shall levy, after verification by the
1273 office, emergency assessments, for as many years as necessary to
1274 cover the deficits, to be collected by assessable insurers and
1275 the corporation and collected from assessable insureds upon
1276 issuance or renewal of policies for subject lines of business,
1277 excluding National Flood Insurance policies. The amount of the
1278 emergency assessment collected in a particular year shall be a
1279 uniform percentage of that year's direct written premium for
1280 subject lines of business and all accounts of the corporation,
1281 excluding National Flood Insurance Program policy premiums, as
1282 annually determined by the board and verified by the office. The
1283 office shall verify the arithmetic calculations involved in the
1284 board's determination within 30 days after receipt of the
1285 information on which the determination was based.

1286 Notwithstanding any other provision of law, the corporation and
1287 each assessable insurer that writes subject lines of business
1288 shall collect emergency assessments from its policyholders
1289 without such obligation being affected by any credit,
1290 limitation, exemption, or deferment. Emergency assessments
1291 levied by the corporation on assessable insureds shall be
1292 collected by the surplus lines agent at the time the surplus
1293 lines agent collects the surplus lines tax required by s.
1294 626.932 and shall be paid to the Florida Surplus Lines Service

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1295 Office at the time the surplus lines agent pays the surplus
1296 lines tax to the Florida Surplus Lines Service Office. The
1297 emergency assessments so collected shall be transferred directly
1298 to the corporation on a periodic basis as determined by the
1299 corporation and shall be held by the corporation solely in the
1300 applicable account. The aggregate amount of emergency
1301 assessments levied for an account under this sub-subparagraph in
1302 any calendar year may not exceed the greater of 10 percent of
1303 the amount needed to cover the original deficit, plus interest,
1304 fees, commissions, required reserves, and other costs associated
1305 with financing of the original deficit, or 10 percent of the
1306 aggregate statewide direct written premium for subject lines of
1307 business and for all accounts of the corporation for the prior
1308 year, plus interest, fees, commissions, required reserves, and
1309 other costs associated with financing the original deficit.

1310 e. The corporation may pledge the proceeds of assessments,
1311 projected recoveries from the Florida Hurricane Catastrophe
1312 Fund, other insurance and reinsurance recoverables, Citizens
1313 policyholder ~~market equalization~~ surcharges and other
1314 surcharges, and other funds available to the corporation as the
1315 source of revenue for and to secure bonds issued under paragraph
1316 (g), bonds or other indebtedness issued under subparagraph
1317 (c)3., or lines of credit or other financing mechanisms issued
1318 or created under this subsection, or to retire any other debt
1319 incurred as a result of deficits or events giving rise to
1320 deficits, or in any other way that the board determines will
1321 efficiently recover such deficits. The purpose of the lines of
1322 credit or other financing mechanisms is to provide additional

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1323 resources to assist the corporation in covering claims and
1324 expenses attributable to a catastrophe. As used in this
1325 subsection, the term "assessments" includes regular assessments
1326 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1327 (g)1. and emergency assessments under sub-subparagraph d.
1328 Emergency assessments collected under sub-subparagraph d. are
1329 not part of an insurer's rates, are not premium, and are not
1330 subject to premium tax, fees, or commissions; however, failure
1331 to pay the emergency assessment shall be treated as failure to
1332 pay premium. The emergency assessments under sub-subparagraph d.
1333 shall continue as long as any bonds issued or other indebtedness
1334 incurred with respect to a deficit for which the assessment was
1335 imposed remain outstanding, unless adequate provision has been
1336 made for the payment of such bonds or other indebtedness
1337 pursuant to the documents governing such bonds or other
1338 indebtedness.

1339 f. As used in this subsection, the term "subject lines of
1340 business" means insurance written by assessable insurers or
1341 procured by assessable insureds on real or personal property, as
1342 defined in s. 624.604, including insurance for fire, industrial
1343 fire, allied lines, farmowners multiperil, homeowners
1344 multiperil, commercial multiperil, and mobile homes, and
1345 including liability coverage on all such insurance, but
1346 excluding inland marine as defined in s. 624.607(3) and
1347 excluding vehicle insurance as defined in s. 624.605(1) other
1348 than insurance on mobile homes used as permanent dwellings.

1349 g. The Florida Surplus Lines Service Office shall
1350 determine annually the aggregate statewide written premium in

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1351 subject lines of business procured by assessable insureds and
1352 shall report that information to the corporation in a form and
1353 at a time the corporation specifies to ensure that the
1354 corporation can meet the requirements of this subsection and the
1355 corporation's financing obligations.

1356 h. The Florida Surplus Lines Service Office shall verify
1357 the proper application by surplus lines agents of assessment
1358 percentages for regular assessments and emergency assessments
1359 levied under this subparagraph on assessable insureds and shall
1360 assist the corporation in ensuring the accurate, timely
1361 collection and payment of assessments by surplus lines agents as
1362 required by the corporation.

1363 4. With respect to a deficit in the nonhomestead account
1364 or to any cash flow shortfall that the board determines will
1365 create an inability for the nonhomestead account to pay claims
1366 when due:

1367 a. The board shall levy an immediate assessment against
1368 the premium of each nonhomestead account policyholder, expressed
1369 as a uniform percentage of the premium for the policy then in
1370 effect. The maximum amount of such assessment is 100 percent of
1371 such premium.

1372 b. If the assessment under sub-subparagraph a. is
1373 insufficient to enable the account to pay claims and eliminate
1374 the deficit in the account, the board may levy an additional
1375 assessment to be collected at the time of any issuance or
1376 renewal of a nonhomestead account policy during the 1-year
1377 period following the levy of the assessment under sub-
1378 subparagraph a., expressed as a uniform percentage of the

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1379 premium for the policy for the forthcoming policy period. The
 1380 maximum amount of such assessment is 100 percent of such
 1381 premium.

1382 c. If the assessments under sub-subparagraphs a. and b.
 1383 are insufficient to enable the account to pay claims and
 1384 eliminate the deficit in the account, the board may make a loan
 1385 from any of the homestead accounts to the nonhomestead account,
 1386 subject to approval by the office and provided that such loan
 1387 does not impair the financial status of any of the homestead
 1388 accounts.

1389 5. A policyholder in a nonhomestead account who has not
 1390 paid a deficit assessment levied by the corporation shall be
 1391 ineligible for coverage by a surplus lines insurer or authorized
 1392 insurer.

1393 (c) The plan of operation of the corporation:

1394 1. Must provide for adoption of residential property and
 1395 casualty insurance policy forms, rates, and underwriting rules
 1396 and commercial residential and nonresidential property insurance
 1397 forms, rates, and underwriting rules which ~~forms~~ must be
 1398 approved by the office prior to use. The corporation shall adopt
 1399 the following policy forms:

1400 a. Standard personal lines policy forms that are
 1401 comprehensive multiperil policies providing full coverage of a
 1402 residential property equivalent to the coverage provided in the
 1403 private insurance market under an HO-3, HO-4, or HO-6 policy.

1404 b. Basic personal lines policy forms that are policies
 1405 similar to an HO-8 policy or a dwelling fire policy that provide
 1406 coverage meeting the requirements of the secondary mortgage

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1407 market, but which coverage is more limited than the coverage
1408 under a standard policy.

1409 c. Commercial lines residential policy forms that are
1410 generally similar to the basic perils of full coverage
1411 obtainable for commercial residential structures in the admitted
1412 voluntary market.

1413 d. Personal lines and commercial lines residential
1414 property insurance forms that cover the peril of wind only. The
1415 forms are applicable only to residential properties located in
1416 areas eligible for coverage under the high-risk account referred
1417 to in sub-subparagraph (b)2.a.

1418 e. Commercial lines nonresidential property insurance
1419 forms that cover the peril of wind only. The forms are
1420 applicable only to nonresidential properties located in areas
1421 eligible for coverage under the high-risk account referred to in
1422 sub-subparagraph (b)2.a.

1423 f. The corporation may adopt variations of the policy
1424 forms listed in sub-subparagraphs a.-e. that contain more
1425 restrictive coverage.

1426 2.a. Must provide that the corporation adopt a program in
1427 which the corporation and authorized insurers enter into quota
1428 share primary insurance agreements for hurricane coverage, as
1429 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1430 property insurance forms for eligible risks which cover the
1431 peril of wind only. As used in this subsection, the term:

1432 (I) "Quota share primary insurance" means an arrangement
1433 in which the primary hurricane coverage of an eligible risk is
1434 provided in specified percentages by the corporation and an

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1435 authorized insurer. The corporation and authorized insurer are
1436 each solely responsible for a specified percentage of hurricane
1437 coverage of an eligible risk as set forth in a quota share
1438 primary insurance agreement between the corporation and an
1439 authorized insurer and the insurance contract. The
1440 responsibility of the corporation or authorized insurer to pay
1441 its specified percentage of hurricane losses of an eligible
1442 risk, as set forth in the quota share primary insurance
1443 agreement, may not be altered by the inability of the other
1444 party to the agreement to pay its specified percentage of
1445 hurricane losses. Eligible risks that are provided hurricane
1446 coverage through a quota share primary insurance arrangement
1447 must be provided policy forms that set forth the obligations of
1448 the corporation and authorized insurer under the arrangement,
1449 clearly specify the percentages of quota share primary insurance
1450 provided by the corporation and authorized insurer, and
1451 conspicuously and clearly state that neither the authorized
1452 insurer nor the corporation may be held responsible beyond its
1453 specified percentage of coverage of hurricane losses.

1454 (II) "Eligible risks" means personal lines residential and
1455 commercial lines residential risks that meet the underwriting
1456 criteria of the corporation and are located in areas that were
1457 eligible for coverage by the Florida Windstorm Underwriting
1458 Association on January 1, 2002.

1459 b. The corporation may enter into quota share primary
1460 insurance agreements with authorized insurers at corporation
1461 coverage levels of 90 percent and 50 percent.

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1462 c. If the corporation determines that additional coverage
1463 levels are necessary to maximize participation in quota share
1464 primary insurance agreements by authorized insurers, the
1465 corporation may establish additional coverage levels. However,
1466 the corporation's quota share primary insurance coverage level
1467 may not exceed 90 percent.

1468 d. Any quota share primary insurance agreement entered
1469 into between an authorized insurer and the corporation must
1470 provide for a uniform specified percentage of coverage of
1471 hurricane losses, by county or territory as set forth by the
1472 corporation board, for all eligible risks of the authorized
1473 insurer covered under the quota share primary insurance
1474 agreement.

1475 e. Any quota share primary insurance agreement entered
1476 into between an authorized insurer and the corporation is
1477 subject to review and approval by the office. However, such
1478 agreement shall be authorized only as to insurance contracts
1479 entered into between an authorized insurer and an insured who is
1480 already insured by the corporation for wind coverage.

1481 f. For all eligible risks covered under quota share
1482 primary insurance agreements, the exposure and coverage levels
1483 for both the corporation and authorized insurers shall be
1484 reported by the corporation to the Florida Hurricane Catastrophe
1485 Fund. For all policies of eligible risks covered under quota
1486 share primary insurance agreements, the corporation and the
1487 authorized insurer shall maintain complete and accurate records
1488 for the purpose of exposure and loss reimbursement audits as
1489 required by Florida Hurricane Catastrophe Fund rules. The

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1490 corporation and the authorized insurer shall each maintain
1491 duplicate copies of policy declaration pages and supporting
1492 claims documents.

1493 g. The corporation board shall establish in its plan of
1494 operation standards for quota share agreements which ensure that
1495 there is no discriminatory application among insurers as to the
1496 terms of quota share agreements, pricing of quota share
1497 agreements, incentive provisions if any, and consideration paid
1498 for servicing policies or adjusting claims.

1499 h. The quota share primary insurance agreement between the
1500 corporation and an authorized insurer must set forth the
1501 specific terms under which coverage is provided, including, but
1502 not limited to, the sale and servicing of policies issued under
1503 the agreement by the insurance agent of the authorized insurer
1504 producing the business, the reporting of information concerning
1505 eligible risks, the payment of premium to the corporation, and
1506 arrangements for the adjustment and payment of hurricane claims
1507 incurred on eligible risks by the claims adjuster and personnel
1508 of the authorized insurer. Entering into a quota sharing
1509 insurance agreement between the corporation and an authorized
1510 insurer shall be voluntary and at the discretion of the
1511 authorized insurer.

1512 3. May provide that the corporation may employ or
1513 otherwise contract with individuals or other entities to provide
1514 administrative or professional services that may be appropriate
1515 to effectuate the plan. The corporation shall have the power to
1516 borrow funds, by issuing bonds or by incurring other
1517 indebtedness, and shall have other powers reasonably necessary

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1518 | to effectuate the requirements of this subsection, including,
 1519 | without limitation, the power to issue bonds and incur other
 1520 | indebtedness in order to refinance outstanding bonds or other
 1521 | indebtedness. The corporation may, but is not required to, seek
 1522 | judicial validation of its bonds or other indebtedness under
 1523 | chapter 75. The corporation may issue bonds or incur other
 1524 | indebtedness, or have bonds issued on its behalf by a unit of
 1525 | local government pursuant to subparagraph (g)2., in the absence
 1526 | of a hurricane or other weather-related event, upon a
 1527 | determination by the corporation, subject to approval by the
 1528 | office, that such action would enable it to efficiently meet the
 1529 | financial obligations of the corporation and that such
 1530 | financings are reasonably necessary to effectuate the
 1531 | requirements of this subsection. The corporation is authorized
 1532 | to take all actions needed to facilitate tax-free status for any
 1533 | such bonds or indebtedness, including formation of trusts or
 1534 | other affiliated entities. The corporation shall have the
 1535 | authority to pledge assessments, projected recoveries from the
 1536 | Florida Hurricane Catastrophe Fund, other reinsurance
 1537 | recoverables, market equalization and other surcharges, and
 1538 | other funds available to the corporation as security for bonds
 1539 | or other indebtedness. In recognition of s. 10, Art. I of the
 1540 | State Constitution, prohibiting the impairment of obligations of
 1541 | contracts, it is the intent of the Legislature that no action be
 1542 | taken whose purpose is to impair any bond indenture or financing
 1543 | agreement or any revenue source committed by contract to such
 1544 | bond or other indebtedness.

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1545 | 4.a. Must require that the corporation operate subject to
1546 | the supervision and approval of a board of governors consisting
1547 | of 8 individuals who are residents of this state, from different
1548 | geographical areas of this state. The Governor, the Chief
1549 | Financial Officer, the President of the Senate, and the Speaker
1550 | of the House of Representatives shall each appoint two members
1551 | of the board, effective August 1, 2005. At least one of the two
1552 | members appointed by each appointing officer must have
1553 | demonstrated expertise in insurance. The Chief Financial Officer
1554 | shall designate one of the appointees as chair. All board
1555 | members serve at the pleasure of the appointing officer. All
1556 | board members, including the chair, must be appointed to serve
1557 | for 3-year terms beginning annually on a date designated by the
1558 | plan. Any board vacancy shall be filled for the unexpired term
1559 | by the appointing officer. The Chief Financial Officer shall
1560 | appoint a technical advisory group to provide information and
1561 | advice to the board of governors in connection with the board's
1562 | duties under this subsection. The executive director and senior
1563 | managers of the corporation shall be engaged by the board, as
1564 | recommended by the Chief Financial Officer, and serve at the
1565 | pleasure of the board. The executive director is responsible for
1566 | employing other staff as the corporation may require, subject to
1567 | review and concurrence by the board and the Chief Financial
1568 | Officer.

1569 | b. The board shall create a Market Accountability Advisory
1570 | Committee to assist the corporation in developing awareness of
1571 | its rates and its customer and agent service levels in
1572 | relationship to the voluntary market insurers writing similar

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1573 coverage. The members of the advisory committee shall consist of
 1574 the following 11 persons, one of whom must be elected chair by
 1575 the members of the committee: four representatives, one
 1576 appointed by the Florida Association of Insurance Agents, one by
 1577 the Florida Association of Insurance and Financial Advisors, one
 1578 by the Professional Insurance Agents of Florida, and one by the
 1579 Latin American Association of Insurance Agencies; three
 1580 representatives appointed by the insurers with the three highest
 1581 voluntary market share of residential property insurance
 1582 business in the state; one representative from the Office of
 1583 Insurance Regulation; one consumer appointed by the board who is
 1584 insured by the corporation at the time of appointment to the
 1585 committee; one representative appointed by the Florida
 1586 Association of Realtors; and one representative appointed by the
 1587 Florida Bankers Association. All members must serve for 3-year
 1588 terms and may serve for consecutive terms. The committee shall
 1589 report to the corporation at each board meeting on insurance
 1590 market issues which may include rates and rate competition with
 1591 the voluntary market; service, including policy issuance, claims
 1592 processing, and general responsiveness to policyholders,
 1593 applicants, and agents; and matters relating to depopulation.

1594 5. Must provide a procedure for determining the
 1595 eligibility of a risk for coverage, as follows:

1596 a. Subject to the provisions of s. 627.3517, with respect
 1597 to personal lines residential risks, if the risk is offered
 1598 coverage from an authorized insurer at the insurer's approved
 1599 rate under either a standard policy including wind coverage or,
 1600 if consistent with the insurer's underwriting rules as filed

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1601 with the office, a basic policy including wind coverage, the
1602 risk is not eligible for any policy issued by the corporation.
1603 If the risk is not able to obtain any such offer, the risk is
1604 eligible for either a standard policy including wind coverage or
1605 a basic policy including wind coverage issued by the
1606 corporation; however, if the risk could not be insured under a
1607 standard policy including wind coverage regardless of market
1608 conditions, the risk shall be eligible for a basic policy
1609 including wind coverage unless rejected under subparagraph 8.
1610 The corporation shall determine the type of policy to be
1611 provided on the basis of objective standards specified in the
1612 underwriting manual and based on generally accepted underwriting
1613 practices.

1614 (I) If the risk accepts an offer of coverage through the
1615 market assistance plan or an offer of coverage through a
1616 mechanism established by the corporation before a policy is
1617 issued to the risk by the corporation or during the first 30
1618 days of coverage by the corporation, and the producing agent who
1619 submitted the application to the plan or to the corporation is
1620 not currently appointed by the insurer, the insurer shall:

1621 (A) Pay to the producing agent of record of the policy,
1622 for the first year, an amount that is the greater of the
1623 insurer's usual and customary commission for the type of policy
1624 written or a fee equal to the usual and customary commission of
1625 the corporation; or

1626 (B) Offer to allow the producing agent of record of the
1627 policy to continue servicing the policy for a period of not less
1628 than 1 year and offer to pay the agent the greater of the

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1629 insurer's or the corporation's usual and customary commission
1630 for the type of policy written.

1631
1632 If the producing agent is unwilling or unable to accept
1633 appointment, the new insurer shall pay the agent in accordance
1634 with sub-sub-sub-subparagraph (A).

1635 (II) When the corporation enters into a contractual
1636 agreement for a take-out plan, the producing agent of record of
1637 the corporation policy is entitled to retain any unearned
1638 commission on the policy, and the insurer shall:

1639 (A) Pay to the producing agent of record of the
1640 corporation policy, for the first year, an amount that is the
1641 greater of the insurer's usual and customary commission for the
1642 type of policy written or a fee equal to the usual and customary
1643 commission of the corporation; or

1644 (B) Offer to allow the producing agent of record of the
1645 corporation policy to continue servicing the policy for a period
1646 of not less than 1 year and offer to pay the agent the greater
1647 of the insurer's or the corporation's usual and customary
1648 commission for the type of policy written.

1649
1650 If the producing agent is unwilling or unable to accept
1651 appointment, the new insurer shall pay the agent in accordance
1652 with sub-sub-sub-subparagraph (A).

1653 b. With respect to commercial lines residential risks, if
1654 the risk is offered coverage under a policy including wind
1655 coverage from an authorized insurer at its approved rate, the
1656 risk is not eligible for any policy issued by the corporation.

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1657 If the risk is not able to obtain any such offer, the risk is
1658 eligible for a policy including wind coverage issued by the
1659 corporation.

1660 (I) If the risk accepts an offer of coverage through the
1661 market assistance plan or an offer of coverage through a
1662 mechanism established by the corporation before a policy is
1663 issued to the risk by the corporation or during the first 30
1664 days of coverage by the corporation, and the producing agent who
1665 submitted the application to the plan or the corporation is not
1666 currently appointed by the insurer, the insurer shall:

1667 (A) Pay to the producing agent of record of the policy,
1668 for the first year, an amount that is the greater of the
1669 insurer's usual and customary commission for the type of policy
1670 written or a fee equal to the usual and customary commission of
1671 the corporation; or

1672 (B) Offer to allow the producing agent of record of the
1673 policy to continue servicing the policy for a period of not less
1674 than 1 year and offer to pay the agent the greater of the
1675 insurer's or the corporation's usual and customary commission
1676 for the type of policy written.

1677
1678 If the producing agent is unwilling or unable to accept
1679 appointment, the new insurer shall pay the agent in accordance
1680 with sub-sub-sub-subparagraph (A).

1681 (II) When the corporation enters into a contractual
1682 agreement for a take-out plan, the producing agent of record of
1683 the corporation policy is entitled to retain any unearned
1684 commission on the policy, and the insurer shall:

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1685 (A) Pay to the producing agent of record of the
1686 corporation policy, for the first year, an amount that is the
1687 greater of the insurer's usual and customary commission for the
1688 type of policy written or a fee equal to the usual and customary
1689 commission of the corporation; or

1690 (B) Offer to allow the producing agent of record of the
1691 corporation policy to continue servicing the policy for a period
1692 of not less than 1 year and offer to pay the agent the greater
1693 of the insurer's or the corporation's usual and customary
1694 commission for the type of policy written.

1695
1696 If the producing agent is unwilling or unable to accept
1697 appointment, the new insurer shall pay the agent in accordance
1698 with sub-sub-sub-subparagraph (A).

1699 c. To preserve existing incentives for carriers to write
1700 dwelling in the voluntary market and not in the corporation,
1701 the corporation shall continue to offer authorized insurers,
1702 including insurers writing dwellings valued at \$1 million or
1703 more, the same voluntary writing credits that were available on
1704 January 1, 2006, to carriers writing wind coverage for dwellings
1705 in the areas eligible for coverage in the high-risk account.

1706 d. With respect to personal lines residential risks, if
1707 the risk is a dwelling with an insured value of \$1 million or
1708 more, or if the risk is one that is excluded from the coverage
1709 to be provided by the condominium association under s.
1710 718.111(11)(b) and that is insured by the condominium unit owner
1711 for a combined dwelling and contents replacement cost of \$1
1712 million or more, the risk is not eligible for any policy issued

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1713 by the corporation. Rates and forms for personal lines
1714 residential risks not eligible for coverage by the corporation
1715 specified by this sub-subparagraph are not subject to ss.
1716 627.062 and 627.0629. Such rates and forms are subject to all
1717 other applicable provisions of this code and rules adopted under
1718 this code. During the course of an insurer's market conduct
1719 examination, the office may review the rate for any risk to
1720 which the provisions of this sub-subparagraph are applicable to
1721 determine if such rate is inadequate or unfairly discriminatory.
1722 Rates on personal lines residential risks not eligible for
1723 coverage by the corporation may be found inadequate by the
1724 office if they are clearly insufficient, together with the
1725 investment income attributable to such risks, to sustain
1726 projected losses and expenses in the class of business to which
1727 such rates apply. Rates on personal lines residential risks not
1728 eligible for coverage by the corporation may also be found
1729 inadequate as to the premium charged to a risk or group of risks
1730 if discounts or credits are allowed that exceed a reasonable
1731 reflection of expense savings and reasonably expected loss
1732 experience from the risk or group of risks. Rates on personal
1733 lines residential risks not eligible for coverage by the
1734 corporation may be found to be unfairly discriminatory as to a
1735 risk or group of risks by the office if the application of
1736 premium discounts, credits, or surcharges among such risks does
1737 not bear a reasonable relationship to the expected loss and
1738 expense experience among the various risks. A rating plan,
1739 including discounts, credits, or surcharges on personal lines
1740 residential risks not eligible for coverage by the corporation

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1741 may also be found to be unfairly discriminatory if the plan
1742 fails to clearly and equitably reflect consideration of the
1743 policyholder's participation in a risk management program
1744 adjusted pursuant to s. 627.0625. The office may order an
1745 insurer to discontinue using a rate for new policies or upon
1746 renewal of a policy if the office finds the rate to be
1747 inadequate or unfairly discriminatory. Insurers must maintain
1748 records and documentation relating to rates and forms subject to
1749 this sub-subparagraph for a period of at least 5 years after the
1750 effective date of the policy.

1751 e. For policies subject to nonrenewal as a result of the
1752 risk being no longer eligible for coverage pursuant to sub-
1753 subparagraph d., the corporation shall, directly or through the
1754 market assistance plan, make information from confidential
1755 underwriting and claims files of policyholders available only to
1756 licensed general lines agents who register with the corporation
1757 to receive such information according to the following
1758 procedures:

1759 (I) By August 1, 2006, the corporation shall provide
1760 policyholders who are not eligible for renewal pursuant to sub-
1761 subparagraph d. the opportunity to request in writing, within 30
1762 days after the notification is sent, that information from their
1763 confidential underwriting and claims files not be released to
1764 licensed general lines agents registered pursuant to sub-sub-
1765 subparagraph e. (II);

1766 (II) By August 1, 2006, the corporation shall make
1767 available to licensed general lines agents the registration
1768 procedures to be used to obtain confidential information from

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1769 underwriting and claims files for policies not eligible for
1770 renewal pursuant to sub-subparagraph d. As a condition of
1771 registration, the corporation shall require the licensed general
1772 lines agent to attest that the agent has the experience and
1773 relationships with authorized or surplus lines carriers to
1774 attempt to offer replacement coverage for policies not eligible
1775 for renewal pursuant to sub-subparagraph d.

1776 (III) By September 1, 2006, the corporation shall make
1777 available through a secured website to licensed general lines
1778 agents registered pursuant to sub-sub-subparagraph e.(II)
1779 application, rating, loss history, mitigation, and policy type
1780 information relating to all policies not eligible for renewal
1781 pursuant to sub-subparagraph d. and for which the policyholder
1782 has not requested the corporation withhold such information
1783 pursuant to sub-sub-subparagraph e.(I). The licensed general
1784 lines agent registered pursuant to sub-sub-subparagraph e.(II)
1785 may use such information to contact and assist the policyholder
1786 in securing replacement policies and the agent may disclose to
1787 the policyholder such information was obtained from the
1788 corporation.

1789 f. With respect to nonhomestead property, eligibility must
1790 be determined in accordance with sub-sub-sub-subparagraph
1791 (b)2.a.(II)(A).

1792 6. Must include rules for classifications of risks and
1793 rates therefor.

1794 7. Must provide that if premium and investment income for
1795 an account attributable to a particular calendar year are in
1796 excess of projected losses and expenses for the account

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1797 | attributable to that year, such excess shall be held in surplus
 1798 | in the account. Such surplus shall be available to defray
 1799 | deficits in that account as to future years and shall be used
 1800 | for that purpose prior to assessing assessable insurers and
 1801 | assessable insureds as to any calendar year.

1802 | 8. Must provide objective criteria and procedures to be
 1803 | uniformly applied for all applicants in determining whether an
 1804 | individual risk is so hazardous as to be uninsurable. In making
 1805 | this determination and in establishing the criteria and
 1806 | procedures, the following shall be considered:

1807 | a. Whether the likelihood of a loss for the individual
 1808 | risk is substantially higher than for other risks of the same
 1809 | class; and

1810 | b. Whether the uncertainty associated with the individual
 1811 | risk is such that an appropriate premium cannot be determined.

1812 |
 1813 | The acceptance or rejection of a risk by the corporation shall
 1814 | be construed as the private placement of insurance, and the
 1815 | provisions of chapter 120 shall not apply.

1816 | 9. Must provide that the corporation shall make its best
 1817 | efforts to procure catastrophe reinsurance at reasonable rates,
 1818 | to cover its projected 100-year probable maximum loss in the
 1819 | homestead accounts as determined by the board of governors.

1820 | 10. Must provide that in the event of regular deficit
 1821 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph
 1822 | (b)3.b., in the personal lines homestead account, the commercial
 1823 | lines residential homestead account, or the high-risk homestead
 1824 | account, the corporation shall levy upon corporation homestead

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1825 account policyholders in its next rate filing, or by a separate
 1826 rate filing solely for this purpose, a Citizens policyholder
 1827 ~~market equalization~~ surcharge arising from a regular assessment
 1828 in such account in a percentage equal to the total amount of
 1829 such regular assessments divided by the aggregate statewide
 1830 direct written premium for subject lines of business for the
 1831 ~~prior calendar~~ year preceding the year in which the deficit to
 1832 which the regular assessment related is incurred. Citizens
 1833 policyholder ~~Market equalization~~ surcharges under this
 1834 subparagraph are not considered premium and are not subject to
 1835 commissions, fees, or premium taxes; however, failure to pay the
 1836 Citizens policyholder ~~a market equalization~~ surcharge shall be
 1837 treated as failure to pay premium. Notwithstanding any other
 1838 provision of this section, for purposes of the Citizens
 1839 policyholder surcharges to be levied pursuant to this
 1840 subparagraph, the total amount of the regular assessment to
 1841 which such Citizens policyholder surcharge relates shall be
 1842 determined as set forth in sub-subparagraphs (b)3.a., b., and c.

1843 11. The policies issued by the corporation must provide
 1844 that, if the corporation or the market assistance plan obtains
 1845 an offer from an authorized insurer to cover the risk at its
 1846 approved rates, the risk is no longer eligible for renewal
 1847 through the corporation.

1848 12. Corporation policies and applications must include a
 1849 notice that the corporation policy could, under this section, be
 1850 replaced with a policy issued by an authorized insurer that does
 1851 not provide coverage identical to the coverage provided by the
 1852 corporation or an insurer writing coverage pursuant to part VIII

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1853 | of chapter 626. The notice shall also specify that acceptance of
1854 | corporation coverage creates a conclusive presumption that the
1855 | applicant or policyholder is aware of this potential.

1856 | 13. May establish, subject to approval by the office,
1857 | different eligibility requirements and operational procedures
1858 | for any line or type of coverage for any specified county or
1859 | area if the board determines that such changes to the
1860 | eligibility requirements and operational procedures are
1861 | justified due to the voluntary market being sufficiently stable
1862 | and competitive in such area or for such line or type of
1863 | coverage and that consumers who, in good faith, are unable to
1864 | obtain insurance through the voluntary market through ordinary
1865 | methods would continue to have access to coverage from the
1866 | corporation. When coverage is sought in connection with a real
1867 | property transfer, such requirements and procedures shall not
1868 | provide for an effective date of coverage later than the date of
1869 | the closing of the transfer as established by the transferor,
1870 | the transferee, and, if applicable, the lender.

1871 | 14. Must provide that, with respect to the high-risk
1872 | homestead account, any assessable insurer with a surplus as to
1873 | policyholders of \$25 million or less writing 25 percent or more
1874 | of its total countrywide property insurance premiums in this
1875 | state may petition the office, within the first 90 days of each
1876 | calendar year, to qualify as a limited apportionment company. In
1877 | no event shall a limited apportionment company be required to
1878 | participate in the portion of any assessment, within the high-
1879 | risk account, pursuant to sub-subparagraph (b)3.a. or sub-
1880 | subparagraph (b)3.b. in the aggregate which exceeds \$50 million

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1881 after payment of available high-risk account funds in any
1882 calendar year. However, a limited apportionment company shall
1883 collect from its policyholders any emergency assessment imposed
1884 under sub-subparagraph (b)3.d. The plan shall provide that, if
1885 the office determines that any regular assessment will result in
1886 an impairment of the surplus of a limited apportionment company,
1887 the office may direct that all or part of such assessment be
1888 deferred as provided in subparagraph (g)4. However, there shall
1889 be no limitation or deferment of an emergency assessment to be
1890 collected from policyholders under sub-subparagraph (b)3.d.

1891 15. Must provide that the corporation appoint as its
1892 licensed agents only those agents who also hold an appointment
1893 as defined in s. 626.015(3) with an insurer who at the time of
1894 the agent's initial appointment by the corporation is authorized
1895 to write and is actually writing personal lines residential
1896 property coverage, commercial residential property coverage, or
1897 commercial nonresidential property coverage within the state.

1898 16. Must provide that the hurricane deductible for any
1899 property in the nonhomestead account with an insured value of
1900 \$250,000 or more must be at least 5 percent of the insured
1901 value.

1902 17. Must provide that the application for coverage under
1903 the nonhomestead account and the declaration page of each
1904 nonhomestead account policy include a statement in boldface 12-
1905 point type specifying that public subsidies do not support the
1906 corporation's coverage of nonhomestead property; that if the
1907 nonhomestead account of the corporation sustains a deficit or is
1908 unable to pay claims, the nonhomestead policyholder shall be

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1909 subject to an immediate assessment in an amount up to 100
 1910 percent of the premium and a further assessment upon renewal of
 1911 the policy; and that the applicant or policyholder may wish to
 1912 seek alternative coverage from an authorized insurer or surplus
 1913 lines insurer that will not be subject to such potential
 1914 assessments.

1915 18. Must provide that the application for coverage under
 1916 any of the homestead accounts and the declaration page of each
 1917 homestead account policy include a statement in boldface 12-
 1918 point type specifying that a false declaration of homestead
 1919 status for purposes of obtaining coverage in any of the
 1920 homestead accounts may constitute the offense of insurance
 1921 fraud, as prohibited and punishable as a felony under s.
 1922 817.234.

1923 19. Must provide for purchase by the corporation of
 1924 catastrophe reinsurance on the nonhomestead account in amounts
 1925 sufficient, together with coverage under the Florida Hurricane
 1926 Catastrophe Fund, to cover the account's 250-year probable
 1927 maximum loss.

1928 (d)1.a. It is the intent of the Legislature that the rates
 1929 for coverage provided by the corporation be actuarially sound
 1930 and not competitive with approved rates charged in the admitted
 1931 voluntary market, so that the corporation functions as a
 1932 residual market mechanism to provide insurance only when the
 1933 insurance cannot be procured in the voluntary market. Rates
 1934 shall include a residual market risk load that reflects the
 1935 concentrated exposure of the corporation and the impact of
 1936 adverse selection as well as an appropriate catastrophe loading

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1937 factor that reflects the actual catastrophic exposure of the
1938 corporation.

1939 b. It is the intent of the Legislature to reaffirm the
1940 requirement of rate adequacy in the residual market. Recognizing
1941 that rates may comply with the intent expressed in sub-
1942 subparagraph a. and yet be inadequate and recognizing the public
1943 need to limit subsidies within the residual market, it is the
1944 further intent of the Legislature to establish statutory
1945 standards for rate adequacy. Such standards are intended to
1946 supplement the standard specified in s. 627.062(2)(e)3.,
1947 providing that rates are inadequate if they are clearly
1948 insufficient to sustain projected losses and expenses in the
1949 class of business to which they apply.

1950 2. For each county, the average rates of the corporation
1951 for each line of business for personal lines residential
1952 policies excluding rates for wind-only policies shall be no
1953 lower than the average rates charged by the insurer that had the
1954 highest average rate in that county among the 20 insurers with
1955 the greatest total direct written premium in the state for that
1956 line of business in the preceding year, except that with respect
1957 to mobile home coverages, the average rates of the corporation
1958 shall be no lower than the average rates charged by the insurer
1959 that had the highest average rate in that county among the 5
1960 insurers with the greatest total written premium for mobile home
1961 owner's policies in the state in the preceding year.

1962 3. Rates for personal lines residential wind-only policies
1963 must be actuarially sound and not competitive with approved
1964 rates charged by authorized insurers. Corporation rate manuals

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1965 shall include a rate surcharge for seasonal occupancy. To ensure
 1966 that personal lines residential wind-only rates are not
 1967 competitive with approved rates charged by authorized insurers,
 1968 the corporation, in conjunction with the office, shall develop a
 1969 wind-only ratemaking methodology, which methodology shall be
 1970 contained in each rate filing made by the corporation with the
 1971 office. If the office determines that the wind-only rates or
 1972 rating factors filed by the corporation fail to comply with the
 1973 wind-only ratemaking methodology provided for in this
 1974 subsection, it shall so notify the corporation and require the
 1975 corporation to amend its rates or rating factors to come into
 1976 compliance within 90 days of notice from the office.

1977 4. For the purposes of establishing a pilot program to
 1978 evaluate issues relating to the availability and affordability
 1979 of insurance in an area where historically there has been little
 1980 market competition, the provisions of subparagraph 2. do not
 1981 apply to coverage provided by the corporation in Monroe County
 1982 if the office determines that a reasonable degree of competition
 1983 does not exist for personal lines residential policies. The
 1984 provisions of subparagraph 3. do not apply to coverage provided
 1985 by the corporation in Monroe County if the office determines
 1986 that a reasonable degree of competition does not exist for
 1987 personal lines residential policies in the area of that county
 1988 which is eligible for wind-only coverage. In this county, the
 1989 rates for personal lines residential coverage shall be
 1990 actuarially sound and not excessive, inadequate, or unfairly
 1991 discriminatory and are subject to the other provisions of the
 1992 paragraph and s. 627.062. The commission shall adopt rules

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1993 | establishing the criteria for determining whether a reasonable
 1994 | degree of competition exists for personal lines residential
 1995 | policies in Monroe County. By March 1, 2006, the office shall
 1996 | submit a report to the Legislature providing an evaluation of
 1997 | the implementation of the pilot program affecting Monroe County.

1998 | 5. Rates for commercial lines coverage shall not be
 1999 | subject to the requirements of subparagraph 2., but shall be
 2000 | subject to all other requirements of this paragraph and s.
 2001 | 627.062.

2002 | 6.a. Nothing in this paragraph shall require or allow the
 2003 | corporation to adopt a rate that is inadequate under s. 627.062
 2004 | or under sub-subparagraph b. or sub-subparagraph c.

2005 | b. With respect to rates for coverage in any homestead
 2006 | account, a rate is deemed inadequate if the rate is not
 2007 | sufficient to generate, by means of cash flow, procurement of
 2008 | coverage under the Florida Hurricane Catastrophe Fund;
 2009 | procurement of reinsurance; and investment income, moneys
 2010 | sufficient to pay all claims and expenses reasonably expected to
 2011 | result from a 100-year probable maximum loss event without
 2012 | resort to any regular or emergency assessments, long-term debt,
 2013 | state revenues, or other funding sources that reflect any
 2014 | subsidy from persons or entities other than corporation
 2015 | homestead accounts policyholders.

2016 | c. With respect to rates for coverage in the nonhomestead
 2017 | account, a rate is deemed inadequate if the rate is not
 2018 | sufficient to generate, by means of cash flow, procurement of
 2019 | coverage under the Florida Hurricane Catastrophe Fund;
 2020 | procurement of reinsurance; and investment income, moneys

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2021 sufficient to pay all claims and expenses reasonably expected to
 2022 result from a 250-year probable maximum loss event without
 2023 resort to any assessments, debt, state revenues, or other
 2024 funding sources that reflect any subsidy from persons or
 2025 entities other than corporation nonhomestead account
 2026 policyholders.

2027 7. The corporation shall certify to the office at least
 2028 twice annually that its personal lines rates comply with the
 2029 requirements of subparagraphs 1., ~~and 2.,~~ and 6. If any
 2030 adjustment in the rates or rating factors of the corporation is
 2031 necessary to ensure such compliance, the corporation shall make
 2032 and implement such adjustments and file its revised rates and
 2033 rating factors with the office. If the office thereafter
 2034 determines that the revised rates and rating factors fail to
 2035 comply with the provisions of subparagraphs 1. and 2., it shall
 2036 notify the corporation and require the corporation to amend its
 2037 rates or rating factors in conjunction with its next rate
 2038 filing. The office must notify the corporation by electronic
 2039 means of any rate filing it approves for any insurer among the
 2040 insurers referred to in subparagraph 2.

2041 8. In addition to the rates otherwise determined pursuant
 2042 to this paragraph, the corporation shall impose and collect an
 2043 amount equal to the premium tax provided for in s. 624.509 to
 2044 augment the financial resources of the corporation.

2045 ~~9.a. To assist the corporation in developing additional~~
 2046 ~~ratemaking methods to assure compliance with subparagraphs 1.~~
 2047 ~~and 4., the corporation shall appoint a rate methodology panel~~
 2048 ~~consisting of one person recommended by the Florida Association~~

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2049 ~~of Insurance Agents, one person recommended by the Professional~~
 2050 ~~Insurance Agents of Florida, one person recommended by the~~
 2051 ~~Florida Association of Insurance and Financial Advisors, one~~
 2052 ~~person recommended by the insurer with the highest voluntary~~
 2053 ~~market share of residential property insurance business in the~~
 2054 ~~state, one person recommended by the insurer with the second-~~
 2055 ~~highest voluntary market share of residential property insurance~~
 2056 ~~business in the state, one person recommended by an insurer~~
 2057 ~~writing commercial residential property insurance in this state,~~
 2058 ~~one person recommended by the Office of Insurance Regulation,~~
 2059 ~~and one board member designated by the board chairman, who shall~~
 2060 ~~serve as chairman of the panel.~~

2061 ~~b. By January 1, 2004, the rate methodology panel shall~~
 2062 ~~provide a report to the corporation of its findings and~~
 2063 ~~recommendations for the use of additional ratemaking methods and~~
 2064 ~~procedures, including the use of a rate equalization surcharge~~
 2065 ~~in an amount sufficient to assure that the total cost of~~
 2066 ~~coverage for policyholders or applicants to the corporation is~~
 2067 ~~sufficient to comply with subparagraph 1.~~

2068 ~~e. Within 30 days after such report, the corporation shall~~
 2069 ~~present to the President of the Senate, the Speaker of the House~~
 2070 ~~of Representatives, the minority party leaders of each house of~~
 2071 ~~the Legislature, and the chairs of the standing committees of~~
 2072 ~~each house of the Legislature having jurisdiction of insurance~~
 2073 ~~issues, a plan for implementing the additional ratemaking~~
 2074 ~~methods and an outline of any legislation needed to facilitate~~
 2075 ~~use of the new methods.~~

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2076 ~~d. The plan must include a provision that producer~~
 2077 ~~commissions paid by the corporation shall not be calculated in~~
 2078 ~~such a manner as to include any rate equalization surcharge.~~
 2079 ~~However, without regard to the plan to be developed or its~~
 2080 ~~implementation, producer commissions paid by the corporation for~~
 2081 ~~each account, other than the quota share primary program, shall~~
 2082 ~~remain fixed as to percentage, effective rate, calculation, and~~
 2083 ~~payment method until January 1, 2004.~~

2084 9.10. ~~By January 1, 2004,~~ The corporation shall provide
 2085 ~~develop~~ a notice to policyholders or applicants that the rates
 2086 of Citizens Property Insurance Corporation are intended to be
 2087 higher than the rates of any admitted carrier and providing
 2088 other information the corporation deems necessary to assist
 2089 consumers in finding other voluntary admitted insurers willing
 2090 to insure their property.

2091 (e) If coverage in an account is deactivated pursuant to
 2092 paragraph (f), coverage through the corporation shall be
 2093 reactivated by order of the office only under one of the
 2094 following circumstances:

2095 1. If the market assistance plan receives a minimum of 100
 2096 applications for coverage within a 3-month period, or 200
 2097 applications for coverage within a 1-year period or less for
 2098 residential coverage, unless the market assistance plan provides
 2099 a quotation from admitted carriers at their filed rates for at
 2100 least 90 percent of such applicants. Any market assistance plan
 2101 application that is rejected because an individual risk is so
 2102 hazardous as to be uninsurable using the criteria specified in
 2103 subparagraph (c)8. shall not be included in the minimum

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2104 percentage calculation provided herein. In the event that there
2105 is a legal or administrative challenge to a determination by the
2106 office that the conditions of this subparagraph have been met
2107 for eligibility for coverage in the corporation, any eligible
2108 risk may obtain coverage during the pendency of such challenge.

2109 2. In response to a state of emergency declared by the
2110 Governor under s. 252.36, the office may activate coverage by
2111 order for the period of the emergency upon a finding by the
2112 office that the emergency significantly affects the availability
2113 of residential property insurance.

2114 (f)1. The corporation shall file with the office quarterly
2115 statements of financial condition, an annual statement of
2116 financial condition, and audited financial statements in the
2117 manner prescribed by law. In addition, the corporation shall
2118 report to the office monthly on the types, premium, exposure,
2119 and distribution by county of its policies in force, and shall
2120 submit other reports as the office requires to carry out its
2121 oversight of the corporation.

2122 2. The activities of the corporation shall be reviewed at
2123 least annually by the office to determine whether coverage shall
2124 be deactivated in an account on the basis that the conditions
2125 giving rise to its activation no longer exist.

2126 (g)1. The corporation shall certify to the office its
2127 needs for annual assessments as to a particular calendar year,
2128 and for any interim assessments that it deems to be necessary to
2129 sustain operations as to a particular year pending the receipt
2130 of annual assessments. Upon verification, the office shall
2131 approve such certification, and the corporation shall levy such

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2132 | annual or interim assessments. Such assessments shall be
 2133 | prorated as provided in paragraph (b). The corporation shall
 2134 | take all reasonable and prudent steps necessary to collect the
 2135 | amount of assessment due from each assessable insurer,
 2136 | including, if prudent, filing suit to collect such assessment.
 2137 | If the corporation is unable to collect an assessment from any
 2138 | assessable insurer, the uncollected assessments shall be levied
 2139 | as an additional assessment against the assessable insurers and
 2140 | any assessable insurer required to pay an additional assessment
 2141 | as a result of such failure to pay shall have a cause of action
 2142 | against such nonpaying assessable insurer. Assessments shall be
 2143 | included as an appropriate factor in the making of rates. The
 2144 | failure of a surplus lines agent to collect and remit any
 2145 | regular or emergency assessment levied by the corporation is
 2146 | considered to be a violation of s. 626.936 and subjects the
 2147 | surplus lines agent to the penalties provided in that section.

2148 | 2. The governing body of any unit of local government, any
 2149 | residents of which are insured by the corporation, may issue
 2150 | bonds as defined in s. 125.013 or s. 166.101 from time to time
 2151 | to fund an assistance program, in conjunction with the
 2152 | corporation, for the purpose of defraying deficits of the
 2153 | corporation. In order to avoid needless and indiscriminate
 2154 | proliferation, duplication, and fragmentation of such assistance
 2155 | programs, any unit of local government, any residents of which
 2156 | are insured by the corporation, may provide for the payment of
 2157 | losses, regardless of whether or not the losses occurred within
 2158 | or outside of the territorial jurisdiction of the local
 2159 | government. Revenue bonds under this subparagraph may not be

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2160 | issued until validated pursuant to chapter 75, unless a state of
 2161 | emergency is declared by executive order or proclamation of the
 2162 | Governor pursuant to s. 252.36 making such findings as are
 2163 | necessary to determine that it is in the best interests of, and
 2164 | necessary for, the protection of the public health, safety, and
 2165 | general welfare of residents of this state and declaring it an
 2166 | essential public purpose to permit certain municipalities or
 2167 | counties to issue such bonds as will permit relief to claimants
 2168 | and policyholders of the corporation. Any such unit of local
 2169 | government may enter into such contracts with the corporation
 2170 | and with any other entity created pursuant to this subsection as
 2171 | are necessary to carry out this paragraph. Any bonds issued
 2172 | under this subparagraph shall be payable from and secured by
 2173 | moneys received by the corporation from emergency assessments
 2174 | under sub-subparagraph (b)3.d., and assigned and pledged to or
 2175 | on behalf of the unit of local government for the benefit of the
 2176 | holders of such bonds. The funds, credit, property, and taxing
 2177 | power of the state or of the unit of local government shall not
 2178 | be pledged for the payment of such bonds. If any of the bonds
 2179 | remain unsold 60 days after issuance, the office shall require
 2180 | all insurers subject to assessment to purchase the bonds, which
 2181 | shall be treated as admitted assets; each insurer shall be
 2182 | required to purchase that percentage of the unsold portion of
 2183 | the bond issue that equals the insurer's relative share of
 2184 | assessment liability under this subsection. An insurer shall not
 2185 | be required to purchase the bonds to the extent that the office
 2186 | determines that the purchase would endanger or impair the
 2187 | solvency of the insurer.

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2188 3.a. The corporation shall adopt one or more programs
 2189 subject to approval by the office for the reduction of both new
 2190 and renewal writings in the corporation. Any program the
 2191 corporation adopts for the payment of bonuses to an insurer for
 2192 each risk the insurer removes from the corporation shall comply
 2193 with s. 627.3511(2) and may not exceed the amount referenced in
 2194 s. 627.3511(2) for each risk removed. The corporation may
 2195 consider any prudent and not unfairly discriminatory approach to
 2196 reducing corporation writings, and may adopt a credit against
 2197 assessment liability or other liability that provides an
 2198 incentive for insurers to take risks out of the corporation and
 2199 to keep risks out of the corporation by maintaining or
 2200 increasing voluntary writings in counties or areas in which
 2201 corporation risks are highly concentrated and a program to
 2202 provide a formula under which an insurer voluntarily taking
 2203 risks out of the corporation by maintaining or increasing
 2204 voluntary writings will be relieved wholly or partially from
 2205 assessments under sub-subparagraphs (b)3.a. and b. When the
 2206 corporation enters into a contractual agreement for a take-out
 2207 plan, the producing agent of record of the corporation policy is
 2208 entitled to retain any unearned commission on such policy, and
 2209 the insurer shall either:
 2210 (I) Pay to the producing agent of record of the policy,
 2211 for the first year, an amount which is the greater of the
 2212 insurer's usual and customary commission for the type of policy
 2213 written or a policy fee equal to the usual and customary
 2214 commission of the corporation; or

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2215 (II) Offer to allow the producing agent of record of the
2216 policy to continue servicing the policy for a period of not less
2217 than 1 year and offer to pay the agent the insurer's usual and
2218 customary commission for the type of policy written. If the
2219 producing agent is unwilling or unable to accept appointment by
2220 the new insurer, the new insurer shall pay the agent in
2221 accordance with sub-sub-subparagraph (I).

2222 b. Any credit or exemption from regular assessments
2223 adopted under this subparagraph shall last no longer than the 3
2224 years following the cancellation or expiration of the policy by
2225 the corporation. With the approval of the office, the board may
2226 extend such credits for an additional year if the insurer
2227 guarantees an additional year of renewability for all policies
2228 removed from the corporation, or for 2 additional years if the
2229 insurer guarantees 2 additional years of renewability for all
2230 policies so removed.

2231 c. There shall be no credit, limitation, exemption, or
2232 deferment from emergency assessments to be collected from
2233 policyholders pursuant to sub-subparagraph (b)3.d.

2234 4. The plan shall provide for the deferment, in whole or
2235 in part, of the assessment of an assessable insurer, other than
2236 an emergency assessment collected from policyholders pursuant to
2237 sub-subparagraph (b)3.d., if the office finds that payment of
2238 the assessment would endanger or impair the solvency of the
2239 insurer. In the event an assessment against an assessable
2240 insurer is deferred in whole or in part, the amount by which
2241 such assessment is deferred may be assessed against the other

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2242 assessable insurers in a manner consistent with the basis for
2243 assessments set forth in paragraph (b).

2244 (h) Nothing in this subsection shall be construed to
2245 preclude the issuance of residential property insurance coverage
2246 pursuant to part VIII of chapter 626.

2247 (i) There shall be no liability on the part of, and no
2248 cause of action of any nature shall arise against, any
2249 assessable insurer or its agents or employees, the corporation
2250 or its agents or employees, members of the board of governors or
2251 their respective designees at a board meeting, corporation
2252 committee members, or the office or its representatives, for any
2253 action taken by them in the performance of their duties or
2254 responsibilities under this subsection. Such immunity does not
2255 apply to:

2256 1. Any of the foregoing persons or entities for any
2257 willful tort;

2258 2. The corporation or its producing agents for breach of
2259 any contract or agreement pertaining to insurance coverage;

2260 3. The corporation with respect to issuance or payment of
2261 debt; or

2262 4. Any assessable insurer with respect to any action to
2263 enforce an assessable insurer's obligations to the corporation
2264 under this subsection.

2265 (j) For the purposes of s. 199.183(1), the corporation
2266 shall be considered a political subdivision of the state and
2267 shall be exempt from the corporate income tax. The premiums,
2268 assessments, investment income, and other revenue of the
2269 corporation are funds received for providing property insurance

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2270 coverage as required by this subsection, paying claims for
 2271 Florida citizens insured by the corporation, securing and
 2272 repaying debt obligations issued by the corporation, and
 2273 conducting all other activities of the corporation, and shall
 2274 not be considered taxes, fees, licenses, or charges for services
 2275 imposed by the Legislature on individuals, businesses, or
 2276 agencies outside state government. Bonds and other debt
 2277 obligations issued by or on behalf of the corporation are not to
 2278 be considered "state bonds" within the meaning of s. 215.58(8).
 2279 The corporation is not subject to the procurement provisions of
 2280 chapter 287, and policies and decisions of the corporation
 2281 relating to incurring debt, levying of assessments and the sale,
 2282 issuance, continuation, terms and claims under corporation
 2283 policies, and all services relating thereto, are not subject to
 2284 the provisions of chapter 120. The corporation is not required
 2285 to obtain or to hold a certificate of authority issued by the
 2286 office, nor is it required to participate as a member insurer of
 2287 the Florida Insurance Guaranty Association. However, the
 2288 corporation is required to pay, in the same manner as an
 2289 authorized insurer, assessments pledged by the Florida Insurance
 2290 Guaranty Association to secure bonds issued or other
 2291 indebtedness incurred to pay covered claims arising from insurer
 2292 insolvencies caused by, or proximately related to, hurricane
 2293 losses. It is the intent of the Legislature that the tax
 2294 exemptions provided in this paragraph will augment the financial
 2295 resources of the corporation to better enable the corporation to
 2296 fulfill its public purposes. Any debt obligations ~~bonds~~ issued
 2297 by the corporation, their transfer, and the income therefrom,

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2298 including any profit made on the sale thereof, shall at all
 2299 times be free from taxation of every kind by the state and any
 2300 political subdivision or local unit or other instrumentality
 2301 thereof; however, this exemption does not apply to any tax
 2302 imposed by chapter 220 on interest, income, or profits on debt
 2303 obligations owned by corporations other than the corporation.

2304 (k) Upon a determination by the office that the conditions
 2305 giving rise to the establishment and activation of the
 2306 corporation no longer exist, the corporation is dissolved. Upon
 2307 dissolution, the assets of the corporation shall be applied
 2308 first to pay all debts, liabilities, and obligations of the
 2309 corporation, including the establishment of reasonable reserves
 2310 for any contingent liabilities or obligations, and all remaining
 2311 assets of the corporation shall become property of the state and
 2312 shall be deposited in the Florida Hurricane Catastrophe Fund.
 2313 However, no dissolution shall take effect as long as the
 2314 corporation has bonds or other financial obligations outstanding
 2315 unless adequate provision has been made for the payment of the
 2316 bonds or other financial obligations pursuant to the documents
 2317 authorizing the issuance of the bonds or other financial
 2318 obligations.

2319 (l)1. Effective July 1, 2002, policies of the Residential
 2320 Property and Casualty Joint Underwriting Association shall
 2321 become policies of the corporation. All obligations, rights,
 2322 assets and liabilities of the Residential Property and Casualty
 2323 Joint Underwriting Association, including bonds, note and debt
 2324 obligations, and the financing documents pertaining to them
 2325 become those of the corporation as of July 1, 2002. The

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2326 corporation is not required to issue endorsements or
2327 certificates of assumption to insureds during the remaining term
2328 of in-force transferred policies.

2329 2. Effective July 1, 2002, policies of the Florida
2330 Windstorm Underwriting Association are transferred to the
2331 corporation and shall become policies of the corporation. All
2332 obligations, rights, assets, and liabilities of the Florida
2333 Windstorm Underwriting Association, including bonds, note and
2334 debt obligations, and the financing documents pertaining to them
2335 are transferred to and assumed by the corporation on July 1,
2336 2002. The corporation is not required to issue endorsement or
2337 certificates of assumption to insureds during the remaining term
2338 of in-force transferred policies.

2339 3. The Florida Windstorm Underwriting Association and the
2340 Residential Property and Casualty Joint Underwriting Association
2341 shall take all actions as may be proper to further evidence the
2342 transfers and shall provide the documents and instruments of
2343 further assurance as may reasonably be requested by the
2344 corporation for that purpose. The corporation shall execute
2345 assumptions and instruments as the trustees or other parties to
2346 the financing documents of the Florida Windstorm Underwriting
2347 Association or the Residential Property and Casualty Joint
2348 Underwriting Association may reasonably request to further
2349 evidence the transfers and assumptions, which transfers and
2350 assumptions, however, are effective on the date provided under
2351 this paragraph whether or not, and regardless of the date on
2352 which, the assumptions or instruments are executed by the
2353 corporation. Subject to the relevant financing documents

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2354 | pertaining to their outstanding bonds, notes, indebtedness, or
 2355 | other financing obligations, the moneys, investments,
 2356 | receivables, choses in action, and other intangibles of the
 2357 | Florida Windstorm Underwriting Association shall be credited to
 2358 | the high-risk account of the corporation, and those of the
 2359 | personal lines residential coverage account and the commercial
 2360 | lines residential coverage account of the Residential Property
 2361 | and Casualty Joint Underwriting Association shall be credited to
 2362 | the personal lines account and the commercial lines account,
 2363 | respectively, of the corporation.

2364 | ~~4. Effective July 1, 2002, a new applicant for property~~
 2365 | ~~insurance coverage who would otherwise have been eligible for~~
 2366 | ~~coverage in the Florida Windstorm Underwriting Association is~~
 2367 | ~~eligible for coverage from the corporation as provided in this~~
 2368 | ~~subsection.~~

2369 | 4.5. The transfer of all policies, obligations, rights,
 2370 | assets, and liabilities from the Florida Windstorm Underwriting
 2371 | Association to the corporation and the renaming of the
 2372 | Residential Property and Casualty Joint Underwriting Association
 2373 | as the corporation shall in no way affect the coverage with
 2374 | respect to covered policies as defined in s. 215.555(2)(c)
 2375 | provided to these entities by the Florida Hurricane Catastrophe
 2376 | Fund. The coverage provided by the Florida Hurricane Catastrophe
 2377 | Fund to the Florida Windstorm Underwriting Association based on
 2378 | its exposures as of June 30, 2002, and each June 30 thereafter
 2379 | shall be redesignated as coverage for the high-risk account of
 2380 | the corporation. Notwithstanding any other provision of law, the
 2381 | coverage provided by the Florida Hurricane Catastrophe Fund to

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2382 | the Residential Property and Casualty Joint Underwriting
 2383 | Association based on its exposures as of June 30, 2002, and each
 2384 | June 30 thereafter shall be transferred to the personal lines
 2385 | account and the commercial lines account of the corporation.
 2386 | Notwithstanding any other provision of law, the high-risk
 2387 | account shall be treated, for all Florida Hurricane Catastrophe
 2388 | Fund purposes, as if it were a separate participating insurer
 2389 | with its own exposures, reimbursement premium, and loss
 2390 | reimbursement. Likewise, the personal lines and commercial lines
 2391 | accounts shall be viewed together, for all Florida Hurricane
 2392 | Catastrophe Fund purposes, as if the two accounts were one and
 2393 | represent a single, separate participating insurer with its own
 2394 | exposures, reimbursement premium, and loss reimbursement. The
 2395 | coverage provided by the Florida Hurricane Catastrophe Fund to
 2396 | the corporation shall constitute and operate as a full transfer
 2397 | of coverage from the Florida Windstorm Underwriting Association
 2398 | and Residential Property and Casualty Joint Underwriting to the
 2399 | corporation.

2400 | (m) Notwithstanding any other provision of law:

2401 | 1. The pledge or sale of, the lien upon, and the security
 2402 | interest in any rights, revenues, or other assets of the
 2403 | corporation created or purported to be created pursuant to any
 2404 | financing documents to secure any bonds or other indebtedness of
 2405 | the corporation shall be and remain valid and enforceable,
 2406 | notwithstanding the commencement of and during the continuation
 2407 | of, and after, any rehabilitation, insolvency, liquidation,
 2408 | bankruptcy, receivership, conservatorship, reorganization, or

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2409 similar proceeding against the corporation under the laws of
2410 this state.

2411 2. No such proceeding shall relieve the corporation of its
2412 obligation, or otherwise affect its ability to perform its
2413 obligation, to continue to collect, or levy and collect,
2414 assessments, market equalization or other surcharges under
2415 subparagraph (c)10., or any other rights, revenues, or other
2416 assets of the corporation pledged pursuant to any financing
2417 documents.

2418 3. Each such pledge or sale of, lien upon, and security
2419 interest in, including the priority of such pledge, lien, or
2420 security interest, any such assessments, market equalization or
2421 other surcharges, or other rights, revenues, or other assets
2422 which are collected, or levied and collected, after the
2423 commencement of and during the pendency of, or after, any such
2424 proceeding shall continue unaffected by such proceeding. As used
2425 in this subsection, the term "financing documents" means any
2426 agreement or agreements, instrument or instruments, or other
2427 document or documents now existing or hereafter created
2428 evidencing any bonds or other indebtedness of the corporation or
2429 pursuant to which any such bonds or other indebtedness has been
2430 or may be issued and pursuant to which any rights, revenues, or
2431 other assets of the corporation are pledged or sold to secure
2432 the repayment of such bonds or indebtedness, together with the
2433 payment of interest on such bonds or such indebtedness, or the
2434 payment of any other obligation or financial product, as defined
2435 in the plan of operation of the corporation related to such
2436 bonds or indebtedness.

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2437 4. Any such pledge or sale of assessments, revenues,
 2438 contract rights, or other rights or assets of the corporation
 2439 shall constitute a lien and security interest, or sale, as the
 2440 case may be, that is immediately effective and attaches to such
 2441 assessments, revenues, or contract rights or other rights or
 2442 assets, whether or not imposed or collected at the time the
 2443 pledge or sale is made. Any such pledge or sale is effective,
 2444 valid, binding, and enforceable against the corporation or other
 2445 entity making such pledge or sale, and valid and binding against
 2446 and superior to any competing claims or obligations owed to any
 2447 other person or entity, including policyholders in this state,
 2448 asserting rights in any such assessments, revenues, or contract
 2449 rights or other rights or assets to the extent set forth in and
 2450 in accordance with the terms of the pledge or sale contained in
 2451 the applicable financing documents, whether or not any such
 2452 person or entity has notice of such pledge or sale and without
 2453 the need for any physical delivery, recordation, filing, or
 2454 other action.

2455 (n)1. The following records of the corporation are
 2456 confidential and exempt from the provisions of s. 119.07(1) and
 2457 s. 24(a), Art. I of the State Constitution:

2458 a. Underwriting files, except that a policyholder or an
 2459 applicant shall have access to his or her own underwriting
 2460 files.

2461 b. Claims files, until termination of all litigation and
 2462 settlement of all claims arising out of the same incident,
 2463 although portions of the claims files may remain exempt, as
 2464 otherwise provided by law. Confidential and exempt claims file

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2465 records may be released to other governmental agencies upon
2466 written request and demonstration of need; such records held by
2467 the receiving agency remain confidential and exempt as provided
2468 for herein.

2469 c. Records obtained or generated by an internal auditor
2470 pursuant to a routine audit, until the audit is completed, or if
2471 the audit is conducted as part of an investigation, until the
2472 investigation is closed or ceases to be active. An investigation
2473 is considered "active" while the investigation is being
2474 conducted with a reasonable, good faith belief that it could
2475 lead to the filing of administrative, civil, or criminal
2476 proceedings.

2477 d. Matters reasonably encompassed in privileged attorney-
2478 client communications.

2479 e. Proprietary information licensed to the corporation
2480 under contract and the contract provides for the confidentiality
2481 of such proprietary information.

2482 f. All information relating to the medical condition or
2483 medical status of a corporation employee which is not relevant
2484 to the employee's capacity to perform his or her duties, except
2485 as otherwise provided in this paragraph. Information which is
2486 exempt shall include, but is not limited to, information
2487 relating to workers' compensation, insurance benefits, and
2488 retirement or disability benefits.

2489 g. Upon an employee's entrance into the employee
2490 assistance program, a program to assist any employee who has a
2491 behavioral or medical disorder, substance abuse problem, or
2492 emotional difficulty which affects the employee's job

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2493 performance, all records relative to that participation shall be
 2494 confidential and exempt from the provisions of s. 119.07(1) and
 2495 s. 24(a), Art. I of the State Constitution, except as otherwise
 2496 provided in s. 112.0455(11).

2497 h. Information relating to negotiations for financing,
 2498 reinsurance, depopulation, or contractual services, until the
 2499 conclusion of the negotiations.

2500 i. Minutes of closed meetings regarding underwriting
 2501 files, and minutes of closed meetings regarding an open claims
 2502 file until termination of all litigation and settlement of all
 2503 claims with regard to that claim, except that information
 2504 otherwise confidential or exempt by law will be redacted.

2505
 2506 When an authorized insurer is considering underwriting a risk
 2507 insured by the corporation, relevant underwriting files and
 2508 confidential claims files may be released to the insurer
 2509 provided the insurer agrees in writing, notarized and under
 2510 oath, to maintain the confidentiality of such files. When a file
 2511 is transferred to an insurer that file is no longer a public
 2512 record because it is not held by an agency subject to the
 2513 provisions of the public records law. Underwriting files and
 2514 confidential claims files may also be released to staff of and
 2515 the board of governors of the market assistance plan established
 2516 pursuant to s. 627.3515, who must retain the confidentiality of
 2517 such files, except such files may be released to authorized
 2518 insurers that are considering assuming the risks to which the
 2519 files apply, provided the insurer agrees in writing, notarized
 2520 and under oath, to maintain the confidentiality of such files.

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2521 Finally, the corporation or the board or staff of the market
2522 assistance plan may make the following information obtained from
2523 underwriting files and confidential claims files available to
2524 licensed general lines insurance agents: name, address, and
2525 telephone number of the residential property owner or insured;
2526 location of the risk; rating information; loss history; and
2527 policy type. The receiving licensed general lines insurance
2528 agent must retain the confidentiality of the information
2529 received.

2530 2. Portions of meetings of the corporation are exempt from
2531 the provisions of s. 286.011 and s. 24(b), Art. I of the State
2532 Constitution wherein confidential underwriting files or
2533 confidential open claims files are discussed. All portions of
2534 corporation meetings which are closed to the public shall be
2535 recorded by a court reporter. The court reporter shall record
2536 the times of commencement and termination of the meeting, all
2537 discussion and proceedings, the names of all persons present at
2538 any time, and the names of all persons speaking. No portion of
2539 any closed meeting shall be off the record. Subject to the
2540 provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
2541 notes of any closed meeting shall be retained by the corporation
2542 for a minimum of 5 years. A copy of the transcript, less any
2543 exempt matters, of any closed meeting wherein claims are
2544 discussed shall become public as to individual claims after
2545 settlement of the claim.

2546 (o) It is the intent of the Legislature that the
2547 amendments to this subsection enacted in 2002 should, over time,
2548 reduce the probable maximum windstorm losses in the residual

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2549 | markets and should reduce the potential assessments to be levied
 2550 | on property insurers and policyholders statewide. In furtherance
 2551 | of this intent:

2552 | 1. The board shall, on or before February 1 of each year,
 2553 | provide a report to the President of the Senate and the Speaker
 2554 | of the House of Representatives showing the reduction or
 2555 | increase in the 100-year probable maximum loss attributable to
 2556 | wind-only coverages and the quota share program under this
 2557 | subsection combined, as compared to the benchmark 100-year
 2558 | probable maximum loss of the Florida Windstorm Underwriting
 2559 | Association. For purposes of this paragraph, the benchmark 100-
 2560 | year probable maximum loss of the Florida Windstorm Underwriting
 2561 | Association shall be the calculation dated February 2001 and
 2562 | based on November 30, 2000, exposures. In order to ensure
 2563 | comparability of data, the board shall use the same methods for
 2564 | calculating its probable maximum loss as were used to calculate
 2565 | the benchmark probable maximum loss. The reduction or increase
 2566 | in probable maximum loss shall be calculated without taking into
 2567 | account the probable maximum loss attributable to the
 2568 | nonhomestead account.

2569 | 2. Beginning February 1, 2013 ~~2007~~, if the report under
 2570 | subparagraph 1. for any year indicates that the 100-year
 2571 | probable maximum loss attributable to wind-only coverages and
 2572 | the quota share program combined does not reflect a reduction of
 2573 | at least 25 percent from the benchmark, the board shall reduce
 2574 | the boundaries of the high-risk area eligible for wind-only
 2575 | coverages under this subsection in a manner calculated to reduce

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2576 | such probable maximum loss to an amount at least 25 percent
2577 | below the benchmark.

2578 | 3. Beginning February 1, 2018 ~~2012~~, if the report under
2579 | subparagraph 1. for any year indicates that the 100-year
2580 | probable maximum loss attributable to wind-only coverages and
2581 | the quota share program combined does not reflect a reduction of
2582 | at least 50 percent from the benchmark, the boundaries of the
2583 | high-risk area eligible for wind-only coverages under this
2584 | subsection shall be reduced by the elimination of any area that
2585 | is not seaward of a line 1,000 feet inland from the Intracoastal
2586 | Waterway.

2587 | (p) In enacting the provisions of this section, the
2588 | Legislature recognizes that both the Florida Windstorm
2589 | Underwriting Association and the Residential Property and
2590 | Casualty Joint Underwriting Association have entered into
2591 | financing arrangements that obligate each entity to service its
2592 | debts and maintain the capacity to repay funds secured under
2593 | these financing arrangements. It is the intent of the
2594 | Legislature that nothing in this section be construed to
2595 | compromise, diminish, or interfere with the rights of creditors
2596 | under such financing arrangements. It is further the intent of
2597 | the Legislature to preserve the obligations of the Florida
2598 | Windstorm Underwriting Association and Residential Property and
2599 | Casualty Joint Underwriting Association with regard to
2600 | outstanding financing arrangements, with such obligations
2601 | passing entirely and unchanged to the corporation and,
2602 | specifically, to the applicable account of the corporation. So
2603 | long as any bonds, notes, indebtedness, or other financing

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2604 obligations of the Florida Windstorm Underwriting Association or
 2605 the Residential Property and Casualty Joint Underwriting
 2606 Association are outstanding, under the terms of the financing
 2607 documents pertaining to them, the governing board of the
 2608 corporation shall have and shall exercise the authority to levy,
 2609 charge, collect, and receive all premiums, assessments,
 2610 surcharges, charges, revenues, and receipts that the
 2611 associations had authority to levy, charge, collect, or receive
 2612 under the provisions of subsection (2) and this subsection,
 2613 respectively, as they existed on January 1, 2002, to provide
 2614 moneys, without exercise of the authority provided by this
 2615 subsection, in at least the amounts, and by the times, as would
 2616 be provided under those former provisions of subsection (2) or
 2617 this subsection, respectively, so that the value, amount, and
 2618 collectability of any assets, revenues, or revenue source
 2619 pledged or committed to, or any lien thereon securing such
 2620 outstanding bonds, notes, indebtedness, or other financing
 2621 obligations will not be diminished, impaired, or adversely
 2622 affected by the amendments made by this act and to permit
 2623 compliance with all provisions of financing documents pertaining
 2624 to such bonds, notes, indebtedness, or other financing
 2625 obligations, or the security or credit enhancement for them, and
 2626 any reference in this subsection to bonds, notes, indebtedness,
 2627 financing obligations, or similar obligations, of the
 2628 corporation shall include like instruments or contracts of the
 2629 Florida Windstorm Underwriting Association and the Residential
 2630 Property and Casualty Joint Underwriting Association to the

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2631 extent not inconsistent with the provisions of the financing
2632 documents pertaining to them.

2633 (q) The corporation shall not require the securing of
2634 flood insurance as a condition of coverage if the insured or
2635 applicant executes a form approved by the office affirming that
2636 flood insurance is not provided by the corporation and that if
2637 flood insurance is not secured by the applicant or insured in
2638 addition to coverage by the corporation, the risk will not be
2639 covered for flood damage. A corporation policyholder electing
2640 not to secure flood insurance and executing a form as provided
2641 herein making a claim for water damage against the corporation
2642 shall have the burden of proving the damage was not caused by
2643 flooding. Notwithstanding other provisions of this subsection,
2644 the corporation may deny coverage to an applicant or insured who
2645 refuses to execute the form described herein.

2646 (r) A salaried employee of the corporation who performs
2647 policy administration services subsequent to the effectuation of
2648 a corporation policy is not required to be licensed as an agent
2649 under the provisions of s. 626.112.

2650 (s) The transition to homestead and nonhomestead accounts
2651 shall begin on October 1, 2006. A policy issued on or after that
2652 date shall be issued in the applicable homestead account or the
2653 nonhomestead account, based upon whether the property
2654 constitutes homestead property as provided in subparagraph (b)2.
2655 A policy in effect on October 1, 2006, shall be placed in the
2656 applicable homestead account or the nonhomestead account, based
2657 upon whether the property constitutes homestead property as

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2658 provided in subparagraph (b)2., upon the first renewal of such
2659 policy after October 1, 2006.

2660 (t) Any employee of the corporation whose position is
2661 managerial, policymaking, or professional in nature and all
2662 members of the corporation's board of governors shall comply
2663 with the Code of Ethics for public officers and employers found
2664 in ss. 112.311-112.326.

2665 (u) An employee of the corporation shall notify the
2666 Division of Insurance Fraud within 48 hours after having
2667 information that would lead a reasonable person to suspect that
2668 fraud may have been committed by any employee of the
2669 corporation.

2670 (v) By February 1, 2007, the corporation shall submit a
2671 report to the President of the Senate, the Speaker of the House
2672 of Representatives, the minority party leaders of the Senate and
2673 the House of Representatives, and the chairs of the standing
2674 committees of the Senate and the House of Representatives having
2675 jurisdiction over matters relating to property and casualty
2676 insurance. In preparing the report, the corporation shall
2677 consult with the Office of Insurance Regulation, the Department
2678 of Financial Services, and any other party the corporation
2679 determines is appropriate. The report shall include findings and
2680 recommendations on the feasibility of requiring authorized
2681 insurers that issue and service personal and commercial
2682 residential policies and commercial nonresidential policies that
2683 provide coverage for basic property perils except for the peril
2684 of wind to issue and service for a fee personal and commercial
2685 residential policies and commercial nonresidential policies

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2686 providing coverage for the peril of wind issued by the
2687 corporation. The report shall include:

2688 1. The expense savings to the corporation of issuing and
2689 servicing such policies as determined through a cost benefit
2690 analysis.

2691 2. The expenses and liability to authorized insurers
2692 associated with issuing and servicing such policies.

2693 3. The impact on service to policyholders of the
2694 corporation relating to issuing and servicing such policies.

2695 4. The impact on the producing agent of the corporation of
2696 issuing and servicing such policies.

2697 5. Recommendations as to the amount of the fee that should
2698 be paid to authorized insurers for issuing and servicing such
2699 policies.

2700 6. The impact issuing and servicing such policies will
2701 have on the corporation's number of policies, total insured
2702 value, and probable maximum loss.

2703 (w) There shall be no liability on the part of, and no
2704 cause of action of any nature shall arise against, producing
2705 agents of record or their employees for any action taken by them
2706 in the performance of their duties or responsibilities relating
2707 to the removal of policies from the corporation. Such immunity
2708 only applies to actions that may arise due to differences in
2709 coverage or procedures between any take-out insurer and the
2710 corporation or for insolvency of any take-out insurer.

2711 (x) The Legislature finds that the total area eligible for
2712 the high-risk account of the corporation has a material impact
2713 on the availability of wind coverage from the voluntary admitted

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2714 market, deficits of the corporation, assessments to be levied on
2715 property insurers and policyholders statewide, the ability and
2716 willingness of authorized insurers to write wind coverage in the
2717 high-risk areas, the probable maximum windstorm losses of the
2718 corporation, general commerce in coastal areas, and the overall
2719 financial condition of the state. Therefore, in furtherance of
2720 these findings and intent:

- 2721 1. The High Risk Eligibility Panel is created.
2722 2. The members of the panel shall be appointed as follows:
2723 a. The board shall appoint two board members.
2724 b. The Governor shall appoint one member.
2725 c. The Chief Financial Officer shall appoint one member.
2726 d. The Commissioner of Insurance Regulation shall appoint
2727 a representative of the office to serve as a member.
2728 e. The President of the Senate shall appoint one member.
2729 f. The Speaker of the House of Representatives shall
2730 appoint one member.

2731
2732 Members of the panel must be residents of this state with
2733 insurance expertise. Members shall elect a chair and shall serve
2734 3-year terms each. The panel shall operate independently of any
2735 state agency and shall be administered by the corporation. The
2736 panel shall make an annual report to the President of the Senate
2737 and the Speaker of the House of Representatives on or before
2738 February 1 of each year recommending the areas that should be
2739 eligible for the high-risk account of the corporation. Members
2740 shall not receive compensation and are not entitled to receive

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2741 reimbursement for per diem and travel expenses as provided in s.
2742 112.061, except for any panel member who is a state employee.

2743 3. The Legislature's intent provided in subparagraphs
2744 (a)1. and 2. shall provide guidance for the panel to use in the
2745 panel's recommendations to the Legislature required in
2746 subparagraph 1. The panel shall consider the following factors
2747 in fulfilling its responsibilities under this paragraph:

2748 a. The number of commercial risks in a given area that are
2749 unable to find wind coverage from the voluntary admitted market.

2750 b. Reports from members of the mortgage industry
2751 indicating difficulty in finding forced placed policies for
2752 commercial wind coverage.

2753 c. The number of approved excess and surplus lines
2754 carriers certifying an unwillingness to provide commercial wind
2755 coverage similar to that approved for use by the office for the
2756 voluntary admitted market.

2757 d. Other relevant factors.

2758
2759 The office and the corporation shall provide the panel with any
2760 information the panel considers necessary to determine areas
2761 eligible for the high-risk account of the corporation. For the
2762 purpose of making accurate determinations for areas eligible for
2763 the high-risk account of the corporation, the panel may
2764 interview and request and receive information from residents of
2765 this state in areas impacted by this paragraph, including, but
2766 not limited to, insurance agents, insurance companies,
2767 actuaries, and other insurance professionals. Upon request of

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2768 the panel, the office may conduct public hearings in areas that
2769 may be impacted by the panel's recommendations.

2770 4. Notwithstanding other provisions of this paragraph, the
2771 panel shall conduct an analysis to determine the areas to be
2772 eligible for the high-risk account of the corporation for any
2773 county that contains an eligible area extending more than 2
2774 miles from the coast, any coastal county that does not have
2775 areas designated as eligible for the high-risk account, and
2776 counties with barrier islands whether or not such islands or
2777 portions of such islands are currently eligible for the high
2778 risk account. The panel shall submit a report, including its
2779 analysis, to the office and to the corporation by November 30,
2780 2006. The report shall specify changes to the areas eligible for
2781 the high-risk account for such affected counties based on its
2782 analysis.

2783 Section 10. Paragraph (b) of subsection (3) of section
2784 627.4035, Florida Statutes, is amended, and subsection (4) is
2785 added to that section, to read:

2786 627.4035 Cash payment of premiums; claims.--

2787 (3) All payments of claims made in this state under any
2788 contract of insurance shall be paid:

2789 (b) If authorized in writing by the recipient or the
2790 recipient's representative, by debit card or any other form of
2791 electronic transfer. Any fees or costs to be charged against the
2792 recipient must be disclosed in writing to the recipient or the
2793 recipient's representative at the time of written authorization.
2794 However, the written authorization requirement may be waived by
2795 the recipient or the recipient's representative if the insurer

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2796 verifies the identity of the insured or the insured's recipient
2797 and does not charge a fee for the transaction. If the funds are
2798 misdirected, the insurer would remain liable for the payment of
2799 the claim.

2800 (4) Nothing in this section shall be construed as
2801 prohibiting an insurer from limiting its liability under a
2802 policy or endorsement providing that loss will be adjusted on
2803 the basis of replacement costs to the lesser of:

2804 (a) The limit of liability shown on the policy
2805 declarations page;

2806 (b) The reasonable and necessary cost to repair the
2807 damaged, destroyed, or stolen covered property; or

2808 (c) The reasonable and necessary cost to replace the
2809 damaged, destroyed, or stolen covered property.

2810 Section 11. Subsections (2) and (3) of section 627.7011,
2811 Florida Statutes, are amended, and subsection (6) is added to
2812 that section, to read:

2813 627.7011 Homeowners' policies; offer of replacement cost
2814 coverage and law and ordinance coverage.--

2815 (2) Unless the insurer obtains the policyholder's written
2816 refusal of the policies or endorsements specified in subsection
2817 (1), any policy covering the dwelling is deemed to include the
2818 law and ordinance coverage limited to 25 percent of the dwelling
2819 limit ~~specified in paragraph (1)(b).~~ The rejection or selection
2820 of alternative coverage shall be made on a form approved by the
2821 office. The form shall fully advise the applicant of the nature
2822 of the coverage being rejected. If this form is signed by a
2823 named insured, it will be conclusively presumed that there was

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2824 an informed, knowing rejection of the coverage or election of
2825 the alternative coverage on behalf of all insureds. Unless the
2826 policyholder requests in writing the coverage specified in this
2827 section, it need not be provided in or supplemental to any other
2828 policy that renews, insures, extends, changes, supersedes, or
2829 replaces an existing policy when the policyholder has rejected
2830 the coverage specified in this section or has selected
2831 alternative coverage. The insurer must provide such policyholder
2832 with notice of the availability of such coverage in a form
2833 approved by the office at least once every 3 years. The failure
2834 to provide such notice constitutes a violation of this code, but
2835 does not affect the coverage provided under the policy.

2836 (3) In the event of a loss for which a dwelling ~~or~~
2837 ~~personal property~~ is insured on the basis of replacement costs,
2838 the insurer shall pay the replacement cost without reservation
2839 or holdback of any depreciation in value, whether or not the
2840 insured replaces or repairs the dwelling ~~or property~~.

2841 (6) Insurers shall issue separate checks for living
2842 expenses, contents, and casualty proceeds. Checks for living
2843 expenses and contents should be issued directly to the
2844 policyholder.

2845 Section 12. Effective upon this act becoming a law,
2846 section 627.7019, Florida Statutes, is created to read:

2847 627.7019 Standardization of requirements applicable to
2848 insurers after natural disasters.--

2849 (1) The commission shall adopt by rule, pursuant to s.
2850 120.54(1)-(3), standardized requirements that may be applied to

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2851 insurers as a consequence of a hurricane or other natural
 2852 disaster. The rules shall address the following areas:

2853 (a) Claims reporting requirements.

2854 (b) Grace periods for payment of premiums and performance
 2855 of other duties by insureds.

2856 (c) Temporary postponement of cancellations and
 2857 nonrenewals.

2858 (2) The rules adopted pursuant to this section shall
 2859 require the office to issue an order within 72 hours after the
 2860 occurrence of a hurricane or other natural disaster specifying,
 2861 by line of insurance, which of the standardized requirements
 2862 apply, the geographic areas in which they apply, the time at
 2863 which applicability commences, and the time at which
 2864 applicability terminates.

2865 (3) The commission and the office may not adopt an
 2866 emergency rule under s. 120.54(4) in conflict with any provision
 2867 of the rules adopted under this section.

2868 (4) The commission shall initiate rulemaking under this
 2869 section no later than June 1, 2006.

2870 Section 13. Subsection (5) of section 627.727, Florida
 2871 Statutes, is amended to read:

2872 627.727 Motor vehicle insurance; uninsured and
 2873 underinsured vehicle coverage; insolvent insurer protection.--

2874 (5) Any person having a claim against an insolvent insurer
 2875 as defined in s. 631.54 (6) ~~(5)~~ under the provisions of this
 2876 section shall present such claim for payment to the Florida
 2877 Insurance Guaranty Association only. In the event of a payment
 2878 to any person in settlement of a claim arising under the

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2879 provisions of this section, the association is not subrogated or
2880 entitled to any recovery against the claimant's insurer. The
2881 association, however, has the rights of recovery as set forth in
2882 chapter 631 in the proceeds recoverable from the assets of the
2883 insolvent insurer.

2884 Section 14. Paragraph (f) is added to subsection (2) of
2885 section 631.181, Florida Statutes, to read:

2886 631.181 Filing and proof of claim.--

2887 (2)

2888 (f) The signed statement required by this section shall
2889 not be required on claims for which adequate claims file
2890 documentation exists within the records of the insolvent
2891 insurer. Claims for payment of unearned premium shall not be
2892 required to use the signed statement required by this section if
2893 the receiver certifies to the guaranty fund that the records of
2894 the insolvent insurer are sufficient to determine the amount of
2895 unearned premium owed to each policyholder of the insurer and
2896 such information is remitted to the guaranty fund by the
2897 receiver in electronic or other mutually agreed-upon format.

2898 Section 15. Subsections (5), (6), (7), and (8) of section
2899 631.54, Florida Statutes, are renumbered as subsections (6),
2900 (7), (8), and (9), respectively, and a new subsection (5) is
2901 added to that section, to read:

2902 631.54 Definitions.--As used in this part:

2903 (5) "Homeowner's insurance" means personal lines
2904 residential property insurance coverage that consists of the
2905 type of coverage provided under homeowner's, dwelling, and
2906 similar policies for repair or replacement of the insured

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2907 | structure and contents, which policies are written directly to
 2908 | the individual homeowner. Residential coverage for personal
 2909 | lines as set forth in this section includes policies that
 2910 | provide coverage for particular perils such as windstorm and
 2911 | hurricane coverage but excludes all coverage for mobile homes,
 2912 | renter's insurance, or tenant's coverage. The term "homeowner's
 2913 | insurance" excludes commercial residential policies covering
 2914 | condominium associations or homeowners' associations, which
 2915 | associations have a responsibility to provide insurance coverage
 2916 | on residential units within the association, and also excludes
 2917 | coverage for the common elements of a homeowners' association.

2918 | Section 16. Subsection (1) of section 631.55, Florida
 2919 | Statutes, is amended to read:

2920 | 631.55 Creation of the association.--

2921 | (1) There is created a nonprofit corporation to be known
 2922 | as the "Florida Insurance Guaranty Association, Incorporated."
 2923 | All insurers defined as member insurers in s. 631.54 ~~(7)(6)~~ shall
 2924 | be members of the association as a condition of their authority
 2925 | to transact insurance in this state, and, further, as a
 2926 | condition of such authority, an insurer shall agree to reimburse
 2927 | the association for all claim payments the association makes on
 2928 | said insurer's behalf if such insurer is subsequently
 2929 | rehabilitated. The association shall perform its functions under
 2930 | a plan of operation established and approved under s. 631.58 and
 2931 | shall exercise its powers through a board of directors
 2932 | established under s. 631.56. The corporation shall have all
 2933 | those powers granted or permitted nonprofit corporations, as
 2934 | provided in chapter 617.

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2935 Section 17. Paragraph (a) of subsection (1), paragraph (d)
2936 of subsection (2), and paragraph (a) of subsection (3) of
2937 section 631.57, Florida Statutes, are amended, and paragraph (e)
2938 is added to subsection (3) of that section, to read:

2939 631.57 Powers and duties of the association.--

2940 (1) The association shall:

2941 (a)1. Be obligated to the extent of the covered claims
2942 existing:

2943 a. Prior to adjudication of insolvency and arising within
2944 30 days after the determination of insolvency;

2945 b. Before the policy expiration date if less than 30 days
2946 after the determination; or

2947 c. Before the insured replaces the policy or causes its
2948 cancellation, if she or he does so within 30 days of the
2949 determination.

2950 2. The obligation under subparagraph 1. shall include only
2951 the amount of each covered claim that is in excess of \$100 and
2952 is less than \$300,000, except policies providing coverage for
2953 homeowner's insurance shall provide for an additional \$200,000
2954 for the portion of a covered claim that relates only to the
2955 damage to the structure and contents.

2956 3.a.2- Notwithstanding subparagraph 2., the obligation
2957 under subparagraph 1. for ~~shall include only that amount of each~~
2958 ~~covered claim which is in excess of \$100 and is less than~~
2959 ~~\$300,000, except with respect to policies covering condominium~~
2960 associations or homeowners' associations, which associations
2961 have a responsibility to provide insurance coverage on
2962 residential units within the association, ~~the obligation shall~~

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2963 | include that amount of each covered property insurance claim
 2964 | which is less than \$100,000 multiplied by the number of
 2965 | condominium units or other residential units; however, as to
 2966 | homeowners' associations, this ~~sub-subparagraph~~ ~~subparagraph~~
 2967 | applies only to claims for damage or loss to residential units
 2968 | and structures attached to residential units.

2969 | b. Notwithstanding sub-subparagraph a., the association
 2970 | has no obligation to pay covered claims that are to be paid from
 2971 | the proceeds of bonds issued under s. 631.695. However, the
 2972 | association shall assign and pledge the first available moneys
 2973 | from all or part of the assessments to be made under paragraph
 2974 | (3) (a) to or on behalf of the issuer of such bonds for the
 2975 | benefit of the holders of such bonds. The association shall
 2976 | administer any such covered claims and present valid covered
 2977 | claims for payment in accordance with the provisions of the
 2978 | assistance program in connection with which such bonds have been
 2979 | issued.

2980 | 3. In no event shall the association be obligated to a
 2981 | policyholder or claimant in an amount in excess of the
 2982 | obligation of the insolvent insurer under the policy from which
 2983 | the claim arises.

2984 | (2) The association may:

2985 | (d) Negotiate and become a party to such contracts as are
 2986 | necessary to carry out the purpose of this part. Additionally,
 2987 | the association may enter into such contracts with a
 2988 | municipality, a county, or a legal entity created pursuant to s.
 2989 | 163.01(7)(g) as are necessary in order for the municipality,
 2990 | county, or legal entity to issue bonds under s. 631.695. In

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2991 | connection with the issuance of any such bonds and the entering
 2992 | into of any such necessary contracts, the association may agree
 2993 | to such terms and conditions as the association deems necessary
 2994 | and proper.

2995 | (3) (a) To the extent necessary to secure the funds for the
 2996 | respective accounts for the payment of covered claims, ~~and also~~
 2997 | to pay the reasonable costs to administer the same, and to the
 2998 | extent necessary to secure the funds for the account specified
 2999 | in s. 631.55(2)(c) or to retire indebtedness, including, without
 3000 | limitation, the principal, redemption premium, if any, and
 3001 | interest on, and related costs of issuance of, bonds issued
 3002 | under s. 631.695 and the funding of any reserves and other
 3003 | payments required under the bond resolution or trust indenture
 3004 | pursuant to which such bonds have been issued, the office, upon
 3005 | certification of the board of directors, shall levy assessments
 3006 | in the proportion that each insurer's net direct written
 3007 | premiums in this state in the classes protected by the account
 3008 | bears to the total of said net direct written premiums received
 3009 | in this state by all such insurers for the preceding calendar
 3010 | year for the kinds of insurance included within such account.
 3011 | Assessments shall be remitted to and administered by the board
 3012 | of directors in the manner specified by the approved plan. Each
 3013 | insurer so assessed shall have at least 30 days' written notice
 3014 | as to the date the assessment is due and payable. Every
 3015 | assessment shall be made as a uniform percentage applicable to
 3016 | the net direct written premiums of each insurer in the kinds of
 3017 | insurance included within the account in which the assessment is
 3018 | made. The assessments levied against any insurer shall not

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3019 exceed in any one year more than 2 percent of that insurer's net
3020 direct written premiums in this state for the kinds of insurance
3021 included within such account during the calendar year next
3022 preceding the date of such assessments.

3023 (e)1.a. In addition to assessments otherwise authorized in
3024 paragraph (a) and to the extent necessary to secure the funds
3025 for the account specified in s. 631.55(2)(c) or to retire
3026 indebtedness, including, without limitation, the principal,
3027 redemption premium, if any, and interest on, and related costs
3028 of issuance of, bonds issued under s. 631.695 and the funding of
3029 any reserves and other payments required under the bond
3030 resolution or trust indenture pursuant to which such bonds have
3031 been issued, the office, upon certification of the board of
3032 directors, shall levy emergency assessments upon insurers
3033 holding a certificate of authority. The emergency assessments
3034 payable under this paragraph by any insurer shall not exceed in
3035 any single year more than 2 percent of that insurer's direct
3036 written premiums, net of refunds, in this state during the
3037 preceding calendar year for the kinds of insurance within the
3038 account specified in s. 631.55(2)(c).

3039 b. Any emergency assessments authorized under this
3040 paragraph shall be levied by the office upon insurers referred
3041 to in sub-subparagraph a., upon certification as to the need for
3042 such assessments by the board of directors, in each year that
3043 bonds issued under s. 631.695 and secured by such emergency
3044 assessments are outstanding, in such amounts up to such 2-
3045 percent limit as required in order to provide for the full and
3046 timely payment of the principal of, redemption premium, if any,

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3047 and interest on, and related costs of issuance of, such bonds.
3048 The emergency assessments provided for in this paragraph are
3049 assigned and pledged to the municipality, county, or legal
3050 entity issuing bonds under s. 631.695 for the benefit of the
3051 holders of such bonds, in order to enable such municipality,
3052 county, or legal entity to provide for the payment of the
3053 principal of, redemption premium, if any, and interest on such
3054 bonds, the cost of issuance of such bonds, and the funding of
3055 any reserves and other payments required under the bond
3056 resolution or trust indenture pursuant to which such bonds have
3057 been issued, without the necessity of any further action by the
3058 association, the office, or any other party. To the extent bonds
3059 are issued under s. 631.695 and the association determines to
3060 secure such bonds by a pledge of revenues received from the
3061 emergency assessments, such bonds, upon such pledge of revenues,
3062 shall be secured by and payable from the proceeds of such
3063 emergency assessments, and the proceeds of emergency assessments
3064 levied under this paragraph shall be remitted directly to and
3065 administered by the trustee or custodian appointed for such
3066 bonds.

3067 c. Emergency assessments under this paragraph may be
3068 payable in a single payment or, at the option of the
3069 association, may be payable in 12 monthly installments with the
3070 first installment being due and payable at the end of the month
3071 after an emergency assessment is levied and subsequent
3072 installments being due not later than the end of each succeeding
3073 month.

3074 d. If emergency assessments are imposed, the report

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3075 required by s. 631.695(7) shall include an analysis of the
3076 revenues generated from the emergency assessments imposed under
3077 this paragraph.

3078 e. If emergency assessments are imposed, the references in
3079 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
3080 assessments levied under paragraph (a) shall include emergency
3081 assessments imposed under this paragraph.

3082 2. In order to ensure that insurers paying emergency
3083 assessments levied under this paragraph continue to charge rates
3084 that are neither inadequate nor excessive, within 90 days after
3085 being notified of such assessments, each insurer that is to be
3086 assessed pursuant to this paragraph shall submit a rate filing
3087 for coverage included within the account specified in s.
3088 631.55(2)(c) and for which rates are required to be filed under
3089 s. 627.062. If the filing reflects a rate change that, as a
3090 percentage, is equal to the difference between the rate of such
3091 assessment and the rate of the previous year's assessment under
3092 this paragraph, the filing shall consist of a certification so
3093 stating and shall be deemed approved when made. Any rate change
3094 of a different percentage shall be subject to the standards and
3095 procedures of s. 627.062.

3096 3. An annual assessment under this paragraph shall
3097 continue while the bonds issued with respect to which the
3098 assessment was imposed are outstanding, including any bonds the
3099 proceeds of which were used to refund bonds issued pursuant to
3100 s. 631.695, unless adequate provision has been made for the
3101 payment of the bonds in the documents authorizing the issuance
3102 of such bonds.

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3103 4. Emergency assessments under this paragraph are not
3104 premium and are not subject to the premium tax, to any fees, or
3105 to any commissions. An insurer is liable for all emergency
3106 assessments that the insurer collects and shall treat the
3107 failure of an insured to pay an emergency assessment as a
3108 failure to pay the premium. An insurer is not liable for
3109 uncollectible emergency assessments.

3110 Section 18. Section 631.695, Florida Statutes, is created
3111 to read:

3112 631.695 Revenue bond issuance through counties or
3113 municipalities.--

3114 (1) The Legislature finds:

3115 (a) The potential for widespread and massive damage to
3116 persons and property caused by hurricanes making landfall in
3117 this state can generate insurance claims of such a number as to
3118 render numerous insurers operating within this state insolvent
3119 and therefore unable to satisfy covered claims.

3120 (b) The inability of insureds within this state to receive
3121 payment of covered claims or to timely receive such payment
3122 creates financial and other hardships for such insureds and
3123 places undue burdens on the state, the affected units of local
3124 government, and the community at large.

3125 (c) In addition, the failure of insurers to pay covered
3126 claims or to timely pay such claims due to the insolvency of
3127 such insurers can undermine the public's confidence in insurers
3128 operating within this state, thereby adversely affecting the
3129 stability of the insurance industry in this state.

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3130 (d) The state has previously taken action to address these
3131 problems by adopting the Florida Insurance Guaranty Association
3132 Act, which, among other things, provides a mechanism for the
3133 payment of covered claims under certain insurance policies to
3134 avoid excessive delay in payment and to avoid financial loss to
3135 claimants or policyholders because of the insolvency of an
3136 insurer.

3137 (e) In the wake of the unprecedented destruction caused by
3138 various hurricanes that have made landfall in this state, the
3139 resultant covered claims, and the number of insurers rendered
3140 insolvent thereby, make it evident that alternative programs
3141 must be developed to allow the Florida Insurance Guaranty
3142 Association to more expeditiously and effectively provide for
3143 the payment of covered claims.

3144 (f) It is therefore determined to be in the best interests
3145 of, and necessary for, the protection of the public health,
3146 safety, and general welfare of the residents of this state and
3147 for the protection and preservation of the economic stability of
3148 insurers operating in this state and it is declared to be an
3149 essential public purpose to permit certain municipalities and
3150 counties to take such actions as will provide relief to
3151 claimants and policyholders having covered claims against
3152 insolvent insurers operating in this state by expediting the
3153 handling and payment of covered claims.

3154 (g) To achieve the foregoing purposes, it is proper to
3155 authorize municipalities and counties of this state
3156 substantially affected by the landfall of a hurricane to issue
3157 bonds to assist the Florida Insurance Guaranty Association in

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3158 expediting the handling and payment of covered claims of
3159 insolvent insurers.

3160 (h) In order to avoid the needless and indiscriminate
3161 proliferation, duplication, and fragmentation of such assistance
3162 programs, it is in the best interests of the residents of this
3163 state to authorize municipalities and counties severely affected
3164 by a hurricane to provide for the payment of covered claims
3165 beyond their territorial limits in the implementation of such
3166 programs.

3167 (i) It is a paramount public purpose for municipalities
3168 and counties substantially affected by the landfall of a
3169 hurricane to be able to issue bonds for the purposes described
3170 in this section. Such issuance shall provide assistance to
3171 residents of those municipalities and counties as well as to
3172 other residents of this state.

3173 (2) The governing body of any municipality or county, the
3174 residents of which have been substantially affected by a
3175 hurricane, may issue bonds to fund an assistance program in
3176 conjunction with, and with the consent of, the Florida Insurance
3177 Guaranty Association for the purpose of paying claimants' or
3178 policyholders' covered claims, as defined in s. 631.54, arising
3179 through the insolvency of an insurer, which insolvency is
3180 determined by the Florida Insurance Guaranty Association to have
3181 been a result of a hurricane, regardless of whether the
3182 claimants or policyholders are residents of such municipality or
3183 county or the property to which the claim relates is located
3184 within or outside the territorial jurisdiction of the
3185 municipality or county. The power of a municipality or county to

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3186 issue bonds, as described in this section, is in addition to any
3187 powers granted by law and may not be abrogated or restricted by
3188 any provisions in such municipality's or county's charter. A
3189 municipality or county issuing bonds for this purpose shall
3190 enter into such contracts with the Florida Insurance Guaranty
3191 Association or any entity acting on behalf of the Florida
3192 Insurance Guaranty Association as are necessary to implement the
3193 assistance program. Any bonds issued by a municipality or county
3194 or a combination thereof under this subsection shall be payable
3195 from and secured by moneys received by or on behalf of the
3196 municipality or county from assessments levied under s.
3197 631.57(3) (a) and assigned and pledged to or on behalf of the
3198 municipality or county for the benefit of the holders of the
3199 bonds in connection with the assistance program. The funds,
3200 credit, property, and taxing power of the state or any
3201 municipality or county shall not be pledged for the payment of
3202 such bonds.

3203 (3) Bonds may be validated by the municipality or county
3204 pursuant to chapter 75. The proceeds of the bonds may be used to
3205 pay covered claims of insolvent insurers; to refinance or
3206 replace previously existing borrowings or financial
3207 arrangements; to pay interest on bonds; to fund reserves for the
3208 bonds; to pay expenses incident to the issuance or sale of any
3209 bond issued under this section, including costs of validating,
3210 printing, and delivering the bonds, costs of printing the
3211 official statement, costs of publishing notices of sale of the
3212 bonds, costs of obtaining credit enhancement or liquidity
3213 support, and related administrative expenses; or for such other

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3214 purposes related to the financial obligations of the fund as the
3215 association may determine. The term of the bonds may not exceed
3216 30 years.

3217 (4) The state covenants with holders of bonds of the
3218 assistance program that the state will not take any action that
3219 will have a material adverse effect on the holders and will not
3220 repeal or abrogate the power of the board of directors of the
3221 association to direct the Office of Insurance Regulation to levy
3222 the assessments and to collect the proceeds of the revenues
3223 pledged to the payment of the bonds as long as any of the bonds
3224 remain outstanding, unless adequate provision has been made for
3225 the payment of the bonds in the documents authorizing the
3226 issuance of the bonds.

3227 (5) The accomplishment of the authorized purposes of such
3228 municipality or county under this section is in all respects for
3229 the benefit of the people of the state, for the increase of
3230 their commerce and prosperity, and for the improvement of their
3231 health and living conditions. The municipality or county, in
3232 performing essential governmental functions in accomplishing its
3233 purposes, is not required to pay any taxes or assessments of any
3234 kind whatsoever upon any property acquired or used by the county
3235 or municipality for such purposes or upon any revenues at any
3236 time received by the county or municipality. The bonds, notes,
3237 and other obligations of the municipality or county and the
3238 transfer of and income from such bonds, notes, and other
3239 obligations, including any profits made on the sale of such
3240 bonds, notes, and other obligations, are exempt from taxation of
3241 any kind by the state or by any political subdivision or other

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3242 agency or instrumentality of the state. The exemption granted in
3243 this subsection is not applicable to any tax imposed by chapter
3244 220 on interest, income, or profits on debt obligations owned by
3245 corporations.

3246 (6) Two or more municipalities or counties, the residents
3247 of which have been substantially affected by a hurricane, may
3248 create a legal entity pursuant to s. 163.01(7)(g) to exercise
3249 the powers described in this section as well as those powers
3250 granted in s. 163.01(7)(g). References in this section to a
3251 municipality or county includes such legal entity.

3252 (7) The association shall issue an annual report on the
3253 status of the use of bond proceeds as related to insolvencies
3254 caused by hurricanes. The report must contain the number and
3255 amount of claims paid. The association shall also include an
3256 analysis of the revenue generated from the assessment levied
3257 under s. 631.57(3)(a) to pay such bonds. The association shall
3258 submit a copy of the report to the President of the Senate, the
3259 Speaker of the House of Representatives, and the Chief Financial
3260 Officer within 90 days after the end of each calendar year in
3261 which bonds were outstanding.

3262 Section 19. No provision of s. 631.57 or s. 631.695,
3263 Florida Statutes, shall be repealed until such time as the
3264 principal, redemption premium, if any, and interest on all bonds
3265 issued under s. 631.695, Florida Statutes, payable and secured
3266 from assessments levied under s. 631.57(3)(a), Florida Statutes,
3267 have been paid in full or adequate provision for such payment
3268 has been made in accordance with the bond resolution or trust
3269 indenture pursuant to which the bonds were issued.

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3270 Section 20. Paragraph (a) of subsection (1) of section
3271 817.234, Florida Statutes, is amended to read:

3272 817.234 False and fraudulent insurance claims.--

3273 (1) (a) A person commits insurance fraud punishable as
3274 provided in subsection (11) if that person, with the intent to
3275 injure, defraud, or deceive any insurer:

3276 1. Presents or causes to be presented any written or oral
3277 statement as part of, or in support of, a claim for payment or
3278 other benefit pursuant to an insurance policy or a health
3279 maintenance organization subscriber or provider contract,
3280 knowing that such statement contains any false, incomplete, or
3281 misleading information concerning any fact or thing material to
3282 such claim;

3283 2. Prepares or makes any written or oral statement that is
3284 intended to be presented to any insurer in connection with, or
3285 in support of, any claim for payment or other benefit pursuant
3286 to an insurance policy or a health maintenance organization
3287 subscriber or provider contract, knowing that such statement
3288 contains any false, incomplete, or misleading information
3289 concerning any fact or thing material to such claim; or

3290 3.a. Knowingly presents, causes to be presented, or
3291 prepares or makes with knowledge or belief that it will be
3292 presented to any insurer, purported insurer, servicing
3293 corporation, insurance broker, or insurance agent, or any
3294 employee or agent thereof, any false, incomplete, or misleading
3295 information or written or oral statement as part of, or in
3296 support of, an application for the issuance of, or the rating
3297 of, any insurance policy, or a health maintenance organization

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3298 | subscriber or provider contract, including any false declaration
 3299 | of homestead status for the purpose of obtaining coverage in a
 3300 | homestead account under s. 627.351(6); or

3301 | b. Who knowingly conceals information concerning any fact
 3302 | material to such application.

3303 | Section 21. Task Force on Hurricane Mitigation and
 3304 | Hurricane Insurance for Mobile and Manufactured Homes.--

3305 | (1) TASK FORCE CREATED.--There is created the Task Force
 3306 | on Hurricane Mitigation and Hurricane Insurance for Mobile and
 3307 | Manufactured Homes.

3308 | (2) ADMINISTRATION.--The task force shall be
 3309 | administratively housed within the Office of Insurance
 3310 | Regulation but shall operate independently of any state officer
 3311 | or agency. The office shall provide such administrative support
 3312 | as the task force deems necessary to accomplish its mission and
 3313 | shall provide necessary funding for the task force within the
 3314 | office's existing resources. The Executive Office of the
 3315 | Governor, the Department of Financial Services, the Office of
 3316 | Insurance Regulation, the Department of Highway Safety and Motor
 3317 | Vehicles, and the Department of Community Affairs shall provide
 3318 | substantive staff support for the task force.

3319 | (3) MEMBERSHIP.--The members of the task force shall be
 3320 | appointed as follows:

3321 | (a) The Governor shall appoint two members who have
 3322 | expertise in financial matters, one of whom is a representative
 3323 | of the mobile or manufactured home industry and one of whom is a
 3324 | representative of insurance consumers.

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3325 (b) The Chief Financial Officer shall appoint two members
3326 who have expertise in financial matters, one of whom is a
3327 representative of a property insurer writing mobile or
3328 manufactured homeowners insurance in this state and one of whom
3329 is a representative of insurance agents.

3330 (c) The President of the Senate shall appoint one member.

3331 (d) The Speaker of the House of Representatives shall
3332 appoint one member.

3333 (e) The Commissioner of Insurance Regulation or his or her
3334 designee shall serve as an ex officio voting member of the task
3335 force.

3336 (f) The Executive Director of Citizens Property Insurance
3337 or his or her designee shall serve as an ex officio voting
3338 member of the task force.

3339 (g) The Chief Executive Officer of the Federal Alliance
3340 for Safe Homes, Incorporated or his or her designee shall serve
3341 as an ex officio voting member of the task force.

3342
3343 Members of the task force shall serve without compensation but
3344 may receive reimbursement for per diem and travel expenses as
3345 provided in s. 112.061, Florida Statutes.

3346 (4) PURPOSE AND INTENT.--The Legislature recognizes the
3347 continued availability of hurricane insurance coverage for
3348 mobile and manufactured home owners in this state is essential
3349 to the state's economic survival. The Legislature further
3350 recognizes hurricane mitigation measures and building codes may
3351 reduce the likelihood or amount of damage to mobile or
3352 manufactured homes in the event of a hurricane. The Legislature

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3353 further recognizes mobile and manufactured homes provide safe
3354 and affordable housing to many residents of this state. The
3355 purpose of the task force is to make recommendations to the
3356 legislative and executive branches of this state's government
3357 relating to the creation and maintenance of insurance capacity
3358 in the private sector and public sector that is sufficient to
3359 ensure that all mobile and manufactured home owners in this
3360 state are able to obtain appropriate insurance coverage for
3361 hurricane losses and relating to the effectiveness of hurricane
3362 mitigation measures for mobile or manufactured homes as further
3363 described in this section.

3364 (5) SPECIFIC TASKS.--The task force shall conduct such
3365 research and hearings as the task force deems necessary to
3366 achieve the purposes specified in subsection (4) and shall
3367 develop information on relevant issues, including, but not
3368 limited to, the following issues:

3369 (a) Whether this state currently has sufficient hurricane
3370 insurance capacity for mobile and manufactured homes to ensure
3371 the continuation of a healthy, competitive marketplace, taking
3372 into consideration private-sector and public-sector resources.

3373 (b) Identifying the future demands on the hurricane
3374 insurance capacity of this state, taking into account population
3375 growth, coastal growth, and anticipated future hurricane
3376 activity.

3377 (c) Identifying how many mobile or manufactured homes are
3378 occupied in this state, how many mobile or manufactured homes
3379 are occupied by owners who also own the land to which the unit

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3380 is attached, the age or average age of mobile or manufactured
 3381 homes, the location of such homes, and the size of such homes.

3382 (d) The extent to which the growth in insurance on mobile
 3383 or manufactured homes in Citizens Property Insurance Corporation
 3384 is attributable to insufficient insurance capacity.

3385 (e) The extent to which the growth trends of Citizens
 3386 Property Insurance Corporation create long-term problems for
 3387 mobile and manufactured home owners in this state and for other
 3388 persons and businesses that depend on a viable market.

3389 (f) The extent to which insurance discounts, credits, or
 3390 other rate differentials or reductions in the hurricane
 3391 insurance deductible for a mobile or manufactured homeowner who
 3392 takes mitigative measures would increase hurricane insurance
 3393 capacity for mobile or manufactured homeowners.

3394 (g) The extent hurricane mitigation enhancements to mobile
 3395 or manufactured homes decreases the likelihood of damage from a
 3396 hurricane or decreases the amount of damage from a hurricane.

3397 (h) The extent to which the building codes reduce the
 3398 likelihood of damage or amount of damage to mobile or
 3399 manufactured homes.

3400 (6) REPORT AND RECOMMENDATIONS.--By January 1, 2007, the
 3401 task force shall provide a report containing findings relating
 3402 to the tasks identified in subsection (5) and recommendations
 3403 consistent with the purposes of this section and also consistent
 3404 with such findings. The task force shall submit the report to
 3405 the Governor, the Chief Financial Officer, the President of the
 3406 Senate, and the Speaker of the House of Representatives. The

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3407 task force may also submit such interim reports as the task
3408 force deems appropriate.

3409 (7) EXPIRATION.--The task force shall expire on January 2,
3410 2007.

3411 Section 22. By January 1, 2007, the Office of Insurance
3412 Regulation shall submit a report to the President of the Senate,
3413 the Speaker of the House of Representatives, the minority party
3414 leaders of the Senate and the House of Representatives, and the
3415 chairs of the standing committees of the Senate and the House of
3416 Representatives having jurisdiction over matters relating to
3417 property and casualty insurance. In preparing the report, the
3418 office shall consult with the Department of Highway Safety and
3419 Motor Vehicles, the Department of Community Affairs, the Florida
3420 Building Commission, the Florida Home Builders Association,
3421 representatives of the mobile and manufactured home industry,
3422 representatives of the property and casualty insurance industry,
3423 and any other party the office determines is appropriate. The
3424 report shall include findings and recommendations on the
3425 insurability of attached or free standing structures to
3426 residential homes, mobile, or manufactured homes, such as
3427 carports or pool enclosures; the increase or decrease in
3428 insurance costs associated with insuring such structures; the
3429 feasibility of insuring such structures; the impact on
3430 homeowners of not having insurance coverage for such structures;
3431 the ability of mitigation measures relating to such structures
3432 to reduce risk and loss; and such other related information as
3433 the office determines is appropriate for the Legislature to
3434 consider.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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3435 Section 23. (1) By January 15, 2007, the Office of
3436 Insurance Regulation shall submit a report to the President of
3437 the Senate, the Speaker of the House of Representatives, the
3438 minority party leaders of the Senate and the House of
3439 Representatives, and the chairs of the standing committees of
3440 the Senate and the House of Representatives having jurisdiction
3441 over matters relating to property and casualty insurance. The
3442 report shall include findings and recommendations on requiring
3443 residential property insurers to provide an opportunity for
3444 policyholders to decrease the monetary amount of a hurricane
3445 deductible predicated upon the policyholder demonstrating
3446 certifiable and verifiable mitigation measures that reduce
3447 hurricane damage. As a part of the report, the office shall
3448 address the feasibility of such a requirement and the specific
3449 procedures necessary for implementation and include suggested
3450 legislation. The report may also include other related
3451 information as the office determines is appropriate for the
3452 Legislature to consider.

3453 (2) In conducting such research and offering
3454 recommendations for the report, the office shall consult with
3455 consumers, insurers, builders, wind certification inspectors,
3456 organizations dedicated to promoting disaster safety and
3457 property loss mitigation, counties, municipalities, and state
3458 agencies as well as any other entity that the office determines
3459 could provide relevant information.

3460 Section 24. (1) For fiscal year 2006-2007, the sum of
3461 \$100 million is appropriated from the General Revenue Fund to
3462 the Department of Financial Services for the Florida Hurricane

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3463 Damage Prevention Endowment as a nonrecurring appropriation for
 3464 the purposes specified in s. 215.558, Florida Statutes.

3465 (2) The sum of \$400 million is appropriated from the
 3466 General Revenue Fund to the Department of Financial Services as
 3467 a nonrecurring appropriation for the purposes specified in s.
 3468 215.5586, Florida Statutes.

3469 (3) Funds provided in subsections (1) and (2) shall be
 3470 transferred by the department to the Florida Hurricane Damage
 3471 Prevention Trust Fund, as created in s. 215.5585, Florida
 3472 Statutes.

3473 (4) For fiscal year 2006-2007, the recurring sum of \$5
 3474 million is appropriated to the Department of Financial Services
 3475 from the Florida Hurricane Damage Prevention Trust Fund, Special
 3476 Category - Financial Incentives for Hurricane Damage Prevention.

3477 (5) For fiscal year 2006-2007, the nonrecurring sum of
 3478 \$400 million is appropriated to the Department of Financial
 3479 Services from the Florida Hurricane Damage Prevention Trust
 3480 Fund, Special Category - Florida Comprehensive Hurricane Damage
 3481 Mitigation Program. The department may spend up to 1 percent of
 3482 the funds appropriated to administer the program.

3483 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
 3484 216.351, Florida Statutes, any unexpended balance from this
 3485 appropriation shall be carried forward at the end of each fiscal
 3486 year until the 2010-2011 fiscal year. At the end of the 2010-
 3487 2011 fiscal year, any obligated funds for qualified projects
 3488 that are not yet disbursed shall remain with the department to
 3489 be used for the purposes of this act. Any unobligated funds of

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3490 this appropriation shall revert to the Florida Hurricane Damage
3491 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

3492 Section 25. (1) For fiscal year 2006-2007, the sum of
3493 \$920 million in nonrecurring funds is appropriated from the
3494 General Revenue Fund to the Department of Financial Services for
3495 transfer to the Citizens Property Insurance Corporation to avoid
3496 regular assessments on assessable insurers, as authorized under
3497 s. 627.351(6)(b)3.b., Florida Statutes, for the 2005 Plan Year
3498 deficit. The board of governors of the corporation shall use
3499 appropriated state moneys to fund that portion of the 2005 Plan
3500 Year deficit which would result in the levying of regular
3501 assessments in the commercial lines, personal lines, and high-
3502 risk accounts. The transfer made by the department to the
3503 corporation shall be limited to the amount of the total regular
3504 assessments that were authorized by law to cover the 2005 Plan
3505 Year deficit. Any unused and remaining funds in this
3506 appropriation shall revert to the General Revenue Fund.

3507 (2) The corporation shall amortize over a 10-year period
3508 any emergency assessments resulting from the 2005 Plan Year
3509 deficit.

3510 Section 26. For fiscal year 2006-2007, the sums of
3511 \$250,000 in recurring funds and \$425,000 in nonrecurring funds
3512 are appropriated from the Insurance Regulatory Trust Fund in the
3513 Department of Financial Services to the Office of Insurance
3514 Regulation for the purpose of carrying out reporting and
3515 administrative responsibilities of this act.

3516 Section 27. Except as otherwise expressly provided in this
3517 act, this act shall take effect July 1, 2006.