

CHAMBER ACTION

1 The Commerce 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;
8 authorizing the State Board of Administration to make
9 available to certain insurers a contract to cede certain
10 portions of surplus to the Florida Hurricane Catastrophe
11 Fund; providing contract criteria and requirements;
12 revising certain reimbursement contract criteria; revising
13 certain reimbursement premium requirements; deleting a
14 revenue bond issuance prohibition and validation
15 requirement; revising certain revenue bond emergency
16 assessment requirements; creating s. 215.558, F.S.;
17 creating the Florida Hurricane Damage Prevention
18 Endowment; providing a purpose and legislative intent;
19 providing definitions; providing requirements and
20 authority for investment of endowment assets by the State
21 Board of Administration; requiring a report to the
22 Legislature; providing for payment of the board's
23 investment services' costs and fees from the endowment;

Page 1 of 143

24 providing requirements of the Department of Financial
25 Services in providing financial incentives for residential
26 hurricane damage prevention activities; providing for an
27 interest-free loan program; providing program criteria and
28 requirements; creating an advisory council for certain
29 purposes; providing for appointment of members; requiring
30 members to serve without compensation; providing for per
31 diem and travel expenses; creating s. 215.5586, F.S.;
32 establishing the Florida Comprehensive Hurricane Damage
33 Mitigation Program within the Department of Financial
34 Services; providing qualifications for the program
35 administrator; providing program components and
36 requirements; providing for wind certification and
37 hurricane mitigation inspections; providing inspection
38 requirements; providing inspector eligibility
39 requirements; providing for grants; providing grant
40 requirements; providing for loans; providing public
41 education and consumer awareness requirements; creating an
42 advisory council; providing for appointment of members;
43 specifying service without compensation; providing for per
44 diem and travel expense reimbursements; requiring the
45 department to adopt rules; creating the Manufactured
46 Housing and Mobile Home Hurricane Mitigation Program for
47 certain purposes; requiring the Department of Community
48 Affairs to develop the program in consultation with
49 certain entities; specifying requirements of the program;
50 specifying the program as a matching grant program for
51 improvement of mobile homes and manufactured homes;

HB 7225 CS

2006
CS

52 providing for distribution of the grants to the Department
53 of Community Affairs for certain purposes; requiring
54 Citizens Property Insurance Corporation to grant certain
55 insurance discounts, credits, rate differentials, or
56 deductible reductions for property insurance premiums for
57 certain manufactured home or mobile home owners;
58 specifying criteria for such premiums; requiring a program
59 report each year to the Governor and Legislature;
60 providing report requirements; amending s. 626.918, F.S.;
61 authorizing certain letters of credit to fund an insurer's
62 required policyholder protection trust fund; providing a
63 definition; amending s. 627.062, F.S.; specifying certain
64 rate filings as not subject to office determination as
65 excessive or unfairly discriminatory; providing
66 limitations; providing a definition; prohibiting certain
67 rate filings under certain circumstances; preserving the
68 office's authority to disapprove certain rate filings
69 under certain circumstances; providing procedures for
70 insurers submitting certain rate filings; revising
71 provisions providing for recoupment of certain reinsurance
72 costs; specifying nonapplication to certain types of
73 insurance; specifying approval of certain rate filings
74 under certain circumstances; providing an exception;
75 requiring the office to provide annual reports on the
76 impact of certain rate regulations; specifying report
77 requirements; amending s. 627.0628, F.S.; prohibiting
78 certain office or consumer advocate questions of certain
79 models reviewed by the commission; amending s. 627.0645,

Page 3 of 143

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

hb7225-02-c2

80 F.S.; authorizing the office to exempt certain companies
81 from certain rate filing and rate certification
82 requirements; amending s. 627.06281, F.S.; prohibiting the
83 office from using certain hurricane loss projection models
84 under certain circumstances; amending s. 627.351, F.S.,
85 relating to the Citizens Property Insurance Corporation;
86 providing additional legislative intent; specifying
87 application to homestead property; specifying the existing
88 three separate accounts of the corporation as providing
89 coverage only for homestead property; providing a
90 definition; providing for an additional separate account
91 for nonhomestead property; requiring separate maintenance
92 of revenues, assets, liabilities, losses, and expenses
93 attributable to the nonhomestead account; providing
94 authority and requirements for coverage rates for
95 nonhomestead properties; providing for office review of
96 such rates or rating plans for being inadequate or
97 unfairly discriminatory; authorizing the office to order
98 discontinuance of certain policies under certain
99 circumstances; requiring insurers to maintain certain
100 records; providing for reducing regular assessments by the
101 Citizen policyholder surcharge under certain
102 circumstances; providing for deficit assessments against
103 nonhomestead account policyholders under certain
104 circumstances; authorizing the board of governors of the
105 corporation to make loans from the homestead accounts to
106 the nonhomestead account under certain circumstances;
107 specifying ineligibility of certain nonhomestead account

108 | policyholders for certain coverage under certain
109 | circumstances; revising the requirements of the plan of
110 | operation of the corporation; requiring additional
111 | procedures for determining eligibility of a risk for
112 | coverage; providing for determination of regular
113 | assessments to which the Citizen policyholder surcharge
114 | applies; specifying a minimum requirement for a hurricane
115 | deductible for certain property; specifying contents of
116 | required statements in applications for nonhomestead and
117 | homestead account coverage; requiring the corporation to
118 | limit coverage on certain mobile homes or manufactured
119 | homes; providing additional legislative intent relating to
120 | rate adequacy in the residual market; revising provisions
121 | relating to a pilot program in Monroe County; deleting
122 | provisions relating to a rate methodology panel appointed
123 | by the corporation; providing requirements and limitations
124 | for a corporation adopted bonus payment program;
125 | specifying absence of liability of producing agents of
126 | record of the corporation and employees for a take-out
127 | insurer's insolvency; deleting provisions for immunity for
128 | certain persons and entities; providing a criterion for
129 | calculating reduction or increase in probable maximum
130 | loss; providing bankruptcy petition limitations; delaying
131 | application of certain high-risk area boundary reduction
132 | provisions; providing for application of provisions
133 | relating to homestead and nonhomestead accounts to certain
134 | policies; requiring certain corporation employees to
135 | comply with certain ethics code requirements; requiring

136 corporation employees to notify the Division of Insurance
137 Fraud of probable commissions of fraud by corporation
138 employees; requiring the corporation to report on the
139 feasibility of requiring authorized insurers to issue and
140 service specified policies of the corporation; specifying
141 report requirements; providing immunity to producing
142 agents and employees for specified actions taken relating
143 to removal of policies from the corporation; providing a
144 limitation; providing legislative intent; creating a High
145 Risk Eligibility Panel; providing for appointment of panel
146 members and member's terms; providing for administration
147 of the panel by the corporation; prohibiting compensation
148 and per diem and travel expenses; providing an exception;
149 requiring the panel to report annually to the Legislature
150 on the certain areas that should be included in the
151 Citizens Property Insurance Corporation high risk account;
152 specifying factors to be considered by the panel;
153 providing duties of the office; authorizing the office to
154 conduct public hearings; requiring the panel to conduct an
155 analysis of property eligible for the high-risk account in
156 specified areas; requiring the panel to submit a report to
157 the office and corporation; providing requirements of the
158 report; amending s. 627.4035, F.S.; providing for a waiver
159 of a written authorization requirement to pay claims by
160 debit card or other electronic transfer; providing
161 construction relating to limiting the liability of an
162 insurer for certain replacement costs; amending s.
163 627.701, F.S.; providing additional authorization and

HB 7225 CS

2006
CS

164 requirements for hurricane deductibles for renewal
165 periods; requiring insurers to provide insureds with
166 certain deductible selection options after hurricane
167 mitigation measures are taken; amending s. 627.7011, F.S.;
168 limiting certain law and ordinance coverage; deleting
169 application to personal property; requiring insurers to
170 issue separate checks for certain expenses and requiring
171 certain checks to be issued directly to a policyholder;
172 creating s. 627.7019, F.S.; requiring the Financial
173 Services Commission to adopt rules imposing standardized
174 requirements applicable to insurers after certain natural
175 events; providing criteria; providing requirements of the
176 Office of Insurance Regulation; prohibiting certain
177 conflicting emergency rules; amending s. 627.727, F.S.;
178 correcting a cross-reference; amending s. 631.181, F.S.;
179 providing an exception to certain requirements for a
180 signed statement for certain claims; providing
181 requirements; amending s. 631.54, F.S.; defining the term
182 "homeowner's insurance"; amending s. 631.55, F.S.;
183 correcting a cross-reference; amending s. 631.57, F.S.;
184 revising requirements and limitations for obligations of
185 the Florida Insurance Guaranty Association for covered
186 claims; authorizing the association to contract with
187 counties, municipalities, and legal entities to issue
188 revenue bonds for certain purposes; authorizing the Office
189 of Insurance Regulation to levy assessments and emergency
190 assessments on insurers under certain circumstances for
191 certain bond repayment purposes; providing requirements

Page 7 of 143

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

hb7225-02-c2

192 for and limitations on such assessments; providing for
193 payment, collection, and distribution of such assessments;
194 requiring insurers to include an analysis of revenues from
195 such assessments in a required report; providing rate
196 filing requirements for insurers relating to such
197 assessments; providing for continuing annual assessments
198 under certain circumstances; specifying emergency
199 assessments as not premium and not subject to certain
200 taxes, fees, or commissions; specifying insurer liability
201 for emergency assessments; providing an exception;
202 creating s. 631.695, F.S.; providing legislative findings
203 and purposes; providing for issuance of revenue bonds
204 through counties and municipalities to fund assistance
205 programs for paying covered claims for hurricane damage;
206 providing procedures, requirements, and limitations for
207 counties, municipalities, and the Florida Insurance
208 Guaranty Association, Inc., relating to issuance and
209 validation of such bonds; prohibiting pledging the funds,
210 credit, property, and taxing power of the state, counties,
211 and municipalities for payment of bonds; specifying
212 authorized uses of bond proceeds; limiting the term of
213 bonds; specifying a state covenant to protect bondholders
214 from adverse actions relating to such bonds; specifying
215 exemptions for bonds, notes, and other obligations of
216 counties and municipalities from certain taxes or
217 assessments on property and revenues; authorizing counties
218 and municipalities to create a legal entity to exercise
219 certain powers; requiring the association to issue an

HB 7225 CS

2006
CS

220 annual report on the status of certain uses of bond
221 proceeds; providing report requirements; requiring the
222 association to provide a copy of the report to the
223 Legislature and Chief Financial Officer; prohibiting
224 repeal of certain provisions relating to certain bonds
225 under certain circumstances; amending s. 817.234, F.S.;
226 providing an additional circumstance that constitutes
227 committing insurance fraud; creating the Task Force on
228 Hurricane Mitigation and Hurricane Insurance for Mobile
229 and Manufactured Homes; providing for administration by
230 the office; specifying additional agency administrative
231 staff; providing for appointment of task force members;
232 requiring members to serve without compensation; providing
233 for per diem and travel expenses; providing purpose and
234 intent; requiring the task force to address specified
235 issues; requiring a report to the Governor, Chief
236 Financial Officer, and Legislature; providing for
237 expiration of the task force; requiring the Office of
238 Insurance Regulation to submit reports to the Legislature
239 relating to the insurability of certain attached or free
240 standing structures; providing report requirements;
241 providing duties of the office; providing appropriations;
242 specifying uses and purposes of appropriations; providing
243 effective dates.

244

245 Be It Enacted by the Legislature of the State of Florida:

246

HB 7225 CS

2006
CS

247 Section 1. Paragraph (d) of subsection (2), paragraphs
248 (b), (c), and (d) of subsection (4), paragraph (b) of subsection
249 (5), and paragraphs (a) and (b) of subsection (6) of section
250 215.555, Florida Statutes, are amended to read:

251 215.555 Florida Hurricane Catastrophe Fund.--

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

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

260 (4) REIMBURSEMENT CONTRACTS.--

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

266 2. The insurer must elect one of the percentage coverage
267 levels specified in this paragraph and may, upon renewal of a
268 reimbursement contract, elect a lower percentage coverage level
269 if no revenue bonds issued under subsection (6) after a covered
270 event are outstanding, or elect a higher percentage coverage
271 level, regardless of whether or not revenue bonds are
272 outstanding. All members of an insurer group must elect the same
273 percentage coverage level. Any joint underwriting association,

HB 7225 CS

2006
CS

274 risk apportionment plan, or other entity created under s.
275 627.351 must elect the 90-percent coverage level.

276 3. The contract shall provide that reimbursement amounts
277 shall not be reduced by reinsurance paid or payable to the
278 insurer from other sources.

279 4. Notwithstanding any other provision contained in this
280 section, the board shall make available to insurers qualifying
281 as limited apportionment companies under s. 627.351(2)(b)3. a
282 contract which cedes to the fund, after retention, an amount
283 equal to or up to 50 percent of surplus reported by such company
284 as of June 1, 2006. The rate to be charged for this coverage
285 shall be 50 percent rate-on-line which includes one prepaid
286 reinstatement. The minimum retention level that a carrier must
287 retain is 30 percent of surplus as of June 1, 2006. This
288 coverage shall be in addition to all other coverage which may be
289 provided under this section. This provision shall expire May 31,
290 2007.

291 (c)1. The contract shall also provide that the obligation
292 of the board with respect to all contracts covering a particular
293 contract year shall not exceed the actual claims-paying capacity
294 of the fund up to a limit of \$15 billion for that contract year
295 adjusted based upon the reported exposure from the prior
296 contract year to reflect the percentage growth in exposure to
297 the fund for covered policies since 2003, provided the dollar
298 growth in the limit may not increase in any year by an amount
299 greater than the dollar growth of the ~~cash~~ balance of the fund
300 as of December 31 as defined by rule which occurred over the
301 prior calendar year.

HB 7225 CS

2006
CS

302 2. In May before the start of the upcoming contract year
303 and in October during the contract year, the board shall publish
304 in the Florida Administrative Weekly a statement of the fund's
305 estimated borrowing capacity and the projected balance of the
306 fund as of December 31. After the end of each calendar year, the
307 board shall notify insurers of the estimated borrowing capacity
308 and the balance of the fund as of December 31 to provide
309 insurers with data necessary to assist them in determining their
310 retention and projected payout from the fund for loss
311 reimbursement purposes. In conjunction with the development of
312 the premium formula, as provided for in subsection (5), the
313 board shall publish factors or multiples that assist insurers in
314 determining their retention and projected payout for the next
315 contract year. For all regulatory and reinsurance purposes, an
316 insurer may calculate its projected payout from the fund as its
317 share of the total fund premium for the current contract year
318 multiplied by the sum of the projected balance of the fund as of
319 December 31 and the estimated borrowing capacity for that
320 contract year as reported under this subparagraph.

321 (d)1. For purposes of determining potential liability and
322 to aid in the sound administration of the fund, the contract
323 shall require each insurer to report such insurer's losses from
324 each covered event on an interim basis, as directed by the
325 board. The contract shall require the insurer to report to the
326 board no later than December 31 of each year, and quarterly
327 thereafter, its reimbursable losses from covered events for the
328 year. The contract shall require the board to determine and pay,
329 as soon as practicable after receiving these reports of

HB 7225 CS

2006
CS

330 reimbursable losses, the initial amount of reimbursement due and
331 adjustments to this amount based on later loss information. The
332 adjustments to reimbursement amounts shall require the board to
333 pay, or the insurer to return, amounts reflecting the most
334 recent calculation of losses.

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

337 ~~a. First reimburse insurers writing covered policies,~~
338 ~~which insurers are in full compliance with this section and have~~
339 ~~petitioned the Office of Insurance Regulation and qualified as~~
340 ~~limited apportionment companies under s. 627.351(2)(b)3. The~~
341 ~~amount of such reimbursement shall be the lesser of \$10 million~~
342 ~~or an amount equal to 10 times the insurer's reimbursement~~
343 ~~premium for the current year. The amount of reimbursement paid~~
344 ~~under this sub-subparagraph may not exceed the full amount of~~
345 ~~reimbursement promised in the reimbursement contract. This sub-~~
346 ~~subparagraph does not apply with respect to any contract year in~~
347 ~~which the year end projected cash balance of the fund, exclusive~~
348 ~~of any bonding capacity of the fund, exceeds \$2 billion. Only~~
349 ~~one member of any insurer group may receive reimbursement under~~
350 ~~this sub-subparagraph.~~

351 a.b. Next Pay to each insurer such insurer's projected
352 payout, which is the amount of reimbursement it is owed, up to
353 an amount equal to the insurer's share of the actual premium
354 paid for that contract year, multiplied by the actual claims-
355 paying capacity available for that contract year; provided,
356 entities created pursuant to s. 627.351 shall be further
357 reimbursed in accordance with sub-subparagraph b. e.

358 b.e. Thereafter, establish the prorated reimbursement
 359 level at the highest level for which any remaining fund balance
 360 or bond proceeds are sufficient to reimburse entities created
 361 pursuant to s. 627.351 based on reimbursable losses exceeding
 362 the amounts payable pursuant to sub-subparagraph a. ~~b.~~ for the
 363 current contract year.

364 (5) REIMBURSEMENT PREMIUMS.--

365 (b) The State Board of Administration shall select an
 366 independent consultant to develop a formula for determining the
 367 actuarially indicated premium to be paid to the fund. The
 368 formula shall specify, for each zip code or other limited
 369 geographical area, the amount of premium to be paid by an
 370 insurer for each \$1,000 of insured value under covered policies
 371 in that zip code or other area. In establishing premiums, the
 372 board shall consider the coverage elected under paragraph (4)(b)
 373 and any factors that tend to enhance the actuarial
 374 sophistication of ratemaking for the fund, including
 375 deductibles, type of construction, type of coverage provided,
 376 relative concentration of risks, ~~a factor providing for more~~
 377 ~~rapid cash buildup in the fund until the fund capacity for a~~
 378 ~~single hurricane season is fully funded~~, and other such factors
 379 deemed by the board to be appropriate. The formula may provide
 380 for a procedure to determine the premiums to be paid by new
 381 insurers that begin writing covered policies after the beginning
 382 of a contract year, taking into consideration when the insurer
 383 starts writing covered policies, the potential exposure of the
 384 insurer, the potential exposure of the fund, the administrative
 385 costs to the insurer and to the fund, and any other factors

HB 7225 CS

2006
CS

386 | deemed appropriate by the board. The formula shall include a
387 | factor of 25 percent of the fund's actuarially indicated premium
388 | in order to provide for more rapid cash buildup in the fund. The
389 | formula must be approved by unanimous vote of the board. The
390 | board may, at any time, revise the formula pursuant to the
391 | procedure provided in this paragraph.

392 | (6) REVENUE BONDS.--

393 | (a) General provisions.--

394 | 1. Upon the occurrence of a hurricane and a determination
395 | that the moneys in the fund are or will be insufficient to pay
396 | reimbursement at the levels promised in the reimbursement
397 | contracts, the board may take the necessary steps under
398 | paragraph (c) or paragraph (d) for the issuance of revenue bonds
399 | for the benefit of the fund. The proceeds of such revenue bonds
400 | may be used to make reimbursement payments under reimbursement
401 | contracts; to refinance or replace previously existing
402 | borrowings or financial arrangements; to pay interest on bonds;
403 | to fund reserves for the bonds; to pay expenses incident to the
404 | issuance or sale of any bond issued under this section,
405 | including costs of validating, printing, and delivering the
406 | bonds, costs of printing the official statement, costs of
407 | publishing notices of sale of the bonds, and related
408 | administrative expenses; or for such other purposes related to
409 | the financial obligations of the fund as the board may
410 | determine. The term of the bonds may not exceed 30 years. The
411 | board may pledge or authorize the corporation to pledge all or a
412 | portion of all revenues under subsection (5) and under paragraph
413 | (b) to secure such revenue bonds and the board may execute such

Page 15 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

414 agreements between the board and the issuer of any revenue bonds
415 and providers of other financing arrangements under paragraph
416 (7) (b) as the board deems necessary to evidence, secure,
417 preserve, and protect such pledge. If reimbursement premiums
418 received under subsection (5) or earnings on such premiums are
419 used to pay debt service on revenue bonds, such premiums and
420 earnings shall be used only after the use of the moneys derived
421 from assessments under paragraph (b). The funds, credit,
422 property, or taxing power of the state or political subdivisions
423 of the state shall not be pledged for the payment of such bonds.
424 The board may also enter into agreements under paragraph (c) or
425 paragraph (d) for the purpose of issuing revenue bonds in the
426 absence of a hurricane upon a determination that such action
427 would maximize the ability of the fund to meet future
428 obligations.

429 2. The Legislature finds and declares that the issuance of
430 bonds under this subsection is for the public purpose of paying
431 the proceeds of the bonds to insurers, thereby enabling insurers
432 to pay the claims of policyholders to assure that policyholders
433 are able to pay the cost of construction, reconstruction,
434 repair, restoration, and other costs associated with damage to
435 property of policyholders of covered policies after the
436 occurrence of a hurricane. ~~Revenue bonds may not be issued under
437 this subsection until validated under chapter 75. The validation
438 of at least the first obligations incurred pursuant to this
439 subsection shall be appealed to the Supreme Court, to be handled
440 on an expedited basis.~~

441 (b) Emergency assessments.--

Page 16 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

442 1. If the board determines that the amount of revenue
443 produced under subsection (5) is insufficient to fund the
444 obligations, costs, and expenses of the fund and the
445 corporation, including repayment of revenue bonds and that
446 portion of the debt service coverage not met by reimbursement
447 premiums, the board shall direct the Office of Insurance
448 Regulation to levy, by order, an emergency assessment on direct
449 premiums for all property and casualty lines of business in this
450 state, including property and casualty business of surplus lines
451 insurers regulated under part VIII of chapter 626, but not
452 including any workers' compensation premiums or medical
453 malpractice premiums. As used in this subsection, the term
454 "property and casualty business" includes all lines of business
455 identified on Form 2, Exhibit of Premiums and Losses, in the
456 annual statement required of authorized insurers by s. 624.424
457 and any rule adopted under this section, except for those lines
458 identified as accident and health insurance and except for
459 policies written under the National Flood Insurance Program. The
460 assessment shall be specified as a percentage of direct written
461 ~~future premium collections~~ and is subject to annual adjustments
462 by the board ~~to reflect changes in premiums subject to~~
463 ~~assessments collected under this subparagraph~~ in order to meet
464 debt obligations. The same percentage shall apply to all
465 policies in lines of business subject to the assessment issued
466 or renewed during the 12-month period beginning on the effective
467 date of the assessment.

468 2. A premium is not subject to an annual assessment under
469 this paragraph in excess of 6 percent of premium with respect to

HB 7225 CS

2006
CS

470 obligations arising out of losses attributable to any one
471 contract year, and a premium is not subject to an aggregate
472 annual assessment under this paragraph in excess of 10 percent
473 of premium. An annual assessment under this paragraph shall
474 continue for as long as ~~until~~ the revenue bonds issued with
475 respect to which the assessment was imposed are outstanding,
476 including any bonds the proceeds of which were used to refund
477 the revenue bonds, unless adequate provision has been made for
478 the payment of the bonds under the documents authorizing
479 issuance of the bonds.

480 3. Emergency assessments shall be collected from
481 policyholders. Emergency assessments shall be remitted by
482 insurers as a percentage of direct written premium for the
483 preceding calendar quarter as specified in the order from ~~With~~
484 ~~respect to each insurer collecting premiums that are subject to~~
485 ~~the assessment, the insurer shall collect the assessment at the~~
486 ~~same time as it collects the premium payment for each policy and~~
487 ~~shall remit the assessment collected to the fund or corporation~~
488 ~~as provided in the order issued by the Office of Insurance~~
489 Regulation. The office shall verify the accurate and timely
490 collection and remittance of emergency assessments and shall
491 report the information to the board in a form and at a time
492 specified by the board. Each insurer collecting assessments
493 shall provide the information with respect to premiums and
494 collections as may be required by the office to enable the
495 office to monitor and verify compliance with this paragraph.

496 4. With respect to assessments of surplus lines premiums,
497 each surplus lines agent shall collect the assessment at the

HB 7225 CS

2006
CS

498 same time as the agent collects the surplus lines tax required
499 by s. 626.932, and the surplus lines agent shall remit the
500 assessment to the Florida Surplus Lines Service Office created
501 by s. 626.921 at the same time as the agent remits the surplus
502 lines tax to the Florida Surplus Lines Service Office. The
503 emergency assessment on each insured procuring coverage and
504 filing under s. 626.938 shall be remitted by the insured to the
505 Florida Surplus Lines Service Office at the time the insured
506 pays the surplus lines tax to the Florida Surplus Lines Service
507 Office. The Florida Surplus Lines Service Office shall remit the
508 collected assessments to the fund or corporation as provided in
509 the order levied by the Office of Insurance Regulation. The
510 Florida Surplus Lines Service Office shall verify the proper
511 application of such emergency assessments and shall assist the
512 board in ensuring the accurate and timely collection and
513 remittance of assessments as required by the board. The Florida
514 Surplus Lines Service Office shall annually calculate the
515 aggregate written premium on property and casualty business,
516 other than workers' compensation and medical malpractice,
517 procured through surplus lines agents and insureds procuring
518 coverage and filing under s. 626.938 and shall report the
519 information to the board in a form and at a time specified by
520 the board.

521 5. Any assessment authority not used for a particular
522 contract year may be used for a subsequent contract year. If,
523 for a subsequent contract year, the board determines that the
524 amount of revenue produced under subsection (5) is insufficient
525 to fund the obligations, costs, and expenses of the fund and the

HB 7225 CS

2006
CS

526 corporation, including repayment of revenue bonds and that
527 portion of the debt service coverage not met by reimbursement
528 premiums, the board shall direct the Office of Insurance
529 Regulation to levy an emergency assessment up to an amount not
530 exceeding the amount of unused assessment authority from a
531 previous contract year or years, plus an additional 4 percent
532 provided that the assessments in the aggregate do not exceed the
533 limits specified in subparagraph 2.

534 6. The assessments otherwise payable to the corporation
535 under this paragraph shall be paid to the fund unless and until
536 the Office of Insurance Regulation and the Florida Surplus Lines
537 Service Office have received from the corporation and the fund a
538 notice, which shall be conclusive and upon which they may rely
539 without further inquiry, that the corporation has issued bonds
540 and the fund has no agreements in effect with local governments
541 under paragraph (c). On or after the date of the notice and
542 until the date the corporation has no bonds outstanding, the
543 fund shall have no right, title, or interest in or to the
544 assessments, except as provided in the fund's agreement with the
545 corporation.

546 7. Emergency assessments are not premium and are not
547 subject to the premium tax, to the surplus lines tax, to any
548 fees, or to any commissions. An insurer is liable for all
549 assessments that it collects and must treat the failure of an
550 insured to pay an assessment as a failure to pay the premium. An
551 insurer is not liable for uncollectible assessments.

552 8. When an insurer is required to return an unearned
553 premium, it shall also return any collected assessment

HB 7225 CS

2006
CS

554 | attributable to the unearned premium. A credit adjustment to the
555 | collected assessment may be made by the insurer with regard to
556 | future remittances that are payable to the fund or corporation,
557 | but the insurer is not entitled to a refund.

558 | 9. When a surplus lines insured or an insured who has
559 | procured coverage and filed under s. 626.938 is entitled to the
560 | return of an unearned premium, the Florida Surplus Lines Service
561 | Office shall provide a credit or refund to the agent or such
562 | insured for the collected assessment attributable to the
563 | unearned premium prior to remitting the emergency assessment
564 | collected to the fund or corporation.

565 | 10. The exemption of medical malpractice insurance
566 | premiums from emergency assessments under this paragraph is
567 | repealed May 31, 2010 ~~2007~~, and medical malpractice insurance
568 | premiums shall be subject to emergency assessments attributable
569 | to loss events occurring in the contract years commencing on
570 | June 1, 2010 ~~2007~~.

571 | Section 2. Section 215.558, Florida Statutes, is created
572 | to read:

573 | 215.558 Florida Hurricane Damage Prevention Endowment.--

574 | (1) PURPOSE AND INTENT.--The purpose of this section is to
575 | provide a continuing source of funding for financial incentives
576 | to encourage residential property owners of this state to
577 | retrofit their properties to make them less vulnerable to
578 | hurricane damage, to help decrease the cost of residential
579 | property and casualty insurance, and to provide matching funds
580 | to local governments and nonprofit entities for projects that
581 | will reduce hurricane damage to residential properties. It is

HB 7225 CS

2006
CS

582 the intent of the Legislature that this section be construed
583 liberally to effectuate its purpose.

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

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

586 (b) "Corpus" means the money that has been appropriated to
587 the endowment by the 2006 Legislature, together with any amounts
588 subsequently appropriated to the endowment that are specifically
589 designated as contributions to the corpus and any grants, gifts,
590 or donations to the endowment that are specifically designated
591 as contributions to the corpus.

592 (c) "Earnings" means any money in the endowment in excess
593 of the corpus, including any income generated by investments,
594 any increase in the market value of investments net of decreases
595 in market value, and any appropriations, grants, gifts, or
596 donations to the endowment not specifically designated as
597 contributions to the corpus.

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

600 (e) "Program administrator" means the Department of
601 Financial Services.

602 (3) ADMINISTRATION.--

603 (a) The board shall invest endowment assets as provided in
604 this section.

605 (b) The board may invest and reinvest funds of the
606 endowment in accordance with s. 215.47 and consistent with board
607 policy.

608 (c) The investment objective shall be long-term
609 preservation of the value of the corpus and a specified regular

HB 7225 CS

2006
CS

610 annual cash outflow for appropriation, as nonrecurring revenue,
611 for the purposes specified in subsection (4).

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

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

617 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE
618 PREVENTION ACTIVITIES.--

619 (a) Not less than 80 percent of the net earnings of the
620 endowment shall be expended for financial incentives to
621 residential property owners as described in paragraph (b), and
622 no more than the remainder of the net earnings of the endowment
623 shall be expended for matching fund grants to local governments
624 and nonprofit entities for projects that will reduce hurricane
625 damage to residential properties as described in paragraph (c).
626 Any funds authorized for expenditure but not expended for these
627 purposes shall be returned to the endowment.

628 (b)1. The program administrator, by rule, shall establish
629 a request for a proposal process to annually solicit proposals
630 from lending institutions under which the lending institution
631 will provide interest-free loans to homestead property owners to
632 pay for inspections of homestead property to determine what
633 mitigation measures are needed and for improvements to existing
634 residential properties intended to reduce the homestead
635 property's vulnerability to hurricane damage, in exchange for
636 funding from the endowment.

HB 7225 CS

2006
CS

637 2. In order to qualify for funding under this paragraph,
638 an interest-free loan program must include an inspection of
639 homestead property to determine what mitigation measures are
640 needed, a means for verifying that the improvements to be paid
641 for from loan proceeds have been demonstrated to reduce a
642 homestead property's vulnerability to hurricane damage, and a
643 means for verifying that the proceeds were actually spent on
644 such improvements. The program must include a method for
645 awarding loans according to the following priorities:

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

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

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

657 d. The next highest priority must be given to all other
658 single-family owner-occupied homestead dwellings insured at
659 \$500,000 or less.

660 3. The program administrator shall evaluate proposals
661 based on the following factors:

662 a. The degree to which the proposal meets the requirements
663 of subparagraph 2.

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

HB 7225 CS

2006
CS

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

667 4. The program administrator shall annually solicit
668 proposals from local governments and nonprofit entities for
669 projects that will reduce hurricane damage to homestead
670 properties. The program administrator may provide up to 50
671 percent of the funding for such projects. The projects may
672 include educational programs, repair services, property
673 inspections, and hurricane vulnerability analyses and such other
674 projects as the program administrator determines to be
675 consistent with the purposes of this section.

676 (5) ADVISORY COUNCIL.--There is created an advisory
677 council to provide advice and assistance to the program
678 administrator with regard to its administration of the
679 endowment. The advisory council shall consist of:

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

683 (b) A representative of residential property insurers,
684 selected by the Financial Services Commission from a list of at
685 least three persons recommended by the Florida Insurance
686 Council.

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

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

HB 7225 CS

2006
CS

693 (e) Two members of the House of Representatives selected
694 by the Speaker of the House of Representatives.

695 (f) Two members of the Senate selected by the President of
696 the Senate.

697 (g) The senior officer of the Florida Hurricane
698 Catastrophe Fund.

699 (h) The executive director of Citizens Property Insurance
700 Corporation.

701 (i) The director of the Division of Emergency Management
702 of the Department of Community Affairs.

703

704 Members appointed under paragraphs (a)-(d) shall serve at the
705 pleasure of the Financial Services Commission. Members appointed
706 under paragraphs (e) and (f) shall serve at the pleasure of the
707 appointing officer. All other members shall serve ex officio.
708 Members of the advisory council shall serve without compensation
709 but may receive reimbursement as provided in s. 112.061 for per
710 diem and travel expenses incurred in the performance of their
711 official duties.

712 Section 3. Section 215.5586, Florida Statutes, is created
713 to read:

714 215.5586 Florida Comprehensive Hurricane Damage Mitigation
715 Program.--There is established within the Department of
716 Financial Services the Florida Comprehensive Hurricane Damage
717 Mitigation Program. The program shall be administered by an
718 individual with prior executive experience in the private sector
719 in the areas of insurance, business, or construction. The
720 program shall develop and implement a comprehensive and

Page 26 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

721 coordinated approach for hurricane damage mitigation that shall
722 include the following:

723 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
724 INSPECTIONS.--

725 (a) Free home-retrofit inspections of site-built,
726 residential property, including single-family, two-family,
727 three-family, or four-family residential units, shall be offered
728 to determine what mitigation measures are needed and what
729 improvements to existing residential properties are needed to
730 reduce the property's vulnerability to hurricane damage. The
731 Department of Financial Services shall establish a request for
732 proposals to solicit proposals from wind certification entities
733 to provide at no cost to homeowners wind certification and
734 hurricane mitigation inspections. The inspections provided to
735 homeowners, at a minimum, must include:

736 1. A home inspection and report that summarizes the
737 results and identifies corrective actions a homeowner may take
738 to mitigate hurricane damage.

739 2. A range of cost estimates regarding the mitigation
740 features.

741 3. Insurer-specific information regarding premium
742 discounts correlated to recommended mitigation features
743 identified by the inspection.

744 4. A hurricane resistance rating scale specifying the
745 home's current as well as projected wind resistance
746 capabilities.

HB 7225 CS

2006
CS

- 747 (b) To qualify for selection by the department as a
748 provider of wind certification and hurricane mitigation
749 inspections, the entity shall, at a minimum:
- 750 1. Use wind certification and hurricane mitigation
751 inspectors who:
- 752 a. Have prior experience in residential construction or
753 inspection and have received specialized training in hurricane
754 mitigation procedures.
- 755 b. Have undergone drug testing and background checks.
- 756 c. Have been certified, in a manner satisfactory to the
757 department, to conduct the inspections.
- 758 2. Provide a quality assurance program including a
759 reinspection component.
- 760 (2) GRANTS.--Financial grants shall be used to encourage
761 single-family, site-built, owner-occupied, residential property
762 owners to retrofit their properties to make them less vulnerable
763 to hurricane damage.
- 764 (a) To be eligible for a grant, a residential property
765 must:
- 766 1. Have been granted a homestead exemption under chapter
767 196.
- 768 2. Be a dwelling with an insured value of \$500,000 or
769 less.
- 770 3. Have undergone an acceptable wind certification and
771 hurricane mitigation inspection.
- 772

HB 7225 CS

2006
CS

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

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

779 (c) The program shall create a process in which mitigation
780 contractors agree to participate and seek reimbursement from the
781 state and homeowners select from a list of participating
782 contractors. All mitigation must be based upon the securing of
783 all required local permits and inspections. Mitigation projects
784 are subject to random reinspection of up to at least 10 percent
785 of all projects.

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

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

792 (4) EDUCATION AND CONSUMER AWARENESS.--Multimedia public
793 education, awareness, and advertising efforts designed to
794 specifically address mitigation techniques shall be employed, as
795 well as a component to support ongoing consumer resources and
796 referral services.

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

HB 7225 CS

2006
CS

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

804 (b) A representative of residential property insurers,
805 selected by the Financial Services Commission from a list of at
806 least three persons recommended by the Florida Insurance
807 Council.

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

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

814 (e) Two members of the House of Representatives, selected
815 by the Speaker of the House of Representatives.

816 (f) Two members of the Senate, selected by the President
817 of the Senate.

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

820 (h) The senior officer of the Florida Hurricane
821 Catastrophe Fund.

822 (i) The executive director of Citizens Property Insurance
823 Corporation.

824 (j) The director of the Division of Emergency Management
825 of the Department of Community Affairs.

826

827 Members appointed under paragraphs (a) - (d) shall serve at the
828 pleasure of the Financial Services Commission. Members appointed

HB 7225 CS

2006
CS

829 under paragraphs (e) and (f) shall serve at the pleasure of the
830 appointing officer. All other members shall serve voting ex
831 officio. Members of the advisory council shall serve without
832 compensation but may receive reimbursement as provided in s.
833 112.061 for per diem and travel expenses incurred in the
834 performance of their official duties.

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

838 Section 4. Section 215.559, Florida Statutes, is amended
839 to read:

840 215.559 Hurricane Loss Mitigation Program.--

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

846 (2)(a) Seven million dollars in funds provided in
847 subsection (1) shall be used for programs to improve the wind
848 resistance of residences and mobile homes, including loans,
849 subsidies, grants, demonstration projects, and direct
850 assistance; cooperative programs with local governments and the
851 Federal Government; and other efforts to prevent or reduce
852 losses or reduce the cost of rebuilding after a disaster.

853 (b) Three million dollars in funds provided in subsection
854 (1) shall be used to retrofit existing facilities used as public
855 hurricane shelters. The department must prioritize the use of
856 these funds for projects included in the September 1, 2000,

HB 7225 CS

2006
CS

857 version of the Shelter Retrofit Report prepared in accordance
858 with s. 252.385(3), and each annual report thereafter. The
859 department must give funding priority to projects in regional
860 planning council regions that have shelter deficits and to
861 projects that maximize use of state funds.

862 ~~(3) By the 2006-2007 fiscal year, the Department of~~
863 ~~Community Affairs shall develop a low interest loan program for~~
864 ~~homeowners and mobile home owners to retrofit their homes with~~
865 ~~fixtures or apply construction techniques that have been~~
866 ~~demonstrated to reduce the amount of damage or loss due to a~~
867 ~~hurricane. Funding for the program shall be used to subsidize or~~
868 ~~guaranty private sector loans for this purpose to qualified~~
869 ~~homeowners by financial institutions chartered by the state or~~
870 ~~Federal Government. The department may enter into contracts with~~
871 ~~financial institutions for this purpose. The department shall~~
872 ~~establish criteria for determining eligibility for the loans and~~
873 ~~selecting recipients, standards for retrofitting homes or mobile~~
874 ~~homes, limitations on loan subsidies and loan guaranties, and~~
875 ~~other terms and conditions of the program, which must be~~
876 ~~specified in the department's report to the Legislature on~~
877 ~~January 1, 2006, required by subsection (8). For the 2005-2006~~
878 ~~fiscal year, the Department of Community Affairs may use up to~~
879 ~~\$1 million of the funds appropriated pursuant to paragraph~~
880 ~~(2)(a) to begin the low interest loan program as a pilot project~~
881 ~~in one or more counties. The Department of Financial Services,~~
882 ~~the Office of Financial Regulation, the Florida Housing Finance~~
883 ~~Corporation, and the Office of Tourism, Trade, and Economic~~
884 ~~Development shall assist the Department of Community Affairs in~~

Page 32 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

885 ~~establishing the program and pilot project. The department may~~
886 ~~use up to 2.5 percent of the funds appropriated in any given~~
887 ~~fiscal year for administering the loan program. The department~~
888 ~~may adopt rules to implement the program.~~

889 (3) (a) (4) Forty percent of the total appropriation in
890 paragraph (2) (a) shall be used to inspect and improve tie-downs
891 for mobile homes. Within 30 days after the effective date of
892 that appropriation, the department shall contract with a public
893 higher educational institution in this state which has previous
894 experience in administering the programs set forth in this
895 subsection to serve as the administrative entity and fiscal
896 agent pursuant to s. 216.346 for the purpose of administering
897 the programs set forth in this subsection in accordance with
898 established policy and procedures. The administrative entity
899 working with the advisory council set up under subsection (6)
900 shall develop a list of mobile home parks and counties that may
901 be eligible to participate in the tie-down program.

902 (b)1. There is created the Manufactured Housing and Mobile
903 Home Hurricane Mitigation Program. The program shall require the
904 mitigation of damage to homes for the areas of concern raised by
905 the Department of Highway Safety and Motor Vehicles in the 2004-
906 2005 Hurricane Reports on the effects of the 2004 and 2005
907 hurricanes on manufactured and mobile homes in this state. The
908 mitigation shall include, but not be limited to, problems
909 associated with weakened trusses, studs, and other structural
910 components, site-built additions, or tie-down systems and may
911 also address any other issues deemed appropriate by the
912 Department of Community Affairs upon consultation with the

HB 7225 CS

2006
CS

913 Tallahassee Community College, the Federation of Manufactured
914 Home Owners of Florida, Inc., the Florida Manufactured Housing
915 Association, and the Department of Highway Safety and Motor
916 Vehicles. The program may include an education and outreach
917 component to ensure that owners of manufactured and mobile homes
918 are aware of the benefits of participation.

919 2. The program shall include the offering of a matching
920 grant to owners of manufactured and mobile homes manufactured
921 after 1993 only. Homeowners accepted for the program shall be
922 eligible to qualify for a \$5,000 dollar-for-dollar matching
923 grant in which the homeowner may receive up to \$2,500 in state
924 moneys. The moneys appropriated for this program shall be
925 distributed directly to the Department of Community Affairs for
926 the uses set forth under this paragraph.

927 3. Upon evidence of completion of the program, the
928 Citizens Property Insurance Corporation shall grant, on a pro
929 rata basis, actuarially reasonable discounts, credits, or other
930 rate differentials or appropriate reductions in deductibles for
931 the properties of owners of manufactured homes or mobile homes
932 on which fixtures or construction techniques that have been
933 demonstrated to reduce the amount of loss in a windstorm have
934 been installed or implemented. The discount on the premium shall
935 be applied to subsequent renewal premium amounts. Premiums of
936 the Citizens Property Insurance Corporation shall reflect the
937 location of the home and the fact that the home has been
938 installed in compliance with building codes adopted after
939 Hurricane Andrew.

HB 7225 CS

2006
CS

940 4. On or before January 1 of each year, the Department of
941 Community Affairs shall provide a report of activities under
942 this subsection to the Governor, the President of the Senate,
943 and the Speaker of the House of Representatives. The report
944 shall set forth the number of manufactured homes and mobile
945 homes that have taken advantage of the program, the types of
946 enhancements and improvements made to the manufactured homes or
947 mobile homes and attachments to such homes, and whether there
948 has been an increase of availability of insurance products to
949 owners of manufactured homes or mobile homes.

950 ~~(4)-(5)~~ Of moneys provided to the Department of Community
951 Affairs in paragraph (2) (a), 10 percent shall be allocated to a
952 Type I Center within the State University System dedicated to
953 hurricane research. The Type I Center shall develop a
954 preliminary work plan approved by the advisory council set forth
955 in subsection (6) to eliminate the state and local barriers to
956 upgrading existing mobile homes and communities, research and
957 develop a program for the recycling of existing older mobile
958 homes, and support programs of research and development relating
959 to hurricane loss reduction devices and techniques for site-
960 built residences. The State University System also shall consult
961 with the Department of Community Affairs and assist the
962 department with the report required under subsection (8).

963 ~~(5)-(6)~~ The Department of Community Affairs shall develop
964 the programs set forth in this section in consultation with an
965 advisory council consisting of a representative designated by
966 the Chief Financial Officer, a representative designated by the
967 Florida Home Builders Association, a representative designated

HB 7225 CS

2006
CS

968 | by the Florida Insurance Council, a representative designated by
 969 | the Federation of Manufactured Home Owners, a representative
 970 | designated by the Florida Association of Counties, and a
 971 | representative designated by the Florida Manufactured Housing
 972 | Association.

973 | (6)~~(7)~~ Moneys provided to the Department of Community
 974 | Affairs under this section are intended to supplement other
 975 | funding sources of the Department of Community Affairs and may
 976 | not supplant other funding sources of the Department of
 977 | Community Affairs.

978 | (7)~~(8)~~ On January 1st of each year, the Department of
 979 | Community Affairs shall provide a full report and accounting of
 980 | activities under this section and an evaluation of such
 981 | activities to the Speaker of the House of Representatives, the
 982 | President of the Senate, and the Majority and Minority Leaders
 983 | of the House of Representatives and the Senate.

984 | (8)~~(9)~~ This section is repealed June 30, 2011.

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

987 | 626.918 Eligible surplus lines insurers.--

988 | (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any
 989 | coverage with any unauthorized insurer which is not then an
 990 | eligible surplus lines insurer, except as permitted under
 991 | subsections (5) and (6).

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

HB 7225 CS

2006
CS

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

997 (b) The insurer must be currently an authorized insurer in
998 the state or country of its domicile as to the kind or kinds of
999 insurance proposed to be so placed and must have been such an
1000 insurer for not less than the 3 years next preceding or must be
1001 the wholly owned subsidiary of such authorized insurer or must
1002 be the wholly owned subsidiary of an already eligible surplus
1003 lines insurer as to the kind or kinds of insurance proposed for
1004 a period of not less than the 3 years next preceding. However,
1005 the office may waive the 3-year requirement if the insurer
1006 provides a product or service not readily available to the
1007 consumers of this state or has operated successfully for a
1008 period of at least 1 year next preceding and has capital and
1009 surplus of not less than \$25 million.‡

1010 (c) Before granting eligibility, the requesting surplus
1011 lines agent or the insurer shall furnish the office with a duly
1012 authenticated copy of its current annual financial statement in
1013 the English language and with all monetary values therein
1014 expressed in United States dollars, at an exchange rate (in the
1015 case of statements originally made in the currencies of other
1016 countries) then-current and shown in the statement, and with
1017 such additional information relative to the insurer as the
1018 office may request.‡

1019 (d)1.a. The insurer must have and maintain surplus as to
1020 policyholders of not less than \$15 million; in addition, an
1021 alien insurer must also have and maintain in the United States a
1022 trust fund for the protection of all its policyholders in the

HB 7225 CS

2006
CS

1023 United States under terms deemed by the office to be reasonably
 1024 adequate, in an amount not less than \$5.4 million. Any such
 1025 surplus as to policyholders or trust fund shall be represented
 1026 by investments consisting of eligible investments for like funds
 1027 of like domestic insurers under part II of chapter 625 provided,
 1028 however, that in the case of an alien insurance company, any
 1029 such surplus as to policyholders may be represented by
 1030 investments permitted by the domestic regulator of such alien
 1031 insurance company if such investments are substantially similar
 1032 in terms of quality, liquidity, and security to eligible
 1033 investments for like funds of like domestic insurers under part
 1034 II of chapter 625. Clean, irrevocable, unconditional, and
 1035 evergreen letters of credit issued or confirmed by a qualified
 1036 United States financial institution, as defined in subparagraph
 1037 2., may be used to fund the trust.

1038 b.2. For those surplus lines insurers that were eligible
 1039 on January 1, 1994, and that maintained their eligibility
 1040 thereafter, the required surplus as to policyholders shall be:

1041 (I)a. On December 31, 1994, and until December 30, 1995,
 1042 \$2.5 million.

1043 (II)b. On December 31, 1995, and until December 30, 1996,
 1044 \$3.5 million.

1045 (III)c. On December 31, 1996, and until December 30, 1997,
 1046 \$4.5 million.

1047 (IV)d. On December 31, 1997, and until December 30, 1998,
 1048 \$5.5 million.

1049 (V)e. On December 31, 1998, and until December 30, 1999,
 1050 \$6.5 million.

HB 7225 CS

2006
CS

1051 (VI)~~f.~~ On December 31, 1999, and until December 30, 2000,
1052 \$8 million.

1053 (VII)~~g.~~ On December 31, 2000, and until December 30, 2001,
1054 \$9.5 million.

1055 (VIII)~~h.~~ On December 31, 2001, and until December 30,
1056 2002, \$11 million.

1057 (IX)~~i.~~ On December 31, 2002, and until December 30, 2003,
1058 \$13 million.

1059 (X)~~j.~~ On December 31, 2003, and thereafter, \$15 million.

1060 c.3. The capital and surplus requirements as set forth in
1061 sub-subparagraph b. subparagraph 2. do not apply in the case of
1062 an insurance exchange created by the laws of individual states,
1063 where the exchange maintains capital and surplus pursuant to the
1064 requirements of that state, or maintains capital and surplus in
1065 an amount not less than \$50 million in the aggregate. For an
1066 insurance exchange which maintains funds in the amount of at
1067 least \$12 million for the protection of all insurance exchange
1068 policyholders, each individual syndicate shall maintain minimum
1069 capital and surplus in an amount not less than \$3 million. If
1070 the insurance exchange does not maintain funds in the amount of
1071 at least \$12 million for the protection of all insurance
1072 exchange policyholders, each individual syndicate shall meet the
1073 minimum capital and surplus requirements set forth in sub-
1074 subparagraph b. subparagraph 2.

1075 d.4. A surplus lines insurer which is a member of an
1076 insurance holding company that includes a member which is a
1077 Florida domestic insurer as set forth in its holding company
1078 registration statement, as set forth in s. 628.801 and rules

HB 7225 CS

2006
CS

1079 | adopted thereunder, may elect to maintain surplus as to
 1080 | policyholders in an amount equal to the requirements of s.
 1081 | 624.408, subject to the requirement that the surplus lines
 1082 | insurer shall at all times be in compliance with the
 1083 | requirements of chapter 625.

1084 |
 1085 | The election shall be submitted to the office and shall be
 1086 | effective upon the office's being satisfied that the
 1087 | requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
 1088 | met. The initial date of election shall be the date of office
 1089 | approval. The election approval application shall be on a form
 1090 | adopted by commission rule. The office may approve an election
 1091 | form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
 1092 | only if it was on file with the former Department of Insurance
 1093 | before February 28, 1998.†

1094 | 2. For purposes of letters of credit under subparagraph
 1095 | 1., the term "qualified United States financial institution"
 1096 | means an institution that:

1097 | a. Is organized or, in the case of a United States office
 1098 | of a foreign banking organization, is licensed under the laws of
 1099 | the United States or any state.

1100 | b. Is regulated, supervised, and examined by authorities
 1101 | of the United States or any state having regulatory authority
 1102 | over banks and trust companies.

1103 | c. Has been determined by the office or the Securities
 1104 | Valuation Office of the National Association of Insurance
 1105 | Commissioners to meet such standards of financial condition and
 1106 | standing as are considered necessary and appropriate to regulate

HB 7225 CS

2006
CS

1107 | the quality of financial institutions whose letters of credit
1108 | are acceptable to the office.

1109 | (e) The insurer must be of good reputation as to the
1110 | providing of service to its policyholders and the payment of
1111 | losses and claims.

1112 | (f) The insurer must be eligible, as for authority to
1113 | transact insurance in this state, under s. 624.404(3).

1114 | (g) This subsection does not apply as to unauthorized
1115 | insurers made eligible under s. 626.917 as to wet marine and
1116 | aviation risks.

1117 | Section 6. Paragraph (j) is added to subsection (2) of
1118 | section 627.062, Florida Statutes, subsection (5) of that
1119 | section is amended, and subsections (9) and (10) are added to
1120 | that section, to read:

1121 | 627.062 Rate standards.--

1122 | (2) As to all such classes of insurance:

1123 | (j) Effective January 1, 2007, notwithstanding any other
1124 | provision of this section:

1125 | 1. With respect to any residential property insurance
1126 | subject to regulation under this section, a rate filing,
1127 | including, but not limited to, any rate changes, rating factors,
1128 | territories, classification, discounts, and credits, with
1129 | respect to any policy form, including endorsements issued with
1130 | the form, that results in an overall average statewide premium
1131 | increase or decrease of no more than 5 percent above or below
1132 | the premium that would result from the insurer's rates then in
1133 | effect shall not be subject to a determination by the office
1134 | that the rate is excessive or unfairly discriminatory except as

HB 7225 CS

2006
CS

1135 provided in subparagraph 3., or any other provision of law,
1136 provided all changes specified in the filing do not result in an
1137 overall premium increase of more than 10 percent for any one
1138 territory, for reasons related solely to the rate change. As
1139 used in this subparagraph, the term "insurer's rates then in
1140 effect" includes only rates that have been lawfully in effect
1141 under this section or rates that have been determined to be
1142 lawful through administrative proceedings or judicial
1143 proceedings.

1144 2. An insurer may not make filings under this paragraph
1145 with respect to any policy form, including endorsements issued
1146 with the form, if the overall premium changes resulting from
1147 such filings exceed the amounts specified in this paragraph in
1148 any 12-month period. An insurer may proceed under other
1149 provisions of this section or other provisions of law if the
1150 insurer seeks to exceed the premium or rate limitations of this
1151 paragraph.

1152 3. This paragraph does not affect the authority of the
1153 office to disapprove a rate as inadequate or to disapprove a
1154 filing for the unlawful use of unfairly discriminatory rating
1155 factors that are prohibited by the laws of this state. An
1156 insurer electing to implement a rate change under this paragraph
1157 shall submit a filing to the office at least 30 days prior to
1158 the effective date of the rate change. The office shall have 30
1159 days after the filing's submission to review the filing and
1160 determine if the rate is inadequate or uses unfairly
1161 discriminatory rating factors. Absent a finding by the office
1162 within such 30-day period that the rate is inadequate or that

HB 7225 CS

2006
CS

1163 | the insurer has used unfairly discriminatory rating factors, the
 1164 | filing is deemed approved. If the office finds during the 30-day
 1165 | period that the filing will result in inadequate premiums or
 1166 | otherwise endanger the insurer's solvency, the office shall
 1167 | suspend the rate decrease. If the insurer is implementing an
 1168 | overall rate increase, the results of which continue to produce
 1169 | an inadequate rate, such increase shall proceed pending
 1170 | additional action by the office to ensure the adequacy of the
 1171 | rate.

1172 | 4. This paragraph does not apply to rate filings for any
 1173 | insurance other than residential property insurance.

1174 |
 1175 | The provisions of this subsection shall not apply to workers'
 1176 | compensation and employer's liability insurance and to motor
 1177 | vehicle insurance.

1178 | (5) With respect to a rate filing involving coverage of
 1179 | the type for which the insurer is required to pay a
 1180 | reimbursement premium to the Florida Hurricane Catastrophe Fund,
 1181 | the insurer may fully recoup in its property insurance premiums
 1182 | any reimbursement premiums paid to the Florida Hurricane
 1183 | Catastrophe Fund, together with ~~reasonable~~ costs of other
 1184 | reinsurance consistent with prudent business practices and sound
 1185 | actuarial principles, but may not recoup reinsurance costs that
 1186 | duplicate coverage provided by the Florida Hurricane Catastrophe
 1187 | Fund. The burden is on the office to establish that any costs of
 1188 | other reinsurance are in excess of amounts consistent with
 1189 | prudent business practices and sound actuarial principles. An
 1190 | insurer may not recoup more than 1 year of reimbursement premium

HB 7225 CS

2006
CS

1191 at a time. Any under-recoupment from the prior year may be added
1192 to the following year's reimbursement premium and any over-
1193 recoupment shall be subtracted from the following year's
1194 reimbursement premium.

1195 (9) Notwithstanding any other provision of this section,
1196 any rate filing or applicable portion of the rate filing that
1197 includes the peril of wind within the boundary of the area
1198 covered by the high-risk account of the Citizens Property
1199 Insurance Corporation shall be deemed approved upon submission
1200 to the office if the filing or the applicable portion of the
1201 filing requests approval of a rate that is less than the
1202 approved rate for similar risks insured in the high-risk account
1203 of the corporation unless the office determines that such rate
1204 is inadequate or unfairly discriminatory as provided in
1205 subsection (2).

1206 (10) (a) Beginning January 1, 2007, the office shall
1207 annually provide a report to the President of the Senate, the
1208 Speaker of the House of Representatives, the minority party
1209 leader of each house of the Legislature, and the chairs of the
1210 standing committees of each house of the Legislature having
1211 jurisdiction over insurance issues, specifying the impact of
1212 flexible rate regulation under paragraph (2) (j) on the degree of
1213 competition in insurance markets in this state.

1214 (b) The report shall include a year-by-year comparison of
1215 the number of companies participating in the market for each
1216 class of insurance and the relative rate levels. The report
1217 shall also specify:

HB 7225 CS

2006
CS

1218 1. The number of rate filings made under paragraph (2)(j),
 1219 the rate levels under those filings, and the market share
 1220 affected by those filings.

1221 2. The number of filings made on a file and use basis, the
 1222 rate levels under those filings, and the market share affected
 1223 by those filings.

1224 3. The number of filings made on a use and file basis, the
 1225 rate levels under those filings, and the market share affected
 1226 by those filings.

1227 4. Recommendations to promote competition in the insurance
 1228 market and further protect insurance consumers.

1229 Section 7. Paragraph (c) of subsection (3) of section
 1230 627.0628, Florida Statutes, is amended to read:

1231 627.0628 Florida Commission on Hurricane Loss Projection
 1232 Methodology; public records exemption; public meetings
 1233 exemption.--

1234 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1235 (c) With respect to a rate filing under s. 627.062, an
 1236 insurer may employ actuarial methods, principles, standards,
 1237 models, or output ranges found by the commission to be accurate
 1238 or reliable to determine hurricane loss factors for use in a
 1239 rate filing under s. 627.062. Such findings and factors are
 1240 admissible and relevant in consideration of a rate filing by the
 1241 office or in any arbitration or administrative or judicial
 1242 review only if the office and the consumer advocate appointed
 1243 pursuant to s. 627.0613 have a reasonable opportunity to review
 1244 ~~access to~~ all of the basic assumptions and factors that were
 1245 used in developing the actuarial methods, principles, standards,

HB 7225 CS

2006
CS

1246 | models, or output ranges. After review of the specific models by
 1247 | the commission, the office and the consumer advocate may not
 1248 | pose any questions generated from their respective reviews that
 1249 | duplicate or compromise the conclusions of the commission
 1250 | relative to the accuracy or reliability of the models in
 1251 | producing hurricane loss factors for use in a rate filing under
 1252 | ~~s. 627.062, and are not precluded from disclosing such~~
 1253 | ~~information in a rate proceeding.~~

1254 | Section 8. Section 627.06281, Florida Statutes, is amended
 1255 | to read:

1256 | 627.06281 Public hurricane loss projection model;
 1257 | reporting of data by insurers.--

1258 | (1) Within 30 days after a written request for loss data
 1259 | and associated exposure data by the office or a type I center
 1260 | within the State University System established to study
 1261 | mitigation, residential property insurers and licensed rating
 1262 | and advisory organizations that compile residential property
 1263 | insurance loss data shall provide loss data and associated
 1264 | exposure data for residential property insurance policies to the
 1265 | office or to a type I center within the State University System
 1266 | established to study mitigation, as directed by the office, for
 1267 | the purposes of developing, maintaining, and updating a public
 1268 | model for hurricane loss projections. The loss data and
 1269 | associated exposure data provided shall be in writing.

1270 | (2) The office may not use the public model for hurricane
 1271 | loss projection referred to in subsection (1) for any purpose
 1272 | under s. 627.062 or s. 627.351 until the model has been
 1273 | submitted to the Florida Commission on Hurricane Loss Projection

HB 7225 CS

2006
CS

1274 Methodology for review under s. 627.0628 and the commission has
 1275 found the model to be accurate and reliable pursuant to the same
 1276 process and standards as the commission uses for the review of
 1277 other hurricane loss projection models.

1278 Section 9. Subsection (2) of section 627.0645, Florida
 1279 Statutes, is amended to read:

1280 627.0645 Annual filings.--

1281 (2) (a) Deviations filed by an insurer to any rating
 1282 organization's base rate filing are not subject to this section.

1283 (b) The office, after receiving a request to be exempted
 1284 from the provisions of this section, may, for good cause due to
 1285 insignificant numbers of policies in force or insignificant
 1286 premium volume, exempt a company, by line of coverage, from
 1287 filing rates or rate certification as required by this section.

1288 (c) The office, after receiving a request to be exempted
 1289 from the provisions of this section, shall exempt a company with
 1290 less than 500 residential homeowner or mobile homeowner policies
 1291 from filing rates or rate certification as required by this
 1292 section.

1293 Section 10. Subsection (6) of section 627.351, Florida
 1294 Statutes, is amended to read:

1295 627.351 Insurance risk apportionment plans.--

1296 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1297 (a)1.a. The Legislature finds that actual and threatened
 1298 catastrophic losses to property in this state from hurricanes
 1299 have caused insurers to be unwilling or unable to provide
 1300 property insurance coverage to the extent sought and needed. It
 1301 is in the public interest and a public purpose to assist in

HB 7225 CS

2006
CS

1302 ensuring ~~assuring~~ that homestead property in the state is
 1303 insured so as to facilitate the remediation, reconstruction, and
 1304 replacement of damaged or destroyed property in order to reduce
 1305 or avoid the negative effects otherwise resulting to the public
 1306 health, safety, and welfare; to the economy of the state; and to
 1307 the revenues of the state and local governments needed to
 1308 provide for the public welfare. It is necessary, therefore, to
 1309 provide property insurance to applicants who are in good faith
 1310 entitled to procure insurance through the voluntary market but
 1311 are unable to do so. The Legislature intends by this subsection
 1312 that property insurance be provided and that it continues, as
 1313 long as necessary, through an entity organized to achieve
 1314 efficiencies and economies, while providing service to
 1315 policyholders, applicants, and agents that is no less than the
 1316 quality generally provided in the voluntary market, all toward
 1317 the achievement of the foregoing public purposes. Because it is
 1318 essential for the corporation to have the maximum financial
 1319 resources to pay claims following a catastrophic hurricane, it
 1320 is the intent of the Legislature that the income of the
 1321 corporation be exempt from federal income taxation and that
 1322 interest on the debt obligations issued by the corporation be
 1323 exempt from federal income taxation.

1324 b. The Legislature finds and declares that:

1325 (I) The commitment of the state, as expressed in sub-
 1326 subparagraph a., to providing a means of ensuring the
 1327 availability of property insurance through a residual market
 1328 mechanism is hereby reaffirmed.

HB 7225 CS

2006
CS

1329 (II) Despite legislative efforts to ensure that the
 1330 residual market for property insurance is self-supporting to the
 1331 greatest reasonable extent, residual market policyholders are to
 1332 some degree subsidized by the general public through assessments
 1333 on owners of property insured in the voluntary market and their
 1334 insurers and through the potential use of general revenues of
 1335 the state to eliminate or reduce residual market deficits.

1336 (III) The degree of such subsidy is a matter of public
 1337 policy. It is the intent of the Legislature to better control
 1338 the subsidy through at least the following means:

1339 (A) Restructuring the residual market mechanism to provide
 1340 separate treatment of homestead and nonhomestead properties,
 1341 with the intent of continuing to provide an insurance program
 1342 with limited subsidies for homestead properties while providing
 1343 a nonsubsidized insurance program for nonhomestead properties.

1344 (B) Redefining the concept of rate adequacy in the
 1345 subsidized residual market with the intent of ensuring a rate
 1346 structure that will enable the subsidized residual market to be
 1347 self-supporting except in the event of hurricane losses of a
 1348 legislatively specified magnitude. It is the intent of the
 1349 Legislature that the funding of the subsidized residual market
 1350 be structured to be self-supporting up to the point of its 100-
 1351 year probable maximum loss and that the funding be structured to
 1352 make reliance on assessments or other sources of public funding
 1353 necessary only in the event of a 100-year probable maximum loss
 1354 or larger loss.

1355 2. The Residential Property and Casualty Joint
 1356 Underwriting Association originally created by this statute

HB 7225 CS

2006
CS

1357 shall be known, as of July 1, 2002, as the Citizens Property
1358 Insurance Corporation. The corporation shall provide insurance
1359 for homesteaded residential property and may provide insurance
1360 for residential and commercial property, for applicants who are
1361 in good faith entitled, but are unable, to procure insurance
1362 through the voluntary market. The corporation shall operate
1363 pursuant to a plan of operation approved by order of the office.
1364 The plan is subject to continuous review by the office. The
1365 office may, by order, withdraw approval of all or part of a plan
1366 if the office determines that conditions have changed since
1367 approval was granted and that the purposes of the plan require
1368 changes in the plan. For the purposes of this subsection,
1369 residential coverage includes both personal lines residential
1370 coverage, which consists of the type of coverage provided by
1371 homeowner's, mobile home owner's, dwelling, tenant's,
1372 condominium unit owner's, and similar policies, and commercial
1373 lines residential coverage, which consists of the type of
1374 coverage provided by condominium association, apartment
1375 building, and similar policies.

1376 3. It is the intent of the Legislature that policyholders,
1377 applicants, and agents of the corporation receive service and
1378 treatment of the highest possible level but never less than that
1379 generally provided in the voluntary market. It also is intended
1380 that the corporation be held to service standards no less than
1381 those applied to insurers in the voluntary market by the office
1382 with respect to responsiveness, timeliness, customer courtesy,
1383 and overall dealings with policyholders, applicants, or agents
1384 of the corporation.

HB 7225 CS

2006
CS

1385 (b)1. All insurers authorized to write one or more subject
1386 lines of business in this state are subject to assessment by the
1387 corporation and, for the purposes of this subsection, are
1388 referred to collectively as "assessable insurers." Insurers
1389 writing one or more subject lines of business in this state
1390 pursuant to part VIII of chapter 626 are not assessable
1391 insurers, but insureds who procure one or more subject lines of
1392 business in this state pursuant to part VIII of chapter 626 are
1393 subject to assessment by the corporation and are referred to
1394 collectively as "assessable insureds." An authorized insurer's
1395 assessment liability shall begin on the first day of the
1396 calendar year following the year in which the insurer was issued
1397 a certificate of authority to transact insurance for subject
1398 lines of business in this state and shall terminate 1 year after
1399 the end of the first calendar year during which the insurer no
1400 longer holds a certificate of authority to transact insurance
1401 for subject lines of business in this state.

1402 2.a. All revenues, assets, liabilities, losses, and
1403 expenses of the corporation shall be divided into four ~~three~~
1404 separate accounts as follows:

1405 (I) Three separate homestead accounts that may provide
1406 coverage only for homestead properties. The term "homestead
1407 property" means a residential property that has been granted a
1408 homestead exemption under chapter 196. The term also includes a
1409 property that is qualified for such exemption but has not
1410 applied for the exemption as of the date of issuance of the
1411 policy, provided the policyholder obtains the exemption within 1
1412 year after initial issuance of the policy. The term also

Page 51 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

1413 includes an owner-occupied mobile or manufactured home as
1414 defined in s. 320.01 permanently affixed to real property
1415 regardless of whether the owner of the mobile or manufactured
1416 home is also the owner of the land on which the mobile or
1417 manufactured home is permanently affixed. However, the term does
1418 not include a mobile home that is being held for display by a
1419 licensed mobile home dealer or a licensed mobile home
1420 manufacturer and is not owner-occupied. For the purposes of this
1421 sub-sub-subparagraph, the term "homestead property" also
1422 includes property covered by tenant's insurance; commercial
1423 lines residential policies; any hospital licensed under chapter
1424 395; and continuing care retirement communities certified under
1425 chapter 651. The accounts providing coverage only for homestead
1426 properties are:

1427 (A)~~(I)~~ A personal lines account for personal residential
1428 policies issued by the corporation or issued by the Residential
1429 Property and Casualty Joint Underwriting Association and renewed
1430 by the corporation that provide comprehensive, multiperil
1431 coverage on risks that are not located in areas eligible for
1432 coverage in the Florida Windstorm Underwriting Association as
1433 those areas were defined on January 1, 2002, and for such
1434 policies that do not provide coverage for the peril of wind on
1435 risks that are located in such areas;

1436 (B)~~(II)~~ A commercial lines account for commercial
1437 residential policies issued by the corporation or issued by the
1438 Residential Property and Casualty Joint Underwriting Association
1439 and renewed by the corporation that provide coverage for basic
1440 property perils on risks that are not located in areas eligible

HB 7225 CS

2006
CS

1441 | for coverage in the Florida Windstorm Underwriting Association
 1442 | as those areas were defined on January 1, 2002, and for such
 1443 | policies that do not provide coverage for the peril of wind on
 1444 | risks that are located in such areas; and

1445 | (C)~~(H)~~ A high-risk account for personal residential
 1446 | policies and commercial residential ~~and commercial~~
 1447 | ~~nonresidential~~ property policies issued by the corporation or
 1448 | transferred to the corporation that provide coverage for the
 1449 | peril of wind on risks that are located in areas eligible for
 1450 | coverage in the Florida Windstorm Underwriting Association as
 1451 | those areas were defined on January 1, 2002. The high-risk
 1452 | account must also include quota share primary insurance under
 1453 | subparagraph (c)2. The area eligible for coverage under the
 1454 | high-risk account also includes the area within Port Canaveral,
 1455 | which is bordered on the south by the City of Cape Canaveral,
 1456 | bordered on the west by the Banana River, and bordered on the
 1457 | north by Federal Government property. The office may remove
 1458 | territory from the area eligible for wind-only and quota share
 1459 | coverage if, after a public hearing, the office finds that
 1460 | authorized insurers in the voluntary market are willing and able
 1461 | to write sufficient amounts of personal and commercial
 1462 | residential coverage for all perils in the territory, including
 1463 | coverage for the peril of wind, such that risks covered by wind-
 1464 | only policies in the removed territory could be issued a policy
 1465 | by the corporation in either the personal lines or commercial
 1466 | lines account without a significant increase in the
 1467 | corporation's probable maximum loss in such account. Removal of
 1468 | territory from the area eligible for wind-only or quota share

HB 7225 CS

2006
CS

1469 coverage does not alter the assignment of wind coverage written
1470 in such areas to the high-risk account.

1471 (II) (A) A separate nonhomestead account for commercial
1472 nonresidential property policies and for all properties that
1473 otherwise meet all of the criteria for eligibility for coverage
1474 within one of the three homestead accounts described in sub-sub-
1475 subparagraph (I) but that do not meet the definition of
1476 homestead property specified in sub-sub-subparagraph (I). The
1477 nonhomestead account shall provide the same types of coverage as
1478 are provided by the three homestead accounts, including wind-
1479 only coverage in the high-risk account area. In order to be
1480 eligible for coverage in the nonhomestead account, at the
1481 initial issuance of the policy and at renewal the property owner
1482 shall provide the corporation with a sworn affidavit stating
1483 that the property has been rejected for coverage by at least
1484 three authorized insurers and at least three surplus lines
1485 insurers.

1486 (B) An authorized insurer or approved insurer as defined
1487 in s. 626.914(2) may provide coverage to a nonhomestead property
1488 owner on an individual risk rate basis. Rates and forms of an
1489 authorized insurer for nonhomestead properties are not subject
1490 to ss. 627.062 and 627.0629, except s. 627.0629(2)(b). Such
1491 rates and forms are subject to all other applicable provisions
1492 of this code and rules adopted under this code. During the
1493 course of an insurer's market conduct examination, the office
1494 may review the rate for any nonhomestead property to determine
1495 if such rate is inadequate or unfairly discriminatory. Rates on
1496 nonhomestead property may be found inadequate by the office if

Page 54 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

1497 they are clearly insufficient, together with the investment
1498 income attributable to the insurer, to sustain projected losses
1499 and expenses in the class of business to which such rates apply.
1500 Rates on nonhomestead property may also be found inadequate as
1501 to the premium charged to a risk or group of risks if discounts
1502 or credits are allowed that exceed a reasonable reflection of
1503 expense savings and reasonably expected loss experience from the
1504 risk or group of risks. Rates on nonhomestead property may be
1505 found to be unfairly discriminatory as to a risk or group of
1506 risks by the office if the application of premium discounts,
1507 credits, or surcharges among such risks does not bear a
1508 reasonable relationship to the expected loss and expense
1509 experience among the various risks. A rating plan, including
1510 discounts, credits, or surcharges on nonhomestead property, may
1511 also be found to be unfairly discriminatory if the plan fails to
1512 clearly and equitably reflect consideration of the
1513 policyholder's participation in a risk management program
1514 adjusted pursuant to s. 627.0625. The office may order an
1515 insurer to discontinue using a rate for new policies or upon
1516 renewal of a policy if the office finds the rate to be
1517 inadequate or unfairly discriminatory. Insurers shall maintain
1518 records and documentation relating to rates and forms subject to
1519 this sub-sub-sub-subparagraph for a period of at least 5 years
1520 after the effective date of the policy.

1521 b. The three separate homestead accounts must be
1522 maintained as long as financing obligations entered into by the
1523 Florida Windstorm Underwriting Association or Residential
1524 Property and Casualty Joint Underwriting Association are

1525 | outstanding, in accordance with the terms of the corresponding
 1526 | financing documents. When the financing obligations are no
 1527 | longer outstanding, in accordance with the terms of the
 1528 | corresponding financing documents, the corporation may use a
 1529 | single homestead account for all revenues, assets, liabilities,
 1530 | losses, and expenses of the corporation. All revenues, assets,
 1531 | liabilities, losses, and expenses attributable to the
 1532 | nonhomestead account shall be maintained separately.

1533 | c. Creditors of the Residential Property and Casualty
 1534 | Joint Underwriting Association shall have a claim against, and
 1535 | recourse to, the accounts referred to in sub-sub-sub-
 1536 | subparagraphs ~~sub-sub-subparagraphs~~ a.(I) (A) and (B) ~~(II)~~ and
 1537 | shall have no claim against, or recourse to, the account
 1538 | referred to in sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~
 1539 | a. (I) (C) ~~(III)~~. Creditors of the Florida Windstorm Underwriting
 1540 | Association shall have a claim against, and recourse to, the
 1541 | account referred to in sub-sub-sub-subparagraph ~~sub-sub-~~
 1542 | ~~subparagraph~~ a. (I) (C) ~~(III)~~ and shall have no claim against, or
 1543 | recourse to, the accounts referred to in sub-sub-sub-
 1544 | subparagraphs ~~sub-sub-subparagraphs~~ a.(I) (A) and (B) ~~(II)~~.

1545 | d. Revenues, assets, liabilities, losses, and expenses not
 1546 | attributable to particular accounts shall be prorated among the
 1547 | accounts.

1548 | e. The Legislature finds that the revenues of the
 1549 | corporation are revenues that are necessary to meet the
 1550 | requirements set forth in documents authorizing the issuance of
 1551 | bonds under this subsection.

HB 7225 CS

2006
CS

1552 f. No part of the income of the corporation may inure to
1553 the benefit of any private person.

1554 3. With respect to a deficit in any of the homestead
1555 accounts ~~an account~~:

1556 a. When the deficit incurred in a particular calendar year
1557 is not greater than 10 percent of the aggregate statewide direct
1558 written premium for the subject lines of business for the prior
1559 calendar year, the entire deficit shall be recovered through
1560 regular assessments of assessable insurers under paragraph (g)
1561 and assessable insureds.

1562 b. When the deficit incurred in a particular calendar year
1563 exceeds 10 percent of the aggregate statewide direct written
1564 premium for the subject lines of business for the prior calendar
1565 year, the corporation shall levy regular assessments on
1566 assessable insurers under paragraph (g) and on assessable
1567 insureds in an amount equal to the greater of 10 percent of the
1568 deficit or 10 percent of the aggregate statewide direct written
1569 premium for the subject lines of business for the prior calendar
1570 year. Any remaining deficit shall be recovered through emergency
1571 assessments under sub-subparagraph d.

1572 c. Each assessable insurer's share of the amount being
1573 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1574 be in the proportion that the assessable insurer's direct
1575 written premium for the subject lines of business for the year
1576 preceding the year in which the deficit is incurred ~~assessment~~
1577 bears to the aggregate statewide direct written premium for the
1578 subject lines of business for that year. The assessment
1579 percentage applicable to each assessable insured is the ratio of

HB 7225 CS

2006
CS

1580 the amount being assessed under sub-subparagraph a. or sub-
1581 subparagraph b. to the aggregate statewide direct written
1582 premium for the subject lines of business for the prior year.
1583 Assessments levied by the corporation on assessable insurers
1584 under sub-subparagraphs a. and b. shall be paid as required by
1585 the corporation's plan of operation and paragraph (g). Any
1586 assessment levied by the corporation on limited apportionment
1587 companies may be paid to the corporation by such companies over
1588 a time period not to exceed 12 months. Notwithstanding any other
1589 provision in this subsection, the aggregate amount of a regular
1590 assessment levied in connection with a deficit incurred in a
1591 particular calendar year shall be reduced by the aggregate
1592 amount of the Citizens Property Insurance Corporation
1593 policyholder surcharge imposed under subparagraph (c)10.
1594 Assessments levied by the corporation on assessable insureds
1595 under sub-subparagraphs a. and b. shall be collected by the
1596 surplus lines agent at the time the surplus lines agent collects
1597 the surplus lines tax required by s. 626.932 and shall be paid
1598 to the Florida Surplus Lines Service Office at the time the
1599 surplus lines agent pays the surplus lines tax to the Florida
1600 Surplus Lines Service Office. Upon receipt of regular
1601 assessments from surplus lines agents, the Florida Surplus Lines
1602 Service Office shall transfer the assessments directly to the
1603 corporation as determined by the corporation.

1604 d. Upon a determination by the board of governors that a
1605 deficit in an account exceeds the amount that will be recovered
1606 through regular assessments under sub-subparagraph a. or sub-
1607 subparagraph b., the board shall levy, after verification by the

Page 58 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

1608 | office, emergency assessments, for as many years as necessary to
 1609 | cover the deficits, to be collected by assessable insurers and
 1610 | the corporation and collected from assessable insureds upon
 1611 | issuance or renewal of policies for subject lines of business,
 1612 | excluding National Flood Insurance policies. The amount of the
 1613 | emergency assessment collected in a particular year shall be a
 1614 | uniform percentage of that year's direct written premium for
 1615 | subject lines of business and all accounts of the corporation,
 1616 | excluding National Flood Insurance Program policy premiums, as
 1617 | annually determined by the board and verified by the office. The
 1618 | office shall verify the arithmetic calculations involved in the
 1619 | board's determination within 30 days after receipt of the
 1620 | information on which the determination was based.
 1621 | Notwithstanding any other provision of law, the corporation and
 1622 | each assessable insurer that writes subject lines of business
 1623 | shall collect emergency assessments from its policyholders
 1624 | without such obligation being affected by any credit,
 1625 | limitation, exemption, or deferment. Emergency assessments
 1626 | levied by the corporation on assessable insureds shall be
 1627 | collected by the surplus lines agent at the time the surplus
 1628 | lines agent collects the surplus lines tax required by s.
 1629 | 626.932 and shall be paid to the Florida Surplus Lines Service
 1630 | Office at the time the surplus lines agent pays the surplus
 1631 | lines tax to the Florida Surplus Lines Service Office. The
 1632 | emergency assessments so collected shall be transferred directly
 1633 | to the corporation on a periodic basis as determined by the
 1634 | corporation and shall be held by the corporation solely in the
 1635 | applicable account. The aggregate amount of emergency

HB 7225 CS

2006
CS

1636 assessments levied for an account under this sub-subparagraph in
 1637 any calendar year may not exceed the greater of 10 percent of
 1638 the amount needed to cover the original deficit, plus interest,
 1639 fees, commissions, required reserves, and other costs associated
 1640 with financing of the original deficit, or 10 percent of the
 1641 aggregate statewide direct written premium for subject lines of
 1642 business and for all accounts of the corporation for the prior
 1643 year, plus interest, fees, commissions, required reserves, and
 1644 other costs associated with financing the original deficit.

1645 e. The corporation may pledge the proceeds of assessments,
 1646 projected recoveries from the Florida Hurricane Catastrophe
 1647 Fund, other insurance and reinsurance recoverables, Citizens
 1648 policyholder ~~market equalization~~ surcharges and other
 1649 surcharges, and other funds available to the corporation as the
 1650 source of revenue for and to secure bonds issued under paragraph
 1651 (g), bonds or other indebtedness issued under subparagraph
 1652 (c)3., or lines of credit or other financing mechanisms issued
 1653 or created under this subsection, or to retire any other debt
 1654 incurred as a result of deficits or events giving rise to
 1655 deficits, or in any other way that the board determines will
 1656 efficiently recover such deficits. The purpose of the lines of
 1657 credit or other financing mechanisms is to provide additional
 1658 resources to assist the corporation in covering claims and
 1659 expenses attributable to a catastrophe. As used in this
 1660 subsection, the term "assessments" includes regular assessments
 1661 under sub-subparagraph a., sub-subparagraph b., or subparagraph
 1662 (g)1. and emergency assessments under sub-subparagraph d.
 1663 Emergency assessments collected under sub-subparagraph d. are

HB 7225 CS

2006
CS

1664 not part of an insurer's rates, are not premium, and are not
1665 subject to premium tax, fees, or commissions; however, failure
1666 to pay the emergency assessment shall be treated as failure to
1667 pay premium. The emergency assessments under sub-subparagraph d.
1668 shall continue as long as any bonds issued or other indebtedness
1669 incurred with respect to a deficit for which the assessment was
1670 imposed remain outstanding, unless adequate provision has been
1671 made for the payment of such bonds or other indebtedness
1672 pursuant to the documents governing such bonds or other
1673 indebtedness.

1674 f. As used in this subsection, the term "subject lines of
1675 business" means insurance written by assessable insurers or
1676 procured by assessable insureds on real or personal property, as
1677 defined in s. 624.604, including insurance for fire, industrial
1678 fire, allied lines, farmowners multiperil, homeowners
1679 multiperil, commercial multiperil, and mobile homes, and
1680 including liability coverage on all such insurance, but
1681 excluding inland marine as defined in s. 624.607(3) and
1682 excluding vehicle insurance as defined in s. 624.605(1) other
1683 than insurance on mobile homes used as permanent dwellings.

1684 g. The Florida Surplus Lines Service Office shall
1685 determine annually the aggregate statewide written premium in
1686 subject lines of business procured by assessable insureds and
1687 shall report that information to the corporation in a form and
1688 at a time the corporation specifies to ensure that the
1689 corporation can meet the requirements of this subsection and the
1690 corporation's financing obligations.

HB 7225 CS

2006
CS

1691 h. The Florida Surplus Lines Service Office shall verify
1692 the proper application by surplus lines agents of assessment
1693 percentages for regular assessments and emergency assessments
1694 levied under this subparagraph on assessable insureds and shall
1695 assist the corporation in ensuring the accurate, timely
1696 collection and payment of assessments by surplus lines agents as
1697 required by the corporation.

1698 4. With respect to a deficit in the nonhomestead account
1699 or to any cash flow shortfall that the board determines will
1700 create an inability for the nonhomestead account to pay claims
1701 when due:

1702 a. The board shall levy an immediate assessment against
1703 the premium of each nonhomestead account policyholder, expressed
1704 as a uniform percentage of the premium for the policy then in
1705 effect. The maximum amount of such assessment is 100 percent of
1706 such premium.

1707 b. If the assessment under sub-subparagraph a. is
1708 insufficient to enable the account to pay claims and eliminate
1709 the deficit in the account, the board may levy an additional
1710 assessment to be collected at the time of any issuance or
1711 renewal of a nonhomestead account policy during the 1-year
1712 period following the levy of the assessment under sub-
1713 subparagraph a., expressed as a uniform percentage of the
1714 premium for the policy for the forthcoming policy period. The
1715 maximum amount of such assessment is 100 percent of such
1716 premium.

1717 c. If the assessments under sub-subparagraphs a. and b.
1718 are insufficient to enable the account to pay claims and

HB 7225 CS

2006
CS

1719 eliminate the deficit in the account, the board may make a loan
 1720 from any of the homestead accounts to the nonhomestead account,
 1721 subject to approval by the office and provided that such loan
 1722 does not impair the financial status of any of the homestead
 1723 accounts.

1724 5. A policyholder in a nonhomestead account who has not
 1725 paid a deficit assessment levied by the corporation shall be
 1726 ineligible for coverage by a surplus lines insurer or authorized
 1727 insurer.

1728 (c) The plan of operation of the corporation:

1729 1. Must provide for adoption of residential property and
 1730 casualty insurance policy forms and commercial residential and
 1731 nonresidential property insurance forms, which forms must be
 1732 approved by the office prior to use. The corporation shall adopt
 1733 the following policy forms:

1734 a. Standard personal lines policy forms that are
 1735 comprehensive multiperil policies providing full coverage of a
 1736 residential property equivalent to the coverage provided in the
 1737 private insurance market under an HO-3, HO-4, or HO-6 policy.

1738 b. Basic personal lines policy forms that are policies
 1739 similar to an HO-8 policy or a dwelling fire policy that provide
 1740 coverage meeting the requirements of the secondary mortgage
 1741 market, but which coverage is more limited than the coverage
 1742 under a standard policy.

1743 c. Commercial lines residential policy forms that are
 1744 generally similar to the basic perils of full coverage
 1745 obtainable for commercial residential structures in the admitted
 1746 voluntary market.

HB 7225 CS

2006
CS

1747 d. Personal lines and commercial lines residential
1748 property insurance forms that cover the peril of wind only. The
1749 forms are applicable only to residential properties located in
1750 areas eligible for coverage under the high-risk account referred
1751 to in sub-subparagraph (b)2.a.

1752 e. Commercial lines nonresidential property insurance
1753 forms that cover the peril of wind only. The forms are
1754 applicable only to nonresidential properties located in areas
1755 eligible for coverage under the high-risk account referred to in
1756 sub-subparagraph (b)2.a.

1757 f. The corporation may adopt variations of the policy
1758 forms listed in sub-subparagraphs a.-e. that contain more
1759 restrictive coverage.

1760 2.a. Must provide that the corporation adopt a program in
1761 which the corporation and authorized insurers enter into quota
1762 share primary insurance agreements for hurricane coverage, as
1763 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1764 property insurance forms for eligible risks which cover the
1765 peril of wind only. As used in this subsection, the term:

1766 (I) "Quota share primary insurance" means an arrangement
1767 in which the primary hurricane coverage of an eligible risk is
1768 provided in specified percentages by the corporation and an
1769 authorized insurer. The corporation and authorized insurer are
1770 each solely responsible for a specified percentage of hurricane
1771 coverage of an eligible risk as set forth in a quota share
1772 primary insurance agreement between the corporation and an
1773 authorized insurer and the insurance contract. The
1774 responsibility of the corporation or authorized insurer to pay

HB 7225 CS

2006
CS

1775 its specified percentage of hurricane losses of an eligible
1776 risk, as set forth in the quota share primary insurance
1777 agreement, may not be altered by the inability of the other
1778 party to the agreement to pay its specified percentage of
1779 hurricane losses. Eligible risks that are provided hurricane
1780 coverage through a quota share primary insurance arrangement
1781 must be provided policy forms that set forth the obligations of
1782 the corporation and authorized insurer under the arrangement,
1783 clearly specify the percentages of quota share primary insurance
1784 provided by the corporation and authorized insurer, and
1785 conspicuously and clearly state that neither the authorized
1786 insurer nor the corporation may be held responsible beyond its
1787 specified percentage of coverage of hurricane losses.

1788 (II) "Eligible risks" means personal lines residential and
1789 commercial lines residential risks that meet the underwriting
1790 criteria of the corporation and are located in areas that were
1791 eligible for coverage by the Florida Windstorm Underwriting
1792 Association on January 1, 2002.

1793 b. The corporation may enter into quota share primary
1794 insurance agreements with authorized insurers at corporation
1795 coverage levels of 90 percent and 50 percent.

1796 c. If the corporation determines that additional coverage
1797 levels are necessary to maximize participation in quota share
1798 primary insurance agreements by authorized insurers, the
1799 corporation may establish additional coverage levels. However,
1800 the corporation's quota share primary insurance coverage level
1801 may not exceed 90 percent.

HB 7225 CS

2006
CS

1802 d. Any quota share primary insurance agreement entered
1803 into between an authorized insurer and the corporation must
1804 provide for a uniform specified percentage of coverage of
1805 hurricane losses, by county or territory as set forth by the
1806 corporation board, for all eligible risks of the authorized
1807 insurer covered under the quota share primary insurance
1808 agreement.

1809 e. Any quota share primary insurance agreement entered
1810 into between an authorized insurer and the corporation is
1811 subject to review and approval by the office. However, such
1812 agreement shall be authorized only as to insurance contracts
1813 entered into between an authorized insurer and an insured who is
1814 already insured by the corporation for wind coverage.

1815 f. For all eligible risks covered under quota share
1816 primary insurance agreements, the exposure and coverage levels
1817 for both the corporation and authorized insurers shall be
1818 reported by the corporation to the Florida Hurricane Catastrophe
1819 Fund. For all policies of eligible risks covered under quota
1820 share primary insurance agreements, the corporation and the
1821 authorized insurer shall maintain complete and accurate records
1822 for the purpose of exposure and loss reimbursement audits as
1823 required by Florida Hurricane Catastrophe Fund rules. The
1824 corporation and the authorized insurer shall each maintain
1825 duplicate copies of policy declaration pages and supporting
1826 claims documents.

1827 g. The corporation board shall establish in its plan of
1828 operation standards for quota share agreements which ensure that
1829 there is no discriminatory application among insurers as to the

HB 7225 CS

2006
CS

1830 terms of quota share agreements, pricing of quota share
1831 agreements, incentive provisions if any, and consideration paid
1832 for servicing policies or adjusting claims.

1833 h. The quota share primary insurance agreement between the
1834 corporation and an authorized insurer must set forth the
1835 specific terms under which coverage is provided, including, but
1836 not limited to, the sale and servicing of policies issued under
1837 the agreement by the insurance agent of the authorized insurer
1838 producing the business, the reporting of information concerning
1839 eligible risks, the payment of premium to the corporation, and
1840 arrangements for the adjustment and payment of hurricane claims
1841 incurred on eligible risks by the claims adjuster and personnel
1842 of the authorized insurer. Entering into a quota sharing
1843 insurance agreement between the corporation and an authorized
1844 insurer shall be voluntary and at the discretion of the
1845 authorized insurer.

1846 3. May provide that the corporation may employ or
1847 otherwise contract with individuals or other entities to provide
1848 administrative or professional services that may be appropriate
1849 to effectuate the plan. The corporation shall have the power to
1850 borrow funds, by issuing bonds or by incurring other
1851 indebtedness, and shall have other powers reasonably necessary
1852 to effectuate the requirements of this subsection, including,
1853 without limitation, the power to issue bonds and incur other
1854 indebtedness in order to refinance outstanding bonds or other
1855 indebtedness. The corporation may, but is not required to, seek
1856 judicial validation of its bonds or other indebtedness under
1857 chapter 75. The corporation may issue bonds or incur other

HB 7225 CS

2006
CS

1858 indebtedness, or have bonds issued on its behalf by a unit of
 1859 local government pursuant to subparagraph (g)2., in the absence
 1860 of a hurricane or other weather-related event, upon a
 1861 determination by the corporation, subject to approval by the
 1862 office, that such action would enable it to efficiently meet the
 1863 financial obligations of the corporation and that such
 1864 financings are reasonably necessary to effectuate the
 1865 requirements of this subsection. The corporation is authorized
 1866 to take all actions needed to facilitate tax-free status for any
 1867 such bonds or indebtedness, including formation of trusts or
 1868 other affiliated entities. The corporation shall have the
 1869 authority to pledge assessments, projected recoveries from the
 1870 Florida Hurricane Catastrophe Fund, other reinsurance
 1871 recoverables, market equalization and other surcharges, and
 1872 other funds available to the corporation as security for bonds
 1873 or other indebtedness. In recognition of s. 10, Art. I of the
 1874 State Constitution, prohibiting the impairment of obligations of
 1875 contracts, it is the intent of the Legislature that no action be
 1876 taken whose purpose is to impair any bond indenture or financing
 1877 agreement or any revenue source committed by contract to such
 1878 bond or other indebtedness.

1879 4.a. Must require that the corporation operate subject to
 1880 the supervision and approval of a board of governors consisting
 1881 of 8 individuals who are residents of this state, from different
 1882 geographical areas of this state. The Governor, the Chief
 1883 Financial Officer, the President of the Senate, and the Speaker
 1884 of the House of Representatives shall each appoint two members
 1885 of the board, effective August 1, 2005. At least one of the two

HB 7225 CS

2006
CS

1886 members appointed by each appointing officer must have
1887 demonstrated expertise in insurance. The Chief Financial Officer
1888 shall designate one of the appointees as chair. All board
1889 members serve at the pleasure of the appointing officer. All
1890 board members, including the chair, must be appointed to serve
1891 for 3-year terms beginning annually on a date designated by the
1892 plan. Any board vacancy shall be filled for the unexpired term
1893 by the appointing officer. The Chief Financial Officer shall
1894 appoint a technical advisory group to provide information and
1895 advice to the board of governors in connection with the board's
1896 duties under this subsection. The executive director and senior
1897 managers of the corporation shall be engaged by the board, as
1898 recommended by the Chief Financial Officer, and serve at the
1899 pleasure of the board. The executive director is responsible for
1900 employing other staff as the corporation may require, subject to
1901 review and concurrence by the board and the Chief Financial
1902 Officer.

1903 b. The board shall create a Market Accountability Advisory
1904 Committee to assist the corporation in developing awareness of
1905 its rates and its customer and agent service levels in
1906 relationship to the voluntary market insurers writing similar
1907 coverage. The members of the advisory committee shall consist of
1908 the following 11 persons, one of whom must be elected chair by
1909 the members of the committee: four representatives, one
1910 appointed by the Florida Association of Insurance Agents, one by
1911 the Florida Association of Insurance and Financial Advisors, one
1912 by the Professional Insurance Agents of Florida, and one by the
1913 Latin American Association of Insurance Agencies; three

Page 69 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

1914 representatives appointed by the insurers with the three highest
 1915 voluntary market share of residential property insurance
 1916 business in the state; one representative from the Office of
 1917 Insurance Regulation; one consumer appointed by the board who is
 1918 insured by the corporation at the time of appointment to the
 1919 committee; one representative appointed by the Florida
 1920 Association of Realtors; and one representative appointed by the
 1921 Florida Bankers Association. All members must serve for 3-year
 1922 terms and may serve for consecutive terms. The committee shall
 1923 report to the corporation at each board meeting on insurance
 1924 market issues which may include rates and rate competition with
 1925 the voluntary market; service, including policy issuance, claims
 1926 processing, and general responsiveness to policyholders,
 1927 applicants, and agents; and matters relating to depopulation.

1928 5. Must provide a procedure for determining the
 1929 eligibility of a risk for coverage, as follows:

1930 a. Subject to the provisions of s. 627.3517, with respect
 1931 to personal lines residential risks, if the risk is offered
 1932 coverage from an authorized insurer at the insurer's approved
 1933 rate under either a standard policy including wind coverage or,
 1934 if consistent with the insurer's underwriting rules as filed
 1935 with the office, a basic policy including wind coverage, the
 1936 risk is not eligible for any policy issued by the corporation.
 1937 If the risk is not able to obtain any such offer, the risk is
 1938 eligible for either a standard policy including wind coverage or
 1939 a basic policy including wind coverage issued by the
 1940 corporation; however, if the risk could not be insured under a
 1941 standard policy including wind coverage regardless of market

HB 7225 CS

2006
CS

1942 | conditions, the risk shall be eligible for a basic policy
 1943 | including wind coverage unless rejected under subparagraph 8.
 1944 | The corporation shall determine the type of policy to be
 1945 | provided on the basis of objective standards specified in the
 1946 | underwriting manual and based on generally accepted underwriting
 1947 | practices.

1948 | (I) If the risk accepts an offer of coverage through the
 1949 | market assistance plan or an offer of coverage through a
 1950 | mechanism established by the corporation before a policy is
 1951 | issued to the risk by the corporation or during the first 30
 1952 | days of coverage by the corporation, and the producing agent who
 1953 | submitted the application to the plan or to the corporation is
 1954 | not currently appointed by the insurer, the insurer shall:

1955 | (A) Pay to the producing agent of record of the policy,
 1956 | for the first year, an amount that is the greater of the
 1957 | insurer's usual and customary commission for the type of policy
 1958 | written or a fee equal to the usual and customary commission of
 1959 | the corporation; or

1960 | (B) Offer to allow the producing agent of record of the
 1961 | policy to continue servicing the policy for a period of not less
 1962 | than 1 year and offer to pay the agent the greater of the
 1963 | insurer's or the corporation's usual and customary commission
 1964 | for the type of policy written.

1965 |
 1966 | If the producing agent is unwilling or unable to accept
 1967 | appointment, the new insurer shall pay the agent in accordance
 1968 | with sub-sub-sub-subparagraph (A).

HB 7225 CS

2006
CS

1969 (II) When the corporation enters into a contractual
 1970 agreement for a take-out plan, the producing agent of record of
 1971 the corporation policy is entitled to retain any unearned
 1972 commission on the policy, and the insurer shall:

1973 (A) Pay to the producing agent of record of the
 1974 corporation policy, for the first year, an amount that is the
 1975 greater of the insurer's usual and customary commission for the
 1976 type of policy written or a fee equal to the usual and customary
 1977 commission of the corporation; or

1978 (B) Offer to allow the producing agent of record of the
 1979 corporation policy to continue servicing the policy for a period
 1980 of not less than 1 year and offer to pay the agent the greater
 1981 of the insurer's or the corporation's usual and customary
 1982 commission for the type of policy written.

1983
 1984 If the producing agent is unwilling or unable to accept
 1985 appointment, the new insurer shall pay the agent in accordance
 1986 with sub-sub-sub-subparagraph (A).

1987 b. With respect to commercial lines residential risks, if
 1988 the risk is offered coverage under a policy including wind
 1989 coverage from an authorized insurer at its approved rate, the
 1990 risk is not eligible for any policy issued by the corporation.
 1991 If the risk is not able to obtain any such offer, the risk is
 1992 eligible for a policy including wind coverage issued by the
 1993 corporation.

1994 (I) If the risk accepts an offer of coverage through the
 1995 market assistance plan or an offer of coverage through a
 1996 mechanism established by the corporation before a policy is

HB 7225 CS

2006
CS

1997 | issued to the risk by the corporation or during the first 30
1998 | days of coverage by the corporation, and the producing agent who
1999 | submitted the application to the plan or the corporation is not
2000 | currently appointed by the insurer, the insurer shall:

2001 | (A) Pay to the producing agent of record of the policy,
2002 | for the first year, an amount that is the greater of the
2003 | insurer's usual and customary commission for the type of policy
2004 | written or a fee equal to the usual and customary commission of
2005 | the corporation; or

2006 | (B) Offer to allow the producing agent of record of the
2007 | policy to continue servicing the policy for a period of not less
2008 | than 1 year and offer to pay the agent the greater of the
2009 | insurer's or the corporation's usual and customary commission
2010 | for the type of policy written.

2011 |
2012 | If the producing agent is unwilling or unable to accept
2013 | appointment, the new insurer shall pay the agent in accordance
2014 | with sub-sub-sub-subparagraph (A).

2015 | (II) When the corporation enters into a contractual
2016 | agreement for a take-out plan, the producing agent of record of
2017 | the corporation policy is entitled to retain any unearned
2018 | commission on the policy, and the insurer shall:

2019 | (A) Pay to the producing agent of record of the
2020 | corporation policy, for the first year, an amount that is the
2021 | greater of the insurer's usual and customary commission for the
2022 | type of policy written or a fee equal to the usual and customary
2023 | commission of the corporation; or

HB 7225 CS

2006
CS

2024 (B) Offer to allow the producing agent of record of the
 2025 corporation policy to continue servicing the policy for a period
 2026 of not less than 1 year and offer to pay the agent the greater
 2027 of the insurer's or the corporation's usual and customary
 2028 commission for the type of policy written.

2029
 2030 If the producing agent is unwilling or unable to accept
 2031 appointment, the new insurer shall pay the agent in accordance
 2032 with sub-sub-sub-subparagraph (A).

2033 c. To preserve existing incentives for carriers to write
 2034 dwellings in the voluntary market and not in the corporation,
 2035 the corporation shall continue to offer authorized insurers,
 2036 including insurers writing dwellings valued at \$1 million or
 2037 more, the same voluntary writing credits that were available on
 2038 January 1, 2006, to carriers writing wind coverage for dwellings
 2039 in the areas eligible for coverage in the high-risk account.

2040 d. With respect to personal lines residential risks, if
 2041 the risk is a dwelling with an insured value of \$1 million or
 2042 more, or if the risk is one that is excluded from the coverage
 2043 to be provided by the condominium association under s.
 2044 718.111(11)(b) and that is insured by the condominium unit owner
 2045 for a combined dwelling and contents replacement cost of \$1
 2046 million or more, the risk is not eligible for any policy issued
 2047 by the corporation. Rates and forms for personal lines
 2048 residential risks not eligible for coverage by the corporation
 2049 specified by this sub-subparagraph are not subject to ss.
 2050 627.062 and 627.0629. Such rates and forms are subject to all
 2051 other applicable provisions of this code and rules adopted under

HB 7225 CS

2006
CS

2052 this code. During the course of an insurer's market conduct
2053 examination, the office may review the rate for any risk to
2054 which the provisions of this sub-subparagraph are applicable to
2055 determine if such rate is inadequate or unfairly discriminatory.
2056 Rates on personal lines residential risks not eligible for
2057 coverage by the corporation may be found inadequate by the
2058 office if they are clearly insufficient, together with the
2059 investment income attributable to such risks, to sustain
2060 projected losses and expenses in the class of business to which
2061 such rates apply. Rates on personal lines residential risks not
2062 eligible for coverage by the corporation may also be found
2063 inadequate as to the premium charged to a risk or group of risks
2064 if discounts or credits are allowed that exceed a reasonable
2065 reflection of expense savings and reasonably expected loss
2066 experience from the risk or group of risks. Rates on personal
2067 lines residential risks not eligible for coverage by the
2068 corporation may be found to be unfairly discriminatory as to a
2069 risk or group of risks by the office if the application of
2070 premium discounts, credits, or surcharges among such risks does
2071 not bear a reasonable relationship to the expected loss and
2072 expense experience among the various risks. A rating plan,
2073 including discounts, credits, or surcharges on personal lines
2074 residential risks not eligible for coverage by the corporation
2075 may also be found to be unfairly discriminatory if the plan
2076 fails to clearly and equitably reflect consideration of the
2077 policyholder's participation in a risk management program
2078 adjusted pursuant to s. 627.0625. The office may order an
2079 insurer to discontinue using a rate for new policies or upon

Page 75 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

2080 renewal of a policy if the office finds the rate to be
2081 inadequate or unfairly discriminatory. Insurers must maintain
2082 records and documentation relating to rates and forms subject to
2083 this sub-subparagraph for a period of at least 5 years after the
2084 effective date of the policy.

2085 e. For policies subject to nonrenewal as a result of the
2086 risk being no longer eligible for coverage pursuant to sub-
2087 paragraph d., the corporation shall, directly or through the
2088 market assistance plan, make information from confidential
2089 underwriting and claims files of policyholders available only to
2090 licensed general lines agents who register with the corporation
2091 to receive such information according to the following
2092 procedures:

2093 (I) By August 1, 2006, the corporation shall provide
2094 policyholders who are not eligible for renewal pursuant to sub-
2095 paragraph d. the opportunity to request in writing, within 30
2096 days after the notification is sent, that information from their
2097 confidential underwriting and claims files not be released to
2098 licensed general lines agents registered pursuant to sub-sub-
2099 paragraph e.(II);

2100 (II) By August 1, 2006, the corporation shall make
2101 available to licensed general lines agents the registration
2102 procedures to be used to obtain confidential information from
2103 underwriting and claims files for policies not eligible for
2104 renewal pursuant to sub-subparagraph d. As a condition of
2105 registration, the corporation shall require the licensed general
2106 lines agent to attest that the agent has the experience and
2107 relationships with authorized or surplus lines carriers to

HB 7225 CS

2006
CS

2108 attempt to offer replacement coverage for policies not eligible
 2109 for renewal pursuant to sub-subparagraph d.

2110 (III) By September 1, 2006, the corporation shall make
 2111 available through a secured website to licensed general lines
 2112 agents registered pursuant to sub-sub-subparagraph e.(II)
 2113 application, rating, loss history, mitigation, and policy type
 2114 information relating to all policies not eligible for renewal
 2115 pursuant to sub-subparagraph d. and for which the policyholder
 2116 has not requested the corporation withhold such information
 2117 pursuant to sub-sub-subparagraph e.(I). The licensed general
 2118 lines agent registered pursuant to sub-sub-subparagraph e.(II)
 2119 may use such information to contact and assist the policyholder
 2120 in securing replacement policies and the agent may disclose to
 2121 the policyholder such information was obtained from the
 2122 corporation.

2123 f. With respect to nonhomestead property, eligibility must
 2124 be determined in accordance with sub-sub-sub-subparagraph
 2125 (b)2.a.(II)(A).

2126 6. Must include rules for classifications of risks and
 2127 rates therefor.

2128 7. Must provide that if premium and investment income for
 2129 an account attributable to a particular calendar year are in
 2130 excess of projected losses and expenses for the account
 2131 attributable to that year, such excess shall be held in surplus
 2132 in the account. Such surplus shall be available to defray
 2133 deficits in that account as to future years and shall be used
 2134 for that purpose prior to assessing assessable insurers and
 2135 assessable insureds as to any calendar year.

HB 7225 CS

2006
CS

2136 8. Must provide objective criteria and procedures to be
2137 uniformly applied for all applicants in determining whether an
2138 individual risk is so hazardous as to be uninsurable. In making
2139 this determination and in establishing the criteria and
2140 procedures, the following shall be considered:

2141 a. Whether the likelihood of a loss for the individual
2142 risk is substantially higher than for other risks of the same
2143 class; and

2144 b. Whether the uncertainty associated with the individual
2145 risk is such that an appropriate premium cannot be determined.

2146

2147 The acceptance or rejection of a risk by the corporation shall
2148 be construed as the private placement of insurance, and the
2149 provisions of chapter 120 shall not apply.

2150 9. Must provide that the corporation shall make its best
2151 efforts to procure catastrophe reinsurance at reasonable rates,
2152 to cover its projected 100-year probable maximum loss in the
2153 homestead accounts as determined by the board of governors.

2154 10. Must provide that in the event of regular deficit
2155 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
2156 (b)3.b., in the personal lines homestead account, the commercial
2157 lines residential homestead account, or the high-risk homestead
2158 account, the corporation shall levy upon corporation homestead
2159 account policyholders in its next rate filing, or by a separate
2160 rate filing solely for this purpose, a Citizens policyholder
2161 ~~market equalization~~ surcharge arising from a regular assessment
2162 in such account in a percentage equal to the total amount of
2163 such regular assessments divided by the aggregate statewide

HB 7225 CS

2006
CS

2164 direct written premium for subject lines of business for the
2165 ~~prior calendar~~ year preceding the year in which the deficit to
2166 which the regular assessment related is incurred. Citizens
2167 policyholder ~~Market equalization~~ surcharges under this
2168 subparagraph are not considered premium and are not subject to
2169 commissions, fees, or premium taxes; however, failure to pay the
2170 Citizens policyholder ~~a market equalization~~ surcharge shall be
2171 treated as failure to pay premium. Notwithstanding any other
2172 provision of this section, for purposes of the Citizens
2173 policyholder surcharges to be levied pursuant to this
2174 subparagraph, the total amount of the regular assessment to
2175 which such Citizens policyholder surcharge relates shall be
2176 determined as set forth in sub-subparagraphs (b)3.a., b., and c.

2177 11. The policies issued by the corporation must provide
2178 that, if the corporation or the market assistance plan obtains
2179 an offer from an authorized insurer to cover the risk at its
2180 approved rates, the risk is no longer eligible for renewal
2181 through the corporation.

2182 12. Corporation policies and applications must include a
2183 notice that the corporation policy could, under this section, be
2184 replaced with a policy issued by an authorized insurer that does
2185 not provide coverage identical to the coverage provided by the
2186 corporation or an insurer writing coverage pursuant to part VIII
2187 of chapter 626. The notice shall also specify that acceptance of
2188 corporation coverage creates a conclusive presumption that the
2189 applicant or policyholder is aware of this potential.

2190 13. May establish, subject to approval by the office,
2191 different eligibility requirements and operational procedures

HB 7225 CS

2006
CS

2192 | for any line or type of coverage for any specified county or
 2193 | area if the board determines that such changes to the
 2194 | eligibility requirements and operational procedures are
 2195 | justified due to the voluntary market being sufficiently stable
 2196 | and competitive in such area or for such line or type of
 2197 | coverage and that consumers who, in good faith, are unable to
 2198 | obtain insurance through the voluntary market through ordinary
 2199 | methods would continue to have access to coverage from the
 2200 | corporation. When coverage is sought in connection with a real
 2201 | property transfer, such requirements and procedures shall not
 2202 | provide for an effective date of coverage later than the date of
 2203 | the closing of the transfer as established by the transferor,
 2204 | the transferee, and, if applicable, the lender.

2205 | 14. Must provide that, with respect to the high-risk
 2206 | homestead account, any assessable insurer with a surplus as to
 2207 | policyholders of \$25 million or less writing 25 percent or more
 2208 | of its total countrywide property insurance premiums in this
 2209 | state may petition the office, within the first 90 days of each
 2210 | calendar year, to qualify as a limited apportionment company. ~~In~~
 2211 | ~~no event shall a limited apportionment company be required to~~
 2212 | ~~participate in the portion of any assessment, within the high-~~
 2213 | ~~risk account, pursuant to sub-subparagraph (b)3.a. or sub-~~
 2214 | ~~subparagraph (b)3.b. in the aggregate which exceeds \$50 million~~
 2215 | ~~after payment of available high risk account funds in any~~
 2216 | ~~calendar year. However, A limited apportionment company shall~~
 2217 | collect from its policyholders any emergency assessment imposed
 2218 | under sub-subparagraph (b)3.d. The plan shall provide that, if
 2219 | the office determines that any regular assessment will result in

HB 7225 CS

2006
CS

2220 an impairment of the surplus of a limited apportionment company,
2221 the office may direct that all or part of such assessment be
2222 deferred as provided in subparagraph (g)4. However, there shall
2223 be no limitation or deferment of an emergency assessment to be
2224 collected from policyholders under sub-subparagraph (b)3.d.

2225 15. Must provide that the corporation appoint as its
2226 licensed agents only those agents who also hold an appointment
2227 as defined in s. 626.015(3) with an insurer who at the time of
2228 the agent's initial appointment by the corporation is authorized
2229 to write and is actually writing personal lines residential
2230 property coverage, commercial residential property coverage, or
2231 commercial nonresidential property coverage within the state.

2232 16. Must provide that the hurricane deductible for any
2233 property in the nonhomestead account with an insured value of
2234 \$250,000 or more must be at least 5 percent of the insured
2235 value.

2236 17. Must provide that the application for coverage under
2237 the nonhomestead account and the declaration page of each
2238 nonhomestead account policy include a statement in boldface 12-
2239 point type specifying that public subsidies do not support the
2240 corporation's coverage of nonhomestead property; that if the
2241 nonhomestead account of the corporation sustains a deficit or is
2242 unable to pay claims, the nonhomestead policyholder shall be
2243 subject to an immediate assessment in an amount up to 100
2244 percent of the premium and a further assessment upon renewal of
2245 the policy; and that the applicant or policyholder may wish to
2246 seek alternative coverage from an authorized insurer or surplus

HB 7225 CS

2006
CS

2247 | lines insurer that will not be subject to such potential
 2248 | assessments.

2249 | 18. Must provide that the application for coverage under
 2250 | any of the homestead accounts and the declaration page of each
 2251 | homestead account policy include a statement in boldface 12-
 2252 | point type specifying that a false declaration of homestead
 2253 | status for purposes of obtaining coverage in any of the
 2254 | homestead accounts may constitute the offense of insurance
 2255 | fraud, as prohibited and punishable as a felony under s.
 2256 | 817.234.

2257 | 19. Must limit coverage on mobile homes or manufactured
 2258 | homes built prior to 1994 to actual cash value of the dwelling
 2259 | rather than replacement costs of the dwelling.

2260 | (d)1.a. It is the intent of the Legislature that the rates
 2261 | for coverage provided by the corporation be actuarially adequate
 2262 | ~~sound~~ and not competitive with approved rates charged in the
 2263 | admitted voluntary market, so that the corporation functions as
 2264 | a residual market mechanism to provide insurance only when the
 2265 | insurance cannot be procured in the voluntary market. Rates
 2266 | shall include a residual market risk load that reflects the
 2267 | concentrated exposure of the corporation and the impact of
 2268 | adverse selection as well as an appropriate catastrophe loading
 2269 | factor that reflects the actual catastrophic exposure of the
 2270 | corporation.

2271 | b. It is the intent of the Legislature to reaffirm the
 2272 | requirement of rate adequacy in the residual market. Recognizing
 2273 | that rates may comply with the intent expressed in sub-
 2274 | subparagraph a. and yet be inadequate and recognizing the public

HB 7225 CS

2006
CS

2275 | need to limit subsidies within the residual market, it is the
 2276 | further intent of the Legislature to establish statutory
 2277 | standards for rate adequacy. Such standards are intended to
 2278 | supplement the standard specified in s. 627.062(2)(e)3.,
 2279 | providing that rates are inadequate if they are clearly
 2280 | insufficient to sustain projected losses and expenses in the
 2281 | class of business to which they apply.

2282 | 2. For each county, the average rates of the corporation
 2283 | for each line of business for personal lines residential
 2284 | policies excluding rates for wind-only policies shall be no
 2285 | lower than the average rates charged by the insurer that had the
 2286 | highest average rate in that county among the 20 insurers with
 2287 | the greatest total direct written premium in the state for that
 2288 | line of business in the preceding year, except that with respect
 2289 | to mobile home coverages, the average rates of the corporation
 2290 | shall be no lower than the average rates charged by the insurer
 2291 | that had the highest average rate in that county among the 5
 2292 | insurers with the greatest total written premium for mobile home
 2293 | owner's policies in the state in the preceding year.

2294 | 3. Rates for personal lines residential wind-only policies
 2295 | must be actuarially adequate ~~sound~~ and not competitive with
 2296 | approved rates charged by authorized insurers. If the filing
 2297 | under this paragraph is made at least 90 days before the
 2298 | proposed effective date and the filing is not implemented during
 2299 | the office's review of the filing and any proceeding and
 2300 | judicial review, such filing shall be considered a file and use
 2301 | filing. In such case, the office shall finalize its review by
 2302 | issuance of a notice of intent to approve or a notice of intent

HB 7225 CS

2006
CS

2303 | to disapprove within 90 days after receipt of the filing. The
 2304 | notice of intent to approve and the notice of intent to
 2305 | disapprove constitute agency action for purposes of the
 2306 | Administrative Procedure Act. Requests for supporting
 2307 | information, requests for mathematical or mechanical
 2308 | corrections, or notification to the insurer by the office of its
 2309 | preliminary findings shall not toll the 90-day period during any
 2310 | such proceedings and subsequent judicial review. The rate shall
 2311 | be deemed approved if the office does not issue a notice of
 2312 | intent to approve or a notice of intent to disapprove within 90
 2313 | days after receipt of the filing. Corporation rate manuals shall
 2314 | include a rate surcharge for seasonal occupancy. To ensure that
 2315 | personal lines residential wind-only rates are not competitive
 2316 | with approved rates charged by authorized insurers, the
 2317 | corporation, in conjunction with the office, shall develop a
 2318 | wind-only ratemaking methodology, which methodology shall be
 2319 | contained in each rate filing made by the corporation with the
 2320 | office. If the office determines that the wind-only rates or
 2321 | rating factors filed by the corporation fail to comply with the
 2322 | wind-only ratemaking methodology provided for in this
 2323 | subsection, it shall so notify the corporation and require the
 2324 | corporation to amend its rates or rating factors to come into
 2325 | compliance within 90 days of notice from the office.

2326 | 4. For the purposes of establishing a pilot program to
 2327 | evaluate issues relating to the availability and affordability
 2328 | of insurance in an area where historically there has been little
 2329 | market competition, the provisions of subparagraph 2. do not
 2330 | apply to coverage provided by the corporation in Monroe County

HB 7225 CS

2006
CS

2331 | if the office determines that a reasonable degree of competition
 2332 | does not exist for personal lines residential policies. The
 2333 | provisions of subparagraph 3. do not apply to coverage provided
 2334 | by the corporation in Monroe County if the office determines
 2335 | that a reasonable degree of competition does not exist for
 2336 | personal lines residential policies in the area of that county
 2337 | which is eligible for wind-only coverage. In this county, the
 2338 | rates for personal lines residential coverage shall be
 2339 | actuarially adequate ~~sound~~ and not excessive, inadequate, or
 2340 | unfairly discriminatory and are subject to the other provisions
 2341 | of the paragraph and s. 627.062. The commission shall adopt
 2342 | rules establishing the criteria for determining whether a
 2343 | reasonable degree of competition exists for personal lines
 2344 | residential policies in Monroe County. Any proposed rate
 2345 | increase filed by the corporation after May 1, 2006, but before
 2346 | October 1, 2006, for Monroe County based upon actuarial adequacy
 2347 | shall be implemented in equal amounts over a period of 3 years.
 2348 | By March 1, 2006, the office shall submit a report to the
 2349 | Legislature providing an evaluation of the implementation of the
 2350 | pilot program affecting Monroe County.

2351 | 5. Rates for commercial lines coverage shall not be
 2352 | subject to the requirements of subparagraph 2., but shall be
 2353 | subject to all other requirements of this paragraph and s.
 2354 | 627.062.

2355 | 6.a. Nothing in this paragraph shall require or allow the
 2356 | corporation to adopt a rate that is inadequate under s. 627.062
 2357 | or under sub-subparagraph b. or sub-subparagraph c.

HB 7225 CS

2006
CS

2358 b. With respect to rates for coverage in any homestead
2359 account, a rate is deemed inadequate if the rate is not
2360 sufficient to generate, by means of cash flow, procurement of
2361 coverage under the Florida Hurricane Catastrophe Fund,
2362 reinsurance costs whether or not reinsurance is procured, and
2363 investment income, moneys sufficient to pay all claims and
2364 expenses reasonably expected to result from a 100-year probable
2365 maximum loss event without resort to any regular or emergency
2366 assessments, long-term debt, state revenues, or other funding
2367 sources that reflect any subsidy from persons or entities other
2368 than corporation homestead accounts policyholders.

2369 c. With respect to rates for coverage in the nonhomestead
2370 account, a rate is deemed inadequate if the rate is not
2371 sufficient to generate, by means of cash flow, procurement of
2372 coverage under the Florida Hurricane Catastrophe Fund,
2373 reinsurance costs, whether or not reinsurance is procured, and
2374 investment income and moneys sufficient to pay all claims and
2375 expenses reasonably expected to result from a 250-year probable
2376 maximum loss event without resort to any assessments, debt,
2377 state revenues, or other funding sources that reflect any
2378 subsidy from persons or entities other than corporation
2379 nonhomestead account policyholders.

2380 7. The corporation shall certify to the office at least
2381 twice annually that its personal lines rates comply with the
2382 requirements of subparagraphs 1., ~~and 2.~~, and 6. If any
2383 adjustment in the rates or rating factors of the corporation is
2384 necessary to ensure such compliance, the corporation shall make
2385 and implement such adjustments and file its revised rates and

HB 7225 CS

2006
CS

2386 rating factors with the office. If the office thereafter
2387 determines that the revised rates and rating factors fail to
2388 comply with the provisions of subparagraphs 1. and 2., it shall
2389 notify the corporation and require the corporation to amend its
2390 rates or rating factors in conjunction with its next rate
2391 filing. The office must notify the corporation by electronic
2392 means of any rate filing it approves for any insurer among the
2393 insurers referred to in subparagraph 2.

2394 8. In addition to the rates otherwise determined pursuant
2395 to this paragraph, the corporation shall impose and collect an
2396 amount equal to the premium tax provided for in s. 624.509 to
2397 augment the financial resources of the corporation.

2398 ~~9.a. To assist the corporation in developing additional~~
2399 ~~ratemaking methods to assure compliance with subparagraphs 1.~~
2400 ~~and 4., the corporation shall appoint a rate methodology panel~~
2401 ~~consisting of one person recommended by the Florida Association~~
2402 ~~of Insurance Agents, one person recommended by the Professional~~
2403 ~~Insurance Agents of Florida, one person recommended by the~~
2404 ~~Florida Association of Insurance and Financial Advisors, one~~
2405 ~~person recommended by the insurer with the highest voluntary~~
2406 ~~market share of residential property insurance business in the~~
2407 ~~state, one person recommended by the insurer with the second-~~
2408 ~~highest voluntary market share of residential property insurance~~
2409 ~~business in the state, one person recommended by an insurer~~
2410 ~~writing commercial residential property insurance in this state,~~
2411 ~~one person recommended by the Office of Insurance Regulation,~~
2412 ~~and one board member designated by the board chairman, who shall~~
2413 ~~serve as chairman of the panel.~~

Page 87 of 143

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

hb7225-02-c2

2414 ~~b. By January 1, 2004, the rate methodology panel shall~~
 2415 ~~provide a report to the corporation of its findings and~~
 2416 ~~recommendations for the use of additional ratemaking methods and~~
 2417 ~~procedures, including the use of a rate equalization surcharge~~
 2418 ~~in an amount sufficient to assure that the total cost of~~
 2419 ~~coverage for policyholders or applicants to the corporation is~~
 2420 ~~sufficient to comply with subparagraph 1.~~

2421 ~~e. Within 30 days after such report, the corporation shall~~
 2422 ~~present to the President of the Senate, the Speaker of the House~~
 2423 ~~of Representatives, the minority party leaders of each house of~~
 2424 ~~the Legislature, and the chairs of the standing committees of~~
 2425 ~~each house of the Legislature having jurisdiction of insurance~~
 2426 ~~issues, a plan for implementing the additional ratemaking~~
 2427 ~~methods and an outline of any legislation needed to facilitate~~
 2428 ~~use of the new methods.~~

2429 ~~d. The plan must include a provision that producer~~
 2430 ~~commissions paid by the corporation shall not be calculated in~~
 2431 ~~such a manner as to include any rate equalization surcharge.~~
 2432 ~~However, without regard to the plan to be developed or its~~
 2433 ~~implementation, producer commissions paid by the corporation for~~
 2434 ~~each account, other than the quota share primary program, shall~~
 2435 ~~remain fixed as to percentage, effective rate, calculation, and~~
 2436 ~~payment method until January 1, 2004.~~

2437 9.10. ~~By January 1, 2004, The corporation shall provide~~
 2438 ~~develop~~ a notice to policyholders or applicants that the rates
 2439 of Citizens Property Insurance Corporation are intended to be
 2440 higher than the rates of any admitted carrier and providing
 2441 other information the corporation deems necessary to assist

HB 7225 CS

2006
CS

2442 consumers in finding other voluntary admitted insurers willing
2443 to insure their property.

2444 (e) If coverage in an account is deactivated pursuant to
2445 paragraph (f), coverage through the corporation shall be
2446 reactivated by order of the office only under one of the
2447 following circumstances:

2448 1. If the market assistance plan receives a minimum of 100
2449 applications for coverage within a 3-month period, or 200
2450 applications for coverage within a 1-year period or less for
2451 residential coverage, unless the market assistance plan provides
2452 a quotation from admitted carriers at their filed rates for at
2453 least 90 percent of such applicants. Any market assistance plan
2454 application that is rejected because an individual risk is so
2455 hazardous as to be uninsurable using the criteria specified in
2456 subparagraph (c)8. shall not be included in the minimum
2457 percentage calculation provided herein. In the event that there
2458 is a legal or administrative challenge to a determination by the
2459 office that the conditions of this subparagraph have been met
2460 for eligibility for coverage in the corporation, any eligible
2461 risk may obtain coverage during the pendency of such challenge.

2462 2. In response to a state of emergency declared by the
2463 Governor under s. 252.36, the office may activate coverage by
2464 order for the period of the emergency upon a finding by the
2465 office that the emergency significantly affects the availability
2466 of residential property insurance.

2467 (f)1. The corporation shall file with the office quarterly
2468 statements of financial condition, an annual statement of
2469 financial condition, and audited financial statements in the

HB 7225 CS

2006
CS

2470 manner prescribed by law. In addition, the corporation shall
2471 report to the office monthly on the types, premium, exposure,
2472 and distribution by county of its policies in force, and shall
2473 submit other reports as the office requires to carry out its
2474 oversight of the corporation.

2475 2. The activities of the corporation shall be reviewed at
2476 least annually by the office to determine whether coverage shall
2477 be deactivated in an account on the basis that the conditions
2478 giving rise to its activation no longer exist.

2479 (g)1. The corporation shall certify to the office its
2480 needs for annual assessments as to a particular calendar year,
2481 and for any interim assessments that it deems to be necessary to
2482 sustain operations as to a particular year pending the receipt
2483 of annual assessments. Upon verification, the office shall
2484 approve such certification, and the corporation shall levy such
2485 annual or interim assessments. Such assessments shall be
2486 prorated as provided in paragraph (b). The corporation shall
2487 take all reasonable and prudent steps necessary to collect the
2488 amount of assessment due from each assessable insurer,
2489 including, if prudent, filing suit to collect such assessment.
2490 If the corporation is unable to collect an assessment from any
2491 assessable insurer, the uncollected assessments shall be levied
2492 as an additional assessment against the assessable insurers and
2493 any assessable insurer required to pay an additional assessment
2494 as a result of such failure to pay shall have a cause of action
2495 against such nonpaying assessable insurer. Assessments shall be
2496 included as an appropriate factor in the making of rates. The
2497 failure of a surplus lines agent to collect and remit any

HB 7225 CS

2006
CS

2498 regular or emergency assessment levied by the corporation is
 2499 considered to be a violation of s. 626.936 and subjects the
 2500 surplus lines agent to the penalties provided in that section.

2501 2. The governing body of any unit of local government, any
 2502 residents of which are insured by the corporation, may issue
 2503 bonds as defined in s. 125.013 or s. 166.101 from time to time
 2504 to fund an assistance program, in conjunction with the
 2505 corporation, for the purpose of defraying deficits of the
 2506 corporation. In order to avoid needless and indiscriminate
 2507 proliferation, duplication, and fragmentation of such assistance
 2508 programs, any unit of local government, any residents of which
 2509 are insured by the corporation, may provide for the payment of
 2510 losses, regardless of whether or not the losses occurred within
 2511 or outside of the territorial jurisdiction of the local
 2512 government. Revenue bonds under this subparagraph may not be
 2513 issued until validated pursuant to chapter 75, unless a state of
 2514 emergency is declared by executive order or proclamation of the
 2515 Governor pursuant to s. 252.36 making such findings as are
 2516 necessary to determine that it is in the best interests of, and
 2517 necessary for, the protection of the public health, safety, and
 2518 general welfare of residents of this state and declaring it an
 2519 essential public purpose to permit certain municipalities or
 2520 counties to issue such bonds as will permit relief to claimants
 2521 and policyholders of the corporation. Any such unit of local
 2522 government may enter into such contracts with the corporation
 2523 and with any other entity created pursuant to this subsection as
 2524 are necessary to carry out this paragraph. Any bonds issued
 2525 under this subparagraph shall be payable from and secured by

HB 7225 CS

2006
CS

2526 moneys received by the corporation from emergency assessments
 2527 under sub-subparagraph (b)3.d., and assigned and pledged to or
 2528 on behalf of the unit of local government for the benefit of the
 2529 holders of such bonds. The funds, credit, property, and taxing
 2530 power of the state or of the unit of local government shall not
 2531 be pledged for the payment of such bonds. If any of the bonds
 2532 remain unsold 60 days after issuance, the office shall require
 2533 all insurers subject to assessment to purchase the bonds, which
 2534 shall be treated as admitted assets; each insurer shall be
 2535 required to purchase that percentage of the unsold portion of
 2536 the bond issue that equals the insurer's relative share of
 2537 assessment liability under this subsection. An insurer shall not
 2538 be required to purchase the bonds to the extent that the office
 2539 determines that the purchase would endanger or impair the
 2540 solvency of the insurer.

2541 3.a. The corporation shall adopt one or more programs
 2542 subject to approval by the office for the reduction of both new
 2543 and renewal writings in the corporation. Beginning January 1,
 2544 2008, any program the corporation adopts for the payment of
 2545 bonuses to an insurer for each risk the insurer removes from the
 2546 corporation shall comply with s. 627.3511(2) and may not exceed
 2547 the amount referenced in s. 627.3511(2) for each risk removed.
 2548 The corporation may consider any prudent and not unfairly
 2549 discriminatory approach to reducing corporation writings, and
 2550 may adopt a credit against assessment liability or other
 2551 liability that provides an incentive for insurers to take risks
 2552 out of the corporation and to keep risks out of the corporation
 2553 by maintaining or increasing voluntary writings in counties or

HB 7225 CS

2006
CS

2554 areas in which corporation risks are highly concentrated and a
2555 program to provide a formula under which an insurer voluntarily
2556 taking risks out of the corporation by maintaining or increasing
2557 voluntary writings will be relieved wholly or partially from
2558 assessments under sub-subparagraphs (b)3.a. and b. When the
2559 corporation enters into a contractual agreement for a take-out
2560 plan, the producing agent of record of the corporation policy is
2561 entitled to retain any unearned commission on such policy, and
2562 the insurer shall either:

2563 (I) Pay to the producing agent of record of the policy,
2564 for the first year, an amount which is the greater of the
2565 insurer's usual and customary commission for the type of policy
2566 written or a policy fee equal to the usual and customary
2567 commission of the corporation; or

2568 (II) Offer to allow the producing agent of record of the
2569 policy to continue servicing the policy for a period of not less
2570 than 1 year and offer to pay the agent the insurer's usual and
2571 customary commission for the type of policy written. If the
2572 producing agent is unwilling or unable to accept appointment by
2573 the new insurer, the new insurer shall pay the agent in
2574 accordance with sub-sub-subparagraph (I).

2575 b. Any credit or exemption from regular assessments
2576 adopted under this subparagraph shall last no longer than the 3
2577 years following the cancellation or expiration of the policy by
2578 the corporation. With the approval of the office, the board may
2579 extend such credits for an additional year if the insurer
2580 guarantees an additional year of renewability for all policies
2581 removed from the corporation, or for 2 additional years if the

HB 7225 CS

2006
CS

2582 insurer guarantees 2 additional years of renewability for all
2583 policies so removed.

2584 c. There shall be no credit, limitation, exemption, or
2585 deferment from emergency assessments to be collected from
2586 policyholders pursuant to sub-subparagraph (b)3.d.

2587 4. The plan shall provide for the deferment, in whole or
2588 in part, of the assessment of an assessable insurer, other than
2589 an emergency assessment collected from policyholders pursuant to
2590 sub-subparagraph (b)3.d., if the office finds that payment of
2591 the assessment would endanger or impair the solvency of the
2592 insurer. In the event an assessment against an assessable
2593 insurer is deferred in whole or in part, the amount by which
2594 such assessment is deferred may be assessed against the other
2595 assessable insurers in a manner consistent with the basis for
2596 assessments set forth in paragraph (b).

2597 (h) Nothing in this subsection shall be construed to
2598 preclude the issuance of residential property insurance coverage
2599 pursuant to part VIII of chapter 626.

2600 (i) There shall be no liability on the part of, and no
2601 cause of action of any nature shall arise against, any
2602 assessable insurer or its agents or employees, the corporation
2603 or its agents or employees, members of the board of governors or
2604 their respective designees at a board meeting, corporation
2605 committee members, or the office or its representatives, for any
2606 action taken by them in the performance of their duties or
2607 responsibilities under this subsection. Such immunity does not
2608 apply to:

HB 7225 CS

2006
CS

2609 | 1. Any of the foregoing persons or entities for any
 2610 | willful tort;
 2611 | 2. The corporation or its producing agents for breach of
 2612 | any contract or agreement pertaining to insurance coverage;
 2613 | 3. The corporation with respect to issuance or payment of
 2614 | debt; or
 2615 | 4. Any assessable insurer with respect to any action to
 2616 | enforce an assessable insurer's obligations to the corporation
 2617 | under this subsection.
 2618 | (j) For the purposes of s. 199.183(1), the corporation
 2619 | shall be considered a political subdivision of the state and
 2620 | shall be exempt from the corporate income tax. The premiums,
 2621 | assessments, investment income, and other revenue of the
 2622 | corporation are funds received for providing property insurance
 2623 | coverage as required by this subsection, paying claims for
 2624 | Florida citizens insured by the corporation, securing and
 2625 | repaying debt obligations issued by the corporation, and
 2626 | conducting all other activities of the corporation, and shall
 2627 | not be considered taxes, fees, licenses, or charges for services
 2628 | imposed by the Legislature on individuals, businesses, or
 2629 | agencies outside state government. Bonds and other debt
 2630 | obligations issued by or on behalf of the corporation are not to
 2631 | be considered "state bonds" within the meaning of s. 215.58(8).
 2632 | The corporation is not subject to the procurement provisions of
 2633 | chapter 287, and policies and decisions of the corporation
 2634 | relating to incurring debt, levying of assessments and the sale,
 2635 | issuance, continuation, terms and claims under corporation
 2636 | policies, and all services relating thereto, are not subject to

HB 7225 CS

2006
CS

2637 | the provisions of chapter 120. The corporation is not required
 2638 | to obtain or to hold a certificate of authority issued by the
 2639 | office, nor is it required to participate as a member insurer of
 2640 | the Florida Insurance Guaranty Association. However, the
 2641 | corporation is required to pay, in the same manner as an
 2642 | authorized insurer, assessments pledged by the Florida Insurance
 2643 | Guaranty Association to secure bonds issued or other
 2644 | indebtedness incurred to pay covered claims arising from insurer
 2645 | insolvencies caused by, or proximately related to, hurricane
 2646 | losses. It is the intent of the Legislature that the tax
 2647 | exemptions provided in this paragraph will augment the financial
 2648 | resources of the corporation to better enable the corporation to
 2649 | fulfill its public purposes. Any debt obligations ~~bonds~~ issued
 2650 | by the corporation, their transfer, and the income therefrom,
 2651 | including any profit made on the sale thereof, shall at all
 2652 | times be free from taxation of every kind by the state and any
 2653 | political subdivision or local unit or other instrumentality
 2654 | thereof; however, this exemption does not apply to any tax
 2655 | imposed by chapter 220 on interest, income, or profits on debt
 2656 | obligations owned by corporations other than the corporation.

2657 | (k) Upon a determination by the office that the conditions
 2658 | giving rise to the establishment and activation of the
 2659 | corporation no longer exist, the corporation is dissolved. Upon
 2660 | dissolution, the assets of the corporation shall be applied
 2661 | first to pay all debts, liabilities, and obligations of the
 2662 | corporation, including the establishment of reasonable reserves
 2663 | for any contingent liabilities or obligations, and all remaining
 2664 | assets of the corporation shall become property of the state and

HB 7225 CS

2006
CS

2665 | shall be deposited in the Florida Hurricane Catastrophe Fund.
 2666 | However, no dissolution shall take effect as long as the
 2667 | corporation has bonds or other financial obligations outstanding
 2668 | unless adequate provision has been made for the payment of the
 2669 | bonds or other financial obligations pursuant to the documents
 2670 | authorizing the issuance of the bonds or other financial
 2671 | obligations.

2672 | (1)1. Effective July 1, 2002, policies of the Residential
 2673 | Property and Casualty Joint Underwriting Association shall
 2674 | become policies of the corporation. All obligations, rights,
 2675 | assets and liabilities of the Residential Property and Casualty
 2676 | Joint Underwriting Association, including bonds, note and debt
 2677 | obligations, and the financing documents pertaining to them
 2678 | become those of the corporation as of July 1, 2002. The
 2679 | corporation is not required to issue endorsements or
 2680 | certificates of assumption to insureds during the remaining term
 2681 | of in-force transferred policies.

2682 | 2. Effective July 1, 2002, policies of the Florida
 2683 | Windstorm Underwriting Association are transferred to the
 2684 | corporation and shall become policies of the corporation. All
 2685 | obligations, rights, assets, and liabilities of the Florida
 2686 | Windstorm Underwriting Association, including bonds, note and
 2687 | debt obligations, and the financing documents pertaining to them
 2688 | are transferred to and assumed by the corporation on July 1,
 2689 | 2002. The corporation is not required to issue endorsement or
 2690 | certificates of assumption to insureds during the remaining term
 2691 | of in-force transferred policies.

HB 7225 CS

2006
CS

2692 | 3. The Florida Windstorm Underwriting Association and the
 2693 | Residential Property and Casualty Joint Underwriting Association
 2694 | shall take all actions as may be proper to further evidence the
 2695 | transfers and shall provide the documents and instruments of
 2696 | further assurance as may reasonably be requested by the
 2697 | corporation for that purpose. The corporation shall execute
 2698 | assumptions and instruments as the trustees or other parties to
 2699 | the financing documents of the Florida Windstorm Underwriting
 2700 | Association or the Residential Property and Casualty Joint
 2701 | Underwriting Association may reasonably request to further
 2702 | evidence the transfers and assumptions, which transfers and
 2703 | assumptions, however, are effective on the date provided under
 2704 | this paragraph whether or not, and regardless of the date on
 2705 | which, the assumptions or instruments are executed by the
 2706 | corporation. Subject to the relevant financing documents
 2707 | pertaining to their outstanding bonds, notes, indebtedness, or
 2708 | other financing obligations, the moneys, investments,
 2709 | receivables, choses in action, and other intangibles of the
 2710 | Florida Windstorm Underwriting Association shall be credited to
 2711 | the high-risk account of the corporation, and those of the
 2712 | personal lines residential coverage account and the commercial
 2713 | lines residential coverage account of the Residential Property
 2714 | and Casualty Joint Underwriting Association shall be credited to
 2715 | the personal lines account and the commercial lines account,
 2716 | respectively, of the corporation.

2717 | ~~4. Effective July 1, 2002, a new applicant for property~~
 2718 | ~~insurance coverage who would otherwise have been eligible for~~
 2719 | ~~coverage in the Florida Windstorm Underwriting Association is~~

HB 7225 CS

2006
CS

2720 | ~~eligible for coverage from the corporation as provided in this~~
 2721 | ~~subsection.~~

2722 | 4.5-. The transfer of all policies, obligations, rights,
 2723 | assets, and liabilities from the Florida Windstorm Underwriting
 2724 | Association to the corporation and the renaming of the
 2725 | Residential Property and Casualty Joint Underwriting Association
 2726 | as the corporation shall in no way affect the coverage with
 2727 | respect to covered policies as defined in s. 215.555(2)(c)
 2728 | provided to these entities by the Florida Hurricane Catastrophe
 2729 | Fund. The coverage provided by the Florida Hurricane Catastrophe
 2730 | Fund to the Florida Windstorm Underwriting Association based on
 2731 | its exposures as of June 30, 2002, and each June 30 thereafter
 2732 | shall be redesignated as coverage for the high-risk account of
 2733 | the corporation. Notwithstanding any other provision of law, the
 2734 | coverage provided by the Florida Hurricane Catastrophe Fund to
 2735 | the Residential Property and Casualty Joint Underwriting
 2736 | Association based on its exposures as of June 30, 2002, and each
 2737 | June 30 thereafter shall be transferred to the personal lines
 2738 | account and the commercial lines account of the corporation.
 2739 | Notwithstanding any other provision of law, the high-risk
 2740 | account shall be treated, for all Florida Hurricane Catastrophe
 2741 | Fund purposes, as if it were a separate participating insurer
 2742 | with its own exposures, reimbursement premium, and loss
 2743 | reimbursement. Likewise, the personal lines and commercial lines
 2744 | accounts shall be viewed together, for all Florida Hurricane
 2745 | Catastrophe Fund purposes, as if the two accounts were one and
 2746 | represent a single, separate participating insurer with its own
 2747 | exposures, reimbursement premium, and loss reimbursement. The

HB 7225 CS

2006
CS

2748 coverage provided by the Florida Hurricane Catastrophe Fund to
 2749 the corporation shall constitute and operate as a full transfer
 2750 of coverage from the Florida Windstorm Underwriting Association
 2751 and Residential Property and Casualty Joint Underwriting to the
 2752 corporation.

2753 (m) Notwithstanding any other provision of law:

2754 1. The pledge or sale of, the lien upon, and the security
 2755 interest in any rights, revenues, or other assets of the
 2756 corporation created or purported to be created pursuant to any
 2757 financing documents to secure any bonds or other indebtedness of
 2758 the corporation shall be and remain valid and enforceable,
 2759 notwithstanding the commencement of and during the continuation
 2760 of, and after, any rehabilitation, insolvency, liquidation,
 2761 bankruptcy, receivership, conservatorship, reorganization, or
 2762 similar proceeding against the corporation under the laws of
 2763 this state.

2764 2. No such proceeding shall relieve the corporation of its
 2765 obligation, or otherwise affect its ability to perform its
 2766 obligation, to continue to collect, or levy and collect,
 2767 assessments, Citizens Property Insurance Corporation
 2768 policyholder ~~market equalization~~ or other surcharges under
 2769 subparagraph (c)10., or any other rights, revenues, or other
 2770 assets of the corporation pledged pursuant to any financing
 2771 documents.

2772 3. Each such pledge or sale of, lien upon, and security
 2773 interest in, including the priority of such pledge, lien, or
 2774 security interest, any such assessments, market equalization or
 2775 other surcharges, or other rights, revenues, or other assets

HB 7225 CS

2006
CS

2776 | which are collected, or levied and collected, after the
2777 | commencement of and during the pendency of, or after, any such
2778 | proceeding shall continue unaffected by such proceeding. As used
2779 | in this subsection, the term "financing documents" means any
2780 | agreement or agreements, instrument or instruments, or other
2781 | document or documents now existing or hereafter created
2782 | evidencing any bonds or other indebtedness of the corporation or
2783 | pursuant to which any such bonds or other indebtedness has been
2784 | or may be issued and pursuant to which any rights, revenues, or
2785 | other assets of the corporation are pledged or sold to secure
2786 | the repayment of such bonds or indebtedness, together with the
2787 | payment of interest on such bonds or such indebtedness, or the
2788 | payment of any other obligation or financial product, as defined
2789 | in the plan of operation of the corporation related to such
2790 | bonds or indebtedness.

2791 | 4. Any such pledge or sale of assessments, revenues,
2792 | contract rights, or other rights or assets of the corporation
2793 | shall constitute a lien and security interest, or sale, as the
2794 | case may be, that is immediately effective and attaches to such
2795 | assessments, revenues, or contract rights or other rights or
2796 | assets, whether or not imposed or collected at the time the
2797 | pledge or sale is made. Any such pledge or sale is effective,
2798 | valid, binding, and enforceable against the corporation or other
2799 | entity making such pledge or sale, and valid and binding against
2800 | and superior to any competing claims or obligations owed to any
2801 | other person or entity, including policyholders in this state,
2802 | asserting rights in any such assessments, revenues, or contract
2803 | rights or other rights or assets to the extent set forth in and

HB 7225 CS

2006
CS

2804 | in accordance with the terms of the pledge or sale contained in
 2805 | the applicable financing documents, whether or not any such
 2806 | person or entity has notice of such pledge or sale and without
 2807 | the need for any physical delivery, recordation, filing, or
 2808 | other action.

2809 | 5. As long as the corporation has any bonds outstanding,
 2810 | the corporation may not file a voluntary petition under chapter
 2811 | 9 of the federal Bankruptcy Code, or such corresponding chapter
 2812 | or sections as may be in effect from time to time, and any
 2813 | public officer and any organization, entity, or other person may
 2814 | not authorize the corporation to be or become a debtor under
 2815 | chapter 9 of the federal Bankruptcy Code, or such corresponding
 2816 | chapter or sections as may be in effect from time to time,
 2817 | during any such period.

2818 | (n)1. The following records of the corporation are
 2819 | confidential and exempt from the provisions of s. 119.07(1) and
 2820 | s. 24(a), Art. I of the State Constitution:

2821 | a. Underwriting files, except that a policyholder or an
 2822 | applicant shall have access to his or her own underwriting
 2823 | files.

2824 | b. Claims files, until termination of all litigation and
 2825 | settlement of all claims arising out of the same incident,
 2826 | although portions of the claims files may remain exempt, as
 2827 | otherwise provided by law. Confidential and exempt claims file
 2828 | records may be released to other governmental agencies upon
 2829 | written request and demonstration of need; such records held by
 2830 | the receiving agency remain confidential and exempt as provided
 2831 | for herein.

HB 7225 CS

2006
CS

2832 c. Records obtained or generated by an internal auditor
2833 pursuant to a routine audit, until the audit is completed, or if
2834 the audit is conducted as part of an investigation, until the
2835 investigation is closed or ceases to be active. An investigation
2836 is considered "active" while the investigation is being
2837 conducted with a reasonable, good faith belief that it could
2838 lead to the filing of administrative, civil, or criminal
2839 proceedings.

2840 d. Matters reasonably encompassed in privileged attorney-
2841 client communications.

2842 e. Proprietary information licensed to the corporation
2843 under contract and the contract provides for the confidentiality
2844 of such proprietary information.

2845 f. All information relating to the medical condition or
2846 medical status of a corporation employee which is not relevant
2847 to the employee's capacity to perform his or her duties, except
2848 as otherwise provided in this paragraph. Information which is
2849 exempt shall include, but is not limited to, information
2850 relating to workers' compensation, insurance benefits, and
2851 retirement or disability benefits.

2852 g. Upon an employee's entrance into the employee
2853 assistance program, a program to assist any employee who has a
2854 behavioral or medical disorder, substance abuse problem, or
2855 emotional difficulty which affects the employee's job
2856 performance, all records relative to that participation shall be
2857 confidential and exempt from the provisions of s. 119.07(1) and
2858 s. 24(a), Art. I of the State Constitution, except as otherwise
2859 provided in s. 112.0455(11).

HB 7225 CS

2006
CS

2860 h. Information relating to negotiations for financing,
2861 reinsurance, depopulation, or contractual services, until the
2862 conclusion of the negotiations.

2863 i. Minutes of closed meetings regarding underwriting
2864 files, and minutes of closed meetings regarding an open claims
2865 file until termination of all litigation and settlement of all
2866 claims with regard to that claim, except that information
2867 otherwise confidential or exempt by law will be redacted.

2868

2869 When an authorized insurer is considering underwriting a risk
2870 insured by the corporation, relevant underwriting files and
2871 confidential claims files may be released to the insurer
2872 provided the insurer agrees in writing, notarized and under
2873 oath, to maintain the confidentiality of such files. When a file
2874 is transferred to an insurer that file is no longer a public
2875 record because it is not held by an agency subject to the
2876 provisions of the public records law. Underwriting files and
2877 confidential claims files may also be released to staff of and
2878 the board of governors of the market assistance plan established
2879 pursuant to s. 627.3515, who must retain the confidentiality of
2880 such files, except such files may be released to authorized
2881 insurers that are considering assuming the risks to which the
2882 files apply, provided the insurer agrees in writing, notarized
2883 and under oath, to maintain the confidentiality of such files.
2884 Finally, the corporation or the board or staff of the market
2885 assistance plan may make the following information obtained from
2886 underwriting files and confidential claims files available to
2887 licensed general lines insurance agents: name, address, and

HB 7225 CS

2006
CS

2888 | telephone number of the residential property owner or insured;
2889 | location of the risk; rating information; loss history; and
2890 | policy type. The receiving licensed general lines insurance
2891 | agent must retain the confidentiality of the information
2892 | received.

2893 | 2. Portions of meetings of the corporation are exempt from
2894 | the provisions of s. 286.011 and s. 24(b), Art. I of the State
2895 | Constitution wherein confidential underwriting files or
2896 | confidential open claims files are discussed. All portions of
2897 | corporation meetings which are closed to the public shall be
2898 | recorded by a court reporter. The court reporter shall record
2899 | the times of commencement and termination of the meeting, all
2900 | discussion and proceedings, the names of all persons present at
2901 | any time, and the names of all persons speaking. No portion of
2902 | any closed meeting shall be off the record. Subject to the
2903 | provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
2904 | notes of any closed meeting shall be retained by the corporation
2905 | for a minimum of 5 years. A copy of the transcript, less any
2906 | exempt matters, of any closed meeting wherein claims are
2907 | discussed shall become public as to individual claims after
2908 | settlement of the claim.

2909 | (o) It is the intent of the Legislature that the
2910 | amendments to this subsection enacted in 2002 should, over time,
2911 | reduce the probable maximum windstorm losses in the residual
2912 | markets and should reduce the potential assessments to be levied
2913 | on property insurers and policyholders statewide. In furtherance
2914 | of this intent:

HB 7225 CS

2006
CS

2915 | 1. The board shall, on or before February 1 of each year,
2916 | provide a report to the President of the Senate and the Speaker
2917 | of the House of Representatives showing the reduction or
2918 | increase in the 100-year probable maximum loss attributable to
2919 | wind-only coverages and the quota share program under this
2920 | subsection combined, as compared to the benchmark 100-year
2921 | probable maximum loss of the Florida Windstorm Underwriting
2922 | Association. For purposes of this paragraph, the benchmark 100-
2923 | year probable maximum loss of the Florida Windstorm Underwriting
2924 | Association shall be the calculation dated February 2001 and
2925 | based on November 30, 2000, exposures. In order to ensure
2926 | comparability of data, the board shall use the same methods for
2927 | calculating its probable maximum loss as were used to calculate
2928 | the benchmark probable maximum loss. The reduction or increase
2929 | in probable maximum loss shall be calculated without taking into
2930 | account the probable maximum loss attributable to the
2931 | nonhomestead account.

2932 | 2. Beginning February 1, 2013 ~~2007~~, if the report under
2933 | subparagraph 1. for any year indicates that the 100-year
2934 | probable maximum loss attributable to wind-only coverages and
2935 | the quota share program combined does not reflect a reduction of
2936 | at least 25 percent from the benchmark, the board shall reduce
2937 | the boundaries of the high-risk area eligible for wind-only
2938 | coverages under this subsection in a manner calculated to reduce
2939 | such probable maximum loss to an amount at least 25 percent
2940 | below the benchmark.

2941 | 3. Beginning February 1, 2018 ~~2012~~, if the report under
2942 | subparagraph 1. for any year indicates that the 100-year

HB 7225 CS

2006
CS

2943 | probable maximum loss attributable to wind-only coverages and
2944 | the quota share program combined does not reflect a reduction of
2945 | at least 50 percent from the benchmark, the boundaries of the
2946 | high-risk area eligible for wind-only coverages under this
2947 | subsection shall be reduced by the elimination of any area that
2948 | is not seaward of a line 1,000 feet inland from the Intracoastal
2949 | Waterway.

2950 | (p) In enacting the provisions of this section, the
2951 | Legislature recognizes that both the Florida Windstorm
2952 | Underwriting Association and the Residential Property and
2953 | Casualty Joint Underwriting Association have entered into
2954 | financing arrangements that obligate each entity to service its
2955 | debts and maintain the capacity to repay funds secured under
2956 | these financing arrangements. It is the intent of the
2957 | Legislature that nothing in this section be construed to
2958 | compromise, diminish, or interfere with the rights of creditors
2959 | under such financing arrangements. It is further the intent of
2960 | the Legislature to preserve the obligations of the Florida
2961 | Windstorm Underwriting Association and Residential Property and
2962 | Casualty Joint Underwriting Association with regard to
2963 | outstanding financing arrangements, with such obligations
2964 | passing entirely and unchanged to the corporation and,
2965 | specifically, to the applicable account of the corporation. So
2966 | long as any bonds, notes, indebtedness, or other financing
2967 | obligations of the Florida Windstorm Underwriting Association or
2968 | the Residential Property and Casualty Joint Underwriting
2969 | Association are outstanding, under the terms of the financing
2970 | documents pertaining to them, the governing board of the

HB 7225 CS

2006
CS

2971 corporation shall have and shall exercise the authority to levy,
 2972 charge, collect, and receive all premiums, assessments,
 2973 surcharges, charges, revenues, and receipts that the
 2974 associations had authority to levy, charge, collect, or receive
 2975 under the provisions of subsection (2) and this subsection,
 2976 respectively, as they existed on January 1, 2002, to provide
 2977 moneys, without exercise of the authority provided by this
 2978 subsection, in at least the amounts, and by the times, as would
 2979 be provided under those former provisions of subsection (2) or
 2980 this subsection, respectively, so that the value, amount, and
 2981 collectability of any assets, revenues, or revenue source
 2982 pledged or committed to, or any lien thereon securing such
 2983 outstanding bonds, notes, indebtedness, or other financing
 2984 obligations will not be diminished, impaired, or adversely
 2985 affected by the amendments made by this act and to permit
 2986 compliance with all provisions of financing documents pertaining
 2987 to such bonds, notes, indebtedness, or other financing
 2988 obligations, or the security or credit enhancement for them, and
 2989 any reference in this subsection to bonds, notes, indebtedness,
 2990 financing obligations, or similar obligations, of the
 2991 corporation shall include like instruments or contracts of the
 2992 Florida Windstorm Underwriting Association and the Residential
 2993 Property and Casualty Joint Underwriting Association to the
 2994 extent not inconsistent with the provisions of the financing
 2995 documents pertaining to them.

2996 (q) The corporation shall not require the securing of
 2997 flood insurance as a condition of coverage if the insured or
 2998 applicant executes a form approved by the office affirming that

HB 7225 CS

2006
CS

2999 flood insurance is not provided by the corporation and that if
3000 flood insurance is not secured by the applicant or insured in
3001 addition to coverage by the corporation, the risk will not be
3002 covered for flood damage. A corporation policyholder electing
3003 not to secure flood insurance and executing a form as provided
3004 herein making a claim for water damage against the corporation
3005 shall have the burden of proving the damage was not caused by
3006 flooding. Notwithstanding other provisions of this subsection,
3007 the corporation may deny coverage to an applicant or insured who
3008 refuses to execute the form described herein.

3009 (r) A salaried employee of the corporation who performs
3010 policy administration services subsequent to the effectuation of
3011 a corporation policy is not required to be licensed as an agent
3012 under the provisions of s. 626.112.

3013 (s) The transition to homestead and nonhomestead accounts
3014 shall begin on October 1, 2006. A policy issued on or after that
3015 date shall be issued in the applicable homestead account or the
3016 nonhomestead account, based upon whether the property
3017 constitutes homestead property as provided in subparagraph (b)2.
3018 A policy in effect on October 1, 2006, shall be placed in the
3019 applicable homestead account or the nonhomestead account, based
3020 upon whether the property constitutes homestead property as
3021 provided in subparagraph (b)2., upon the first renewal of such
3022 policy after October 1, 2006.

3023 (t) Any employee of the corporation whose position is
3024 managerial, policymaking, or professional in nature and all
3025 members of the corporation's board of governors shall comply

HB 7225 CS

2006
CS

3026 with the Code of Ethics for public officers and employers found
3027 in ss. 112.311-112.326.

3028 (u) An employee of the corporation shall notify the
3029 Division of Insurance Fraud within 48 hours after having
3030 information that would lead a reasonable person to suspect that
3031 fraud may have been committed by any employee of the
3032 corporation.

3033 (v) By February 1, 2007, the corporation shall submit a
3034 report to the President of the Senate, the Speaker of the House
3035 of Representatives, the minority party leaders of the Senate and
3036 the House of Representatives, and the chairs of the standing
3037 committees of the Senate and the House of Representatives having
3038 jurisdiction over matters relating to property and casualty
3039 insurance. In preparing the report, the corporation shall
3040 consult with the Office of Insurance Regulation, the Department
3041 of Financial Services, and any other party the corporation
3042 determines is appropriate. The report shall include findings and
3043 recommendations on the feasibility of requiring authorized
3044 insurers that issue and service personal and commercial
3045 residential policies and commercial nonresidential policies that
3046 provide coverage for basic property perils except for the peril
3047 of wind to issue and service for a fee personal and commercial
3048 residential policies and commercial nonresidential policies
3049 providing coverage for the peril of wind issued by the
3050 corporation. The report shall include:

3051 1. The expense savings to the corporation of issuing and
3052 servicing such policies as determined through a cost benefit
3053 analysis.

HB 7225 CS

2006
CS

3054 2. The expenses and liability to authorized insurers
3055 associated with issuing and servicing such policies.

3056 3. The impact on service to policyholders of the
3057 corporation relating to issuing and servicing such policies.

3058 4. The impact on the producing agent of the corporation of
3059 issuing and servicing such policies.

3060 5. Recommendations as to the amount of the fee that should
3061 be paid to authorized insurers for issuing and servicing such
3062 policies.

3063 6. The impact issuing and servicing such policies will
3064 have on the corporation's number of policies, total insured
3065 value, and probable maximum loss.

3066 (w) There shall be no liability on the part of, and no
3067 cause of action of any nature shall arise against, producing
3068 agents of record of the corporation or employees of such agents
3069 for insolvency of any take-out insurer.

3070 (x) The Legislature finds that the total area eligible for
3071 the high-risk account of the corporation has a material impact
3072 on the availability of wind coverage from the voluntary admitted
3073 market, deficits of the corporation, assessments to be levied on
3074 property insurers and policyholders statewide, the ability and
3075 willingness of authorized insurers to write wind coverage in the
3076 high-risk areas, the probable maximum windstorm losses of the
3077 corporation, general commerce in coastal areas, and the overall
3078 financial condition of the state. Therefore, in furtherance of
3079 these findings and intent:

3080 1. The High Risk Eligibility Panel is created.

3081 2. The members of the panel shall be appointed as follows:

- 3082 a. The board shall appoint two board members.
- 3083 b. The Governor shall appoint one member.
- 3084 c. The Chief Financial Officer shall appoint one member.
- 3085 d. The Commissioner of Insurance Regulation shall appoint
- 3086 a representative of the office to serve as a member.
- 3087 e. The President of the Senate shall appoint one member.
- 3088 f. The Speaker of the House of Representatives shall
- 3089 appoint one member.
- 3090
- 3091 Members of the panel must be residents of this state with
- 3092 insurance expertise. Members shall elect a chair and shall serve
- 3093 3-year terms each. The panel shall operate independently of any
- 3094 state agency and shall be administered by the corporation. The
- 3095 panel shall make an annual report to the President of the Senate
- 3096 and the Speaker of the House of Representatives on or before
- 3097 February 1 of each year recommending the areas that should be
- 3098 eligible for the high-risk account of the corporation. Members
- 3099 shall not receive compensation and are not entitled to receive
- 3100 reimbursement for per diem and travel expenses as provided in s.
- 3101 112.061, except for any panel member who is a state employee.
- 3102 3. The Legislature's intent provided in subparagraphs
- 3103 (a)1. and 2. shall provide guidance for the panel to use in the
- 3104 panel's recommendations to the Legislature required in
- 3105 subparagraph 1. The panel shall consider the following factors
- 3106 in fulfilling its responsibilities under this paragraph:
- 3107 a. The number of commercial risks in a given area that are
- 3108 unable to find wind coverage from the voluntary admitted market.

HB 7225 CS

2006
CS

3109 b. Reports from members of the mortgage industry
 3110 indicating difficulty in finding forced placed policies for
 3111 commercial wind coverage.

3112 c. The number of approved excess and surplus lines
 3113 carriers certifying an unwillingness to provide commercial wind
 3114 coverage similar to that approved for use by the office for the
 3115 voluntary admitted market.

3116 d. Other relevant factors.

3117
 3118 The office and the corporation shall provide the panel with any
 3119 information the panel considers necessary to determine areas
 3120 eligible for the high-risk account of the corporation. For the
 3121 purpose of making accurate determinations for areas eligible for
 3122 the high-risk account of the corporation, the panel may
 3123 interview and request and receive information from residents of
 3124 this state in areas impacted by this paragraph, including, but
 3125 not limited to, insurance agents, insurance companies,
 3126 actuaries, and other insurance professionals. Upon request of
 3127 the panel, the office may conduct public hearings in areas that
 3128 may be impacted by the panel's recommendations.

3129 4. Notwithstanding other provisions of this paragraph, the
 3130 panel shall conduct an analysis to determine the areas to be
 3131 eligible for the high-risk account of the corporation for any
 3132 county that contains an eligible area extending more than 2
 3133 miles from the coast, any coastal county that does not have
 3134 areas designated as eligible for the high-risk account, and
 3135 counties with barrier islands whether or not such islands or
 3136 portions of such islands are currently eligible for the high

HB 7225 CS

2006
CS

3137 risk account. The panel shall submit a report, including its
3138 analysis, to the office and to the corporation by November 30,
3139 2006. The report shall specify changes to the areas eligible for
3140 the high-risk account for such affected counties based on its
3141 analysis.

3142 Section 11. Paragraph (b) of subsection (3) of section
3143 627.4035, Florida Statutes, is amended, and subsection (4) is
3144 added to that section, to read:

3145 627.4035 Cash payment of premiums; claims.--

3146 (3) All payments of claims made in this state under any
3147 contract of insurance shall be paid:

3148 (b) If authorized in writing by the recipient or the
3149 recipient's representative, by debit card or any other form of
3150 electronic transfer. Any fees or costs to be charged against the
3151 recipient must be disclosed in writing to the recipient or the
3152 recipient's representative at the time of written authorization.
3153 However, the written authorization requirement may be waived by
3154 the recipient or the recipient's representative if the insurer
3155 verifies the identity of the insured or the insured's recipient
3156 and does not charge a fee for the transaction. If the funds are
3157 misdirected, the insurer would remain liable for the payment of
3158 the claim.

3159 (4) Nothing in this section shall be construed as
3160 prohibiting an insurer from limiting its liability under a
3161 policy or endorsement providing that loss will be adjusted on
3162 the basis of replacement costs to the lesser of:

3163 (a) The limit of liability shown on the policy
3164 declarations page;

HB 7225 CS

2006
CS

- 3165 (b) The reasonable and necessary cost to repair the
 3166 damaged, destroyed, or stolen covered property; or
 3167 (c) The reasonable and necessary cost to replace the
 3168 damaged, destroyed, or stolen covered property.

3169 Section 12. Paragraph (b) of subsection (3) of section
 3170 627.701, Florida Statutes, is amended to read:

3171 627.701 Liability of insureds; coinsurance; deductibles.--

3172 (3)

3173 (b)1. Except as otherwise provided in this paragraph,
 3174 prior to issuing a personal lines residential property insurance
 3175 policy on or after January 1, 2006, or prior to the first
 3176 renewal of a residential property insurance policy on or after
 3177 January 1, 2006, the insurer must offer alternative deductible
 3178 amounts applicable to hurricane losses equal to \$500, 2 percent,
 3179 5 percent, and 10 percent of the policy dwelling limits, unless
 3180 the specific percentage deductible is less than \$500. The
 3181 written notice of the offer shall specify the hurricane or wind
 3182 deductible to be applied in the event that the applicant or
 3183 policyholder fails to affirmatively choose a hurricane
 3184 deductible. The insurer must provide such policyholder with
 3185 notice of the availability of the deductible amounts specified
 3186 in this paragraph in a form approved by the office in
 3187 conjunction with each renewal of the policy. The failure to
 3188 provide such notice constitutes a violation of this code but
 3189 does not affect the coverage provided under the policy.

3190 2. This paragraph does not apply with respect to a
 3191 deductible program lawfully in effect on June 14, 1995, or to
 3192 any similar deductible program, if the deductible program

HB 7225 CS

2006
CS

3193 requires a minimum deductible amount of no less than 2 percent
3194 of the policy limits.

3195 3. With respect to a policy covering a risk with dwelling
3196 limits of at least \$100,000, ~~but less than \$250,000,~~ the insurer
3197 may, in lieu of offering a policy with a ~~\$500 hurricane or~~ wind
3198 deductible as required by subparagraph 1., offer a policy that
3199 the insurer guarantees it will not nonrenew for reasons of
3200 reducing hurricane loss for one renewal period and that contains
3201 up to a 2 percent hurricane deductible, for two renewal periods
3202 and that contains up to a 5 percent hurricane deductible, or for
3203 three renewal periods and that contains up to a 10 percent
3204 hurricane deductible. Notwithstanding the requirements of this
3205 paragraph, the Office of Insurance Regulation may approve the
3206 nonrenewal of such policies if the guarantee renewal of the
3207 policies may jeopardize the financial ratings of an insurer or
3208 wind deductible as required by subparagraph 1.

3209 4. With respect to a policy covering a risk with dwelling
3210 limits of \$250,000 or more, the insurer need not offer the \$500
3211 hurricane deductible as required by subparagraph 1., but must,
3212 except as otherwise provided in this subsection, offer the other
3213 hurricane deductibles as required by subparagraph 1.

3214 Section 13. Effective January 1, 2007, subsection (9) is
3215 added to section 627.701, Florida Statutes, to read:

3216 627.701 Liability of insureds; coinsurance; deductibles.--

3217 (9) With respect to hurricane coverage provided in a
3218 policy of residential coverage, when the policyholder has taken
3219 appropriate hurricane mitigation measures regarding the
3220 residence covered under the policy, the insurer shall provide

HB 7225 CS

2006
CS

3221 | the insured the option of selecting an appropriate reduction in
 3222 | the policy's hurricane deductible or selecting the appropriate
 3223 | discount credit or other rate differential as provided in s.
 3224 | 627.0629. The insurer must provide the policyholder with notice
 3225 | of the options available under this subsection on a form
 3226 | approved by the office.

3227 | Section 14. Subsections (2) and (3) of section 627.7011,
 3228 | Florida Statutes, are amended, and subsection (6) is added to
 3229 | that section, to read:

3230 | 627.7011 Homeowners' policies; offer of replacement cost
 3231 | coverage and law and ordinance coverage.--

3232 | (2) Unless the insurer obtains the policyholder's written
 3233 | refusal of the policies or endorsements specified in subsection
 3234 | (1), any policy covering the dwelling is deemed to include the
 3235 | law and ordinance coverage limited to 25 percent of the dwelling
 3236 | limit ~~specified in paragraph (1)(b).~~ The rejection or selection
 3237 | of alternative coverage shall be made on a form approved by the
 3238 | office. The form shall fully advise the applicant of the nature
 3239 | of the coverage being rejected. If this form is signed by a
 3240 | named insured, it will be conclusively presumed that there was
 3241 | an informed, knowing rejection of the coverage or election of
 3242 | the alternative coverage on behalf of all insureds. Unless the
 3243 | policyholder requests in writing the coverage specified in this
 3244 | section, it need not be provided in or supplemental to any other
 3245 | policy that renews, insures, extends, changes, supersedes, or
 3246 | replaces an existing policy when the policyholder has rejected
 3247 | the coverage specified in this section or has selected
 3248 | alternative coverage. The insurer must provide such policyholder

HB 7225 CS

2006
CS

3249 with notice of the availability of such coverage in a form
 3250 approved by the office at least once every 3 years. The failure
 3251 to provide such notice constitutes a violation of this code, but
 3252 does not affect the coverage provided under the policy.

3253 (3) In the event of a loss for which a dwelling ~~or~~
 3254 ~~personal property~~ is insured on the basis of replacement costs,
 3255 the insurer shall pay the replacement cost without reservation
 3256 or holdback of any depreciation in value, whether or not the
 3257 insured replaces or repairs the dwelling ~~or property~~.

3258 (6) Insurers shall issue separate checks for living
 3259 expenses, contents, and casualty proceeds. Checks for living
 3260 expenses and contents should be issued directly to the
 3261 policyholder.

3262 Section 15. Effective upon this act becoming a law,
 3263 section 627.7019, Florida Statutes, is created to read:

3264 627.7019 Standardization of requirements applicable to
 3265 insurers after natural disasters.--

3266 (1) The commission shall adopt by rule, pursuant to s.
 3267 120.54(1)-(3), standardized requirements that may be applied to
 3268 insurers as a consequence of a hurricane or other natural
 3269 disaster. The rules shall address the following areas:

3270 (a) Claims reporting requirements.

3271 (b) Grace periods for payment of premiums and performance
 3272 of other duties by insureds.

3273 (c) Temporary postponement of cancellations and
 3274 nonrenewals.

3275 (2) The rules adopted pursuant to this section shall
 3276 require the office to issue an order within 72 hours after the

HB 7225 CS

2006
CS

3277 | occurrence of a hurricane or other natural disaster specifying,
 3278 | by line of insurance, which of the standardized requirements
 3279 | apply, the geographic areas in which they apply, the time at
 3280 | which applicability commences, and the time at which
 3281 | applicability terminates.

3282 | (3) The commission and the office may not adopt an
 3283 | emergency rule under s. 120.54(4) in conflict with any provision
 3284 | of the rules adopted under this section.

3285 | (4) The commission shall initiate rulemaking under this
 3286 | section no later than June 1, 2006.

3287 | Section 16. Subsection (5) of section 627.727, Florida
 3288 | Statutes, is amended to read:

3289 | 627.727 Motor vehicle insurance; uninsured and
 3290 | underinsured vehicle coverage; insolvent insurer protection.--

3291 | (5) Any person having a claim against an insolvent insurer
 3292 | as defined in s. 631.54 (6) ~~(5)~~ under the provisions of this
 3293 | section shall present such claim for payment to the Florida
 3294 | Insurance Guaranty Association only. In the event of a payment
 3295 | to any person in settlement of a claim arising under the
 3296 | provisions of this section, the association is not subrogated or
 3297 | entitled to any recovery against the claimant's insurer. The
 3298 | association, however, has the rights of recovery as set forth in
 3299 | chapter 631 in the proceeds recoverable from the assets of the
 3300 | insolvent insurer.

3301 | Section 17. Paragraph (f) is added to subsection (2) of
 3302 | section 631.181, Florida Statutes, to read:

3303 | 631.181 Filing and proof of claim.--

3304 | (2)

HB 7225 CS

2006
CS

3305 (f) The signed statement required by this section shall
3306 not be required on claims for which adequate claims file
3307 documentation exists within the records of the insolvent
3308 insurer. Claims for payment of unearned premium shall not be
3309 required to use the signed statement required by this section if
3310 the receiver certifies to the guaranty fund that the records of
3311 the insolvent insurer are sufficient to determine the amount of
3312 unearned premium owed to each policyholder of the insurer and
3313 such information is remitted to the guaranty fund by the
3314 receiver in electronic or other mutually agreed-upon format.

3315 Section 18. Subsections (5), (6), (7), and (8) of section
3316 631.54, Florida Statutes, are renumbered as subsections (6),
3317 (7), (8), and (9), respectively, and a new subsection (5) is
3318 added to that section, to read:

3319 631.54 Definitions.--As used in this part:

3320 (5) "Homeowner's insurance" means personal lines
3321 residential property insurance coverage that consists of the
3322 type of coverage provided under homeowner's, dwelling, and
3323 similar policies for repair or replacement of the insured
3324 structure and contents, which policies are written directly to
3325 the individual homeowner. Residential coverage for personal
3326 lines as set forth in this section includes policies that
3327 provide coverage for particular perils such as windstorm and
3328 hurricane coverage but excludes all coverage for mobile homes,
3329 renter's insurance, or tenant's coverage. The term "homeowner's
3330 insurance" excludes commercial residential policies covering
3331 condominium associations or homeowners' associations, which
3332 associations have a responsibility to provide insurance coverage

HB 7225 CS

2006
CS

3333 | on residential units within the association, and also excludes
 3334 | coverage for the common elements of a homeowners' association.

3335 | Section 19. Subsection (1) of section 631.55, Florida
 3336 | Statutes, is amended to read:

3337 | 631.55 Creation of the association.--

3338 | (1) There is created a nonprofit corporation to be known
 3339 | as the "Florida Insurance Guaranty Association, Incorporated."
 3340 | All insurers defined as member insurers in s. 631.54~~(7)~~⁽⁶⁾ shall
 3341 | be members of the association as a condition of their authority
 3342 | to transact insurance in this state, and, further, as a
 3343 | condition of such authority, an insurer shall agree to reimburse
 3344 | the association for all claim payments the association makes on
 3345 | said insurer's behalf if such insurer is subsequently
 3346 | rehabilitated. The association shall perform its functions under
 3347 | a plan of operation established and approved under s. 631.58 and
 3348 | shall exercise its powers through a board of directors
 3349 | established under s. 631.56. The corporation shall have all
 3350 | those powers granted or permitted nonprofit corporations, as
 3351 | provided in chapter 617.

3352 | Section 20. Paragraph (a) of subsection (1), paragraph (d)
 3353 | of subsection (2), and paragraph (a) of subsection (3) of
 3354 | section 631.57, Florida Statutes, are amended, and paragraph (e)
 3355 | is added to subsection (3) of that section, to read:

3356 | 631.57 Powers and duties of the association.--

3357 | (1) The association shall:

3358 | (a)1. Be obligated to the extent of the covered claims
 3359 | existing:

HB 7225 CS

2006
CS

3360 a. Prior to adjudication of insolvency and arising within
3361 30 days after the determination of insolvency;

3362 b. Before the policy expiration date if less than 30 days
3363 after the determination; or

3364 c. Before the insured replaces the policy or causes its
3365 cancellation, if she or he does so within 30 days of the
3366 determination.

3367 2. The obligation under subparagraph 1. shall include only
3368 the amount of each covered claim that is in excess of \$100 and
3369 is less than \$300,000, except policies providing coverage for
3370 homeowner's insurance shall provide for an additional \$200,000
3371 for the portion of a covered claim that relates only to the
3372 damage to the structure and contents.

3373 3.a.2. Notwithstanding subparagraph 2., the obligation
3374 under subparagraph 1. for shall include only that amount of each
3375 covered claim which is in excess of \$100 and is less than
3376 \$300,000, except with respect to policies covering condominium
3377 associations or homeowners' associations, which associations
3378 have a responsibility to provide insurance coverage on
3379 residential units within the association, the obligation shall
3380 include that amount of each covered property insurance claim
3381 which is less than \$100,000 multiplied by the number of
3382 condominium units or other residential units; however, as to
3383 homeowners' associations, this sub-subparagraph subparagraph
3384 applies only to claims for damage or loss to residential units
3385 and structures attached to residential units.

3386 b. Notwithstanding sub-subparagraph a., the association
3387 has no obligation to pay covered claims that are to be paid from

HB 7225 CS

2006
CS

3388 the proceeds of bonds issued under s. 631.695. However, the
3389 association shall assign and pledge the first available moneys
3390 from all or part of the assessments to be made under paragraph
3391 (3) (a) to or on behalf of the issuer of such bonds for the
3392 benefit of the holders of such bonds. The association shall
3393 administer any such covered claims and present valid covered
3394 claims for payment in accordance with the provisions of the
3395 assistance program in connection with which such bonds have been
3396 issued.

3397 3. In no event shall the association be obligated to a
3398 policyholder or claimant in an amount in excess of the
3399 obligation of the insolvent insurer under the policy from which
3400 the claim arises.

3401 (2) The association may:

3402 (d) Negotiate and become a party to such contracts as are
3403 necessary to carry out the purpose of this part. Additionally,
3404 the association may enter into such contracts with a
3405 municipality, a county, or a legal entity created pursuant to s.
3406 163.01(7)(g) as are necessary in order for the municipality,
3407 county, or legal entity to issue bonds under s. 631.695. In
3408 connection with the issuance of any such bonds and the entering
3409 into of any such necessary contracts, the association may agree
3410 to such terms and conditions as the association deems necessary
3411 and proper.

3412 (3) (a) To the extent necessary to secure the funds for the
3413 respective accounts for the payment of covered claims, ~~and also~~
3414 to pay the reasonable costs to administer the same, and to the
3415 extent necessary to secure the funds for the account specified

HB 7225 CS

2006
CS

3416 | in s. 631.55(2)(c) or to retire indebtedness, including, without
3417 | limitation, the principal, redemption premium, if any, and
3418 | interest on, and related costs of issuance of, bonds issued
3419 | under s. 631.695 and the funding of any reserves and other
3420 | payments required under the bond resolution or trust indenture
3421 | pursuant to which such bonds have been issued, the office, upon
3422 | certification of the board of directors, shall levy assessments
3423 | in the proportion that each insurer's net direct written
3424 | premiums in this state in the classes protected by the account
3425 | bears to the total of said net direct written premiums received
3426 | in this state by all such insurers for the preceding calendar
3427 | year for the kinds of insurance included within such account.
3428 | Assessments shall be remitted to and administered by the board
3429 | of directors in the manner specified by the approved plan. Each
3430 | insurer so assessed shall have at least 30 days' written notice
3431 | as to the date the assessment is due and payable. Every
3432 | assessment shall be made as a uniform percentage applicable to
3433 | the net direct written premiums of each insurer in the kinds of
3434 | insurance included within the account in which the assessment is
3435 | made. The assessments levied against any insurer shall not
3436 | exceed in any one year more than 2 percent of that insurer's net
3437 | direct written premiums in this state for the kinds of insurance
3438 | included within such account during the calendar year next
3439 | preceding the date of such assessments.

3440 | (e)1.a. In addition to assessments otherwise authorized in
3441 | paragraph (a) and to the extent necessary to secure the funds
3442 | for the account specified in s. 631.55(2)(c) or to retire
3443 | indebtedness, including, without limitation, the principal,

HB 7225 CS

2006
CS

3444 redemption premium, if any, and interest on, and related costs
 3445 of issuance of, bonds issued under s. 631.695 and the funding of
 3446 any reserves and other payments required under the bond
 3447 resolution or trust indenture pursuant to which such bonds have
 3448 been issued, the office, upon certification of the board of
 3449 directors, shall levy emergency assessments upon insurers
 3450 holding a certificate of authority. The emergency assessments
 3451 payable under this paragraph by any insurer shall not exceed in
 3452 any single year more than 2 percent of that insurer's direct
 3453 written premiums, net of refunds, in this state during the
 3454 preceding calendar year for the kinds of insurance within the
 3455 account specified in s. 631.55(2)(c).

3456 b. Any emergency assessments authorized under this
 3457 paragraph shall be levied by the office upon insurers referred
 3458 to in sub-subparagraph a., upon certification as to the need for
 3459 such assessments by the board of directors, in each year that
 3460 bonds issued under s. 631.695 and secured by such emergency
 3461 assessments are outstanding, in such amounts up to such 2-
 3462 percent limit as required in order to provide for the full and
 3463 timely payment of the principal of, redemption premium, if any,
 3464 and interest on, and related costs of issuance of, such bonds.
 3465 The emergency assessments provided for in this paragraph are
 3466 assigned and pledged to the municipality, county, or legal
 3467 entity issuing bonds under s. 631.695 for the benefit of the
 3468 holders of such bonds, in order to enable such municipality,
 3469 county, or legal entity to provide for the payment of the
 3470 principal of, redemption premium, if any, and interest on such
 3471 bonds, the cost of issuance of such bonds, and the funding of

HB 7225 CS

2006
CS

3472 any reserves and other payments required under the bond
3473 resolution or trust indenture pursuant to which such bonds have
3474 been issued, without the necessity of any further action by the
3475 association, the office, or any other party. To the extent bonds
3476 are issued under s. 631.695 and the association determines to
3477 secure such bonds by a pledge of revenues received from the
3478 emergency assessments, such bonds, upon such pledge of revenues,
3479 shall be secured by and payable from the proceeds of such
3480 emergency assessments, and the proceeds of emergency assessments
3481 levied under this paragraph shall be remitted directly to and
3482 administered by the trustee or custodian appointed for such
3483 bonds.

3484 c. Emergency assessments under this paragraph may be
3485 payable in a single payment or, at the option of the
3486 association, may be payable in 12 monthly installments with the
3487 first installment being due and payable at the end of the month
3488 after an emergency assessment is levied and subsequent
3489 installments being due not later than the end of each succeeding
3490 month.

3491 d. If emergency assessments are imposed, the report
3492 required by s. 631.695(7) shall include an analysis of the
3493 revenues generated from the emergency assessments imposed under
3494 this paragraph.

3495 e. If emergency assessments are imposed, the references in
3496 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
3497 assessments levied under paragraph (a) shall include emergency
3498 assessments imposed under this paragraph.

3499 2. In order to ensure that insurers paying emergency

HB 7225 CS

2006
CS

3500 assessments levied under this paragraph continue to charge rates
3501 that are neither inadequate nor excessive, within 90 days after
3502 being notified of such assessments, each insurer that is to be
3503 assessed pursuant to this paragraph shall submit a rate filing
3504 for coverage included within the account specified in s.
3505 631.55(2)(c) and for which rates are required to be filed under
3506 s. 627.062. If the filing reflects a rate change that, as a
3507 percentage, is equal to the difference between the rate of such
3508 assessment and the rate of the previous year's assessment under
3509 this paragraph, the filing shall consist of a certification so
3510 stating and shall be deemed approved when made. Any rate change
3511 of a different percentage shall be subject to the standards and
3512 procedures of s. 627.062.

3513 3. An annual assessment under this paragraph shall
3514 continue while the bonds issued with respect to which the
3515 assessment was imposed are outstanding, including any bonds the
3516 proceeds of which were used to refund bonds issued pursuant to
3517 s. 631.695, unless adequate provision has been made for the
3518 payment of the bonds in the documents authorizing the issuance
3519 of such bonds.

3520 4. Emergency assessments under this paragraph are not
3521 premium and are not subject to the premium tax, to any fees, or
3522 to any commissions. An insurer is liable for all emergency
3523 assessments that the insurer collects and shall treat the
3524 failure of an insured to pay an emergency assessment as a
3525 failure to pay the premium. An insurer is not liable for
3526 uncollectible emergency assessments.

HB 7225 CS

2006
CS

3527 Section 21. Section 631.695, Florida Statutes, is created
3528 to read:

3529 631.695 Revenue bond issuance through counties or
3530 municipalities.--

3531 (1) The Legislature finds:

3532 (a) The potential for widespread and massive damage to
3533 persons and property caused by hurricanes making landfall in
3534 this state can generate insurance claims of such a number as to
3535 render numerous insurers operating within this state insolvent
3536 and therefore unable to satisfy covered claims.

3537 (b) The inability of insureds within this state to receive
3538 payment of covered claims or to timely receive such payment
3539 creates financial and other hardships for such insureds and
3540 places undue burdens on the state, the affected units of local
3541 government, and the community at large.

3542 (c) In addition, the failure of insurers to pay covered
3543 claims or to timely pay such claims due to the insolvency of
3544 such insurers can undermine the public's confidence in insurers
3545 operating within this state, thereby adversely affecting the
3546 stability of the insurance industry in this state.

3547 (d) The state has previously taken action to address these
3548 problems by adopting the Florida Insurance Guaranty Association
3549 Act, which, among other things, provides a mechanism for the
3550 payment of covered claims under certain insurance policies to
3551 avoid excessive delay in payment and to avoid financial loss to
3552 claimants or policyholders because of the insolvency of an
3553 insurer.

HB 7225 CS

2006
CS

3554 (e) In the wake of the unprecedented destruction caused by
3555 various hurricanes that have made landfall in this state, the
3556 resultant covered claims, and the number of insurers rendered
3557 insolvent thereby, make it evident that alternative programs
3558 must be developed to allow the Florida Insurance Guaranty
3559 Association to more expeditiously and effectively provide for
3560 the payment of covered claims.

3561 (f) It is therefore determined to be in the best interests
3562 of, and necessary for, the protection of the public health,
3563 safety, and general welfare of the residents of this state and
3564 for the protection and preservation of the economic stability of
3565 insurers operating in this state and it is declared to be an
3566 essential public purpose to permit certain municipalities and
3567 counties to take such actions as will provide relief to
3568 claimants and policyholders having covered claims against
3569 insolvent insurers operating in this state by expediting the
3570 handling and payment of covered claims.

3571 (g) To achieve the foregoing purposes, it is proper to
3572 authorize municipalities and counties of this state
3573 substantially affected by the landfall of a hurricane to issue
3574 bonds to assist the Florida Insurance Guaranty Association in
3575 expediting the handling and payment of covered claims of
3576 insolvent insurers.

3577 (h) In order to avoid the needless and indiscriminate
3578 proliferation, duplication, and fragmentation of such assistance
3579 programs, it is in the best interests of the residents of this
3580 state to authorize municipalities and counties severely affected
3581 by a hurricane to provide for the payment of covered claims

HB 7225 CS

2006
CS

3582 beyond their territorial limits in the implementation of such
 3583 programs.

3584 (i) It is a paramount public purpose for municipalities
 3585 and counties substantially affected by the landfall of a
 3586 hurricane to be able to issue bonds for the purposes described
 3587 in this section. Such issuance shall provide assistance to
 3588 residents of those municipalities and counties as well as to
 3589 other residents of this state.

3590 (2) The governing body of any municipality or county, the
 3591 residents of which have been substantially affected by a
 3592 hurricane, may issue bonds to fund an assistance program in
 3593 conjunction with, and with the consent of, the Florida Insurance
 3594 Guaranty Association for the purpose of paying claimants' or
 3595 policyholders' covered claims, as defined in s. 631.54, arising
 3596 through the insolvency of an insurer, which insolvency is
 3597 determined by the Florida Insurance Guaranty Association to have
 3598 been a result of a hurricane, regardless of whether the
 3599 claimants or policyholders are residents of such municipality or
 3600 county or the property to which the claim relates is located
 3601 within or outside the territorial jurisdiction of the
 3602 municipality or county. The power of a municipality or county to
 3603 issue bonds, as described in this section, is in addition to any
 3604 powers granted by law and may not be abrogated or restricted by
 3605 any provisions in such municipality's or county's charter. A
 3606 municipality or county issuing bonds for this purpose shall
 3607 enter into such contracts with the Florida Insurance Guaranty
 3608 Association or any entity acting on behalf of the Florida
 3609 Insurance Guaranty Association as are necessary to implement the

HB 7225 CS

2006
CS

3610 assistance program. Any bonds issued by a municipality or county
3611 or a combination thereof under this subsection shall be payable
3612 from and secured by moneys received by or on behalf of the
3613 municipality or county from assessments levied under s.
3614 631.57(3) (a) and assigned and pledged to or on behalf of the
3615 municipality or county for the benefit of the holders of the
3616 bonds in connection with the assistance program. The funds,
3617 credit, property, and taxing power of the state or any
3618 municipality or county shall not be pledged for the payment of
3619 such bonds.

3620 (3) Bonds may be validated by the municipality or county
3621 pursuant to chapter 75. The proceeds of the bonds may be used to
3622 pay covered claims of insolvent insurers; to refinance or
3623 replace previously existing borrowings or financial
3624 arrangements; to pay interest on bonds; to fund reserves for the
3625 bonds; to pay expenses incident to the issuance or sale of any
3626 bond issued under this section, including costs of validating,
3627 printing, and delivering the bonds, costs of printing the
3628 official statement, costs of publishing notices of sale of the
3629 bonds, costs of obtaining credit enhancement or liquidity
3630 support, and related administrative expenses; or for such other
3631 purposes related to the financial obligations of the fund as the
3632 association may determine. The term of the bonds may not exceed
3633 30 years.

3634 (4) The state covenants with holders of bonds of the
3635 assistance program that the state will not take any action that
3636 will have a material adverse effect on the holders and will not
3637 repeal or abrogate the power of the board of directors of the

HB 7225 CS

2006
CS

3638 association to direct the Office of Insurance Regulation to levy
3639 the assessments and to collect the proceeds of the revenues
3640 pledged to the payment of the bonds as long as any of the bonds
3641 remain outstanding, unless adequate provision has been made for
3642 the payment of the bonds in the documents authorizing the
3643 issuance of the bonds.

3644 (5) The accomplishment of the authorized purposes of such
3645 municipality or county under this section is in all respects for
3646 the benefit of the people of the state, for the increase of
3647 their commerce and prosperity, and for the improvement of their
3648 health and living conditions. The municipality or county, in
3649 performing essential governmental functions in accomplishing its
3650 purposes, is not required to pay any taxes or assessments of any
3651 kind whatsoever upon any property acquired or used by the county
3652 or municipality for such purposes or upon any revenues at any
3653 time received by the county or municipality. The bonds, notes,
3654 and other obligations of the municipality or county and the
3655 transfer of and income from such bonds, notes, and other
3656 obligations, including any profits made on the sale of such
3657 bonds, notes, and other obligations, are exempt from taxation of
3658 any kind by the state or by any political subdivision or other
3659 agency or instrumentality of the state. The exemption granted in
3660 this subsection is not applicable to any tax imposed by chapter
3661 220 on interest, income, or profits on debt obligations owned by
3662 corporations.

3663 (6) Two or more municipalities or counties, the residents
3664 of which have been substantially affected by a hurricane, may
3665 create a legal entity pursuant to s. 163.01(7)(g) to exercise

3666 | the powers described in this section as well as those powers
 3667 | granted in s. 163.01(7)(g). References in this section to a
 3668 | municipality or county includes such legal entity.

3669 | (7) The association shall issue an annual report on the
 3670 | status of the use of bond proceeds as related to insolvencies
 3671 | caused by hurricanes. The report must contain the number and
 3672 | amount of claims paid. The association shall also include an
 3673 | analysis of the revenue generated from the assessment levied
 3674 | under s. 631.57(3)(a) to pay such bonds. The association shall
 3675 | submit a copy of the report to the President of the Senate, the
 3676 | Speaker of the House of Representatives, and the Chief Financial
 3677 | Officer within 90 days after the end of each calendar year in
 3678 | which bonds were outstanding.

3679 | Section 22. No provision of s. 631.57 or s. 631.695,
 3680 | Florida Statutes, shall be repealed until such time as the
 3681 | principal, redemption premium, if any, and interest on all bonds
 3682 | issued under s. 631.695, Florida Statutes, payable and secured
 3683 | from assessments levied under s. 631.57(3)(a), Florida Statutes,
 3684 | have been paid in full or adequate provision for such payment
 3685 | has been made in accordance with the bond resolution or trust
 3686 | indenture pursuant to which the bonds were issued.

3687 | Section 23. Paragraph (a) of subsection (1) of section
 3688 | 817.234, Florida Statutes, is amended to read:

3689 | 817.234 False and fraudulent insurance claims.--

3690 | (1)(a) A person commits insurance fraud punishable as
 3691 | provided in subsection (11) if that person, with the intent to
 3692 | injure, defraud, or deceive any insurer:

HB 7225 CS

2006
CS

3693 | 1. Presents or causes to be presented any written or oral
 3694 | statement as part of, or in support of, a claim for payment or
 3695 | other benefit pursuant to an insurance policy or a health
 3696 | maintenance organization subscriber or provider contract,
 3697 | knowing that such statement contains any false, incomplete, or
 3698 | misleading information concerning any fact or thing material to
 3699 | such claim;

3700 | 2. Prepares or makes any written or oral statement that is
 3701 | intended to be presented to any insurer in connection with, or
 3702 | in support of, any claim for payment or other benefit pursuant
 3703 | to an insurance policy or a health maintenance organization
 3704 | subscriber or provider contract, knowing that such statement
 3705 | contains any false, incomplete, or misleading information
 3706 | concerning any fact or thing material to such claim; or

3707 | 3.a. Knowingly presents, causes to be presented, or
 3708 | prepares or makes with knowledge or belief that it will be
 3709 | presented to any insurer, purported insurer, servicing
 3710 | corporation, insurance broker, or insurance agent, or any
 3711 | employee or agent thereof, any false, incomplete, or misleading
 3712 | information or written or oral statement as part of, or in
 3713 | support of, an application for the issuance of, or the rating
 3714 | of, any insurance policy, or a health maintenance organization
 3715 | subscriber or provider contract, including any false declaration
 3716 | of homestead status for the purpose of obtaining coverage in a
 3717 | homestead account under s. 627.351(6); or

3718 | b. Who knowingly conceals information concerning any fact
 3719 | material to such application.

HB 7225 CS

2006
CS

3720 Section 24. Task Force on Hurricane Mitigation and
3721 Hurricane Insurance for Mobile and Manufactured Homes.--
3722 (1) TASK FORCE CREATED.--There is created the Task Force
3723 on Hurricane Mitigation and Hurricane Insurance for Mobile and
3724 Manufactured Homes.

3725 (2) ADMINISTRATION.--The task force shall be
3726 administratively housed within the Office of Insurance
3727 Regulation but shall operate independently of any state officer
3728 or agency. The office shall provide such administrative support
3729 as the task force deems necessary to accomplish its mission and
3730 shall provide necessary funding for the task force within the
3731 office's existing resources. The Executive Office of the
3732 Governor, the Department of Financial Services, the Office of
3733 Insurance Regulation, the Department of Highway Safety and Motor
3734 Vehicles, and the Department of Community Affairs shall provide
3735 substantive staff support for the task force.

3736 (3) MEMBERSHIP.--The members of the task force shall be
3737 appointed as follows:

3738 (a) The Governor shall appoint two members who have
3739 expertise in financial matters, one of whom is a representative
3740 of the mobile or manufactured home industry and one of whom is a
3741 representative of insurance consumers.

3742 (b) The Chief Financial Officer shall appoint two members
3743 who have expertise in financial matters, one of whom is a
3744 representative of a property insurer writing mobile or
3745 manufactured homeowners insurance in this state and one of whom
3746 is a representative of insurance agents.

3747 (c) The President of the Senate shall appoint one member.

Page 135 of 143

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

hb7225-02-c2

HB 7225 CS

2006
CS

3748 (d) The Speaker of the House of Representatives shall
3749 appoint one member.

3750 (e) The Commissioner of Insurance Regulation or his or her
3751 designee shall serve as an ex officio voting member of the task
3752 force.

3753 (f) The Executive Director of Citizens Property Insurance
3754 or his or her designee shall serve as an ex officio voting
3755 member of the task force.

3756 (g) The Chief Executive Officer of the Federal Alliance
3757 for Safe Homes, Incorporated or his or her designee shall serve
3758 as an ex officio voting member of the task force.

3759
3760 Members of the task force shall serve without compensation but
3761 may receive reimbursement for per diem and travel expenses as
3762 provided in s. 112.061, Florida Statutes.

3763 (4) PURPOSE AND INTENT.--The Legislature recognizes the
3764 continued availability of hurricane insurance coverage for
3765 mobile and manufactured home owners in this state is essential
3766 to the state's economic survival. The Legislature further
3767 recognizes hurricane mitigation measures and building codes may
3768 reduce the likelihood or amount of damage to mobile or
3769 manufactured homes in the event of a hurricane. The Legislature
3770 further recognizes mobile and manufactured homes provide safe
3771 and affordable housing to many residents of this state. The
3772 purpose of the task force is to make recommendations to the
3773 legislative and executive branches of this state's government
3774 relating to the creation and maintenance of insurance capacity
3775 in the private sector and public sector that is sufficient to

HB 7225 CS

2006
CS

3776 ensure that all mobile and manufactured home owners in this
3777 state are able to obtain appropriate insurance coverage for
3778 hurricane losses and relating to the effectiveness of hurricane
3779 mitigation measures for mobile or manufactured homes as further
3780 described in this section.

3781 (5) SPECIFIC TASKS.--The task force shall conduct such
3782 research and hearings as the task force deems necessary to
3783 achieve the purposes specified in subsection (4) and shall
3784 develop information on relevant issues, including, but not
3785 limited to, the following issues:

3786 (a) Whether this state currently has sufficient hurricane
3787 insurance capacity for mobile and manufactured homes to ensure
3788 the continuation of a healthy, competitive marketplace, taking
3789 into consideration private-sector and public-sector resources.

3790 (b) Identifying the future demands on the hurricane
3791 insurance capacity of this state, taking into account population
3792 growth, coastal growth, and anticipated future hurricane
3793 activity.

3794 (c) Identifying how many mobile or manufactured homes are
3795 occupied in this state, how many mobile or manufactured homes
3796 are occupied by owners who also own the land to which the unit
3797 is attached, the age or average age of mobile or manufactured
3798 homes, the location of such homes, and the size of such homes.

3799 (d) The extent to which the growth in insurance on mobile
3800 or manufactured homes in Citizens Property Insurance Corporation
3801 is attributable to insufficient insurance capacity.

3802 (e) The extent to which the growth trends of Citizens
3803 Property Insurance Corporation create long-term problems for

HB 7225 CS

2006
CS

3804 mobile and manufactured home owners in this state and for other
 3805 persons and businesses that depend on a viable market.

3806 (f) The extent to which insurance discounts, credits, or
 3807 other rate differentials or reductions in the hurricane
 3808 insurance deductible for a mobile or manufactured homeowner who
 3809 takes mitigative measures would increase hurricane insurance
 3810 capacity for mobile or manufactured homeowners.

3811 (g) The extent hurricane mitigation enhancements to mobile
 3812 or manufactured homes decreases the likelihood of damage from a
 3813 hurricane or decreases the amount of damage from a hurricane.

3814 (h) The extent to which the building codes reduce the
 3815 likelihood of damage or amount of damage to mobile or
 3816 manufactured homes.

3817 (6) REPORT AND RECOMMENDATIONS.--By January 1, 2007, the
 3818 task force shall provide a report containing findings relating
 3819 to the tasks identified in subsection (5) and recommendations
 3820 consistent with the purposes of this section and also consistent
 3821 with such findings. The task force shall submit the report to
 3822 the Governor, the Chief Financial Officer, the President of the
 3823 Senate, and the Speaker of the House of Representatives. The
 3824 task force may also submit such interim reports as the task
 3825 force deems appropriate.

3826 (7) EXPIRATION.--The task force shall expire on January 2,
 3827 2007.

3828 Section 25. By January 1, 2007, the Office of Insurance
 3829 Regulation shall submit a report to the President of the Senate,
 3830 the Speaker of the House of Representatives, the minority party
 3831 leaders of the Senate and the House of Representatives, and the

HB 7225 CS

2006
CS

3832 | chairs of the standing committees of the Senate and the House of
3833 | Representatives having jurisdiction over matters relating to
3834 | property and casualty insurance. In preparing the report, the
3835 | office shall consult with the Department of Highway Safety and
3836 | Motor Vehicles, the Department of Community Affairs, the Florida
3837 | Building Commission, the Florida Home Builders Association,
3838 | representatives of the mobile and manufactured home industry,
3839 | representatives of the property and casualty insurance industry,
3840 | and any other party the office determines is appropriate. The
3841 | report shall include findings and recommendations on the
3842 | insurability of attached or free standing structures to
3843 | residential homes, mobile, or manufactured homes, such as
3844 | carports or pool enclosures; the increase or decrease in
3845 | insurance costs associated with insuring such structures; the
3846 | feasibility of insuring such structures; the impact on
3847 | homeowners of not having insurance coverage for such structures;
3848 | the ability of mitigation measures relating to such structures
3849 | to reduce risk and loss; and such other related information as
3850 | the office determines is appropriate for the Legislature to
3851 | consider.

3852 | Section 26. (1) The Office of Insurance Regulation, in
3853 | consultation with the Department of Community Affairs, the
3854 | Department of Financial Services, the Federal Alliance for Safe
3855 | Homes, the Florida Insurance Council, the Florida Home Builders
3856 | Association, the Florida Manufactured Housing Association, the
3857 | Risk and Insurance Department of Florida State University, and
3858 | the Institute for Business and Homes Safety, shall study and
3859 | develop a program that will provide an objective rating system

HB 7225 CS

2006
CS

3860 that will allow homeowners to evaluate the relative ability of
 3861 Florida properties to withstand the wind load from a sustained
 3862 severe tropical storm or hurricane.

3863 (2) The rating system will be designed in a manner that is
 3864 easy to understand for the property owner, based on proven
 3865 readily verifiable mitigation techniques and devices, and able
 3866 to be implemented based on a visual inspection program. The
 3867 Department of Financial Services shall implement a pilot program
 3868 for use in the Florida Comprehensive Hurricane Damage Mitigation
 3869 Program.

3870 (3) The Department shall provide a report to the Governor,
 3871 the President of the Senate, and the Speaker of the House of
 3872 Representatives by March 31, 2007, detailing the nature and
 3873 construction of the rating scale, its effectiveness based on
 3874 implementation in a pilot program, and an operational plan for
 3875 statewide implementation of the rating scale.

3876 Section 27. (1) For fiscal year 2006-2007, the sum of
 3877 \$100 million is appropriated from the General Revenue Fund to
 3878 the Department of Financial Services for the Florida Hurricane
 3879 Damage Prevention Endowment as a nonrecurring appropriation for
 3880 the purposes specified in s. 215.558, Florida Statutes.

3881 (2) The sum of \$400 million is appropriated from the
 3882 General Revenue Fund to the Department of Financial Services as
 3883 a nonrecurring appropriation for the purposes specified in s.
 3884 215.5586, Florida Statutes.

3885 (3) Funds provided in subsections (1) and (2) shall be
 3886 transferred by the department to the Florida Hurricane Damage

HB 7225 CS

2006
CS

3887 Prevention Trust Fund, as created in s. 215.5585, Florida
3888 Statutes.

3889 (4) For fiscal year 2006-2007, the recurring sum of \$5
3890 million is appropriated to the Department of Financial Services
3891 from the Florida Hurricane Damage Prevention Trust Fund, Special
3892 Category - Financial Incentives for Hurricane Damage Prevention.

3893 (5) For fiscal year 2006-2007, the nonrecurring sum of
3894 \$392.5 million is appropriated to the Department of Financial
3895 Services from the Florida Hurricane Damage Prevention Trust
3896 Fund, Special Category - Florida Comprehensive Hurricane Damage
3897 Mitigation Program. The department may spend up to 1 percent of
3898 the funds appropriated to administer the program.

3899 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
3900 216.351, Florida Statutes, any unexpended balance from this
3901 appropriation shall be carried forward at the end of each fiscal
3902 year until the 2010-2011 fiscal year. At the end of the 2010-
3903 2011 fiscal year, any obligated funds for qualified projects
3904 that are not yet disbursed shall remain with the department to
3905 be used for the purposes of this act. Any unobligated funds of
3906 this appropriation shall revert to the Florida Hurricane Damage
3907 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

3908 (6) For fiscal year 2006-2007, the nonrecurring sum of
3909 \$7.5 million is appropriated to the Department of Community
3910 Affairs from the Florida Hurricane Damage Prevention Trust Fund,
3911 Special Category - Florida Comprehensive Hurricane Damage
3912 Mitigation Program. The department may spend up to 5 percent of
3913 the funds appropriated to administer the Manufactured Housing
3914 and Mobile Home Hurricane Mitigation Program. Notwithstanding s.

HB 7225 CS

2006
CS

3915 216.301, Florida Statutes, and pursuant to s. 216.351, Florida
 3916 Statutes, any unexpended balance from this appropriation shall
 3917 be carried forward at the end of each fiscal year until the
 3918 2010-2011 fiscal year. At the end of the 2010-2011 fiscal year,
 3919 any obligated funds for qualified projects that are not yet
 3920 disbursed shall remain with the department to be used for the
 3921 purposes of this act. Any unobligated funds of this
 3922 appropriation shall revert to the Florida Hurricane Damage
 3923 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

3924 Section 28. (1) For fiscal year 2006-2007, the sum of
 3925 \$920 million in nonrecurring funds is appropriated from the
 3926 General Revenue Fund to the Department of Financial Services for
 3927 transfer to the Citizens Property Insurance Corporation to avoid
 3928 regular assessments on assessable insurers, as authorized under
 3929 s. 627.351(6)(b)3.b., Florida Statutes, for the 2005 Plan Year
 3930 deficit. The board of governors of the corporation shall use
 3931 appropriated state moneys to fund that portion of the 2005 Plan
 3932 Year deficit which would result in the levying of regular
 3933 assessments in the commercial lines, personal lines, and high-
 3934 risk accounts. The transfer made by the department to the
 3935 corporation shall be limited to the amount of the total regular
 3936 assessments that were authorized by law to cover the 2005 Plan
 3937 Year deficit. Any unused and remaining funds in this
 3938 appropriation shall revert to the General Revenue Fund.

3939 (2) The corporation shall amortize over a 10-year period
 3940 any emergency assessments resulting from the 2005 Plan Year
 3941 deficit.

HB 7225 CS

2006
CS

3942 Section 29. For fiscal year 2006-2007, the sums of
3943 \$250,000 in recurring funds and \$425,000 in nonrecurring funds
3944 are appropriated from the Insurance Regulatory Trust Fund in the
3945 Department of Financial Services to the Office of Insurance
3946 Regulation for the purpose of carrying out reporting and
3947 administrative responsibilities of this act.

3948 Section 30. Except as otherwise expressly provided in this
3949 act, this act shall take effect July 1, 2006.