

1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 providing a short title; amending s. 215.555, F.S.;
4 revising a definition; authorizing the State Board of
5 Administration to make available to certain insurers a
6 contract to cede certain portions of surplus to the
7 Florida Hurricane Catastrophe Fund; providing contract
8 criteria and requirements; revising certain reimbursement
9 contract criteria; revising certain reimbursement premium
10 requirements; deleting a revenue bond issuance prohibition
11 and validation requirement; revising certain revenue bond
12 emergency assessment requirements; creating s. 215.558,
13 F.S.; creating the Florida Hurricane Damage Prevention
14 Endowment; providing a purpose and legislative intent;
15 providing definitions; providing requirements and
16 authority for investment of endowment assets by the State
17 Board of Administration; requiring a report to the
18 Legislature; providing for payment of the board's
19 investment services' costs and fees from the endowment;
20 providing requirements of the Department of Financial
21 Services in providing financial incentives for residential
22 hurricane damage prevention activities; providing for an
23 interest-free loan program; providing program criteria and
24 requirements; creating an advisory council for certain
25 purposes; providing for appointment of members; requiring
26 members to serve without compensation; providing for per
27 diem and travel expenses; creating s. 215.5586, F.S.;

28 | establishing the Florida Comprehensive Hurricane Damage
29 | Mitigation Program within the Department of Financial
30 | Services; providing qualifications for the program
31 | administrator; providing program components and
32 | requirements; providing for wind certification and
33 | hurricane mitigation inspections; providing inspection
34 | requirements; providing inspector eligibility
35 | requirements; providing for grants; providing grant
36 | requirements; providing for loans; providing public
37 | education and consumer awareness requirements; creating
38 | the Manufactured Housing and Mobile Home Hurricane
39 | Mitigation Program for certain purposes; requiring the
40 | Department of Financial Services to develop the program in
41 | consultation with certain entities; specifying
42 | requirements of the program; specifying the program as a
43 | matching grant program for improvement of mobile homes and
44 | manufactured homes; providing for distribution of the
45 | grants to the Department of Financial Services for certain
46 | purposes; requiring Citizens Property Insurance
47 | Corporation to grant certain insurance discounts, credits,
48 | rate differentials, or deductible reductions for property
49 | insurance premiums for certain manufactured home or mobile
50 | home owners; specifying criteria for such premiums;
51 | requiring a program report each year to the Governor and
52 | Legislature; providing report requirements; creating an
53 | advisory council; providing for appointment of members;
54 | specifying service without compensation; providing for per

55 diem and travel expense reimbursements; requiring the
56 department to obtain supplemental federal grants or funds
57 for the program; requiring the department to adopt rules;
58 creating s. 252.63, F.S.; providing purpose and intent;
59 providing powers of the Commissioner of Insurance
60 Regulation during a state of emergency; providing a
61 purpose and intent; authorizing the commissioner to issue
62 certain orders in a state of emergency; providing for
63 effect and duration of such orders; providing for
64 legislative termination of such orders; requiring the
65 commissioner to publish such orders and an explanatory
66 statement; amending s. 626.918, F.S.; authorizing certain
67 letters of credit to fund an insurer's required
68 policyholder protection trust fund; providing a
69 definition; amending s. 627.062, F.S.; specifying certain
70 rate filings as not subject to office determination as
71 excessive or unfairly discriminatory; providing
72 limitations; providing a definition; prohibiting certain
73 rate filings under certain circumstances; preserving the
74 office's authority to disapprove certain rate filings
75 under certain circumstances; providing procedures for
76 insurers submitting certain rate filings; revising
77 provisions providing for recoupment of certain reinsurance
78 costs; specifying nonapplication to certain types of
79 insurance; specifying approval of certain rate filings
80 under certain circumstances; providing an exception;
81 requiring the office to provide annual reports on the

82 | impact of certain rate regulations; specifying report
83 | requirements; amending s. 627.0628, F.S.; prohibiting
84 | certain office or consumer advocate questions of certain
85 | models reviewed by the commission; amending s. 627.0645,
86 | F.S.; authorizing the office to exempt certain companies
87 | from certain rate filing and rate certification
88 | requirements; amending s. 627.06281, F.S.; prohibiting the
89 | office from using certain hurricane loss projection models
90 | under certain circumstances; amending s. 627.351, F.S.,
91 | relating to the Citizens Property Insurance Corporation;
92 | providing additional legislative intent; specifying
93 | application to homestead property; providing that certain
94 | responsibilities of the Office of Insurance Regulation
95 | with respect to the plan of operation of Citizens Property
96 | Insurance Corporation be assumed by the Financial Services
97 | Commission; specifying the existing three separate
98 | accounts of the corporation as providing coverage only for
99 | homestead property; providing a definition; providing for
100 | an additional separate account for nonhomestead property;
101 | requiring separate maintenance of revenues, assets,
102 | liabilities, losses, and expenses attributable to the
103 | nonhomestead account; providing authority and requirements
104 | for coverage rates for nonhomestead properties; providing
105 | for office review of such rates or rating plans for being
106 | inadequate or unfairly discriminatory; authorizing the
107 | office to order discontinuance of certain policies under
108 | certain circumstances; requiring insurers to maintain

109 certain records; providing for reducing regular
110 assessments by the Citizen policyholder surcharge under
111 certain circumstances; providing for deficit assessments
112 against nonhomestead account policyholders under certain
113 circumstances; authorizing the board of governors of the
114 corporation to make loans from the homestead accounts to
115 the nonhomestead account under certain circumstances;
116 specifying ineligibility of certain nonhomestead account
117 policyholders for certain coverage under certain
118 circumstances; revising the requirements of the plan of
119 operation of the corporation; requiring additional
120 procedures for determining eligibility of a risk for
121 coverage; prescribing a 10-day waiting period for
122 applications for coverage for a new policy; authorizing
123 exceptions; providing for determination of regular
124 assessments to which the Citizen policyholder surcharge
125 applies; providing for optional payment plans; specifying
126 a minimum requirement for a hurricane deductible for
127 certain property; specifying contents of required
128 statements in applications for nonhomestead and homestead
129 account coverage; requiring prospective senior management
130 employees of the corporation to successfully pass a
131 background check; requiring employees of the corporation
132 to sign annually a statement that they have no conflict of
133 interest; providing that senior managers and members of
134 the board of governors are subject to the code of ethics
135 and must file financial disclosure; prohibiting employees

136 | and members of the board of governors from accepting gifts
137 | or expenditures from a persons or entity, or employee
138 | thereof, which has or is under consideration for a
139 | contract with the corporation; providing penalties;
140 | providing a limitation on senior managers' representation
141 | of persons before the corporation after retirement or
142 | termination of employment and on employment with an
143 | insurer that has received a take-out bonus; prescribing
144 | guidelines for purchases of goods and services; providing
145 | guidelines on use of outside counsel; prohibiting the
146 | corporation from retaining a lobbyist; authorizing full-
147 | time employees to register and engage in lobbying;
148 | creating the Office of Internal Auditor and prescribing
149 | its duties; providing record-retention requirements;
150 | requiring establishment of a unit or division to
151 | investigate claims involving possible fraud against the
152 | corporation and another to receive and respond to consumer
153 | complaints; requiring a periodic comprehensive market
154 | conduct examination of the corporation; requiring periodic
155 | operational audits of the corporation by the Auditor
156 | General; prescribing elements to be included in such
157 | audits; requiring the corporation to limit coverage on
158 | certain mobile homes or manufactured homes; providing
159 | additional legislative intent relating to rate adequacy in
160 | the residual market; revising provisions relating to a
161 | pilot program in Monroe County; providing program
162 | requirements of the office; deleting provisions relating

163 to a rate methodology panel appointed by the corporation;
164 providing requirements and limitations for a corporation
165 adopted bonus payment program; specifying absence of
166 liability of producing agents of record of the corporation
167 and employees for a take-out insurer's insolvency;
168 deleting provisions for immunity for certain persons and
169 entities; providing a criterion for calculating reduction
170 or increase in probable maximum loss; providing bankruptcy
171 petition limitations; delaying application of certain
172 high-risk area boundary reduction provisions; providing
173 for application of provisions relating to homestead and
174 nonhomestead accounts to certain policies; requiring
175 certain corporation employees to comply with certain
176 ethics code requirements; requiring corporation employees
177 to notify the Division of Insurance Fraud of probable
178 commissions of fraud by corporation employees; requiring
179 the corporation to report on the feasibility of requiring
180 authorized insurers to issue and service specified
181 policies of the corporation; specifying report
182 requirements; providing immunity to producing agents and
183 employees for specified actions taken relating to removal
184 of policies from the corporation; providing a limitation;
185 providing legislative intent; creating a High Risk
186 Eligibility Panel; providing for appointment of panel
187 members and member's terms; providing for administration
188 of the panel by the corporation; prohibiting compensation
189 and per diem and travel expenses; providing an exception;

190 requiring the panel to report annually to the Legislature
191 on the certain areas that should be included in the
192 Citizens Property Insurance Corporation high risk account;
193 specifying factors to be considered by the panel;
194 providing duties of the office; authorizing the office to
195 conduct public hearings; requiring the panel to conduct an
196 analysis of property eligible for the high-risk account in
197 specified areas; requiring the panel to submit a report to
198 the office and corporation; providing requirements of the
199 report; amending s. 627.3517, F.S.; providing that an
200 insurance risk apportionment plan policyholder's right to
201 retain his or her current agent does not apply during the
202 first 10 days after a new application for coverage has
203 been submitted to Citizens Property Insurance Corporation;
204 creating s. 627.3519, F.S.; requiring the Financial
205 Services Commission to report annually to the Legislature
206 on probable maximum losses, financing options, and
207 assessment potentials of the Florida Hurricane Catastrophe
208 Fund and Citizens Property Insurance Corporation; amending
209 s. 627.4035, F.S.; providing for a waiver of a written
210 authorization requirement to pay claims by debit card or
211 other electronic transfer; amending s. 627.701, F.S.;
212 providing additional authorization and requirements for
213 hurricane deductibles for renewal periods; authorizing
214 insurers to provide insureds with certain deductible
215 selection options after hurricane mitigation measures are
216 taken; providing a notice requirement; amending s.

217 627.7011, F.S.; limiting certain law and ordinance
218 coverage; deleting application to personal property;
219 requiring insurers to issue separate checks for certain
220 expenses and requiring certain checks to be issued
221 directly to a policyholder; creating s. 627.7019, F.S.;
222 requiring the Financial Services Commission to adopt rules
223 imposing standardized requirements applicable to insurers
224 after certain natural events; providing criteria;
225 providing requirements of the Office of Insurance
226 Regulation; prohibiting certain conflicting emergency
227 rules; amending s. 627.727, F.S.; correcting a cross-
228 reference; amending s. 631.181, F.S.; providing an
229 exception to certain requirements for a signed statement
230 for certain claims; providing requirements; amending s.
231 631.54, F.S.; defining the term "homeowner's insurance";
232 amending s. 631.55, F.S.; correcting a cross-reference;
233 amending s. 631.57, F.S.; revising requirements and
234 limitations for obligations of the Florida Insurance
235 Guaranty Association for covered claims; authorizing the
236 association to contract with counties, municipalities, and
237 legal entities to issue revenue bonds for certain
238 purposes; authorizing the Office of Insurance Regulation
239 to levy assessments and emergency assessments on insurers
240 under certain circumstances for certain bond repayment
241 purposes; providing requirements for and limitations on
242 such assessments; providing for payment, collection, and
243 distribution of such assessments; requiring insurers to

244 include an analysis of revenues from such assessments in a
245 required report; providing rate filing requirements for
246 insurers relating to such assessments; providing for
247 continuing annual assessments under certain circumstances;
248 specifying emergency assessments as not premium and not
249 subject to certain taxes, fees, or commissions; specifying
250 insurer liability for emergency assessments; providing an
251 exception; creating s. 631.695, F.S.; providing
252 legislative findings and purposes; providing for issuance
253 of revenue bonds through counties and municipalities to
254 fund assistance programs for paying covered claims for
255 hurricane damage; providing procedures, requirements, and
256 limitations for counties, municipalities, and the Florida
257 Insurance Guaranty Association, Inc., relating to issuance
258 and validation of such bonds; prohibiting pledging the
259 funds, credit, property, and taxing power of the state,
260 counties, and municipalities for payment of bonds;
261 specifying authorized uses of bond proceeds; limiting the
262 term of bonds; specifying a state covenant to protect
263 bondholders from adverse actions relating to such bonds;
264 specifying exemptions for bonds, notes, and other
265 obligations of counties and municipalities from certain
266 taxes or assessments on property and revenues; authorizing
267 counties and municipalities to create a legal entity to
268 exercise certain powers; requiring the association to
269 issue an annual report on the status of certain uses of
270 bond proceeds; providing report requirements; requiring

271 the association to provide a copy of the report to the
 272 Legislature and Chief Financial Officer; prohibiting
 273 repeal of certain provisions relating to certain bonds
 274 under certain circumstances; amending s. 817.234, F.S.;
 275 providing an additional circumstance that constitutes
 276 committing insurance fraud; requiring the Office of
 277 Insurance Regulation to submit reports to the Legislature
 278 relating to the insurability of certain attached or free
 279 standing structures ; providing report requirements;
 280 providing duties of the office; providing appropriations;
 281 specifying uses and purposes of appropriations; requiring
 282 insurers who recoup assessments to notify policyholders of
 283 the amount by which the surcharge has been reduced;
 284 providing penalties for a violation; providing effective
 285 dates.

286
 287 Be It Enacted by the Legislature of the State of Florida:

288
 289 Section 1. This act may be cited as the "John F. Cosgrove
 290 Memorial Act."

291 Section 2. Paragraph (d) of subsection (2), paragraphs
 292 (b), (c), and (d) of subsection (4), paragraph (b) of subsection
 293 (5), and paragraphs (a) and (b) of subsection (6) of section
 294 215.555, Florida Statutes, are amended, and paragraph (e) is
 295 added to subsection (5) of that section, to read:

296 215.555 Florida Hurricane Catastrophe Fund.--

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

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

305 (4) REIMBURSEMENT CONTRACTS.--

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

311 2. The insurer must elect one of the percentage coverage
312 levels specified in this paragraph and may, upon renewal of a
313 reimbursement contract, elect a lower percentage coverage level
314 if no revenue bonds issued under subsection (6) after a covered
315 event are outstanding, or elect a higher percentage coverage
316 level, regardless of whether or not revenue bonds are
317 outstanding. All members of an insurer group must elect the same
318 percentage coverage level. Any joint underwriting association,
319 risk apportionment plan, or other entity created under s.
320 627.351 must elect the 90-percent coverage level.

321 3. The contract shall provide that reimbursement amounts
322 shall not be reduced by reinsurance paid or payable to the
323 insurer from other sources.

324 4. Notwithstanding any other provision contained in this
325 section, the board shall make available to insurers qualifying
326 as limited apportionment companies under s. 627.351(6)(c)14. a
327 contract which cedes to the fund, after retention, an amount of
328 up to \$10 million. The rate to be charged for this coverage
329 shall be 50 percent rate-on-line which includes one prepaid
330 reinstatement. The minimum retention level that a carrier must
331 retain is 30 percent of surplus as of June 1, 2006. This
332 coverage shall be in addition to all other coverage which may be
333 provided under this section. This provision shall expire May 31,
334 2007.

335 5. Notwithstanding any other provisions contained in this
336 section, the board shall make available for the contract year
337 beginning June 1, 2006, and the contract year beginning June 1,
338 2007, additional contracts to insurers, other than entities
339 created pursuant to s. 627.351, which cede to the fund an amount
340 of additional first-event liability up to \$2.5 billion. This
341 additional capacity shall be provided by the fund provided that:

342 a. The layer of excess reinsurance provides coverage below
343 the attachment point of the fund;

344 b. At least 20 percent of the excess layer for each
345 participating insurer utilizing this additional capacity is
346 placed with independent reinsurers not related to the cedent;

347 c. The fund provides coverage at the same terms and
348 conditions as the independent reinsurers, not related to the
349 cedent; and

350 d. The fund receives 100 percent of the gross reinsurance
351 premium for its participation without deduction for reinsurance
352 brokerage.

353
354 The fund may provide additional coverage for a second event on
355 the same terms and conditions as provided by the independent
356 reinsurers not related to the cedent. This coverage shall be in
357 addition to all other coverage which may be provided under this
358 section. This subparagraph shall expire May 31, 2008.

359 (c)1. The contract shall also provide that the obligation
360 of the board with respect to all contracts covering a particular
361 contract year shall not exceed the actual claims-paying capacity
362 of the fund up to a limit of \$15 billion for that contract year
363 adjusted based upon the reported exposure from the prior
364 contract year to reflect the percentage growth in exposure to
365 the fund for covered policies since 2003, provided the dollar
366 growth in the limit may not increase in any year by an amount
367 greater than the dollar growth of the ~~cash~~ balance of the fund
368 as of December 31 as defined by rule which occurred over the
369 prior calendar year.

370 2. In May before the start of the upcoming contract year
371 and in October during the contract year, the board shall publish
372 in the Florida Administrative Weekly a statement of the fund's
373 estimated borrowing capacity and the projected balance of the
374 fund as of December 31. After the end of each calendar year, the
375 board shall notify insurers of the estimated borrowing capacity
376 and the balance of the fund as of December 31 to provide

377 insurers with data necessary to assist them in determining their
378 retention and projected payout from the fund for loss
379 reimbursement purposes. In conjunction with the development of
380 the premium formula, as provided for in subsection (5), the
381 board shall publish factors or multiples that assist insurers in
382 determining their retention and projected payout for the next
383 contract year. For all regulatory and reinsurance purposes, an
384 insurer may calculate its projected payout from the fund as its
385 share of the total fund premium for the current contract year
386 multiplied by the sum of the projected balance of the fund as of
387 December 31 and the estimated borrowing capacity for that
388 contract year as reported under this subparagraph.

389 (d)1. For purposes of determining potential liability and
390 to aid in the sound administration of the fund, the contract
391 shall require each insurer to report such insurer's losses from
392 each covered event on an interim basis, as directed by the
393 board. The contract shall require the insurer to report to the
394 board no later than December 31 of each year, and quarterly
395 thereafter, its reimbursable losses from covered events for the
396 year. The contract shall require the board to determine and pay,
397 as soon as practicable after receiving these reports of
398 reimbursable losses, the initial amount of reimbursement due and
399 adjustments to this amount based on later loss information. The
400 adjustments to reimbursement amounts shall require the board to
401 pay, or the insurer to return, amounts reflecting the most
402 recent calculation of losses.

403 2. In determining reimbursements pursuant to this
 404 subsection, the contract shall provide that the board shall:
 405 ~~a. First reimburse insurers writing covered policies,~~
 406 ~~which insurers are in full compliance with this section and have~~
 407 ~~petitioned the Office of Insurance Regulation and qualified as~~
 408 ~~limited apportionment companies under s. 627.351(2)(b)3. The~~
 409 ~~amount of such reimbursement shall be the lesser of \$10 million~~
 410 ~~or an amount equal to 10 times the insurer's reimbursement~~
 411 ~~premium for the current year. The amount of reimbursement paid~~
 412 ~~under this sub-subparagraph may not exceed the full amount of~~
 413 ~~reimbursement promised in the reimbursement contract. This sub-~~
 414 ~~subparagraph does not apply with respect to any contract year in~~
 415 ~~which the year end projected cash balance of the fund, exclusive~~
 416 ~~of any bonding capacity of the fund, exceeds \$2 billion. Only~~
 417 ~~one member of any insurer group may receive reimbursement under~~
 418 ~~this sub-subparagraph.~~
 419 a.b. ~~Next~~ Pay to each insurer such insurer's projected
 420 payout, which is the amount of reimbursement it is owed, up to
 421 an amount equal to the insurer's share of the actual premium
 422 paid for that contract year, multiplied by the actual claims-
 423 paying capacity available for that contract year; provided,
 424 entities created pursuant to s. 627.351 shall be further
 425 reimbursed in accordance with sub-subparagraph b. ~~e.~~
 426 b.e. Thereafter, establish the prorated reimbursement
 427 level at the highest level for which any remaining fund balance
 428 or bond proceeds are sufficient to reimburse entities created
 429 pursuant to s. 627.351 based on reimbursable losses exceeding

430 the amounts payable pursuant to sub-subparagraph a. ~~b.~~ for the
431 current contract year.

432 (5) REIMBURSEMENT PREMIUMS.--

433 (b) The State Board of Administration shall select an
434 independent consultant to develop a formula for determining the
435 actuarially indicated premium to be paid to the fund. The
436 formula shall specify, for each zip code or other limited
437 geographical area, the amount of premium to be paid by an
438 insurer for each \$1,000 of insured value under covered policies
439 in that zip code or other area. In establishing premiums, the
440 board shall consider the coverage elected under paragraph (4) (b)
441 and any factors that tend to enhance the actuarial
442 sophistication of ratemaking for the fund, including
443 deductibles, type of construction, type of coverage provided,
444 relative concentration of risks, ~~a factor providing for more~~
445 ~~rapid cash buildup in the fund until the fund capacity for a~~
446 ~~single hurricane season is fully funded,~~ and other such factors
447 deemed by the board to be appropriate. The formula may provide
448 for a procedure to determine the premiums to be paid by new
449 insurers that begin writing covered policies after the beginning
450 of a contract year, taking into consideration when the insurer
451 starts writing covered policies, the potential exposure of the
452 insurer, the potential exposure of the fund, the administrative
453 costs to the insurer and to the fund, and any other factors
454 deemed appropriate by the board. The formula shall include a
455 factor of 25 percent of the fund's actuarially indicated premium
456 in order to provide for more rapid cash buildup in the fund. The

457 formula must be approved by unanimous vote of the board. The
458 board may, at any time, revise the formula pursuant to the
459 procedure provided in this paragraph.

460 (e) For purposes of paragraph (c), if Citizens Property
461 Insurance Corporation assumes or otherwise provides coverage for
462 policies of insurers placed in liquidation under chapter 631
463 pursuant to s. 627.351(6)(m)5., Citizens Property Insurance
464 Corporation shall notify the board of its insured values with
465 respect to such policies within 60 days after such assumption or
466 other coverage transaction and the fund shall treat such
467 policies as having been in effect as of June 30 of that year.
468 For purposes of subsection (4), Citizens Property Insurance
469 Corporation may enter into a separate reimbursement contract
470 with respect to such policies and, if so, shall be treated by
471 the fund as a separate insurer with respect to such policies
472 until their first renewal effective date.

473 (6) REVENUE BONDS.--

474 (a) General provisions.--

475 1. Upon the occurrence of a hurricane and a determination
476 that the moneys in the fund are or will be insufficient to pay
477 reimbursement at the levels promised in the reimbursement
478 contracts, the board may take the necessary steps under
479 paragraph (c) or paragraph (d) for the issuance of revenue bonds
480 for the benefit of the fund. The proceeds of such revenue bonds
481 may be used to make reimbursement payments under reimbursement
482 contracts; to refinance or replace previously existing
483 borrowings or financial arrangements; to pay interest on bonds;

484 | to fund reserves for the bonds; to pay expenses incident to the
485 | issuance or sale of any bond issued under this section,
486 | including costs of validating, printing, and delivering the
487 | bonds, costs of printing the official statement, costs of
488 | publishing notices of sale of the bonds, and related
489 | administrative expenses; or for such other purposes related to
490 | the financial obligations of the fund as the board may
491 | determine. The term of the bonds may not exceed 30 years. The
492 | board may pledge or authorize the corporation to pledge all or a
493 | portion of all revenues under subsection (5) and under paragraph
494 | (b) to secure such revenue bonds and the board may execute such
495 | agreements between the board and the issuer of any revenue bonds
496 | and providers of other financing arrangements under paragraph
497 | (7) (b) as the board deems necessary to evidence, secure,
498 | preserve, and protect such pledge. If reimbursement premiums
499 | received under subsection (5) or earnings on such premiums are
500 | used to pay debt service on revenue bonds, such premiums and
501 | earnings shall be used only after the use of the moneys derived
502 | from assessments under paragraph (b). The funds, credit,
503 | property, or taxing power of the state or political subdivisions
504 | of the state shall not be pledged for the payment of such bonds.
505 | The board may also enter into agreements under paragraph (c) or
506 | paragraph (d) for the purpose of issuing revenue bonds in the
507 | absence of a hurricane upon a determination that such action
508 | would maximize the ability of the fund to meet future
509 | obligations.

510 2. The Legislature finds and declares that the issuance of
 511 bonds under this subsection is for the public purpose of paying
 512 the proceeds of the bonds to insurers, thereby enabling insurers
 513 to pay the claims of policyholders to assure that policyholders
 514 are able to pay the cost of construction, reconstruction,
 515 repair, restoration, and other costs associated with damage to
 516 property of policyholders of covered policies after the
 517 occurrence of a hurricane. ~~Revenue bonds may not be issued under
 518 this subsection until validated under chapter 75. The validation
 519 of at least the first obligations incurred pursuant to this
 520 subsection shall be appealed to the Supreme Court, to be handled
 521 on an expedited basis.~~

522 (b) Emergency assessments.--

523 1. If the board determines that the amount of revenue
 524 produced under subsection (5) is insufficient to fund the
 525 obligations, costs, and expenses of the fund and the
 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, by order, an emergency assessment on direct
 530 premiums for all property and casualty lines of business in this
 531 state, including property and casualty business of surplus lines
 532 insurers regulated under part VIII of chapter 626, but not
 533 including any workers' compensation premiums or medical
 534 malpractice premiums. As used in this subsection, the term
 535 "property and casualty business" includes all lines of business
 536 identified on Form 2, Exhibit of Premiums and Losses, in the

537 annual statement required of authorized insurers by s. 624.424
538 and any rule adopted under this section, except for those lines
539 identified as accident and health insurance and except for
540 policies written under the National Flood Insurance Program. The
541 assessment shall be specified as a percentage of direct written
542 ~~future premium collections~~ and is subject to annual adjustments
543 by the board ~~to reflect changes in premiums subject to~~
544 ~~assessments collected under this subparagraph~~ in order to meet
545 debt obligations. The same percentage shall apply to all
546 policies in lines of business subject to the assessment issued
547 or renewed during the 12-month period beginning on the effective
548 date of the assessment.

549 2. A premium is not subject to an annual assessment under
550 this paragraph in excess of 6 percent of premium with respect to
551 obligations arising out of losses attributable to any one
552 contract year, and a premium is not subject to an aggregate
553 annual assessment under this paragraph in excess of 10 percent
554 of premium. An annual assessment under this paragraph shall
555 continue for as long as ~~until~~ the revenue bonds issued with
556 respect to which the assessment was imposed are outstanding,
557 including any bonds the proceeds of which were used to refund
558 the revenue bonds, unless adequate provision has been made for
559 the payment of the bonds under the documents authorizing
560 issuance of the bonds.

561 3. Emergency assessments shall be collected from
562 policyholders. Emergency assessments shall be remitted by
563 insurers as a percentage of direct written premium for the

564 preceding calendar quarter as specified in the order from ~~With~~
565 ~~respect to each insurer collecting premiums that are subject to~~
566 ~~the assessment, the insurer shall collect the assessment at the~~
567 ~~same time as it collects the premium payment for each policy and~~
568 ~~shall remit the assessment collected to the fund or corporation~~
569 ~~as provided in the order issued by the Office of Insurance~~
570 Regulation. The office shall verify the accurate and timely
571 collection and remittance of emergency assessments and shall
572 report the information to the board in a form and at a time
573 specified by the board. Each insurer collecting assessments
574 shall provide the information with respect to premiums and
575 collections as may be required by the office to enable the
576 office to monitor and verify compliance with this paragraph.

577 4. With respect to assessments of surplus lines premiums,
578 each surplus lines agent shall collect the assessment at the
579 same time as the agent collects the surplus lines tax required
580 by s. 626.932, and the surplus lines agent shall remit the
581 assessment to the Florida Surplus Lines Service Office created
582 by s. 626.921 at the same time as the agent remits the surplus
583 lines tax to the Florida Surplus Lines Service Office. The
584 emergency assessment on each insured procuring coverage and
585 filing under s. 626.938 shall be remitted by the insured to the
586 Florida Surplus Lines Service Office at the time the insured
587 pays the surplus lines tax to the Florida Surplus Lines Service
588 Office. The Florida Surplus Lines Service Office shall remit the
589 collected assessments to the fund or corporation as provided in
590 the order levied by the Office of Insurance Regulation. The

591 Florida Surplus Lines Service Office shall verify the proper
592 application of such emergency assessments and shall assist the
593 board in ensuring the accurate and timely collection and
594 remittance of assessments as required by the board. The Florida
595 Surplus Lines Service Office shall annually calculate the
596 aggregate written premium on property and casualty business,
597 other than workers' compensation and medical malpractice,
598 procured through surplus lines agents and insureds procuring
599 coverage and filing under s. 626.938 and shall report the
600 information to the board in a form and at a time specified by
601 the board.

602 5. Any assessment authority not used for a particular
603 contract year may be used for a subsequent contract year. If,
604 for a subsequent contract year, the board determines that the
605 amount of revenue produced under subsection (5) is insufficient
606 to fund the obligations, costs, and expenses of the fund and the
607 corporation, including repayment of revenue bonds and that
608 portion of the debt service coverage not met by reimbursement
609 premiums, the board shall direct the Office of Insurance
610 Regulation to levy an emergency assessment up to an amount not
611 exceeding the amount of unused assessment authority from a
612 previous contract year or years, plus an additional 4 percent
613 provided that the assessments in the aggregate do not exceed the
614 limits specified in subparagraph 2.

615 6. The assessments otherwise payable to the corporation
616 under this paragraph shall be paid to the fund unless and until
617 the Office of Insurance Regulation and the Florida Surplus Lines

618 Service Office have received from the corporation and the fund a
619 notice, which shall be conclusive and upon which they may rely
620 without further inquiry, that the corporation has issued bonds
621 and the fund has no agreements in effect with local governments
622 under paragraph (c). On or after the date of the notice and
623 until the date the corporation has no bonds outstanding, the
624 fund shall have no right, title, or interest in or to the
625 assessments, except as provided in the fund's agreement with the
626 corporation.

627 7. Emergency assessments are not premium and are not
628 subject to the premium tax, to the surplus lines tax, to any
629 fees, or to any commissions. An insurer is liable for all
630 assessments that it collects and must treat the failure of an
631 insured to pay an assessment as a failure to pay the premium. An
632 insurer is not liable for uncollectible assessments.

633 8. When an insurer is required to return an unearned
634 premium, it shall also return any collected assessment
635 attributable to the unearned premium. A credit adjustment to the
636 collected assessment may be made by the insurer with regard to
637 future remittances that are payable to the fund or corporation,
638 but the insurer is not entitled to a refund.

639 9. When a surplus lines insured or an insured who has
640 procured coverage and filed under s. 626.938 is entitled to the
641 return of an unearned premium, the Florida Surplus Lines Service
642 Office shall provide a credit or refund to the agent or such
643 insured for the collected assessment attributable to the

644 unearned premium prior to remitting the emergency assessment
645 collected to the fund or corporation.

646 10. The exemption of medical malpractice insurance
647 premiums from emergency assessments under this paragraph is
648 repealed May 31, 2010 ~~2007~~, and medical malpractice insurance
649 premiums shall be subject to emergency assessments attributable
650 to loss events occurring in the contract years commencing on
651 June 1, 2010 ~~2007~~.

652 Section 3. Section 215.558, Florida Statutes, is created
653 to read:

654 215.558 Florida Hurricane Damage Prevention Endowment.--

655 (1) PURPOSE AND INTENT.--The purpose of this section is to
656 provide a continuing source of funding for financial incentives
657 to encourage residential property owners of this state to
658 retrofit their properties to make them less vulnerable to
659 hurricane damage, to help decrease the cost of residential
660 property and casualty insurance, and to provide matching funds
661 to local governments and nonprofit entities for projects that
662 will reduce hurricane damage to residential properties. It is
663 the intent of the Legislature that this section be construed
664 liberally to effectuate its purpose.

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

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

667 (b) "Corpus" means the money that has been appropriated to
668 the endowment by the 2006 Legislature, together with any amounts
669 subsequently appropriated to the endowment that are specifically
670 designated as contributions to the corpus and any grants, gifts,

671 or donations to the endowment that are specifically designated
672 as contributions to the corpus.

673 (c) "Earnings" means any money in the endowment in excess
674 of the corpus, including any income generated by investments,
675 any increase in the market value of investments net of decreases
676 in market value, and any appropriations, grants, gifts, or
677 donations to the endowment not specifically designated as
678 contributions to the corpus.

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

681 (e) "Program administrator" means the Department of
682 Financial Services.

683 (3) ADMINISTRATION.--

684 (a) The board shall invest endowment assets as provided in
685 this section.

686 (b) The board may invest and reinvest funds of the
687 endowment in accordance with s. 215.47 and consistent with board
688 policy.

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

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

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

698 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE
699 PREVENTION ACTIVITIES.--

700 (a) Not less than 80 percent of the net earnings of the
701 endowment shall be expended for financial incentives to
702 residential property owners as described in paragraph (b), and
703 no more than the remainder of the net earnings of the endowment
704 shall be expended for matching fund grants to local governments
705 and nonprofit entities for projects that will reduce hurricane
706 damage to residential properties as described in paragraph (c).
707 Any funds authorized for expenditure but not expended for these
708 purposes shall be returned to the endowment.

709 (b)1. The program administrator, by rule, shall establish
710 a request for a proposal process to annually solicit proposals
711 from lending institutions under which the lending institution
712 will provide interest-free loans to homestead property owners to
713 pay for inspections of homestead property to determine what
714 mitigation measures are needed and for improvements to existing
715 residential properties intended to reduce the homestead
716 property's vulnerability to hurricane damage, in exchange for
717 funding from the endowment.

718 2. In order to qualify for funding under this paragraph,
719 an interest-free loan program must include an inspection of
720 homestead property to determine what mitigation measures are
721 needed, a means for verifying that the improvements to be paid
722 for from loan proceeds have been demonstrated to reduce a
723 homestead property's vulnerability to hurricane damage, and a
724 means for verifying that the proceeds were actually spent on

725 such improvements. The program must include a method for
726 awarding loans according to the following priorities:

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

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

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

738 d. The next highest priority must be given to all other
739 single-family owner-occupied homestead dwellings insured at
740 \$500,000 or less.

741 3. The program administrator shall evaluate proposals
742 based on the following factors:

743 a. The degree to which the proposal meets the requirements
744 of subparagraph 2.

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

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

748 4. The program administrator shall annually solicit
749 proposals from local governments and nonprofit entities for
750 projects that will reduce hurricane damage to homestead
751 properties. The program administrator may provide up to 50

752 percent of the funding for such projects. The projects may
753 include educational programs, repair services, property
754 inspections, and hurricane vulnerability analyses and such other
755 projects as the program administrator determines to be
756 consistent with the purposes of this section.

757 (5) ADVISORY COUNCIL.--There is created an advisory
758 council to provide advice and assistance to the program
759 administrator with regard to its administration of the
760 endowment. The advisory council shall consist of:

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

764 (b) A representative of residential property insurers,
765 selected by the Financial Services Commission from a list of at
766 least three persons recommended by the Florida Insurance
767 Council.

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

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

774 (e) Two members of the House of Representatives selected
775 by the Speaker of the House of Representatives.

776 (f) Two members of the Senate selected by the President of
777 the Senate.

778 (g) The senior officer of the Florida Hurricane
 779 Catastrophe Fund.

780 (h) The executive director of Citizens Property Insurance
 781 Corporation.

782 (i) The director of the Division of Emergency Management
 783 of the Department of Community Affairs.

784

785 Members appointed under paragraphs (a)-(d) shall serve at the
 786 pleasure of the Financial Services Commission. Members appointed
 787 under paragraphs (e) and (f) shall serve at the pleasure of the
 788 appointing officer. All other members shall serve ex officio.
 789 Members of the advisory council shall serve without compensation
 790 but may receive reimbursement as provided in s. 112.061 for per
 791 diem and travel expenses incurred in the performance of their
 792 official duties.

793 Section 4. Section 215.5586, Florida Statutes, is created
 794 to read:

795 215.5586 Florida Comprehensive Hurricane Damage Mitigation
 796 Program.--There is established within the Department of
 797 Financial Services the Florida Comprehensive Hurricane Damage
 798 Mitigation Program. The program shall be administered by an
 799 individual with prior executive experience in the private sector
 800 in the areas of insurance, business, or construction. The
 801 program shall develop and implement a comprehensive and
 802 coordinated approach for hurricane damage mitigation that shall
 803 include the following:

804 (1) WIND CERTIFICATION AND HURRICANE MITIGATION

805 INSPECTIONS.--

806 (a) Free home-retrofit inspections of site-built,
807 residential property, including single-family, two-family,
808 three-family, or four-family residential units, shall be offered
809 to determine what mitigation measures are needed and what
810 improvements to existing residential properties are needed to
811 reduce the property's vulnerability to hurricane damage. The
812 Department of Financial Services shall establish a request for
813 proposals to solicit proposals from wind certification entities
814 to provide at no cost to homeowners wind certification and
815 hurricane mitigation inspections. The inspections provided to
816 homeowners, at a minimum, must include:

817 1. A home inspection and report that summarizes the
818 results and identifies corrective actions a homeowner may take
819 to mitigate hurricane damage.

820 2. A range of cost estimates regarding the mitigation
821 features.

822 3. Insurer-specific information regarding premium
823 discounts correlated to recommended mitigation features
824 identified by the inspection.

825 4. A hurricane resistance rating scale specifying the
826 home's current as well as projected wind resistance
827 capabilities.

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

- 831 1. Use wind certification and hurricane mitigation
832 inspectors who:
- 833 a. Have prior experience in residential construction or
834 inspection and have received specialized training in hurricane
835 mitigation procedures.
- 836 b. Have undergone drug testing and background checks.
- 837 c. Have been certified, in a manner satisfactory to the
838 department, to conduct the inspections.
- 839 2. Provide a quality assurance program including a
840 reinspection component.
- 841 (2) GRANTS.--Financial grants shall be used to encourage
842 single-family, site-built, owner-occupied, residential property
843 owners to retrofit their properties to make them less vulnerable
844 to hurricane damage.
- 845 (a) To be eligible for a grant, a residential property
846 must:
- 847 1. Have been granted a homestead exemption under chapter
848 196.
- 849 2. Be a dwelling with an insured value of \$500,000 or
850 less.
- 851 3. Have undergone an acceptable wind certification and
852 hurricane mitigation inspection.
- 853
- 854 A residential property which is part of a multi-family
855 residential unit may receive a grant only if all homeowners
856 participate and the total number of units does not exceed four.

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

860 (c) The program shall create a process in which mitigation
861 contractors agree to participate and seek reimbursement from the
862 state and homeowners select from a list of participating
863 contractors. All mitigation must be based upon the securing of
864 all required local permits and inspections. Mitigation projects
865 are subject to random reinspection of up to at least 10 percent
866 of all projects.

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

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

873 (4) EDUCATION AND CONSUMER AWARENESS.--Multimedia public
874 education, awareness, and advertising efforts designed to
875 specifically address mitigation techniques shall be employed, as
876 well as a component to support ongoing consumer resources and
877 referral services.

878 (5) MANUFACTURED HOUSING AND MOBILE HOME HURRICANE
879 MITIGATION PROGRAM.--The Manufactured Housing and Mobile Home
880 Hurricane Mitigation Program shall be also be implemented under
881 the Florida Comprehensive Hurricane Damage Mitigation Program.

882 (a) The program shall require the mitigation of damage to
883 homes for the areas of concern raised by the Department of

884 Highway Safety and Motor Vehicles in the 2004-2005 Hurricane
885 Reports on the effects of the 2004 and 2005 hurricanes on
886 manufactured and mobile homes in this state. The mitigation
887 shall include, but not be limited to, problems associated with
888 weakened trusses, studs, and other structural components, site-
889 built additions, or tie-down systems and may also address any
890 other issues deemed appropriate by the Department of Financial
891 Services upon consultation with the Department of Community
892 Affairs, Tallahassee Community College, the Federation of
893 Manufactured Home Owners of Florida, Inc., the Florida
894 Manufactured Housing Association, and the Department of Highway
895 Safety and Motor Vehicles. The program may include an education
896 and outreach component to ensure that owners of manufactured and
897 mobile homes are aware of the benefits of participation.

898 (b) The program shall include the offering of a matching
899 grant to owners of manufactured and mobile homes. Homeowners
900 accepted for the program shall be eligible to qualify for a
901 \$5,000 dollar-for-dollar matching grant in which the homeowner
902 may receive up to \$2,500 in state moneys. The moneys
903 appropriated for this program shall be distributed directly to
904 the Department of Financial Services for the uses set forth
905 under this paragraph.

906 (c) Upon evidence of completion of the program, the
907 Citizens Property Insurance Corporation shall grant, on a pro
908 rata basis, actuarially reasonable discounts, credits, or other
909 rate differentials or appropriate reductions in deductibles for
910 the properties of owners of manufactured homes or mobile homes

911 on which fixtures or construction techniques that have been
912 demonstrated to reduce the amount of loss in a windstorm have
913 been installed or implemented. The discount on the premium shall
914 be applied to subsequent renewal premium amounts. Premiums of
915 the Citizens Property Insurance Corporation shall reflect the
916 location of the home and the fact that the home has been
917 installed in compliance with building codes adopted after
918 Hurricane Andrew.

919 (d) On or before January 1 of each year, the Department of
920 Financial Services shall provide a report of activities under
921 this subsection to the Governor, the President of the Senate,
922 and the Speaker of the House of Representatives. The report
923 shall set forth the number of manufactured homes and mobile
924 homes that have taken advantage of the program, the types of
925 enhancements and improvements made to the manufactured homes or
926 mobile homes and attachments to such homes, and whether there
927 has been an increase of availability of insurance products to
928 owners of manufactured homes or mobile homes.

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

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

936 (b) A representative of residential property insurers,
937 selected by the Financial Services Commission from a list of at

938 least three persons recommended by the Florida Insurance
939 Council.

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

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

946 (e) Two members of the House of Representatives, selected
947 by the Speaker of the House of Representatives.

948 (f) Two members of the Senate, selected by the President
949 of the Senate.

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

952 (h) The senior officer of the Florida Hurricane
953 Catastrophe Fund.

954 (i) The executive director of Citizens Property Insurance
955 Corporation.

956 (j) The director of the Division of Emergency Management
957 of the Department of Community Affairs.

958
959 Members appointed under paragraphs (a)-(d) shall serve at the
960 pleasure of the Financial Services Commission. Members appointed
961 under paragraphs (e) and (f) shall serve at the pleasure of the
962 appointing officer. All other members shall serve voting ex
963 officio. Members of the advisory council shall serve without
964 compensation but may receive reimbursement as provided in s.

965 112.061 for per diem and travel expenses incurred in the
966 performance of their official duties.

967 (7) FEDERAL FUNDING.--The department shall use its best
968 efforts to obtain grants or funds from the federal government to
969 supplement the financial resources of the program.

970 (8) RULES.--The Department of Financial Services shall
971 adopt rules pursuant to ss. 120.536(1) and 120.54 governing the
972 Florida Comprehensive Hurricane Damage Mitigation Program.

973 Section 5. Section 215.559, Florida Statutes, is amended
974 to read:

975 215.559 Hurricane Loss Mitigation Program.--

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

981 (2)(a) Seven million dollars in funds provided in
982 subsection (1) shall be used for programs to improve the wind
983 resistance of residences and mobile homes, including loans,
984 subsidies, grants, demonstration projects, and direct
985 assistance; cooperative programs with local governments and the
986 Federal Government; and other efforts to prevent or reduce
987 losses or reduce the cost of rebuilding after a disaster.

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

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

997 ~~(3) By the 2006-2007 fiscal year, the Department of~~
998 ~~Community Affairs shall develop a low-interest loan program for~~
999 ~~homeowners and mobile home owners to retrofit their homes with~~
1000 ~~fixtures or apply construction techniques that have been~~
1001 ~~demonstrated to reduce the amount of damage or loss due to a~~
1002 ~~hurricane. Funding for the program shall be used to subsidize or~~
1003 ~~guaranty private sector loans for this purpose to qualified~~
1004 ~~homeowners by financial institutions chartered by the state or~~
1005 ~~Federal Government. The department may enter into contracts with~~
1006 ~~financial institutions for this purpose. The department shall~~
1007 ~~establish criteria for determining eligibility for the loans and~~
1008 ~~selecting recipients, standards for retrofitting homes or mobile~~
1009 ~~homes, limitations on loan subsidies and loan guaranties, and~~
1010 ~~other terms and conditions of the program, which must be~~
1011 ~~specified in the department's report to the Legislature on~~
1012 ~~January 1, 2006, required by subsection (8). For the 2005-2006~~
1013 ~~fiscal year, the Department of Community Affairs may use up to~~
1014 ~~\$1 million of the funds appropriated pursuant to paragraph~~
1015 ~~(2)(a) to begin the low interest loan program as a pilot project~~
1016 ~~in one or more counties. The Department of Financial Services,~~
1017 ~~the Office of Financial Regulation, the Florida Housing Finance~~
1018 ~~Corporation, and the Office of Tourism, Trade, and Economic~~

1019 ~~Development shall assist the Department of Community Affairs in~~
 1020 ~~establishing the program and pilot project. The department may~~
 1021 ~~use up to 2.5 percent of the funds appropriated in any given~~
 1022 ~~fiscal year for administering the loan program. The department~~
 1023 ~~may adopt rules to implement the program.~~

1024 (3)~~(4)~~ Forty percent of the total appropriation in
 1025 paragraph (2)(a) shall be used to inspect and improve tie-downs
 1026 for mobile homes. Within 30 days after the effective date of
 1027 that appropriation, the department shall contract with a public
 1028 higher educational institution in this state which has previous
 1029 experience in administering the programs set forth in this
 1030 subsection to serve as the administrative entity and fiscal
 1031 agent pursuant to s. 216.346 for the purpose of administering
 1032 the programs set forth in this subsection in accordance with
 1033 established policy and procedures. The administrative entity
 1034 working with the advisory council set up under subsection (6)
 1035 shall develop a list of mobile home parks and counties that may
 1036 be eligible to participate in the tie-down program.

1037 (4)~~(5)~~ Of moneys provided to the Department of Community
 1038 Affairs in paragraph (2)(a), 10 percent shall be allocated to a
 1039 Type I Center within the State University System dedicated to
 1040 hurricane research. The Type I Center shall develop a
 1041 preliminary work plan approved by the advisory council set forth
 1042 in subsection (6) to eliminate the state and local barriers to
 1043 upgrading existing mobile homes and communities, research and
 1044 develop a program for the recycling of existing older mobile
 1045 homes, and support programs of research and development relating

1046 | to hurricane loss reduction devices and techniques for site-
1047 | built residences. The State University System also shall consult
1048 | with the Department of Community Affairs and assist the
1049 | department with the report required under subsection (8).

1050 | (5)~~(6)~~ The Department of Community Affairs shall develop
1051 | the programs set forth in this section in consultation with an
1052 | advisory council consisting of a representative designated by
1053 | the Chief Financial Officer, a representative designated by the
1054 | Florida Home Builders Association, a representative designated
1055 | by the Florida Insurance Council, a representative designated by
1056 | the Federation of Manufactured Home Owners, a representative
1057 | designated by the Florida Association of Counties, and a
1058 | representative designated by the Florida Manufactured Housing
1059 | Association.

1060 | (6)~~(7)~~ Moneys provided to the Department of Community
1061 | Affairs under this section are intended to supplement other
1062 | funding sources of the Department of Community Affairs and may
1063 | not supplant other funding sources of the Department of
1064 | Community Affairs.

1065 | (7)~~(8)~~ On January 1st of each year, the Department of
1066 | Community Affairs shall provide a full report and accounting of
1067 | activities under this section and an evaluation of such
1068 | activities to the Speaker of the House of Representatives, the
1069 | President of the Senate, and the Majority and Minority Leaders
1070 | of the House of Representatives and the Senate.

1071 | (8)~~(9)~~ This section is repealed June 30, 2011.

1072 Section 6. Section 252.63, Florida Statutes, is created to
 1073 read:

1074 252.63 Commissioner of Insurance Regulation; powers in a
 1075 state of emergency.--

1076 (1) When the Governor declares a state of emergency
 1077 pursuant to s. 252.36, the commissioner may issue one or more
 1078 general orders applicable to all insurance companies, entities,
 1079 and persons, as defined in s. 624.04, that are subject to the
 1080 Florida Insurance Code and that serve any portion of the area of
 1081 the state under the state of emergency.

1082 (2) An order issued by the commissioner under this section
 1083 becomes effective upon issuance and continues for 120 days
 1084 unless terminated sooner by the commissioner. The commissioner
 1085 may extend an order for one additional period of 120 days if he
 1086 or she determines that the emergency conditions that gave rise
 1087 to the initial order still exist. By concurrent resolution, the
 1088 Legislature may terminate any order issued under this section.

1089 (3) The commissioner shall publish in the next available
 1090 publication of the Florida Administrative Weekly a copy of the
 1091 text of any order issued under this section, together with a
 1092 statement describing the modification or suspension and
 1093 explaining how the modification or suspension will facilitate
 1094 recovery from the emergency.

1095 Section 7. Subsections (1) and (2) of section 626.918,
 1096 Florida Statutes, are amended to read:

1097 626.918 Eligible surplus lines insurers.--

1098 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any
 1099 coverage with any unauthorized insurer which is not then an
 1100 eligible surplus lines insurer, except as permitted under
 1101 subsections (5) and (6).

1102 (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or become
 1103 an eligible surplus lines insurer unless made eligible by the
 1104 office in accordance with the following conditions:

1105 (a) Eligibility of the insurer must be requested in
 1106 writing by the Florida Surplus Lines Service Office.‡

1107 (b) The insurer must be currently an authorized insurer in
 1108 the state or country of its domicile as to the kind or kinds of
 1109 insurance proposed to be so placed and must have been such an
 1110 insurer for not less than the 3 years next preceding or must be
 1111 the wholly owned subsidiary of such authorized insurer or must
 1112 be the wholly owned subsidiary of an already eligible surplus
 1113 lines insurer as to the kind or kinds of insurance proposed for
 1114 a period of not less than the 3 years next preceding. However,
 1115 the office may waive the 3-year requirement if the insurer
 1116 provides a product or service not readily available to the
 1117 consumers of this state or has operated successfully for a
 1118 period of at least 1 year next preceding and has capital and
 1119 surplus of not less than \$25 million.‡

1120 (c) Before granting eligibility, the requesting surplus
 1121 lines agent or the insurer shall furnish the office with a duly
 1122 authenticated copy of its current annual financial statement in
 1123 the English language and with all monetary values therein
 1124 expressed in United States dollars, at an exchange rate (in the

1125 | case of statements originally made in the currencies of other
 1126 | countries) then-current and shown in the statement, and with
 1127 | such additional information relative to the insurer as the
 1128 | office may request.†

1129 | (d)1.a. The insurer must have and maintain surplus as to
 1130 | policyholders of not less than \$15 million; in addition, an
 1131 | alien insurer must also have and maintain in the United States a
 1132 | trust fund for the protection of all its policyholders in the
 1133 | United States under terms deemed by the office to be reasonably
 1134 | adequate, in an amount not less than \$5.4 million. Any such
 1135 | surplus as to policyholders or trust fund shall be represented
 1136 | by investments consisting of eligible investments for like funds
 1137 | of like domestic insurers under part II of chapter 625 provided,
 1138 | however, that in the case of an alien insurance company, any
 1139 | such surplus as to policyholders may be represented by
 1140 | investments permitted by the domestic regulator of such alien
 1141 | insurance company if such investments are substantially similar
 1142 | in terms of quality, liquidity, and security to eligible
 1143 | investments for like funds of like domestic insurers under part
 1144 | II of chapter 625. Clean, irrevocable, unconditional, and
 1145 | evergreen letters of credit issued or confirmed by a qualified
 1146 | United States financial institution, as defined in subparagraph
 1147 | 2., may be used to fund the trust.†

1148 | ~~b.2.~~ For those surplus lines insurers that were eligible
 1149 | on January 1, 1994, and that maintained their eligibility
 1150 | thereafter, the required surplus as to policyholders shall be:

1151 (I)~~a.~~ On December 31, 1994, and until December 30, 1995,
 1152 \$2.5 million.

1153 (II)~~b.~~ On December 31, 1995, and until December 30, 1996,
 1154 \$3.5 million.

1155 (III)~~c.~~ On December 31, 1996, and until December 30, 1997,
 1156 \$4.5 million.

1157 (IV)~~d.~~ On December 31, 1997, and until December 30, 1998,
 1158 \$5.5 million.

1159 (V)~~e.~~ On December 31, 1998, and until December 30, 1999,
 1160 \$6.5 million.

1161 (VI)~~f.~~ On December 31, 1999, and until December 30, 2000,
 1162 \$8 million.

1163 (VII)~~g.~~ On December 31, 2000, and until December 30, 2001,
 1164 \$9.5 million.

1165 (VIII)~~h.~~ On December 31, 2001, and until December 30,
 1166 2002, \$11 million.

1167 (IX)~~i.~~ On December 31, 2002, and until December 30, 2003,
 1168 \$13 million.

1169 (X)~~j.~~ On December 31, 2003, and thereafter, \$15 million.

1170 c.3. The capital and surplus requirements as set forth in
 1171 sub-subparagraph b. ~~subparagraph 2.~~ do not apply in the case of
 1172 an insurance exchange created by the laws of individual states,
 1173 where the exchange maintains capital and surplus pursuant to the
 1174 requirements of that state, or maintains capital and surplus in
 1175 an amount not less than \$50 million in the aggregate. For an
 1176 insurance exchange which maintains funds in the amount of at
 1177 least \$12 million for the protection of all insurance exchange

1178 policyholders, each individual syndicate shall maintain minimum
1179 capital and surplus in an amount not less than \$3 million. If
1180 the insurance exchange does not maintain funds in the amount of
1181 at least \$12 million for the protection of all insurance
1182 exchange policyholders, each individual syndicate shall meet the
1183 minimum capital and surplus requirements set forth in sub-
1184 subparagraph b. ~~subparagraph 2.~~;

1185 d.4. A surplus lines insurer which is a member of an
1186 insurance holding company that includes a member which is a
1187 Florida domestic insurer as set forth in its holding company
1188 registration statement, as set forth in s. 628.801 and rules
1189 adopted thereunder, may elect to maintain surplus as to
1190 policyholders in an amount equal to the requirements of s.
1191 624.408, subject to the requirement that the surplus lines
1192 insurer shall at all times be in compliance with the
1193 requirements of chapter 625.

1194
1195 The election shall be submitted to the office and shall be
1196 effective upon the office's being satisfied that the
1197 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
1198 met. The initial date of election shall be the date of office
1199 approval. The election approval application shall be on a form
1200 adopted by commission rule. The office may approve an election
1201 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
1202 only if it was on file with the former Department of Insurance
1203 before February 28, 1998.

1204 2. For purposes of letters of credit under subparagraph
 1205 1., the term "qualified United States financial institution"
 1206 means an institution that:

1207 a. Is organized or, in the case of a United States office
 1208 of a foreign banking organization, is licensed under the laws of
 1209 the United States or any state.

1210 b. Is regulated, supervised, and examined by authorities
 1211 of the United States or any state having regulatory authority
 1212 over banks and trust companies.

1213 c. Has been determined by the office or the Securities
 1214 Valuation Office of the National Association of Insurance
 1215 Commissioners to meet such standards of financial condition and
 1216 standing as are considered necessary and appropriate to regulate
 1217 the quality of financial institutions whose letters of credit
 1218 are acceptable to the office.

1219 (e) The insurer must be of good reputation as to the
 1220 providing of service to its policyholders and the payment of
 1221 losses and claims.†

1222 (f) The insurer must be eligible, as for authority to
 1223 transact insurance in this state, under s. 624.404(3).†~~and~~

1224 (g) This subsection does not apply as to unauthorized
 1225 insurers made eligible under s. 626.917 as to wet marine and
 1226 aviation risks.

1227 Section 8. Paragraph (j) is added to subsection (2) of
 1228 section 627.062, Florida Statutes, subsection (5) of that
 1229 section is amended, and subsections (9) and (10) are added to
 1230 that section, to read:

1231 627.062 Rate standards.--

1232 (2) As to all such classes of insurance:

1233 (j) Effective January 1, 2007, notwithstanding any other

1234 provision of this section:

1235 1. With respect to any residential property insurance

1236 subject to regulation under this section, a rate filing,

1237 including, but not limited to, any rate changes, rating factors,

1238 territories, classification, discounts, and credits, with

1239 respect to any policy form, including endorsements issued with

1240 the form, that results in an overall average statewide premium

1241 increase or decrease of no more than 5 percent above or below

1242 the premium that would result from the insurer's rates then in

1243 effect shall not be subject to a determination by the office

1244 that the rate is excessive or unfairly discriminatory except as

1245 provided in subparagraph 3., or any other provision of law,

1246 provided all changes specified in the filing do not result in an

1247 overall premium increase of more than 10 percent for any one

1248 territory, for reasons related solely to the rate change. As

1249 used in this subparagraph, the term "insurer's rates then in

1250 effect" includes only rates that have been lawfully in effect

1251 under this section or rates that have been determined to be

1252 lawful through administrative proceedings or judicial

1253 proceedings.

1254 2. An insurer may not make filings under this paragraph

1255 with respect to any policy form, including endorsements issued

1256 with the form, if the overall premium changes resulting from

1257 such filings exceed the amounts specified in this paragraph in

1258 any 12-month period. An insurer may proceed under other
1259 provisions of this section or other provisions of law if the
1260 insurer seeks to exceed the premium or rate limitations of this
1261 paragraph.

1262 3. This paragraph does not affect the authority of the
1263 office to disapprove a rate as inadequate or to disapprove a
1264 filing for the unlawful use of unfairly discriminatory rating
1265 factors that are prohibited by the laws of this state. An
1266 insurer electing to implement a rate change under this paragraph
1267 shall submit a filing to the office at least 40 days prior to
1268 the effective date of the rate change. The office shall have 30
1269 days after the filing's submission to review the filing and
1270 determine if the rate is inadequate or uses unfairly
1271 discriminatory rating factors. Absent a finding by the office
1272 within such 30-day period that the rate is inadequate or that
1273 the insurer has used unfairly discriminatory rating factors, the
1274 filing is deemed approved. If the office finds during the 30-day
1275 period that the filing will result in inadequate premiums or
1276 otherwise endanger the insurer's solvency, the office shall
1277 suspend the rate decrease. If the insurer is implementing an
1278 overall rate increase, the results of which continue to produce
1279 an inadequate rate, such increase shall proceed pending
1280 additional action by the office to ensure the adequacy of the
1281 rate.

1282 4. This paragraph does not apply to rate filings for any
1283 insurance other than residential property insurance.

1284

1285 The provisions of this subsection shall not apply to workers'
1286 compensation and employer's liability insurance and to motor
1287 vehicle insurance.

1288 (5) With respect to a rate filing involving coverage of
1289 the type for which the insurer is required to pay a
1290 reimbursement premium to the Florida Hurricane Catastrophe Fund,
1291 the insurer may fully recoup in its property insurance premiums
1292 any reimbursement premiums paid to the Florida Hurricane
1293 Catastrophe Fund, together with ~~reasonable~~ costs of other
1294 reinsurance consistent with prudent business practices and sound
1295 actuarial principles, but may not recoup reinsurance costs that
1296 duplicate coverage provided by the Florida Hurricane Catastrophe
1297 Fund. The burden is on the office to establish that any costs of
1298 other reinsurance are in excess of amounts consistent with
1299 prudent business practices and sound actuarial principles. An
1300 insurer may not recoup more than 1 year of reimbursement premium
1301 at a time. Any under-recoupment from the prior year may be added
1302 to the following year's reimbursement premium and any over-
1303 recoupment shall be subtracted from the following year's
1304 reimbursement premium.

1305 (9) Notwithstanding any other provision of this section,
1306 any rate filing or applicable portion of the rate filing that
1307 includes the peril of wind within the boundary of the area
1308 covered by the high-risk account of the Citizens Property
1309 Insurance Corporation shall be deemed approved upon submission
1310 to the office if the filing or the applicable portion of the
1311 filing requests approval of a rate that is less than the

1312 approved rate for similar risks insured in the high-risk account
1313 of the corporation unless the office determines that such rate
1314 is inadequate or unfairly discriminatory as provided in
1315 subsection (2).

1316 (10) (a) Beginning January 1, 2007, the office shall
1317 annually provide a report to the President of the Senate, the
1318 Speaker of the House of Representatives, the minority party
1319 leader of each house of the Legislature, and the chairs of the
1320 standing committees of each house of the Legislature having
1321 jurisdiction over insurance issues, specifying the impact of
1322 flexible rate regulation under paragraph (2) (j) on the degree of
1323 competition in insurance markets in this state.

1324 (b) The report shall include a year-by-year comparison of
1325 the number of companies participating in the market for each
1326 class of insurance and the relative rate levels. The report
1327 shall also specify:

1328 1. The number of rate filings made under paragraph (2) (j),
1329 the rate levels under those filings, and the market share
1330 affected by those filings.

1331 2. The number of filings made on a file and use basis, the
1332 rate levels under those filings, and the market share affected
1333 by those filings.

1334 3. The number of filings made on a use and file basis, the
1335 rate levels under those filings, and the market share affected
1336 by those filings.

1337 4. Recommendations to promote competition in the insurance
1338 market and further protect insurance consumers.

1339 Section 9. Paragraph (c) of subsection (3) of section
1340 627.0628, Florida Statutes, is amended to read:

1341 627.0628 Florida Commission on Hurricane Loss Projection
1342 Methodology; public records exemption; public meetings
1343 exemption.--

1344 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1345 (c) With respect to a rate filing under s. 627.062, an
1346 insurer may employ actuarial methods, principles, standards,
1347 models, or output ranges found by the commission to be accurate
1348 or reliable to determine hurricane loss factors for use in a
1349 rate filing under s. 627.062. Such findings and factors are
1350 admissible and relevant in consideration of a rate filing by the
1351 office or in any arbitration or administrative or judicial
1352 review only if the office and the consumer advocate appointed
1353 pursuant to s. 627.0613 have a reasonable opportunity to review
1354 ~~access to~~ all of the basic assumptions and factors that were
1355 used in developing the actuarial methods, principles, standards,
1356 models, or output ranges. After review of the specific models by
1357 the commission, the office and the consumer advocate may not
1358 pose any questions generated from their respective reviews that
1359 duplicate or compromise the conclusions of the commission
1360 relative to the accuracy or reliability of the models in
1361 producing hurricane loss factors for use in a rate filing under
1362 s. 627.062, and are not precluded from disclosing such
1363 information in a rate proceeding.

1364 Section 10. Section 627.06281, Florida Statutes, is
1365 amended to read:

1366 627.06281 Public hurricane loss projection model;
1367 reporting of data by insurers.--

1368 (1) Within 30 days after a written request for loss data
1369 and associated exposure data by the office or a type I center
1370 within the State University System established to study
1371 mitigation, residential property insurers and licensed rating
1372 and advisory organizations that compile residential property
1373 insurance loss data shall provide loss data and associated
1374 exposure data for residential property insurance policies to the
1375 office or to a type I center within the State University System
1376 established to study mitigation, as directed by the office, for
1377 the purposes of developing, maintaining, and updating a public
1378 model for hurricane loss projections. The loss data and
1379 associated exposure data provided shall be in writing.

1380 (2) The office may not use the public model for hurricane
1381 loss projection referred to in subsection (1) for any purpose
1382 under s. 627.062 or s. 627.351 until the model has been
1383 submitted to the Florida Commission on Hurricane Loss Projection
1384 Methodology for review under s. 627.0628 and the commission has
1385 found the model to be accurate and reliable pursuant to the same
1386 process and standards as the commission uses for the review of
1387 other hurricane loss projection models.

1388 Section 11. Subsection (2) of section 627.0645, Florida
1389 Statutes, is amended to read:

1390 627.0645 Annual filings.--

1391 (2) (a) Deviations filed by an insurer to any rating
1392 organization's base rate filing are not subject to this section.

1393 (b) The office, after receiving a request to be exempted
 1394 from the provisions of this section, may, for good cause due to
 1395 insignificant numbers of policies in force or insignificant
 1396 premium volume, exempt a company, by line of coverage, from
 1397 filing rates or rate certification as required by this section.

1398 (c) The office, after receiving a request to be exempted
 1399 from the provisions of this section, shall exempt a company with
 1400 less than 500 residential homeowner or mobile homeowner policies
 1401 from filing rates or rate certification as required by this
 1402 section.

1403 Section 12. Subsection (6) of section 627.351, Florida
 1404 Statutes, is amended to read:

1405 627.351 Insurance risk apportionment plans.--

1406 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1407 (a)1.a. The Legislature finds that actual and threatened
 1408 catastrophic losses to property in this state from hurricanes
 1409 have caused insurers to be unwilling or unable to provide
 1410 property insurance coverage to the extent sought and needed. It
 1411 is in the public interest and a public purpose to assist in
 1412 ensuring ~~assuring~~ that homestead property in the state is
 1413 insured so as to facilitate the remediation, reconstruction, and
 1414 replacement of damaged or destroyed property in order to reduce
 1415 or avoid the negative effects otherwise resulting to the public
 1416 health, safety, and welfare; to the economy of the state; and to
 1417 the revenues of the state and local governments needed to
 1418 provide for the public welfare. It is necessary, therefore, to
 1419 provide property insurance to applicants who are in good faith

1420 entitled to procure insurance through the voluntary market but
1421 are unable to do so. The Legislature intends by this subsection
1422 that property insurance be provided and that it continues, as
1423 long as necessary, through an entity organized to achieve
1424 efficiencies and economies, while providing service to
1425 policyholders, applicants, and agents that is no less than the
1426 quality generally provided in the voluntary market, all toward
1427 the achievement of the foregoing public purposes. Because it is
1428 essential for the corporation to have the maximum financial
1429 resources to pay claims following a catastrophic hurricane, it
1430 is the intent of the Legislature that the income of the
1431 corporation be exempt from federal income taxation and that
1432 interest on the debt obligations issued by the corporation be
1433 exempt from federal income taxation.

1434 b. The Legislature finds and declares that:

1435 (I) The commitment of the state, as expressed in sub-
1436 subparagraph a., to providing a means of ensuring the
1437 availability of property insurance through a residual market
1438 mechanism is hereby reaffirmed.

1439 (II) Despite legislative efforts to ensure that the
1440 residual market for property insurance is self-supporting to the
1441 greatest reasonable extent, residual market policyholders are to
1442 some degree subsidized by the general public through assessments
1443 on owners of property insured in the voluntary market and their
1444 insurers and through the potential use of general revenues of
1445 the state to eliminate or reduce residual market deficits.

1446 (III) The degree of such subsidy is a matter of public
1447 policy. It is the intent of the Legislature to better control
1448 the subsidy through at least the following means:

1449 (A) Restructuring the residual market mechanism to provide
1450 separate treatment of homestead and nonhomestead properties,
1451 with the intent of continuing to provide an insurance program
1452 with limited subsidies for homestead properties while providing
1453 a nonsubsidized insurance program for nonhomestead properties.

1454 (B) Redefining the concept of rate adequacy in the
1455 subsidized residual market with the intent of ensuring a rate
1456 structure that will enable the subsidized residual market to be
1457 self-supporting except in the event of hurricane losses of a
1458 legislatively specified magnitude. It is the intent of the
1459 Legislature that the funding of the subsidized residual market
1460 be structured to be self-supporting up to the point of its 100-
1461 year probable maximum loss and that the funding be structured to
1462 make reliance on assessments or other sources of public funding
1463 necessary only in the event of a 100-year probable maximum loss
1464 or larger loss.

1465 2. The Residential Property and Casualty Joint
1466 Underwriting Association originally created by this statute
1467 shall be known, as of July 1, 2002, as the Citizens Property
1468 Insurance Corporation. The corporation shall provide insurance
1469 for residential and commercial property, for applicants who are
1470 in good faith entitled, but are unable, to procure insurance
1471 through the voluntary market. The corporation shall operate
1472 pursuant to a plan of operation approved by order of the

1473 ~~commission office~~. The plan is subject to continuous review by
1474 the commission office. The commission office may, by order,
1475 withdraw approval of all or part of a plan if the commission
1476 ~~office~~ determines that conditions have changed since approval
1477 was granted and that the purposes of the plan require changes in
1478 the plan. The corporation shall continue to operate pursuant to
1479 the plan of operation approved by the office until October 1,
1480 2006. For the purposes of this subsection, residential coverage
1481 includes both personal lines residential coverage, which
1482 consists of the type of coverage provided by homeowner's, mobile
1483 home owner's, dwelling, tenant's, condominium unit owner's, and
1484 similar policies, and commercial lines residential coverage,
1485 which consists of the type of coverage provided by condominium
1486 association, apartment building, and similar policies.

1487 3. It is the intent of the Legislature that policyholders,
1488 applicants, and agents of the corporation receive service and
1489 treatment of the highest possible level but never less than that
1490 generally provided in the voluntary market. It also is intended
1491 that the corporation be held to service standards no less than
1492 those applied to insurers in the voluntary market by the office
1493 with respect to responsiveness, timeliness, customer courtesy,
1494 and overall dealings with policyholders, applicants, or agents
1495 of the corporation.

1496 (b)1. All insurers authorized to write one or more subject
1497 lines of business in this state are subject to assessment by the
1498 corporation and, for the purposes of this subsection, are
1499 referred to collectively as "assessable insurers." Insurers

1500 writing one or more subject lines of business in this state
 1501 pursuant to part VIII of chapter 626 are not assessable
 1502 insurers, but insureds who procure one or more subject lines of
 1503 business in this state pursuant to part VIII of chapter 626 are
 1504 subject to assessment by the corporation and are referred to
 1505 collectively as "assessable insureds." An authorized insurer's
 1506 assessment liability shall begin on the first day of the
 1507 calendar year following the year in which the insurer was issued
 1508 a certificate of authority to transact insurance for subject
 1509 lines of business in this state and shall terminate 1 year after
 1510 the end of the first calendar year during which the insurer no
 1511 longer holds a certificate of authority to transact insurance
 1512 for subject lines of business in this state.

1513 2.a. All revenues, assets, liabilities, losses, and
 1514 expenses of the corporation shall be divided into four ~~three~~
 1515 separate accounts as follows:

1516 (I) Three separate homestead accounts that may provide
 1517 coverage only for homestead properties. The term "homestead
 1518 property" means a residential property that has been granted a
 1519 homestead exemption under chapter 196. The term also includes a
 1520 property that is qualified for such exemption but has not
 1521 applied for the exemption as of the date of issuance of the
 1522 policy, provided the policyholder obtains the exemption within 1
 1523 year after initial issuance of the policy. The term also
 1524 includes an owner-occupied mobile or manufactured home as
 1525 defined in s. 320.01 permanently affixed to real property
 1526 regardless of whether the owner of the mobile or manufactured

1527 home is also the owner of the land on which the mobile or
1528 manufactured home is permanently affixed. However, the term does
1529 not include a mobile home that is being held for display by a
1530 licensed mobile home dealer or a licensed mobile home
1531 manufacturer and is not owner-occupied. For the purposes of this
1532 sub-sub-subparagraph, the term "homestead property" also
1533 includes property covered by tenant's insurance; commercial
1534 lines residential policies; any county, district, or municipal
1535 hospital, or hospital licensed by any not-for-profit corporation
1536 that is qualified under s. 501(c)(3) of the United State
1537 Internal Revenue Code; and continuing care retirement
1538 communities certified under chapter 651 that receives an ad
1539 valorem tax exemption under chapter 196. The accounts providing
1540 coverage only for homestead properties are:

1541 (A)~~(I)~~ A personal lines account for personal residential
1542 policies issued by the corporation or issued by the Residential
1543 Property and Casualty Joint Underwriting Association and renewed
1544 by the corporation that provide comprehensive, multiperil
1545 coverage on risks that are not located in areas eligible for
1546 coverage in the Florida Windstorm Underwriting Association as
1547 those areas were defined on January 1, 2002, and for such
1548 policies that do not provide coverage for the peril of wind on
1549 risks that are located in such areas;

1550 (B)~~(II)~~ A commercial lines account for commercial
1551 residential policies issued by the corporation or issued by the
1552 Residential Property and Casualty Joint Underwriting Association
1553 and renewed by the corporation that provide coverage for basic

1554 property perils on risks that are not located in areas eligible
1555 for coverage in the Florida Windstorm Underwriting Association
1556 as those areas were defined on January 1, 2002, and for such
1557 policies that do not provide coverage for the peril of wind on
1558 risks that are located in such areas; and

1559 (C) ~~(III)~~ A high-risk account for personal residential
1560 policies and commercial residential ~~and commercial~~
1561 ~~nonresidential~~ property policies issued by the corporation or
1562 transferred to the corporation that provide coverage for the
1563 peril of wind on risks that are located in areas eligible for
1564 coverage in the Florida Windstorm Underwriting Association as
1565 those areas were defined on January 1, 2002. The high-risk
1566 account must also include quota share primary insurance under
1567 subparagraph (c)2. The area eligible for coverage under the
1568 high-risk account also includes the area within Port Canaveral,
1569 which is bordered on the south by the City of Cape Canaveral,
1570 bordered on the west by the Banana River, and bordered on the
1571 north by Federal Government property. The office may remove
1572 territory from the area eligible for wind-only and quota share
1573 coverage if, after a public hearing, the office finds that
1574 authorized insurers in the voluntary market are willing and able
1575 to write sufficient amounts of personal and commercial
1576 residential coverage for all perils in the territory, including
1577 coverage for the peril of wind, such that risks covered by wind-
1578 only policies in the removed territory could be issued a policy
1579 by the corporation in either the personal lines or commercial
1580 lines account without a significant increase in the

1581 corporation's probable maximum loss in such account. Removal of
1582 territory from the area eligible for wind-only or quota share
1583 coverage does not alter the assignment of wind coverage written
1584 in such areas to the high-risk account.

1585 (II) (A) A separate nonhomestead account for commercial
1586 nonresidential property policies and for all properties that
1587 otherwise meet all of the criteria for eligibility for coverage
1588 within one of the three homestead accounts described in sub-sub-
1589 subparagraph (I) but that do not meet the definition of
1590 homestead property specified in sub-sub-subparagraph (I). The
1591 nonhomestead account shall provide the same types of coverage as
1592 are provided by the three homestead accounts, including wind-
1593 only coverage in the high-risk account area. In order to be
1594 eligible for coverage in the nonhomestead account, at the
1595 initial issuance of the policy and at renewal the property owner
1596 shall provide the corporation with a sworn affidavit stating
1597 that the property has been rejected for coverage by at least
1598 three authorized insurers and at least three surplus lines
1599 insurers.

1600 (B) An authorized insurer or approved insurer as defined
1601 in s. 626.914(2) may provide coverage to a nonhomestead property
1602 owner on an individual risk rate basis. Rates and forms of an
1603 authorized insurer for nonhomestead properties are not subject
1604 to ss. 627.062 and 627.0629, except s. 627.0629(2)(b). Such
1605 rates and forms are subject to all other applicable provisions
1606 of this code and rules adopted under this code. During the
1607 course of an insurer's market conduct examination, the office

1608 may review the rate for any nonhomestead property to determine
1609 if such rate is inadequate or unfairly discriminatory. Rates on
1610 nonhomestead property may be found inadequate by the office if
1611 they are clearly insufficient, together with the investment
1612 income attributable to the insurer, to sustain projected losses
1613 and expenses in the class of business to which such rates apply.
1614 Rates on nonhomestead property may also be found inadequate as
1615 to the premium charged to a risk or group of risks if discounts
1616 or credits are allowed that exceed a reasonable reflection of
1617 expense savings and reasonably expected loss experience from the
1618 risk or group of risks. Rates on nonhomestead property may be
1619 found to be unfairly discriminatory as to a risk or group of
1620 risks by the office if the application of premium discounts,
1621 credits, or surcharges among such risks does not bear a
1622 reasonable relationship to the expected loss and expense
1623 experience among the various risks. A rating plan, including
1624 discounts, credits, or surcharges on nonhomestead property, may
1625 also be found to be unfairly discriminatory if the plan fails to
1626 clearly and equitably reflect consideration of the
1627 policyholder's participation in a risk management program
1628 adjusted pursuant to s. 627.0625. The office may order an
1629 insurer to discontinue using a rate for new policies or upon
1630 renewal of a policy if the office finds the rate to be
1631 inadequate or unfairly discriminatory. Insurers shall maintain
1632 records and documentation relating to rates and forms subject to
1633 this sub-sub-sub-subparagraph for a period of at least 5 years
1634 after the effective date of the policy.

1635 b. The three separate homestead accounts must be
 1636 maintained as long as financing obligations entered into by the
 1637 Florida Windstorm Underwriting Association or Residential
 1638 Property and Casualty Joint Underwriting Association are
 1639 outstanding, in accordance with the terms of the corresponding
 1640 financing documents. When the financing obligations are no
 1641 longer outstanding, in accordance with the terms of the
 1642 corresponding financing documents, the corporation may use a
 1643 single homestead account for all revenues, assets, liabilities,
 1644 losses, and expenses of the corporation. All revenues, assets,
 1645 liabilities, losses, and expenses attributable to the
 1646 nonhomestead account shall be maintained separately.

1647 c. Creditors of the Residential Property and Casualty
 1648 Joint Underwriting Association shall have a claim against, and
 1649 recourse to, the accounts referred to in sub-sub-sub-
 1650 subparagraphs ~~sub-sub-subparagraphs~~ a.(I) (A) and (B) ~~(II)~~ and
 1651 shall have no claim against, or recourse to, the account
 1652 referred to in sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~
 1653 a.(I) (C) ~~(III)~~. Creditors of the Florida Windstorm Underwriting
 1654 Association shall have a claim against, and recourse to, the
 1655 account referred to in sub-sub-sub-subparagraph ~~sub-sub-~~
 1656 ~~subparagraph~~ a.(I) (C) ~~(III)~~ and shall have no claim against, or
 1657 recourse to, the accounts referred to in sub-sub-sub-
 1658 subparagraphs ~~sub-sub-subparagraphs~~ a.(I) (A) and (B) ~~(II)~~.

1659 d. Revenues, assets, liabilities, losses, and expenses not
 1660 attributable to particular accounts shall be prorated among the
 1661 accounts.

1662 e. The Legislature finds that the revenues of the
1663 corporation are revenues that are necessary to meet the
1664 requirements set forth in documents authorizing the issuance of
1665 bonds under this subsection.

1666 f. No part of the income of the corporation may inure to
1667 the benefit of any private person.

1668 3. With respect to a deficit in any of the homestead
1669 accounts ~~an account~~:

1670 a. When the deficit incurred in a particular calendar year
1671 is not greater than 10 percent of the aggregate statewide direct
1672 written premium for the subject lines of business for the prior
1673 calendar year, the entire deficit shall be recovered through
1674 regular assessments of assessable insurers under paragraph (g)
1675 and assessable insureds.

1676 b. When the deficit incurred in a particular calendar year
1677 exceeds 10 percent of the aggregate statewide direct written
1678 premium for the subject lines of business for the prior calendar
1679 year, the corporation shall levy regular assessments on
1680 assessable insurers under paragraph (g) and on assessable
1681 insureds in an amount equal to the greater of 10 percent of the
1682 deficit or 10 percent of the aggregate statewide direct written
1683 premium for the subject lines of business for the prior calendar
1684 year. Any remaining deficit shall be recovered through emergency
1685 assessments under sub-subparagraph d.

1686 c. Each assessable insurer's share of the amount being
1687 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1688 be in the proportion that the assessable insurer's direct

1689 written premium for the subject lines of business for the year
1690 preceding the year in which the deficit is incurred ~~assessment~~
1691 bears to the aggregate statewide direct written premium for the
1692 subject lines of business for that year. The assessment
1693 percentage applicable to each assessable insured is the ratio of
1694 the amount being assessed under sub-subparagraph a. or sub-
1695 subparagraph b. to the aggregate statewide direct written
1696 premium for the subject lines of business for the prior year.
1697 Assessments levied by the corporation on assessable insurers
1698 under sub-subparagraphs a. and b. shall be paid as required by
1699 the corporation's plan of operation and paragraph (g). Any
1700 assessment levied by the corporation on limited apportionment
1701 companies may be paid to the corporation by such companies on a
1702 monthly basis as the assessment are collected from insureds for
1703 a time period not to exceed 18 months. Notwithstanding any other
1704 provision in this subsection, the aggregate amount of a regular
1705 assessment levied in connection with a deficit incurred in a
1706 particular calendar year shall be reduced by the aggregate
1707 amount of the Citizens Property Insurance Corporation
1708 policyholder surcharge imposed under subparagraph (c)10.
1709 Assessments levied by the corporation on assessable insureds
1710 under sub-subparagraphs a. and b. shall be collected by the
1711 surplus lines agent at the time the surplus lines agent collects
1712 the surplus lines tax required by s. 626.932 and shall be paid
1713 to the Florida Surplus Lines Service Office at the time the
1714 surplus lines agent pays the surplus lines tax to the Florida
1715 Surplus Lines Service Office. Upon receipt of regular

1716 assessments from surplus lines agents, the Florida Surplus Lines
1717 Service Office shall transfer the assessments directly to the
1718 corporation as determined by the corporation.

1719 d. Upon a determination by the board of governors that a
1720 deficit in an account exceeds the amount that will be recovered
1721 through regular assessments under sub-subparagraph a. or sub-
1722 subparagraph b., the board shall levy, after verification by the
1723 office, emergency assessments, for as many years as necessary to
1724 cover the deficits, to be collected by assessable insurers and
1725 the corporation and collected from assessable insureds upon
1726 issuance or renewal of policies for subject lines of business,
1727 excluding National Flood Insurance policies. The amount of the
1728 emergency assessment collected in a particular year shall be a
1729 uniform percentage of that year's direct written premium for
1730 subject lines of business and all accounts of the corporation,
1731 excluding National Flood Insurance Program policy premiums, as
1732 annually determined by the board and verified by the office. The
1733 office shall verify the arithmetic calculations involved in the
1734 board's determination within 30 days after receipt of the
1735 information on which the determination was based.

1736 Notwithstanding any other provision of law, the corporation and
1737 each assessable insurer that writes subject lines of business
1738 shall collect emergency assessments from its policyholders
1739 without such obligation being affected by any credit,
1740 limitation, exemption, or deferment. Emergency assessments
1741 levied by the corporation on assessable insureds shall be
1742 collected by the surplus lines agent at the time the surplus

1743 | lines agent collects the surplus lines tax required by s.
 1744 | 626.932 and shall be paid to the Florida Surplus Lines Service
 1745 | Office at the time the surplus lines agent pays the surplus
 1746 | lines tax to the Florida Surplus Lines Service Office. The
 1747 | emergency assessments so collected shall be transferred directly
 1748 | to the corporation on a periodic basis as determined by the
 1749 | corporation and shall be held by the corporation solely in the
 1750 | applicable account. The aggregate amount of emergency
 1751 | assessments levied for an account under this sub-subparagraph in
 1752 | any calendar year may not exceed the greater of 10 percent of
 1753 | the amount needed to cover the original deficit, plus interest,
 1754 | fees, commissions, required reserves, and other costs associated
 1755 | with financing of the original deficit, or 10 percent of the
 1756 | aggregate statewide direct written premium for subject lines of
 1757 | business and for all accounts of the corporation for the prior
 1758 | year, plus interest, fees, commissions, required reserves, and
 1759 | other costs associated with financing the original deficit.

1760 | e. The corporation may pledge the proceeds of assessments,
 1761 | projected recoveries from the Florida Hurricane Catastrophe
 1762 | Fund, other insurance and reinsurance recoverables, Citizens
 1763 | policyholder ~~market equalization~~ surcharges and other
 1764 | surcharges, and other funds available to the corporation as the
 1765 | source of revenue for and to secure bonds issued under paragraph
 1766 | (g), bonds or other indebtedness issued under subparagraph
 1767 | (c)3., or lines of credit or other financing mechanisms issued
 1768 | or created under this subsection, or to retire any other debt
 1769 | incurred as a result of deficits or events giving rise to

1770 deficits, or in any other way that the board determines will
1771 efficiently recover such deficits. The purpose of the lines of
1772 credit or other financing mechanisms is to provide additional
1773 resources to assist the corporation in covering claims and
1774 expenses attributable to a catastrophe. As used in this
1775 subsection, the term "assessments" includes regular assessments
1776 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1777 (g)1. and emergency assessments under sub-subparagraph d.
1778 Emergency assessments collected under sub-subparagraph d. are
1779 not part of an insurer's rates, are not premium, and are not
1780 subject to premium tax, fees, or commissions; however, failure
1781 to pay the emergency assessment shall be treated as failure to
1782 pay premium. The emergency assessments under sub-subparagraph d.
1783 shall continue as long as any bonds issued or other indebtedness
1784 incurred with respect to a deficit for which the assessment was
1785 imposed remain outstanding, unless adequate provision has been
1786 made for the payment of such bonds or other indebtedness
1787 pursuant to the documents governing such bonds or other
1788 indebtedness.

1789 f. As used in this subsection, the term "subject lines of
1790 business" means insurance written by assessable insurers or
1791 procured by assessable insureds on real or personal property, as
1792 defined in s. 624.604, including insurance for fire, industrial
1793 fire, allied lines, farmowners multiperil, homeowners
1794 multiperil, commercial multiperil, and mobile homes, and
1795 including liability coverage on all such insurance, but
1796 excluding inland marine as defined in s. 624.607(3) and

1797 excluding vehicle insurance as defined in s. 624.605(1) other
1798 than insurance on mobile homes used as permanent dwellings.

1799 g. The Florida Surplus Lines Service Office shall
1800 determine annually the aggregate statewide written premium in
1801 subject lines of business procured by assessable insureds and
1802 shall report that information to the corporation in a form and
1803 at a time the corporation specifies to ensure that the
1804 corporation can meet the requirements of this subsection and the
1805 corporation's financing obligations.

1806 h. The Florida Surplus Lines Service Office shall verify
1807 the proper application by surplus lines agents of assessment
1808 percentages for regular assessments and emergency assessments
1809 levied under this subparagraph on assessable insureds and shall
1810 assist the corporation in ensuring the accurate, timely
1811 collection and payment of assessments by surplus lines agents as
1812 required by the corporation.

1813 4. With respect to a deficit in the nonhomestead account
1814 or to any cash flow shortfall that the board determines will
1815 create an inability for the nonhomestead account to pay claims
1816 when due:

1817 a. The board shall levy an immediate assessment against
1818 the premium of each nonhomestead account policyholder, expressed
1819 as a uniform percentage of the premium for the policy then in
1820 effect. The maximum amount of such assessment is 100 percent of
1821 such premium.

1822 b. If the assessment under sub-subparagraph a. is
1823 insufficient to enable the account to pay claims and eliminate

1824 the deficit in the account, the board may levy an additional
1825 assessment to be collected at the time of any issuance or
1826 renewal of a nonhomestead account policy during the 1-year
1827 period following the levy of the assessment under sub-
1828 subparagraph a., expressed as a uniform percentage of the
1829 premium for the policy for the forthcoming policy period. The
1830 maximum amount of such assessment is 100 percent of such
1831 premium.

1832 c. If the assessments under sub-subparagraphs a. and b.
1833 are insufficient to enable the account to pay claims and
1834 eliminate the deficit in the account, the board may make a loan
1835 from any of the homestead accounts to the nonhomestead account,
1836 subject to approval by the office and provided that such loan
1837 does not impair the financial status of any of the homestead
1838 accounts.

1839 5. A policyholder in a nonhomestead account who has not
1840 paid a deficit assessment levied by the corporation shall be
1841 ineligible for coverage by a surplus lines insurer or authorized
1842 insurer.

1843 (c) The plan of operation of the corporation:

1844 1. Must provide for adoption of residential property and
1845 casualty insurance policy forms and commercial residential and
1846 nonresidential property insurance forms, which forms must be
1847 approved by the office prior to use. The corporation shall adopt
1848 the following policy forms:

1849 a. Standard personal lines policy forms that are
1850 comprehensive multiperil policies providing full coverage of a

1851 residential property equivalent to the coverage provided in the
1852 private insurance market under an HO-3, HO-4, or HO-6 policy.

1853 b. Basic personal lines policy forms that are policies
1854 similar to an HO-8 policy or a dwelling fire policy that provide
1855 coverage meeting the requirements of the secondary mortgage
1856 market, but which coverage is more limited than the coverage
1857 under a standard policy.

1858 c. Commercial lines residential policy forms that are
1859 generally similar to the basic perils of full coverage
1860 obtainable for commercial residential structures in the admitted
1861 voluntary market.

1862 d. Personal lines and commercial lines residential
1863 property insurance forms that cover the peril of wind only. The
1864 forms are applicable only to residential properties located in
1865 areas eligible for coverage under the high-risk account referred
1866 to in sub-subparagraph (b)2.a.

1867 e. Commercial lines nonresidential property insurance
1868 forms that cover the peril of wind only. The forms are
1869 applicable only to nonresidential properties located in areas
1870 eligible for coverage under the high-risk account referred to in
1871 sub-subparagraph (b)2.a.

1872 f. The corporation may adopt variations of the policy
1873 forms listed in sub-subparagraphs a.-e. that contain more
1874 restrictive coverage.

1875 2.a. Must provide that the corporation adopt a program in
1876 which the corporation and authorized insurers enter into quota
1877 share primary insurance agreements for hurricane coverage, as

1878 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1879 property insurance forms for eligible risks which cover the
1880 peril of wind only. As used in this subsection, the term:

1881 (I) "Quota share primary insurance" means an arrangement
1882 in which the primary hurricane coverage of an eligible risk is
1883 provided in specified percentages by the corporation and an
1884 authorized insurer. The corporation and authorized insurer are
1885 each solely responsible for a specified percentage of hurricane
1886 coverage of an eligible risk as set forth in a quota share
1887 primary insurance agreement between the corporation and an
1888 authorized insurer and the insurance contract. The
1889 responsibility of the corporation or authorized insurer to pay
1890 its specified percentage of hurricane losses of an eligible
1891 risk, as set forth in the quota share primary insurance
1892 agreement, may not be altered by the inability of the other
1893 party to the agreement to pay its specified percentage of
1894 hurricane losses. Eligible risks that are provided hurricane
1895 coverage through a quota share primary insurance arrangement
1896 must be provided policy forms that set forth the obligations of
1897 the corporation and authorized insurer under the arrangement,
1898 clearly specify the percentages of quota share primary insurance
1899 provided by the corporation and authorized insurer, and
1900 conspicuously and clearly state that neither the authorized
1901 insurer nor the corporation may be held responsible beyond its
1902 specified percentage of coverage of hurricane losses.

1903 (II) "Eligible risks" means personal lines residential and
1904 commercial lines residential risks that meet the underwriting

1905 criteria of the corporation and are located in areas that were
 1906 eligible for coverage by the Florida Windstorm Underwriting
 1907 Association on January 1, 2002.

1908 b. The corporation may enter into quota share primary
 1909 insurance agreements with authorized insurers at corporation
 1910 coverage levels of 90 percent and 50 percent.

1911 c. If the corporation determines that additional coverage
 1912 levels are necessary to maximize participation in quota share
 1913 primary insurance agreements by authorized insurers, the
 1914 corporation may establish additional coverage levels. However,
 1915 the corporation's quota share primary insurance coverage level
 1916 may not exceed 90 percent.

1917 d. Any quota share primary insurance agreement entered
 1918 into between an authorized insurer and the corporation must
 1919 provide for a uniform specified percentage of coverage of
 1920 hurricane losses, by county or territory as set forth by the
 1921 corporation board, for all eligible risks of the authorized
 1922 insurer covered under the quota share primary insurance
 1923 agreement.

1924 e. Any quota share primary insurance agreement entered
 1925 into between an authorized insurer and the corporation is
 1926 subject to review and approval by the office. However, such
 1927 agreement shall be authorized only as to insurance contracts
 1928 entered into between an authorized insurer and an insured who is
 1929 already insured by the corporation for wind coverage.

1930 f. For all eligible risks covered under quota share
 1931 primary insurance agreements, the exposure and coverage levels

1932 | for both the corporation and authorized insurers shall be
 1933 | reported by the corporation to the Florida Hurricane Catastrophe
 1934 | Fund. For all policies of eligible risks covered under quota
 1935 | share primary insurance agreements, the corporation and the
 1936 | authorized insurer shall maintain complete and accurate records
 1937 | for the purpose of exposure and loss reimbursement audits as
 1938 | required by Florida Hurricane Catastrophe Fund rules. The
 1939 | corporation and the authorized insurer shall each maintain
 1940 | duplicate copies of policy declaration pages and supporting
 1941 | claims documents.

1942 | g. The corporation board shall establish in its plan of
 1943 | operation standards for quota share agreements which ensure that
 1944 | there is no discriminatory application among insurers as to the
 1945 | terms of quota share agreements, pricing of quota share
 1946 | agreements, incentive provisions if any, and consideration paid
 1947 | for servicing policies or adjusting claims.

1948 | h. The quota share primary insurance agreement between the
 1949 | corporation and an authorized insurer must set forth the
 1950 | specific terms under which coverage is provided, including, but
 1951 | not limited to, the sale and servicing of policies issued under
 1952 | the agreement by the insurance agent of the authorized insurer
 1953 | producing the business, the reporting of information concerning
 1954 | eligible risks, the payment of premium to the corporation, and
 1955 | arrangements for the adjustment and payment of hurricane claims
 1956 | incurred on eligible risks by the claims adjuster and personnel
 1957 | of the authorized insurer. Entering into a quota sharing
 1958 | insurance agreement between the corporation and an authorized

1959 insurer shall be voluntary and at the discretion of the
 1960 authorized insurer.

1961 3. May provide that the corporation may employ or
 1962 otherwise contract with individuals or other entities to provide
 1963 administrative or professional services that may be appropriate
 1964 to effectuate the plan. The corporation shall have the power to
 1965 borrow funds, by issuing bonds or by incurring other
 1966 indebtedness, and shall have other powers reasonably necessary
 1967 to effectuate the requirements of this subsection, including,
 1968 without limitation, the power to issue bonds and incur other
 1969 indebtedness in order to refinance outstanding bonds or other
 1970 indebtedness. The corporation may, but is not required to, seek
 1971 judicial validation of its bonds or other indebtedness under
 1972 chapter 75. The corporation may issue bonds or incur other
 1973 indebtedness, or have bonds issued on its behalf by a unit of
 1974 local government pursuant to subparagraph (g)2., in the absence
 1975 of a hurricane or other weather-related event, upon a
 1976 determination by the corporation, subject to approval by the
 1977 office, that such action would enable it to efficiently meet the
 1978 financial obligations of the corporation and that such
 1979 financings are reasonably necessary to effectuate the
 1980 requirements of this subsection. The corporation is authorized
 1981 to take all actions needed to facilitate tax-free status for any
 1982 such bonds or indebtedness, including formation of trusts or
 1983 other affiliated entities. The corporation shall have the
 1984 authority to pledge assessments, projected recoveries from the
 1985 Florida Hurricane Catastrophe Fund, other reinsurance

1986 recoverables, market equalization and other surcharges, and
1987 other funds available to the corporation as security for bonds
1988 or other indebtedness. In recognition of s. 10, Art. I of the
1989 State Constitution, prohibiting the impairment of obligations of
1990 contracts, it is the intent of the Legislature that no action be
1991 taken whose purpose is to impair any bond indenture or financing
1992 agreement or any revenue source committed by contract to such
1993 bond or other indebtedness.

1994 4.a. Must require that the corporation operate subject to
1995 the supervision and approval of a board of governors consisting
1996 of 8 individuals who are residents of this state, from different
1997 geographical areas of this state. The Governor, the Chief
1998 Financial Officer, the President of the Senate, and the Speaker
1999 of the House of Representatives shall each appoint two members
2000 of the board, effective August 1, 2005. At least one of the two
2001 members appointed by each appointing officer must have
2002 demonstrated expertise in insurance. The Chief Financial Officer
2003 shall designate one of the appointees as chair. All board
2004 members serve at the pleasure of the appointing officer. All
2005 board members, including the chair, must be appointed to serve
2006 for 3-year terms beginning annually on a date designated by the
2007 plan. Any board vacancy shall be filled for the unexpired term
2008 by the appointing officer. The Chief Financial Officer shall
2009 appoint a technical advisory group to provide information and
2010 advice to the board of governors in connection with the board's
2011 duties under this subsection. The executive director and senior
2012 managers of the corporation shall be engaged by the board, as

2013 recommended by the Chief Financial Officer, and serve at the
2014 pleasure of the board. The executive director is responsible for
2015 employing other staff as the corporation may require, subject to
2016 review and concurrence by the board and the Chief Financial
2017 Officer.

2018 b. The board shall create a Market Accountability Advisory
2019 Committee to assist the corporation in developing awareness of
2020 its rates and its customer and agent service levels in
2021 relationship to the voluntary market insurers writing similar
2022 coverage. The members of the advisory committee shall consist of
2023 the following 11 persons, one of whom must be elected chair by
2024 the members of the committee: four representatives, one
2025 appointed by the Florida Association of Insurance Agents, one by
2026 the Florida Association of Insurance and Financial Advisors, one
2027 by the Professional Insurance Agents of Florida, and one by the
2028 Latin American Association of Insurance Agencies; three
2029 representatives appointed by the insurers with the three highest
2030 voluntary market share of residential property insurance
2031 business in the state; one representative from the Office of
2032 Insurance Regulation; one consumer appointed by the board who is
2033 insured by the corporation at the time of appointment to the
2034 committee; one representative appointed by the Florida
2035 Association of Realtors; and one representative appointed by the
2036 Florida Bankers Association. All members must serve for 3-year
2037 terms and may serve for consecutive terms. The committee shall
2038 report to the corporation at each board meeting on insurance
2039 market issues which may include rates and rate competition with

2040 the voluntary market; service, including policy issuance, claims
2041 processing, and general responsiveness to policyholders,
2042 applicants, and agents; and matters relating to depopulation.

2043 5. Must provide a procedure for determining the
2044 eligibility of a risk for coverage, as follows:

2045 a. Subject to the provisions of s. 627.3517, with respect
2046 to personal lines residential risks, if the risk is offered
2047 coverage from an authorized insurer at the insurer's approved
2048 rate under either a standard policy including wind coverage or,
2049 if consistent with the insurer's underwriting rules as filed
2050 with the office, a basic policy including wind coverage, the
2051 risk is not eligible for any policy issued by the corporation.
2052 If the risk is not able to obtain any such offer, the risk is
2053 eligible for either a standard policy including wind coverage or
2054 a basic policy including wind coverage issued by the
2055 corporation; however, if the risk could not be insured under a
2056 standard policy including wind coverage regardless of market
2057 conditions, the risk shall be eligible for a basic policy
2058 including wind coverage unless rejected under subparagraph 8.
2059 The corporation shall determine the type of policy to be
2060 provided on the basis of objective standards specified in the
2061 underwriting manual and based on generally accepted underwriting
2062 practices.

2063 (I) If the risk accepts an offer of coverage through the
2064 market assistance plan or an offer of coverage through a
2065 mechanism established by the corporation before a policy is
2066 issued to the risk by the corporation or during the first 30

2067 | days of coverage by the corporation, and the producing agent who
 2068 | submitted the application to the plan or to the corporation is
 2069 | not currently appointed by the insurer, the insurer shall:

2070 | (A) Pay to the producing agent of record of the policy,
 2071 | for the first year, an amount that is the greater of the
 2072 | insurer's usual and customary commission for the type of policy
 2073 | written or a fee equal to the usual and customary commission of
 2074 | the corporation; or

2075 | (B) Offer to allow the producing agent of record of the
 2076 | policy to continue servicing the policy for a period of not less
 2077 | than 1 year and offer to pay the agent the greater of the
 2078 | insurer's or the corporation's usual and customary commission
 2079 | for the type of policy written.

2080 |
 2081 | If the producing agent is unwilling or unable to accept
 2082 | appointment, the new insurer shall pay the agent in accordance
 2083 | with sub-sub-sub-subparagraph (A).

2084 | (II) When the corporation enters into a contractual
 2085 | agreement for a take-out plan, the producing agent of record of
 2086 | the corporation policy is entitled to retain any unearned
 2087 | commission on the policy, and the insurer shall:

2088 | (A) Pay to the producing agent of record of the
 2089 | corporation policy, for the first year, an amount that is the
 2090 | greater of the insurer's usual and customary commission for the
 2091 | type of policy written or a fee equal to the usual and customary
 2092 | commission of the corporation; or

2093 (B) Offer to allow the producing agent of record of the
 2094 corporation policy to continue servicing the policy for a period
 2095 of not less than 1 year and offer to pay the agent the greater
 2096 of the insurer's or the corporation's usual and customary
 2097 commission for the type of policy written.

2098
 2099 If the producing agent is unwilling or unable to accept
 2100 appointment, the new insurer shall pay the agent in accordance
 2101 with sub-sub-sub-subparagraph (A).

2102 b. With respect to commercial lines residential risks, if
 2103 the risk is offered coverage under a policy including wind
 2104 coverage from an authorized insurer at its approved rate, the
 2105 risk is not eligible for any policy issued by the corporation.
 2106 If the risk is not able to obtain any such offer, the risk is
 2107 eligible for a policy including wind coverage issued by the
 2108 corporation.

2109 (I) If the risk accepts an offer of coverage through the
 2110 market assistance plan or an offer of coverage through a
 2111 mechanism established by the corporation before a policy is
 2112 issued to the risk by the corporation or during the first 30
 2113 days of coverage by the corporation, and the producing agent who
 2114 submitted the application to the plan or the corporation is not
 2115 currently appointed by the insurer, the insurer shall:

2116 (A) Pay to the producing agent of record of the policy,
 2117 for the first year, an amount that is the greater of the
 2118 insurer's usual and customary commission for the type of policy

2119 | written or a fee equal to the usual and customary commission of
 2120 | the corporation; or

2121 | (B) Offer to allow the producing agent of record of the
 2122 | policy to continue servicing the policy for a period of not less
 2123 | than 1 year and offer to pay the agent the greater of the
 2124 | insurer's or the corporation's usual and customary commission
 2125 | for the type of policy written.

2126 |

2127 | If the producing agent is unwilling or unable to accept
 2128 | appointment, the new insurer shall pay the agent in accordance
 2129 | with sub-sub-sub-subparagraph (A).

2130 | (II) When the corporation enters into a contractual
 2131 | agreement for a take-out plan, the producing agent of record of
 2132 | the corporation policy is entitled to retain any unearned
 2133 | commission on the policy, and the insurer shall:

2134 | (A) Pay to the producing agent of record of the
 2135 | corporation policy, for the first year, an amount that is the
 2136 | greater of the insurer's usual and customary commission for the
 2137 | type of policy written or a fee equal to the usual and customary
 2138 | commission of the corporation; or

2139 | (B) Offer to allow the producing agent of record of the
 2140 | corporation policy to continue servicing the policy for a period
 2141 | of not less than 1 year and offer to pay the agent the greater
 2142 | of the insurer's or the corporation's usual and customary
 2143 | commission for the type of policy written.

2144 |

2145 If the producing agent is unwilling or unable to accept
2146 appointment, the new insurer shall pay the agent in accordance
2147 with sub-sub-sub-subparagraph (A).

2148 c. To preserve existing incentives for carriers to write
2149 dwelling in the voluntary market and not in the corporation,
2150 the corporation shall continue to offer authorized insurers,
2151 including insurers writing dwellings valued at \$1 million or
2152 more, the same voluntary writing credits that were available on
2153 January 1, 2006, to carriers writing wind coverage for dwellings
2154 in the areas eligible for coverage in the high-risk account.

2155 d. With respect to personal lines residential risks, if
2156 the risk is a dwelling with an insured value of \$1 million or
2157 more, or if the risk is one that is excluded from the coverage
2158 to be provided by the condominium association under s.
2159 718.111(11) (b) and that is insured by the condominium unit owner
2160 for a combined dwelling and contents replacement cost of \$1
2161 million or more, the risk is not eligible for any policy issued
2162 by the corporation. Rates and forms for personal lines
2163 residential risks not eligible for coverage by the corporation
2164 specified by this sub-subparagraph are not subject to ss.
2165 627.062 and 627.0629. Such rates and forms are subject to all
2166 other applicable provisions of this code and rules adopted under
2167 this code. During the course of an insurer's market conduct
2168 examination, the office may review the rate for any risk to
2169 which the provisions of this sub-subparagraph are applicable to
2170 determine if such rate is inadequate or unfairly discriminatory.
2171 Rates on personal lines residential risks not eligible for

2172 coverage by the corporation may be found inadequate by the
2173 office if they are clearly insufficient, together with the
2174 investment income attributable to such risks, to sustain
2175 projected losses and expenses in the class of business to which
2176 such rates apply. Rates on personal lines residential risks not
2177 eligible for coverage by the corporation may also be found
2178 inadequate as to the premium charged to a risk or group of risks
2179 if discounts or credits are allowed that exceed a reasonable
2180 reflection of expense savings and reasonably expected loss
2181 experience from the risk or group of risks. Rates on personal
2182 lines residential risks not eligible for coverage by the
2183 corporation may be found to be unfairly discriminatory as to a
2184 risk or group of risks by the office if the application of
2185 premium discounts, credits, or surcharges among such risks does
2186 not bear a reasonable relationship to the expected loss and
2187 expense experience among the various risks. A rating plan,
2188 including discounts, credits, or surcharges on personal lines
2189 residential risks not eligible for coverage by the corporation
2190 may also be found to be unfairly discriminatory if the plan
2191 fails to clearly and equitably reflect consideration of the
2192 policyholder's participation in a risk management program
2193 adjusted pursuant to s. 627.0625. The office may order an
2194 insurer to discontinue using a rate for new policies or upon
2195 renewal of a policy if the office finds the rate to be
2196 inadequate or unfairly discriminatory. Insurers must maintain
2197 records and documentation relating to rates and forms subject to

2198 | this sub-subparagraph for a period of at least 5 years after the
 2199 | effective date of the policy.

2200 | e. For policies subject to nonrenewal as a result of the
 2201 | risk being no longer eligible for coverage pursuant to sub-
 2202 | subparagraph d., the corporation shall, directly or through the
 2203 | market assistance plan, make information from confidential
 2204 | underwriting and claims files of policyholders available only to
 2205 | licensed general lines agents who register with the corporation
 2206 | to receive such information according to the following
 2207 | procedures:

2208 | (I) By August 1, 2006, the corporation shall provide
 2209 | policyholders who are not eligible for renewal pursuant to sub-
 2210 | subparagraph d. the opportunity to request in writing, within 30
 2211 | days after the notification is sent, that information from their
 2212 | confidential underwriting and claims files not be released to
 2213 | licensed general lines agents registered pursuant to sub-sub-
 2214 | subparagraph e.(II);

2215 | (II) By August 1, 2006, the corporation shall make
 2216 | available to licensed general lines agents the registration
 2217 | procedures to be used to obtain confidential information from
 2218 | underwriting and claims files for policies not eligible for
 2219 | renewal pursuant to sub-subparagraph d. As a condition of
 2220 | registration, the corporation shall require the licensed general
 2221 | lines agent to attest that the agent has the experience and
 2222 | relationships with authorized or surplus lines carriers to
 2223 | attempt to offer replacement coverage for policies not eligible
 2224 | for renewal pursuant to sub-subparagraph d.

2225 (III) By September 1, 2006, the corporation shall make
2226 available through a secured website to licensed general lines
2227 agents registered pursuant to sub-sub-subparagraph e. (II)
2228 application, rating, loss history, mitigation, and policy type
2229 information relating to all policies not eligible for renewal
2230 pursuant to sub-subparagraph d. and for which the policyholder
2231 has not requested the corporation withhold such information
2232 pursuant to sub-sub-subparagraph e. (I). The licensed general
2233 lines agent registered pursuant to sub-sub-subparagraph e. (II)
2234 may use such information to contact and assist the policyholder
2235 in securing replacement policies and the agent may disclose to
2236 the policyholder such information was obtained from the
2237 corporation.

2238 f. With respect to nonhomestead property, eligibility must
2239 be determined in accordance with sub-sub-sub-subparagraph
2240 (b) 2.a. (II) (A) .

2241 6. Must provide by July 1, 2007, that an application for
2242 coverage for a new policy is subject to a waiting period of 10
2243 days before coverage is effective, during which time the
2244 corporation shall make such application available for review by
2245 general lines agents and authorized property and casualty
2246 insurers. The board may approve exceptions that allow for
2247 coverage to be effective before the end of the 10-day waiting
2248 period, for coverage issued in conjunction with a real estate
2249 closing, and for such other exceptions as the board determines
2250 are necessary to prevent lapses in coverage.

2251 ~~7.6-~~ Must include rules for classifications of risks and
 2252 rates therefor.

2253 ~~8.7-~~ Must provide that if premium and investment income
 2254 for an account attributable to a particular calendar year are in
 2255 excess of projected losses and expenses for the account
 2256 attributable to that year, such excess shall be held in surplus
 2257 in the account. Such surplus shall be available to defray
 2258 deficits in that account as to future years and shall be used
 2259 for that purpose prior to assessing assessable insurers and
 2260 assessable insureds as to any calendar year.

2261 ~~9.8-~~ Must provide objective criteria and procedures to be
 2262 uniformly applied for all applicants in determining whether an
 2263 individual risk is so hazardous as to be uninsurable. In making
 2264 this determination and in establishing the criteria and
 2265 procedures, the following shall be considered:

2266 a. Whether the likelihood of a loss for the individual
 2267 risk is substantially higher than for other risks of the same
 2268 class; and

2269 b. Whether the uncertainty associated with the individual
 2270 risk is such that an appropriate premium cannot be determined.

2271
 2272 The acceptance or rejection of a risk by the corporation shall
 2273 be construed as the private placement of insurance, and the
 2274 provisions of chapter 120 shall not apply.

2275 ~~10.9-~~ Must provide that the corporation shall make its
 2276 best efforts to procure catastrophe reinsurance at reasonable

2277 rates, to cover its projected 100-year probable maximum loss in
2278 the homestead accounts as determined by the board of governors.
2279 ~~11.10.~~ Must provide that in the event of regular deficit
2280 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
2281 (b)3.b., in the personal lines homestead account, the commercial
2282 lines residential homestead account, or the high-risk homestead
2283 account, the corporation shall levy upon corporation homestead
2284 account policyholders in its next rate filing, or by a separate
2285 rate filing solely for this purpose, a Citizens policyholder
2286 ~~market equalization~~ surcharge arising from a regular assessment
2287 in such account in a percentage equal to the total amount of
2288 such regular assessments divided by the aggregate statewide
2289 direct written premium for subject lines of business for the
2290 ~~prior calendar~~ year preceding the year in which the deficit to
2291 which the regular assessment related is incurred. Citizens
2292 policyholder ~~Market equalization~~ surcharges under this
2293 subparagraph are not considered premium and are not subject to
2294 commissions, fees, or premium taxes; however, failure to pay the
2295 Citizens policyholder ~~a market equalization~~ surcharge shall be
2296 treated as failure to pay premium. Notwithstanding any other
2297 provision of this section, for purposes of the Citizens
2298 policyholder surcharges to be levied pursuant to this
2299 subparagraph, the total amount of the regular assessment to
2300 which such Citizens policyholder surcharge relates shall be
2301 determined as set forth in sub-subparagraphs (b)3.a., b., and c.
2302 ~~12.11.~~ The policies issued by the corporation must provide
2303 that, if the corporation or the market assistance plan obtains

2304 an offer from an authorized insurer to cover the risk at its
2305 approved rates, the risk is no longer eligible for renewal
2306 through the corporation.

2307 ~~13.12.~~ Corporation policies and applications must include
2308 a notice that the corporation policy could, under this section,
2309 be replaced with a policy issued by an authorized insurer that
2310 does not provide coverage identical to the coverage provided by
2311 the corporation or an insurer writing coverage pursuant to part
2312 VIII of chapter 626. The notice shall also specify that
2313 acceptance of corporation coverage creates a conclusive
2314 presumption that the applicant or policyholder is aware of this
2315 potential.

2316 ~~14.13.~~ May establish, subject to approval by the office,
2317 different eligibility requirements and operational procedures
2318 for any line or type of coverage for any specified county or
2319 area if the board determines that such changes to the
2320 eligibility requirements and operational procedures are
2321 justified due to the voluntary market being sufficiently stable
2322 and competitive in such area or for such line or type of
2323 coverage and that consumers who, in good faith, are unable to
2324 obtain insurance through the voluntary market through ordinary
2325 methods would continue to have access to coverage from the
2326 corporation. When coverage is sought in connection with a real
2327 property transfer, such requirements and procedures shall not
2328 provide for an effective date of coverage later than the date of
2329 the closing of the transfer as established by the transferor,
2330 the transferee, and, if applicable, the lender.

2331 ~~15.14.~~ Must provide that, with respect to the high-risk
2332 homestead account, any assessable insurer with a surplus as to
2333 policyholders of \$25 million or less writing 25 percent or more
2334 of its total countrywide property insurance premiums in this
2335 state may petition the office, within the first 90 days of each
2336 calendar year, to qualify as a limited apportionment company. In
2337 no event shall a limited apportionment company be required to
2338 participate in the portion of any assessment, within the high-
2339 risk account, pursuant to sub-subparagraph (b)3.a. or sub-
2340 subparagraph (b)3.b. in the aggregate which exceeds \$50 million
2341 after payment of available high-risk account funds in any
2342 calendar year. However, a limited apportionment company shall
2343 collect from its policyholders any emergency assessment imposed
2344 under sub-subparagraph (b)3.d. The plan shall provide that, if
2345 the office determines that any regular assessment will result in
2346 an impairment of the surplus of a limited apportionment company,
2347 the office may direct that all or part of such assessment be
2348 deferred as provided in subparagraph (g)4. However, there shall
2349 be no limitation or deferment of an emergency assessment to be
2350 collected from policyholders under sub-subparagraph (b)3.d.

2351 ~~16.15.~~ Must provide that the corporation appoint as its
2352 licensed agents only those agents who also hold an appointment
2353 as defined in s. 626.015(3) with an insurer who at the time of
2354 the agent's initial appointment by the corporation is authorized
2355 to write and is actually writing personal lines residential
2356 property coverage, commercial residential property coverage, or
2357 commercial nonresidential property coverage within the state.

2358 17. Must provide, by July 1, 2007, a premium payment plan
2359 option to its policyholders which allows for quarterly and
2360 semiannual payment of premiums.

2361 18. Must provide that the hurricane deductible for any
2362 property in the nonhomestead account with an insured value of
2363 \$250,000 or more must be at least 5 percent of the insured
2364 value.

2365 19. Must provide that the application for coverage under
2366 the nonhomestead account and the declaration page of each
2367 nonhomestead account policy include a statement in boldface 12-
2368 point type specifying that public subsidies do not support the
2369 corporation's coverage of nonhomestead property; that if the
2370 nonhomestead account of the corporation sustains a deficit or is
2371 unable to pay claims, the nonhomestead policyholder shall be
2372 subject to an immediate assessment in an amount up to 100
2373 percent of the premium and a further assessment upon renewal of
2374 the policy; and that the applicant or policyholder may wish to
2375 seek alternative coverage from an authorized insurer or surplus
2376 lines insurer that will not be subject to such potential
2377 assessments.

2378 20. Must provide that the application for coverage under
2379 any of the homestead accounts and the declaration page of each
2380 homestead account policy include a statement in boldface 12-
2381 point type specifying that a false declaration of homestead
2382 status for purposes of obtaining coverage in any of the
2383 homestead accounts may constitute the offense of insurance

2384 fraud, as prohibited and punishable as a felony under s.
2385 817.234.

2386 21. Must limit coverage on mobile homes or manufactured
2387 homes built prior to 1994 to actual cash value of the dwelling
2388 rather than replacement costs of the dwelling. The actual cash
2389 value of these dwellings may be determined by:

2390 a. A residential appraisal no more than 1 year old from a
2391 Florida licensed appraiser which provides the Depreciated Value
2392 of Improvements; or

2393 b. A purchase agreement or bill of sale no more than 1
2394 year old which reflects the purchase price less the land value.

2395 22. Must provide that, notwithstanding any limitation to
2396 the contrary regarding coverage of residential structures,
2397 including, but not limited to, classification or location of
2398 risks, the corporation shall provide coverage to residential
2399 structures constructed after the adoption of the Florida
2400 Building Code for the full value of such structures. Premiums
2401 for such residential structures shall fully reflect all
2402 appropriate discounts, credits, or other rate differentials
2403 based upon actual experience or any other loss relativity
2404 studies available to the corporation.

2405 (d)1. All prospective employees for senior management
2406 positions, as defined by the plan of operation, are subject to
2407 background checks as a prerequisite for employment. The office
2408 shall conduct background checks on such prospective employees
2409 pursuant to ss. 624.404(3), 624.34, and 628.261.

2410 2. On or before July 1 of each year, employees of the
2411 corporation are required to sign and submit a statement
2412 attesting that they do not have a conflict of interest, as
2413 defined in part III of chapter 112. As a condition of
2414 employment, all prospective employees are required to sign and
2415 submit to the corporation a conflict-of-interest statement.

2416 3. Senior managers and members of the board of governors
2417 are subject to the provisions of part III of chapter 112,
2418 including, but not limited to, the code of ethics and public
2419 disclosure and reporting of financial interests, pursuant to s.
2420 112.3145. Senior managers and board members are also required to
2421 file such disclosures with the Office of Insurance Regulation.
2422 The executive director of the corporation or his or her designee
2423 shall notify each newly appointed and existing appointed member
2424 of the board of governors and senior managers of his or her duty
2425 to comply with the reporting requirements of part III of chapter
2426 112. At least quarterly, the executive director or his or her
2427 designee shall submit to the Commission on Ethics a list of
2428 names of the senior managers and members of the board of
2429 governors that are subject to the public disclosure requirements
2430 under s. 112.3145.

2431 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
2432 other provision of law, an employee or board member may not
2433 knowingly accept, directly or indirectly, any gift or
2434 expenditure from a person or entity, or an employee or
2435 representative of such person or entity, that has a contractual
2436 relationship with the corporation or who is under consideration

2437 for a contract. An employee or board member that fails to comply
2438 with this subparagraph is subject to penalties provided under
2439 ss. 112.317 and 112.3173.

2440 5. Any senior manager of the corporation who is employed
2441 on or after January 1, 2007, regardless of the date of hire, who
2442 subsequently retires or terminates employment is prohibited from
2443 representing another person or entity before the corporation for
2444 2 years after retirement or termination of employment from the
2445 corporation.

2446 6. Any employee of the corporation who is employed on or
2447 after January 1, 2007, regardless of the date of hire, who
2448 subsequently retires or terminates employment is prohibited from
2449 having any employment or contractual relationship for 2 years
2450 with an insurer that has received a take-out bonus from the
2451 corporation.

2452 (e) Purchases that equal or exceed \$2,500, but are less
2453 than \$25,000, shall be made by receipt of written quotes,
2454 written record of telephone quotes, or informal bids, whenever
2455 practical. The procurement of goods or services valued at or
2456 over \$25,000 shall be subject to competitive solicitation,
2457 except in situations where the goods or services are provided by
2458 a sole source or are deemed an emergency purchase; the services
2459 are exempted from competitive solicitation requirements under s.
2460 287.057(5)(f); or the procurement of services is subject to s.
2461 627.3513. Justification for the sole-sourcing or emergency
2462 procurement must be documented. Contracts for goods or services
2463 valued at or over \$100,000 are subject to approval by the board.

2464 (f) The board shall determine whether it is more cost-
2465 effective and in the best interests of the corporation to use
2466 legal services provided by in-house attorneys employed by the
2467 corporation rather than contracting with outside counsel. In
2468 making such determination, the board shall document its findings
2469 and shall consider: the expertise needed; whether time
2470 commitments exceed in-house staff resources; whether local
2471 representation is needed; the travel, lodging and other costs
2472 associated with in-house representation; and such other factors
2473 that the board determines are relevant.

2474 (g) The corporation may not retain a lobbyist to represent
2475 it before the legislative branch or executive branch. However,
2476 full-time employees of the corporation may register as lobbyists
2477 and represent the corporation before the legislative branch or
2478 executive branch.

2479 (h)1. The Office of the Internal Auditor is established
2480 within the corporation to provide a central point for
2481 coordination of and responsibility for activities that promote
2482 accountability, integrity, and efficiency to the policyholders
2483 and to the taxpayers of this state. The internal auditor shall
2484 be appointed by the board of governors, shall report to and be
2485 under the general supervision of the board of governors, and is
2486 not subject to supervision by any employee of the corporation.
2487 Administrative staff and support shall be provided by the
2488 corporation. The internal auditor shall be appointed without
2489 regard to political affiliation. It is the duty and
2490 responsibility of the internal auditor to:

2491 a. Provide direction for, supervise, conduct, and
2492 coordinate audits, investigations, and management reviews
2493 relating to the programs and operations of the corporation.

2494 b. Conduct, supervise, or coordinate other activities
2495 carried out or financed by the corporation for the purpose of
2496 promoting efficiency in the administration of, or preventing and
2497 detecting fraud, abuse, and mismanagement in, its programs and
2498 operations.

2499 c. Submit final audit reports, reviews, or investigative
2500 reports to the board of governors, the executive director, the
2501 members of the Financial Services Commission, the President of
2502 the Senate, and the Speaker of the House of Representatives.

2503 d. Keep the board of governors informed concerning fraud,
2504 abuses, and internal control deficiencies relating to programs
2505 and operations administered or financed by the corporation,
2506 recommend corrective action, and report on the progress made in
2507 implementing corrective action.

2508 e. Report expeditiously to the Department of Law
2509 Enforcement or other law enforcement agencies, as appropriate,
2510 whenever the internal auditor has reasonable grounds to believe
2511 there has been a violation of criminal law.

2512 2. On or before February 15, the internal auditor shall
2513 prepare an annual report evaluating the effectiveness of the
2514 internal controls of the corporation and providing
2515 recommendations for corrective action, if necessary, and
2516 summarizing the audits, reviews, and investigations conducted by
2517 the office during the preceding fiscal year. The final report

2518 shall be furnished to the board of governors and the executive
 2519 director, the President of the Senate, the Speaker of the House
 2520 of Representatives, and the Financial Services Commission.

2521 (i) The corporation shall establish a unit or division
 2522 responsible for receiving and responding to consumer complaints,
 2523 which unit or division is the sole responsibility of a senior
 2524 manager of the corporation.

2525 (j) The office shall conduct a comprehensive market
 2526 conduct examination of the corporation every 2 years to
 2527 determine compliance with its plan of operation and internal
 2528 operations procedures. The first market conduct examination
 2529 report shall be submitted to the President of the Senate and the
 2530 Speaker of the House of Representatives no later than February
 2531 1, 2009. Subsequent reports shall be submitted on or before
 2532 February 1 every 2 years thereafter.

2533 (k) The Auditor General shall conduct an operational audit
 2534 of the corporations every 3 years to evaluate management's
 2535 performance in administering laws, policies, and procedures
 2536 governing the operations of the corporation in an efficient and
 2537 effective manner. The scope of the review shall include, but is
 2538 not limited to, evaluating claims handling, customer service,
 2539 take-out programs and bonuses, financing arrangements,
 2540 procurement of goods and services, internal controls, and the
 2541 internal audit function.

2542 (l)~~(d)~~1.a. It is the intent of the Legislature that the
 2543 rates for coverage provided by the corporation be actuarially
 2544 adequate ~~sound~~ and not competitive with approved rates charged

2545 | in the admitted voluntary market, so that the corporation
2546 | functions as a residual market mechanism to provide insurance
2547 | only when the insurance cannot be procured in the voluntary
2548 | market. Rates shall include a residual market risk load that
2549 | reflects the concentrated exposure of the corporation and the
2550 | impact of adverse selection as well as an appropriate
2551 | catastrophe loading factor that reflects the actual catastrophic
2552 | exposure of the corporation.

2553 | b. It is the intent of the Legislature to reaffirm the
2554 | requirement of rate adequacy in the residual market. Recognizing
2555 | that rates may comply with the intent expressed in sub-
2556 | subparagraph a. and yet be inadequate and recognizing the public
2557 | need to limit subsidies within the residual market, it is the
2558 | further intent of the Legislature to establish statutory
2559 | standards for rate adequacy. Such standards are intended to
2560 | supplement the standard specified in s. 627.062(2)(e)3.,
2561 | providing that rates are inadequate if they are clearly
2562 | insufficient to sustain projected losses and expenses in the
2563 | class of business to which they apply.

2564 | 2. For each county, the average rates of the corporation
2565 | for each line of business for personal lines residential
2566 | policies excluding rates for wind-only policies shall be no
2567 | lower than the average rates charged by the insurer that had the
2568 | highest average rate in that county among the 20 insurers with
2569 | the greatest total direct written premium in the state for that
2570 | line of business in the preceding year, except that with respect
2571 | to mobile home coverages, the average rates of the corporation

2572 shall be no lower than the average rates charged by the insurer
2573 that had the highest average rate in that county among the 5
2574 insurers with the greatest total written premium for mobile home
2575 owner's policies in the state in the preceding year.

2576 3. Rates for personal lines residential wind-only policies
2577 must be actuarially adequate ~~sound~~ and not competitive with
2578 approved rates charged by authorized insurers. If the filing
2579 under this paragraph is made at least 90 days before the
2580 proposed effective date and the filing is not implemented during
2581 the office's review of the filing and any proceeding and
2582 judicial review, such filing shall be considered a file and use
2583 filing. In such case, the office shall finalize its review by
2584 issuance of a notice of intent to approve or a notice of intent
2585 to disapprove within 90 days after receipt of the filing. The
2586 notice of intent to approve and the notice of intent to
2587 disapprove constitute agency action for purposes of the
2588 Administrative Procedure Act. Requests for supporting
2589 information, requests for mathematical or mechanical
2590 corrections, or notification to the insurer by the office of its
2591 preliminary findings shall not toll the 90-day period during any
2592 such proceedings and subsequent judicial review. The rate shall
2593 be deemed approved if the office does not issue a notice of
2594 intent to approve or a notice of intent to disapprove within 90
2595 days after receipt of the filing. Corporation rate manuals shall
2596 include a rate surcharge for seasonal occupancy. To ensure that
2597 personal lines residential wind-only rates are not competitive
2598 with approved rates charged by authorized insurers, the

2599 corporation, in conjunction with the office, shall develop a
2600 wind-only ratemaking methodology, which methodology shall be
2601 contained in each rate filing made by the corporation with the
2602 office. If the office determines that the wind-only rates or
2603 rating factors filed by the corporation fail to comply with the
2604 wind-only ratemaking methodology provided for in this
2605 subsection, it shall so notify the corporation and require the
2606 corporation to amend its rates or rating factors to come into
2607 compliance within 90 days of notice from the office.

2608 4.a. For the purposes of establishing a pilot program to
2609 evaluate issues relating to the availability and affordability
2610 of insurance in an area where historically there has been little
2611 market competition, the provisions of subparagraph 2. do not
2612 apply to coverage provided by the corporation in Monroe County
2613 if the office determines that a reasonable degree of competition
2614 does not exist for personal lines residential policies. The
2615 provisions of subparagraph 3. do not apply to coverage provided
2616 by the corporation in Monroe County if the office determines
2617 that a reasonable degree of competition does not exist for
2618 personal lines residential policies in the area of that county
2619 which is eligible for wind-only coverage. In this county, the
2620 rates for personal lines residential coverage shall be
2621 actuarially adequate ~~sound~~ and not excessive, inadequate, or
2622 unfairly discriminatory and are subject to the other provisions
2623 of the paragraph and s. 627.062. The commission shall adopt
2624 rules establishing the criteria for determining whether a
2625 reasonable degree of competition exists for personal lines

2626 residential policies in Monroe County. Any proposed rate
2627 increase filed by the corporation after May 1, 2006, but before
2628 October 1, 2006, for Monroe County based upon actuarial adequacy
2629 shall be implemented in equal amounts over a period of 3 years.

2630 b. Pursuant to a report by March 1, 2006, the office shall
2631 submit a report to the Legislature providing an evaluation of
2632 the implementation of the pilot program affecting Monroe County
2633 and indicating that there has historically been a lack of a
2634 reasonable degree of competition in Monroe County, the office
2635 shall proceed as follows:

2636 (I) The office shall order the corporation to charge only
2637 approved rates in effect for Monroe County on October 1, 2005,
2638 until any new rates are approved by the office.

2639 (II) The office shall hold one or more public hearings,
2640 with at least 30 days' advance notice to interested persons, in
2641 Monroe County prior to the approval or implementation of a rate
2642 filing which proposes rates that exceed rates that were in
2643 effect for Monroe County on October 1, 2005.

2644 (III) The office shall make available for public
2645 inspection 30 days prior to such hearings the office's written
2646 actuarial analysis if such analysis differs materially from that
2647 submitted by the corporation in support of the new rates filed.
2648 The office and the corporation shall also provide actuaries and
2649 qualified experts in attendance at such hearings to answer
2650 questions from actuaries or other qualified experts representing
2651 Monroe County or the public concerning the new rates filed.
2652 Additionally, the office shall provide for a technical hearing

2653 at which only actuaries and qualified experts representing the
2654 office, the corporation, Monroe County, or the Office of the
2655 Insurance Consumer Advocate may testify and at which the public
2656 may attend.

2657 (IV) Notwithstanding any other provision of law, the
2658 office shall order the portion of any premium collected in 2006
2659 based on a rate charged on a use and file bases above that which
2660 was actuarially justified to be returned to such policyholder in
2661 the form of a credit or refund.

2662 5. Rates for commercial lines coverage shall not be
2663 subject to the requirements of subparagraph 2., but shall be
2664 subject to all other requirements of this paragraph and s.
2665 627.062.

2666 6.a. Nothing in this paragraph shall require or allow the
2667 corporation to adopt a rate that is inadequate under s. 627.062
2668 or under sub-subparagraph b. or sub-subparagraph c.

2669 b. With respect to rates for coverage in any homestead
2670 account, a rate is deemed inadequate if the rate is not
2671 sufficient to generate, by means of cash flow, procurement of
2672 coverage under the Florida Hurricane Catastrophe Fund,
2673 reinsurance costs whether or not reinsurance is procured, and
2674 investment income, moneys sufficient to pay all claims and
2675 expenses reasonably expected to result from a 100-year probable
2676 maximum loss event without resort to any regular or emergency
2677 assessments, long-term debt, state revenues, or other funding
2678 sources that reflect any subsidy from persons or entities other
2679 than corporation homestead accounts policyholders.

2680 c.(I) With respect to rates for coverage in the
2681 nonhomestead account, a rate is deemed inadequate if the rate is
2682 not sufficient to generate, by means of cash flow, procurement
2683 of coverage under the Florida Hurricane Catastrophe Fund,
2684 reinsurance costs, whether or not reinsurance is procured, and
2685 investment income and moneys sufficient to pay all claims and
2686 expenses reasonably expected to result from a 125-year probable
2687 maximum loss event without resort to any assessments, debt,
2688 state revenues, or other funding sources that reflect any
2689 subsidy from persons or entities other than corporation
2690 nonhomestead account policyholders. The rate initially filed by
2691 the corporation to comply with this sub-sub-subparagraph shall
2692 only be effective for 1 year.

2693 (II) For the year following the initial year under sub-
2694 sub-subparagraph (I), the rate is deemed inadequate if the rate
2695 is not sufficient to generate moneys sufficient to pay all
2696 claims and expenses reasonably expected to result from a 150-
2697 year probable maximum loss event using the same criteria
2698 provided in sub-sub-subparagraph (I).

2699 (III) For the 2 years following the year under sub-sub-
2700 subparagraph (II), the rate shall be based upon a 175-year and
2701 200-year probable maximum loss event, respectively.

2702 7. The corporation shall certify to the office at least
2703 twice annually that its personal lines rates comply with the
2704 requirements of subparagraphs 1., ~~and 2.~~, and 6. If any
2705 adjustment in the rates or rating factors of the corporation is
2706 necessary to ensure such compliance, the corporation shall make

2707 and implement such adjustments and file its revised rates and
 2708 rating factors with the office. If the office thereafter
 2709 determines that the revised rates and rating factors fail to
 2710 comply with the provisions of subparagraphs 1. and 2., it shall
 2711 notify the corporation and require the corporation to amend its
 2712 rates or rating factors in conjunction with its next rate
 2713 filing. The office must notify the corporation by electronic
 2714 means of any rate filing it approves for any insurer among the
 2715 insurers referred to in subparagraph 2.

2716 8. In addition to the rates otherwise determined pursuant
 2717 to this paragraph, the corporation shall impose and collect an
 2718 amount equal to the premium tax provided for in s. 624.509 to
 2719 augment the financial resources of the corporation.

2720 ~~9.a. To assist the corporation in developing additional~~
 2721 ~~ratemaking methods to assure compliance with subparagraphs 1.~~
 2722 ~~and 4., the corporation shall appoint a rate methodology panel~~
 2723 ~~consisting of one person recommended by the Florida Association~~
 2724 ~~of Insurance Agents, one person recommended by the Professional~~
 2725 ~~Insurance Agents of Florida, one person recommended by the~~
 2726 ~~Florida Association of Insurance and Financial Advisors, one~~
 2727 ~~person recommended by the insurer with the highest voluntary~~
 2728 ~~market share of residential property insurance business in the~~
 2729 ~~state, one person recommended by the insurer with the second~~
 2730 ~~highest voluntary market share of residential property insurance~~
 2731 ~~business in the state, one person recommended by an insurer~~
 2732 ~~writing commercial residential property insurance in this state,~~
 2733 ~~one person recommended by the Office of Insurance Regulation,~~

2734 ~~and one board member designated by the board chairman, who shall~~
2735 ~~serve as chairman of the panel.~~

2736 ~~b. By January 1, 2004, the rate methodology panel shall~~
2737 ~~provide a report to the corporation of its findings and~~
2738 ~~recommendations for the use of additional ratemaking methods and~~
2739 ~~procedures, including the use of a rate equalization surcharge~~
2740 ~~in an amount sufficient to assure that the total cost of~~
2741 ~~coverage for policyholders or applicants to the corporation is~~
2742 ~~sufficient to comply with subparagraph 1.~~

2743 ~~e. Within 30 days after such report, the corporation shall~~
2744 ~~present to the President of the Senate, the Speaker of the House~~
2745 ~~of Representatives, the minority party leaders of each house of~~
2746 ~~the Legislature, and the chairs of the standing committees of~~
2747 ~~each house of the Legislature having jurisdiction of insurance~~
2748 ~~issues, a plan for implementing the additional ratemaking~~
2749 ~~methods and an outline of any legislation needed to facilitate~~
2750 ~~use of the new methods.~~

2751 ~~d. The plan must include a provision that producer~~
2752 ~~commissions paid by the corporation shall not be calculated in~~
2753 ~~such a manner as to include any rate equalization surcharge.~~
2754 ~~However, without regard to the plan to be developed or its~~
2755 ~~implementation, producer commissions paid by the corporation for~~
2756 ~~each account, other than the quota share primary program, shall~~
2757 ~~remain fixed as to percentage, effective rate, calculation, and~~
2758 ~~payment method until January 1, 2004.~~

2759 ~~9.10. By January 1, 2004, The corporation shall provide~~
2760 ~~develop~~ a notice to policyholders or applicants that the rates

2761 of Citizens Property Insurance Corporation are intended to be
2762 higher than the rates of any admitted carrier and providing
2763 other information the corporation deems necessary to assist
2764 consumers in finding other voluntary admitted insurers willing
2765 to insure their property.

2766 (m)~~(e)~~ If coverage in an account is deactivated pursuant
2767 to paragraph (f), coverage through the corporation shall be
2768 reactivated by order of the office only under one of the
2769 following circumstances:

2770 1. If the market assistance plan receives a minimum of 100
2771 applications for coverage within a 3-month period, or 200
2772 applications for coverage within a 1-year period or less for
2773 residential coverage, unless the market assistance plan provides
2774 a quotation from admitted carriers at their filed rates for at
2775 least 90 percent of such applicants. Any market assistance plan
2776 application that is rejected because an individual risk is so
2777 hazardous as to be uninsurable using the criteria specified in
2778 subparagraph (c)8. shall not be included in the minimum
2779 percentage calculation provided herein. In the event that there
2780 is a legal or administrative challenge to a determination by the
2781 office that the conditions of this subparagraph have been met
2782 for eligibility for coverage in the corporation, any eligible
2783 risk may obtain coverage during the pendency of such challenge.

2784 2. In response to a state of emergency declared by the
2785 Governor under s. 252.36, the office may activate coverage by
2786 order for the period of the emergency upon a finding by the

2787 office that the emergency significantly affects the availability
 2788 of residential property insurance.

2789 (n)~~(f)~~1. The corporation shall file with the office
 2790 quarterly statements of financial condition, an annual statement
 2791 of financial condition, and audited financial statements in the
 2792 manner prescribed by law. In addition, the corporation shall
 2793 report to the office monthly on the types, premium, exposure,
 2794 and distribution by county of its policies in force, and shall
 2795 submit other reports as the office requires to carry out its
 2796 oversight of the corporation.

2797 2. The activities of the corporation shall be reviewed at
 2798 least annually by the office to determine whether coverage shall
 2799 be deactivated in an account on the basis that the conditions
 2800 giving rise to its activation no longer exist.

2801 (o)~~(g)~~1. The corporation shall certify to the office its
 2802 needs for annual assessments as to a particular calendar year,
 2803 and for any interim assessments that it deems to be necessary to
 2804 sustain operations as to a particular year pending the receipt
 2805 of annual assessments. Upon verification, the office shall
 2806 approve such certification, and the corporation shall levy such
 2807 annual or interim assessments. Such assessments shall be
 2808 prorated as provided in paragraph (b). The corporation shall
 2809 take all reasonable and prudent steps necessary to collect the
 2810 amount of assessment due from each assessable insurer,
 2811 including, if prudent, filing suit to collect such assessment.
 2812 If the corporation is unable to collect an assessment from any
 2813 assessable insurer, the uncollected assessments shall be levied

2814 as an additional assessment against the assessable insurers and
2815 any assessable insurer required to pay an additional assessment
2816 as a result of such failure to pay shall have a cause of action
2817 against such nonpaying assessable insurer. Assessments shall be
2818 included as an appropriate factor in the making of rates. The
2819 failure of a surplus lines agent to collect and remit any
2820 regular or emergency assessment levied by the corporation is
2821 considered to be a violation of s. 626.936 and subjects the
2822 surplus lines agent to the penalties provided in that section.

2823 2. The governing body of any unit of local government, any
2824 residents of which are insured by the corporation, may issue
2825 bonds as defined in s. 125.013 or s. 166.101 from time to time
2826 to fund an assistance program, in conjunction with the
2827 corporation, for the purpose of defraying deficits of the
2828 corporation. In order to avoid needless and indiscriminate
2829 proliferation, duplication, and fragmentation of such assistance
2830 programs, any unit of local government, any residents of which
2831 are insured by the corporation, may provide for the payment of
2832 losses, regardless of whether or not the losses occurred within
2833 or outside of the territorial jurisdiction of the local
2834 government. Revenue bonds under this subparagraph may not be
2835 issued until validated pursuant to chapter 75, unless a state of
2836 emergency is declared by executive order or proclamation of the
2837 Governor pursuant to s. 252.36 making such findings as are
2838 necessary to determine that it is in the best interests of, and
2839 necessary for, the protection of the public health, safety, and
2840 general welfare of residents of this state and declaring it an

2841 essential public purpose to permit certain municipalities or
2842 counties to issue such bonds as will permit relief to claimants
2843 and policyholders of the corporation. Any such unit of local
2844 government may enter into such contracts with the corporation
2845 and with any other entity created pursuant to this subsection as
2846 are necessary to carry out this paragraph. Any bonds issued
2847 under this subparagraph shall be payable from and secured by
2848 moneys received by the corporation from emergency assessments
2849 under sub-subparagraph (b)3.d., and assigned and pledged to or
2850 on behalf of the unit of local government for the benefit of the
2851 holders of such bonds. The funds, credit, property, and taxing
2852 power of the state or of the unit of local government shall not
2853 be pledged for the payment of such bonds. If any of the bonds
2854 remain unsold 60 days after issuance, the office shall require
2855 all insurers subject to assessment to purchase the bonds, which
2856 shall be treated as admitted assets; each insurer shall be
2857 required to purchase that percentage of the unsold portion of
2858 the bond issue that equals the insurer's relative share of
2859 assessment liability under this subsection. An insurer shall not
2860 be required to purchase the bonds to the extent that the office
2861 determines that the purchase would endanger or impair the
2862 solvency of the insurer.

2863 3.a. The corporation shall adopt one or more programs
2864 subject to approval by the office for the reduction of both new
2865 and renewal writings in the corporation. Beginning January 1,
2866 2008, any program the corporation adopts for the payment of
2867 bonuses to an insurer for each risk the insurer removes from the

2868 | corporation shall comply with s. 627.3511(2) and may not exceed
 2869 | the amount referenced in s. 627.3511(2) for each risk removed.
 2870 | The corporation may consider any prudent and not unfairly
 2871 | discriminatory approach to reducing corporation writings, and
 2872 | may adopt a credit against assessment liability or other
 2873 | liability that provides an incentive for insurers to take risks
 2874 | out of the corporation and to keep risks out of the corporation
 2875 | by maintaining or increasing voluntary writings in counties or
 2876 | areas in which corporation risks are highly concentrated and a
 2877 | program to provide a formula under which an insurer voluntarily
 2878 | taking risks out of the corporation by maintaining or increasing
 2879 | voluntary writings will be relieved wholly or partially from
 2880 | assessments under sub-subparagraphs (b)3.a. and b. When the
 2881 | corporation enters into a contractual agreement for a take-out
 2882 | plan, the producing agent of record of the corporation policy is
 2883 | entitled to retain any unearned commission on such policy, and
 2884 | the insurer shall either:
 2885 | (I) Pay to the producing agent of record of the policy,
 2886 | for the first year, an amount which is the greater of the
 2887 | insurer's usual and customary commission for the type of policy
 2888 | written or a policy fee equal to the usual and customary
 2889 | commission of the corporation; or
 2890 | (II) Offer to allow the producing agent of record of the
 2891 | policy to continue servicing the policy for a period of not less
 2892 | than 1 year and offer to pay the agent the insurer's usual and
 2893 | customary commission for the type of policy written. If the
 2894 | producing agent is unwilling or unable to accept appointment by

2895 the new insurer, the new insurer shall pay the agent in
2896 accordance with sub-sub-subparagraph (I).

2897 b. Any credit or exemption from regular assessments
2898 adopted under this subparagraph shall last no longer than the 3
2899 years following the cancellation or expiration of the policy by
2900 the corporation. With the approval of the office, the board may
2901 extend such credits for an additional year if the insurer
2902 guarantees an additional year of renewability for all policies
2903 removed from the corporation, or for 2 additional years if the
2904 insurer guarantees 2 additional years of renewability for all
2905 policies so removed.

2906 c. There shall be no credit, limitation, exemption, or
2907 deferment from emergency assessments to be collected from
2908 policyholders pursuant to sub-subparagraph (b)3.d.

2909 4. The plan shall provide for the deferment, in whole or
2910 in part, of the assessment of an assessable insurer, other than
2911 an emergency assessment collected from policyholders pursuant to
2912 sub-subparagraph (b)3.d., if the office finds that payment of
2913 the assessment would endanger or impair the solvency of the
2914 insurer. In the event an assessment against an assessable
2915 insurer is deferred in whole or in part, the amount by which
2916 such assessment is deferred may be assessed against the other
2917 assessable insurers in a manner consistent with the basis for
2918 assessments set forth in paragraph (b).

2919 (p)~~(h)~~ Nothing in this subsection shall be construed to
2920 preclude the issuance of residential property insurance coverage
2921 pursuant to part VIII of chapter 626.

2922 (g)~~(i)~~ There shall be no liability on the part of, and no
2923 cause of action of any nature shall arise against, any
2924 assessable insurer or its agents or employees, the corporation
2925 or its agents or employees, members of the board of governors or
2926 their respective designees at a board meeting, corporation
2927 committee members, or the office or its representatives, for any
2928 action taken by them in the performance of their duties or
2929 responsibilities under this subsection. Such immunity does not
2930 apply to:

- 2931 1. Any of the foregoing persons or entities for any
2932 willful tort;
- 2933 2. The corporation or its producing agents for breach of
2934 any contract or agreement pertaining to insurance coverage;
- 2935 3. The corporation with respect to issuance or payment of
2936 debt; or
- 2937 4. Any assessable insurer with respect to any action to
2938 enforce an assessable insurer's obligations to the corporation
2939 under this subsection.

2940 (r)~~(j)~~ For the purposes of s. 199.183(1), the corporation
2941 shall be considered a political subdivision of the state and
2942 shall be exempt from the corporate income tax. The premiums,
2943 assessments, investment income, and other revenue of the
2944 corporation are funds received for providing property insurance
2945 coverage as required by this subsection, paying claims for
2946 Florida citizens insured by the corporation, securing and
2947 repaying debt obligations issued by the corporation, and
2948 conducting all other activities of the corporation, and shall

2949 | not be considered taxes, fees, licenses, or charges for services
 2950 | imposed by the Legislature on individuals, businesses, or
 2951 | agencies outside state government. Bonds and other debt
 2952 | obligations issued by or on behalf of the corporation are not to
 2953 | be considered "state bonds" within the meaning of s. 215.58(8).
 2954 | The corporation is not subject to the procurement provisions of
 2955 | chapter 287, and policies and decisions of the corporation
 2956 | relating to incurring debt, levying of assessments and the sale,
 2957 | issuance, continuation, terms and claims under corporation
 2958 | policies, and all services relating thereto, are not subject to
 2959 | the provisions of chapter 120. The corporation is not required
 2960 | to obtain or to hold a certificate of authority issued by the
 2961 | office, nor is it required to participate as a member insurer of
 2962 | the Florida Insurance Guaranty Association. However, the
 2963 | corporation is required to pay, in the same manner as an
 2964 | authorized insurer, assessments pledged by the Florida Insurance
 2965 | Guaranty Association to secure bonds issued or other
 2966 | indebtedness incurred to pay covered claims arising from insurer
 2967 | insolvencies caused by, or proximately related to, hurricane
 2968 | losses. It is the intent of the Legislature that the tax
 2969 | exemptions provided in this paragraph will augment the financial
 2970 | resources of the corporation to better enable the corporation to
 2971 | fulfill its public purposes. Any debt obligations ~~bonds~~ issued
 2972 | by the corporation, their transfer, and the income therefrom,
 2973 | including any profit made on the sale thereof, shall at all
 2974 | times be free from taxation of every kind by the state and any
 2975 | political subdivision or local unit or other instrumentality

2976 | thereof; however, this exemption does not apply to any tax
2977 | imposed by chapter 220 on interest, income, or profits on debt
2978 | obligations owned by corporations other than the corporation.

2979 | (s)~~(k)~~ Upon a determination by the office that the
2980 | conditions giving rise to the establishment and activation of
2981 | the corporation no longer exist, the corporation is dissolved.
2982 | Upon dissolution, the assets of the corporation shall be applied
2983 | first to pay all debts, liabilities, and obligations of the
2984 | corporation, including the establishment of reasonable reserves
2985 | for any contingent liabilities or obligations, and all remaining
2986 | assets of the corporation shall become property of the state and
2987 | shall be deposited in the Florida Hurricane Catastrophe Fund.
2988 | However, no dissolution shall take effect as long as the
2989 | corporation has bonds or other financial obligations outstanding
2990 | unless adequate provision has been made for the payment of the
2991 | bonds or other financial obligations pursuant to the documents
2992 | authorizing the issuance of the bonds or other financial
2993 | obligations.

2994 | (t)~~(l)~~1. Effective July 1, 2002, policies of the
2995 | Residential Property and Casualty Joint Underwriting Association
2996 | shall become policies of the corporation. All obligations,
2997 | rights, assets and liabilities of the Residential Property and
2998 | Casualty Joint Underwriting Association, including bonds, note
2999 | and debt obligations, and the financing documents pertaining to
3000 | them become those of the corporation as of July 1, 2002. The
3001 | corporation is not required to issue endorsements or

3002 certificates of assumption to insureds during the remaining term
3003 of in-force transferred policies.

3004 2. Effective July 1, 2002, policies of the Florida
3005 Windstorm Underwriting Association are transferred to the
3006 corporation and shall become policies of the corporation. All
3007 obligations, rights, assets, and liabilities of the Florida
3008 Windstorm Underwriting Association, including bonds, note and
3009 debt obligations, and the financing documents pertaining to them
3010 are transferred to and assumed by the corporation on July 1,
3011 2002. The corporation is not required to issue endorsement or
3012 certificates of assumption to insureds during the remaining term
3013 of in-force transferred policies.

3014 3. The Florida Windstorm Underwriting Association and the
3015 Residential Property and Casualty Joint Underwriting Association
3016 shall take all actions as may be proper to further evidence the
3017 transfers and shall provide the documents and instruments of
3018 further assurance as may reasonably be requested by the
3019 corporation for that purpose. The corporation shall execute
3020 assumptions and instruments as the trustees or other parties to
3021 the financing documents of the Florida Windstorm Underwriting
3022 Association or the Residential Property and Casualty Joint
3023 Underwriting Association may reasonably request to further
3024 evidence the transfers and assumptions, which transfers and
3025 assumptions, however, are effective on the date provided under
3026 this paragraph whether or not, and regardless of the date on
3027 which, the assumptions or instruments are executed by the
3028 corporation. Subject to the relevant financing documents

3029 | pertaining to their outstanding bonds, notes, indebtedness, or
 3030 | other financing obligations, the moneys, investments,
 3031 | receivables, choses in action, and other intangibles of the
 3032 | Florida Windstorm Underwriting Association shall be credited to
 3033 | the high-risk account of the corporation, and those of the
 3034 | personal lines residential coverage account and the commercial
 3035 | lines residential coverage account of the Residential Property
 3036 | and Casualty Joint Underwriting Association shall be credited to
 3037 | the personal lines account and the commercial lines account,
 3038 | respectively, of the corporation.

3039 | ~~4. Effective July 1, 2002, a new applicant for property~~
 3040 | ~~insurance coverage who would otherwise have been eligible for~~
 3041 | ~~coverage in the Florida Windstorm Underwriting Association is~~
 3042 | ~~eligible for coverage from the corporation as provided in this~~
 3043 | ~~subsection.~~

3044 | 4.5. The transfer of all policies, obligations, rights,
 3045 | assets, and liabilities from the Florida Windstorm Underwriting
 3046 | Association to the corporation and the renaming of the
 3047 | Residential Property and Casualty Joint Underwriting Association
 3048 | as the corporation shall in no way affect the coverage with
 3049 | respect to covered policies as defined in s. 215.555(2)(c)
 3050 | provided to these entities by the Florida Hurricane Catastrophe
 3051 | Fund. The coverage provided by the Florida Hurricane Catastrophe
 3052 | Fund to the Florida Windstorm Underwriting Association based on
 3053 | its exposures as of June 30, 2002, and each June 30 thereafter
 3054 | shall be redesignated as coverage for the high-risk account of
 3055 | the corporation. Notwithstanding any other provision of law, the

3056 coverage provided by the Florida Hurricane Catastrophe Fund to
 3057 the Residential Property and Casualty Joint Underwriting
 3058 Association based on its exposures as of June 30, 2002, and each
 3059 June 30 thereafter shall be transferred to the personal lines
 3060 account and the commercial lines account of the corporation.
 3061 Notwithstanding any other provision of law, the high-risk
 3062 account shall be treated, for all Florida Hurricane Catastrophe
 3063 Fund purposes, as if it were a separate participating insurer
 3064 with its own exposures, reimbursement premium, and loss
 3065 reimbursement. Likewise, the personal lines and commercial lines
 3066 accounts shall be viewed together, for all Florida Hurricane
 3067 Catastrophe Fund purposes, as if the two accounts were one and
 3068 represent a single, separate participating insurer with its own
 3069 exposures, reimbursement premium, and loss reimbursement. The
 3070 coverage provided by the Florida Hurricane Catastrophe Fund to
 3071 the corporation shall constitute and operate as a full transfer
 3072 of coverage from the Florida Windstorm Underwriting Association
 3073 and Residential Property and Casualty Joint Underwriting to the
 3074 corporation.

3075 (u)~~(m)~~ Notwithstanding any other provision of law:

3076 1. The pledge or sale of, the lien upon, and the security
 3077 interest in any rights, revenues, or other assets of the
 3078 corporation created or purported to be created pursuant to any
 3079 financing documents to secure any bonds or other indebtedness of
 3080 the corporation shall be and remain valid and enforceable,
 3081 notwithstanding the commencement of and during the continuation
 3082 of, and after, any rehabilitation, insolvency, liquidation,

3083 | bankruptcy, receivership, conservatorship, reorganization, or
 3084 | similar proceeding against the corporation under the laws of
 3085 | this state.

3086 | 2. No such proceeding shall relieve the corporation of its
 3087 | obligation, or otherwise affect its ability to perform its
 3088 | obligation, to continue to collect, or levy and collect,
 3089 | assessments, Citizens Property Insurance Corporation
 3090 | policyholder ~~market equalization~~ or other surcharges under
 3091 | subparagraph (c)10., or any other rights, revenues, or other
 3092 | assets of the corporation pledged pursuant to any financing
 3093 | documents.

3094 | 3. Each such pledge or sale of, lien upon, and security
 3095 | interest in, including the priority of such pledge, lien, or
 3096 | security interest, any such assessments, market equalization or
 3097 | other surcharges, or other rights, revenues, or other assets
 3098 | which are collected, or levied and collected, after the
 3099 | commencement of and during the pendency of, or after, any such
 3100 | proceeding shall continue unaffected by such proceeding. As used
 3101 | in this subsection, the term "financing documents" means any
 3102 | agreement or agreements, instrument or instruments, or other
 3103 | document or documents now existing or hereafter created
 3104 | evidencing any bonds or other indebtedness of the corporation or
 3105 | pursuant to which any such bonds or other indebtedness has been
 3106 | or may be issued and pursuant to which any rights, revenues, or
 3107 | other assets of the corporation are pledged or sold to secure
 3108 | the repayment of such bonds or indebtedness, together with the
 3109 | payment of interest on such bonds or such indebtedness, or the

3110 payment of any other obligation or financial product, as defined
3111 in the plan of operation of the corporation related to such
3112 bonds or indebtedness.

3113 4. Any such pledge or sale of assessments, revenues,
3114 contract rights, or other rights or assets of the corporation
3115 shall constitute a lien and security interest, or sale, as the
3116 case may be, that is immediately effective and attaches to such
3117 assessments, revenues, or contract rights or other rights or
3118 assets, whether or not imposed or collected at the time the
3119 pledge or sale is made. Any such pledge or sale is effective,
3120 valid, binding, and enforceable against the corporation or other
3121 entity making such pledge or sale, and valid and binding against
3122 and superior to any competing claims or obligations owed to any
3123 other person or entity, including policyholders in this state,
3124 asserting rights in any such assessments, revenues, or contract
3125 rights or other rights or assets to the extent set forth in and
3126 in accordance with the terms of the pledge or sale contained in
3127 the applicable financing documents, whether or not any such
3128 person or entity has notice of such pledge or sale and without
3129 the need for any physical delivery, recordation, filing, or
3130 other action.

3131 5. As long as the corporation has any bonds outstanding,
3132 the corporation may not file a voluntary petition under chapter
3133 9 of the federal Bankruptcy Code, or such corresponding chapter
3134 or sections as may be in effect from time to time, and any
3135 public officer and any organization, entity, or other person may
3136 not authorize the corporation to be or become a debtor under

3137 chapter 9 of the federal Bankruptcy Code, or such corresponding
3138 chapter or sections as may be in effect from time to time,
3139 during any such period.

3140 6. If ordered by a court of competent jurisdiction, the
3141 corporation may assume policies or otherwise provide coverage
3142 for policyholders of an insurer placed in liquidation under
3143 chapter 631, under such forms, rates, terms, and conditions as
3144 the corporation deems appropriate, subject to approval by the
3145 office.

3146 (v)~~(n)~~1. The following records of the corporation are
3147 confidential and exempt from the provisions of s. 119.07(1) and
3148 s. 24(a), Art. I of the State Constitution:

3149 a. Underwriting files, except that a policyholder or an
3150 applicant shall have access to his or her own underwriting
3151 files.

3152 b. Claims files, until termination of all litigation and
3153 settlement of all claims arising out of the same incident,
3154 although portions of the claims files may remain exempt, as
3155 otherwise provided by law. Confidential and exempt claims file
3156 records may be released to other governmental agencies upon
3157 written request and demonstration of need; such records held by
3158 the receiving agency remain confidential and exempt as provided
3159 for herein.

3160 c. Records obtained or generated by an internal auditor
3161 pursuant to a routine audit, until the audit is completed, or if
3162 the audit is conducted as part of an investigation, until the
3163 investigation is closed or ceases to be active. An investigation

3164 is considered "active" while the investigation is being
3165 conducted with a reasonable, good faith belief that it could
3166 lead to the filing of administrative, civil, or criminal
3167 proceedings.

3168 d. Matters reasonably encompassed in privileged attorney-
3169 client communications.

3170 e. Proprietary information licensed to the corporation
3171 under contract and the contract provides for the confidentiality
3172 of such proprietary information.

3173 f. All information relating to the medical condition or
3174 medical status of a corporation employee which is not relevant
3175 to the employee's capacity to perform his or her duties, except
3176 as otherwise provided in this paragraph. Information which is
3177 exempt shall include, but is not limited to, information
3178 relating to workers' compensation, insurance benefits, and
3179 retirement or disability benefits.

3180 g. Upon an employee's entrance into the employee
3181 assistance program, a program to assist any employee who has a
3182 behavioral or medical disorder, substance abuse problem, or
3183 emotional difficulty which affects the employee's job
3184 performance, all records relative to that participation shall be
3185 confidential and exempt from the provisions of s. 119.07(1) and
3186 s. 24(a), Art. I of the State Constitution, except as otherwise
3187 provided in s. 112.0455(11).

3188 h. Information relating to negotiations for financing,
3189 reinsurance, depopulation, or contractual services, until the
3190 conclusion of the negotiations.

3191 i. Minutes of closed meetings regarding underwriting
3192 files, and minutes of closed meetings regarding an open claims
3193 file until termination of all litigation and settlement of all
3194 claims with regard to that claim, except that information
3195 otherwise confidential or exempt by law will be redacted.
3196
3197 When an authorized insurer is considering underwriting a risk
3198 insured by the corporation, relevant underwriting files and
3199 confidential claims files may be released to the insurer
3200 provided the insurer agrees in writing, notarized and under
3201 oath, to maintain the confidentiality of such files. When a file
3202 is transferred to an insurer that file is no longer a public
3203 record because it is not held by an agency subject to the
3204 provisions of the public records law. Underwriting files and
3205 confidential claims files may also be released to staff of and
3206 the board of governors of the market assistance plan established
3207 pursuant to s. 627.3515, who must retain the confidentiality of
3208 such files, except such files may be released to authorized
3209 insurers that are considering assuming the risks to which the
3210 files apply, provided the insurer agrees in writing, notarized
3211 and under oath, to maintain the confidentiality of such files.
3212 Finally, the corporation or the board or staff of the market
3213 assistance plan may make the following information obtained from
3214 underwriting files and confidential claims files available to
3215 licensed general lines insurance agents: name, address, and
3216 telephone number of the residential property owner or insured;
3217 location of the risk; rating information; loss history; and

3218 | policy type. The receiving licensed general lines insurance
 3219 | agent must retain the confidentiality of the information
 3220 | received.

3221 | 2. Portions of meetings of the corporation are exempt from
 3222 | the provisions of s. 286.011 and s. 24(b), Art. I of the State
 3223 | Constitution wherein confidential underwriting files or
 3224 | confidential open claims files are discussed. All portions of
 3225 | corporation meetings which are closed to the public shall be
 3226 | recorded by a court reporter. The court reporter shall record
 3227 | the times of commencement and termination of the meeting, all
 3228 | discussion and proceedings, the names of all persons present at
 3229 | any time, and the names of all persons speaking. No portion of
 3230 | any closed meeting shall be off the record. Subject to the
 3231 | provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
 3232 | notes of any closed meeting shall be retained by the corporation
 3233 | for a minimum of 5 years. A copy of the transcript, less any
 3234 | exempt matters, of any closed meeting wherein claims are
 3235 | discussed shall become public as to individual claims after
 3236 | settlement of the claim.

3237 | (w)~~(e)~~ It is the intent of the Legislature that the
 3238 | amendments to this subsection enacted in 2002 should, over time,
 3239 | reduce the probable maximum windstorm losses in the residual
 3240 | markets and should reduce the potential assessments to be levied
 3241 | on property insurers and policyholders statewide. In furtherance
 3242 | of this intent:

3243 | 1. The board shall, on or before February 1 of each year,
 3244 | provide a report to the President of the Senate and the Speaker

3245 of the House of Representatives showing the reduction or
3246 increase in the 100-year probable maximum loss attributable to
3247 wind-only coverages and the quota share program under this
3248 subsection combined, as compared to the benchmark 100-year
3249 probable maximum loss of the Florida Windstorm Underwriting
3250 Association. For purposes of this paragraph, the benchmark 100-
3251 year probable maximum loss of the Florida Windstorm Underwriting
3252 Association shall be the calculation dated February 2001 and
3253 based on November 30, 2000, exposures. In order to ensure
3254 comparability of data, the board shall use the same methods for
3255 calculating its probable maximum loss as were used to calculate
3256 the benchmark probable maximum loss. The reduction or increase
3257 in probable maximum loss shall be calculated without taking into
3258 account the probable maximum loss attributable to the
3259 nonhomestead account.

3260 2. Beginning February 1, 2013 ~~2007~~, if the report under
3261 subparagraph 1. for any year indicates that the 100-year
3262 probable maximum loss attributable to wind-only coverages and
3263 the quota share program combined does not reflect a reduction of
3264 at least 25 percent from the benchmark, the board shall reduce
3265 the boundaries of the high-risk area eligible for wind-only
3266 coverages under this subsection in a manner calculated to reduce
3267 such probable maximum loss to an amount at least 25 percent
3268 below the benchmark.

3269 3. Beginning February 1, 2018 ~~2012~~, if the report under
3270 subparagraph 1. for any year indicates that the 100-year
3271 probable maximum loss attributable to wind-only coverages and

3272 the quota share program combined does not reflect a reduction of
 3273 at least 50 percent from the benchmark, the boundaries of the
 3274 high-risk area eligible for wind-only coverages under this
 3275 subsection shall be reduced by the elimination of any area that
 3276 is not seaward of a line 1,000 feet inland from the Intracoastal
 3277 Waterway.

3278 (x) ~~(p)~~ In enacting the provisions of this section, the
 3279 Legislature recognizes that both the Florida Windstorm
 3280 Underwriting Association and the Residential Property and
 3281 Casualty Joint Underwriting Association have entered into
 3282 financing arrangements that obligate each entity to service its
 3283 debts and maintain the capacity to repay funds secured under
 3284 these financing arrangements. It is the intent of the
 3285 Legislature that nothing in this section be construed to
 3286 compromise, diminish, or interfere with the rights of creditors
 3287 under such financing arrangements. It is further the intent of
 3288 the Legislature to preserve the obligations of the Florida
 3289 Windstorm Underwriting Association and Residential Property and
 3290 Casualty Joint Underwriting Association with regard to
 3291 outstanding financing arrangements, with such obligations
 3292 passing entirely and unchanged to the corporation and,
 3293 specifically, to the applicable account of the corporation. So
 3294 long as any bonds, notes, indebtedness, or other financing
 3295 obligations of the Florida Windstorm Underwriting Association or
 3296 the Residential Property and Casualty Joint Underwriting
 3297 Association are outstanding, under the terms of the financing
 3298 documents pertaining to them, the governing board of the

3299 corporation shall have and shall exercise the authority to levy,
 3300 charge, collect, and receive all premiums, assessments,
 3301 surcharges, charges, revenues, and receipts that the
 3302 associations had authority to levy, charge, collect, or receive
 3303 under the provisions of subsection (2) and this subsection,
 3304 respectively, as they existed on January 1, 2002, to provide
 3305 moneys, without exercise of the authority provided by this
 3306 subsection, in at least the amounts, and by the times, as would
 3307 be provided under those former provisions of subsection (2) or
 3308 this subsection, respectively, so that the value, amount, and
 3309 collectability of any assets, revenues, or revenue source
 3310 pledged or committed to, or any lien thereon securing such
 3311 outstanding bonds, notes, indebtedness, or other financing
 3312 obligations will not be diminished, impaired, or adversely
 3313 affected by the amendments made by this act and to permit
 3314 compliance with all provisions of financing documents pertaining
 3315 to such bonds, notes, indebtedness, or other financing
 3316 obligations, or the security or credit enhancement for them, and
 3317 any reference in this subsection to bonds, notes, indebtedness,
 3318 financing obligations, or similar obligations, of the
 3319 corporation shall include like instruments or contracts of the
 3320 Florida Windstorm Underwriting Association and the Residential
 3321 Property and Casualty Joint Underwriting Association to the
 3322 extent not inconsistent with the provisions of the financing
 3323 documents pertaining to them.

3324 (y)~~(e)~~ The corporation shall not require the securing of
 3325 flood insurance as a condition of coverage if the insured or

3326 applicant executes a form approved by the office affirming that
3327 flood insurance is not provided by the corporation and that if
3328 flood insurance is not secured by the applicant or insured in
3329 addition to coverage by the corporation, the risk will not be
3330 covered for flood damage. A corporation policyholder electing
3331 not to secure flood insurance and executing a form as provided
3332 herein making a claim for water damage against the corporation
3333 shall have the burden of proving the damage was not caused by
3334 flooding. Notwithstanding other provisions of this subsection,
3335 the corporation may deny coverage to an applicant or insured who
3336 refuses to execute the form described herein.

3337 (z)~~(r)~~ A salaried employee of the corporation who performs
3338 policy administration services subsequent to the effectuation of
3339 a corporation policy is not required to be licensed as an agent
3340 under the provisions of s. 626.112.

3341 (aa)~~(s)~~ The transition to homestead and nonhomestead
3342 accounts shall begin on October 1, 2006. A policy issued on or
3343 after that date shall be issued in the applicable homestead
3344 account or the nonhomestead account, based upon whether the
3345 property constitutes homestead property as provided in
3346 subparagraph (b)2. A policy in effect on October 1, 2006, shall
3347 be placed in the applicable homestead account or the
3348 nonhomestead account, based upon whether the property
3349 constitutes homestead property as provided in subparagraph
3350 (b)2., upon the first renewal of such policy after October 1,
3351 2006.

3352 (bb) ~~(u)~~ An employee of the corporation shall notify the
3353 Division of Insurance Fraud within 48 hours after having
3354 information that would lead a reasonable person to suspect that
3355 fraud may have been committed by any employee of the
3356 corporation.

3357 (cc) ~~(v)~~ By February 1, 2007, the corporation shall submit
3358 a report to the President of the Senate, the Speaker of the
3359 House of Representatives, the minority party leaders of the
3360 Senate and the House of Representatives, and the chairs of the
3361 standing committees of the Senate and the House of
3362 Representatives having jurisdiction over matters relating to
3363 property and casualty insurance. In preparing the report, the
3364 corporation shall consult with the Office of Insurance
3365 Regulation, the Department of Financial Services, and any other
3366 party the corporation determines is appropriate. The report
3367 shall include findings and recommendations on the feasibility of
3368 requiring authorized insurers that issue and service personal
3369 and commercial residential policies and commercial
3370 nonresidential policies that provide coverage for basic property
3371 perils except for the peril of wind to issue and service for a
3372 fee personal and commercial residential policies and commercial
3373 nonresidential policies providing coverage for the peril of wind
3374 issued by the corporation. The report shall include:

3375 1. The expense savings to the corporation of issuing and
3376 servicing such policies as determined through a cost benefit
3377 analysis.

3378 2. The expenses and liability to authorized insurers
 3379 associated with issuing and servicing such policies.

3380 3. The impact on service to policyholders of the
 3381 corporation relating to issuing and servicing such policies.

3382 4. The impact on the producing agent of the corporation of
 3383 issuing and servicing such policies.

3384 5. Recommendations as to the amount of the fee that should
 3385 be paid to authorized insurers for issuing and servicing such
 3386 policies.

3387 6. The impact issuing and servicing such policies will
 3388 have on the corporation's number of policies, total insured
 3389 value, and probable maximum loss.

3390 ~~(dd)-(w)~~ There shall be no liability on the part of, and no
 3391 cause of action of any nature shall arise against, producing
 3392 agents of record of the corporation or employees of such agents
 3393 for insolvency of any take-out insurer.

3394 ~~(ee)-(x)~~ The Legislature finds that the total area eligible
 3395 for the high-risk account of the corporation has a material
 3396 impact on the availability of wind coverage from the voluntary
 3397 admitted market, deficits of the corporation, assessments to be
 3398 levied on property insurers and policyholders statewide, the
 3399 ability and willingness of authorized insurers to write wind
 3400 coverage in the high-risk areas, the probable maximum windstorm
 3401 losses of the corporation, general commerce in coastal areas,
 3402 and the overall financial condition of the state. Therefore, in
 3403 furtherance of these findings and intent:

3404 1. The High Risk Eligibility Panel is created.

- 3405 2. The members of the panel shall be appointed as follows:
 3406 a. The board shall appoint two board members.
 3407 b. The Governor shall appoint one member.
 3408 c. The Chief Financial Officer shall appoint one member.
 3409 d. The Commissioner of Insurance Regulation shall appoint
 3410 a representative of the office to serve as a member.
 3411 e. The President of the Senate shall appoint one member.
 3412 f. The Speaker of the House of Representatives shall
 3413 appoint one member.

3414
 3415 Members of the panel must be residents of this state with
 3416 insurance expertise. Members shall elect a chair and shall serve
 3417 3-year terms each. The panel shall operate independently of any
 3418 state agency and shall be administered by the corporation. The
 3419 panel shall make an annual report to the President of the Senate
 3420 and the Speaker of the House of Representatives on or before
 3421 February 1 of each year recommending the areas that should be
 3422 eligible for the high-risk account of the corporation. Members
 3423 shall not receive compensation and are not entitled to receive
 3424 reimbursement for per diem and travel expenses as provided in s.
 3425 112.061, except for any panel member who is a state employee.

3426 3. The Legislature's intent provided in subparagraphs
 3427 (a)1. and 2. shall provide guidance for the panel to use in the
 3428 panel's recommendations to the Legislature required in
 3429 subparagraph 1. The panel shall consider the following factors
 3430 in fulfilling its responsibilities under this paragraph:

3431 a. The number of commercial risks in a given area that are
 3432 unable to find wind coverage from the voluntary admitted market.

3433 b. Reports from members of the mortgage industry
 3434 indicating difficulty in finding forced placed policies for
 3435 commercial wind coverage.

3436 c. The number of approved excess and surplus lines
 3437 carriers certifying an unwillingness to provide commercial wind
 3438 coverage similar to that approved for use by the office for the
 3439 voluntary admitted market.

3440 d. Other relevant factors.

3441
 3442 The office and the corporation shall provide the panel with any
 3443 information the panel considers necessary to determine areas
 3444 eligible for the high-risk account of the corporation. For the
 3445 purpose of making accurate determinations for areas eligible for
 3446 the high-risk account of the corporation, the panel may
 3447 interview and request and receive information from residents of
 3448 this state in areas impacted by this paragraph, including, but
 3449 not limited to, insurance agents, insurance companies,
 3450 actuaries, and other insurance professionals. Upon request of
 3451 the panel, the office may conduct public hearings in areas that
 3452 may be impacted by the panel's recommendations.

3453 4. Notwithstanding other provisions of this paragraph, the
 3454 panel shall conduct an analysis to determine the areas to be
 3455 eligible for the high-risk account of the corporation for any
 3456 county that contains an eligible area extending more than 2
 3457 miles from the coast, any coastal county that does not have

3458 areas designated as eligible for the high-risk account, and
 3459 counties with barrier islands whether or not such islands or
 3460 portions of such islands are currently eligible for the high
 3461 risk account. The panel shall submit a report, including its
 3462 analysis, to the office and to the corporation by November 30,
 3463 2006. The report shall specify changes to the areas eligible for
 3464 the high-risk account for such affected counties based on its
 3465 analysis.

3466 Section 13. Effective January 1, 2007, paragraph (c) of
 3467 subsection (6) of section 627.351, Florida Statutes, as amended
 3468 by this act, is amended to read:

3469 627.351 Insurance risk apportionment plans.--

3470 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

3471 (c) The plan of operation of the corporation:

3472 1. Must provide for adoption of residential property and
 3473 casualty insurance policy forms and commercial residential and
 3474 nonresidential property insurance forms, which forms must be
 3475 approved by the office prior to use. The corporation shall adopt
 3476 the following policy forms:

3477 a. Standard personal lines policy forms that are
 3478 comprehensive multiperil policies providing full coverage of a
 3479 residential property equivalent to the coverage provided in the
 3480 private insurance market under an HO-3, HO-4, or HO-6 policy.

3481 b. Basic personal lines policy forms that are policies
 3482 similar to an HO-8 policy or a dwelling fire policy that provide
 3483 coverage meeting the requirements of the secondary mortgage

3484 market, but which coverage is more limited than the coverage
 3485 under a standard policy.

3486 c. Commercial lines residential policy forms that are
 3487 generally similar to the basic perils of full coverage
 3488 obtainable for commercial residential structures in the admitted
 3489 voluntary market.

3490 d. Personal lines and commercial lines residential
 3491 property insurance forms that cover the peril of wind only. The
 3492 forms are applicable only to residential properties located in
 3493 areas eligible for coverage under the high-risk account referred
 3494 to in sub-subparagraph (b)2.a.

3495 e. Commercial lines nonresidential property insurance
 3496 forms that cover the peril of wind only. The forms are
 3497 applicable only to nonresidential properties located in areas
 3498 eligible for coverage under the high-risk account referred to in
 3499 sub-subparagraph (b)2.a.

3500 f. The corporation may adopt variations of the policy
 3501 forms listed in sub-subparagraphs a.-e. that contain more
 3502 restrictive coverage.

3503 2.a. Must provide that the corporation adopt a program in
 3504 which the corporation and authorized insurers enter into quota
 3505 share primary insurance agreements for hurricane coverage, as
 3506 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 3507 property insurance forms for eligible risks which cover the
 3508 peril of wind only. As used in this subsection, the term:

3509 (I) "Quota share primary insurance" means an arrangement
 3510 in which the primary hurricane coverage of an eligible risk is

3511 provided in specified percentages by the corporation and an
3512 authorized insurer. The corporation and authorized insurer are
3513 each solely responsible for a specified percentage of hurricane
3514 coverage of an eligible risk as set forth in a quota share
3515 primary insurance agreement between the corporation and an
3516 authorized insurer and the insurance contract. The
3517 responsibility of the corporation or authorized insurer to pay
3518 its specified percentage of hurricane losses of an eligible
3519 risk, as set forth in the quota share primary insurance
3520 agreement, may not be altered by the inability of the other
3521 party to the agreement to pay its specified percentage of
3522 hurricane losses. Eligible risks that are provided hurricane
3523 coverage through a quota share primary insurance arrangement
3524 must be provided policy forms that set forth the obligations of
3525 the corporation and authorized insurer under the arrangement,
3526 clearly specify the percentages of quota share primary insurance
3527 provided by the corporation and authorized insurer, and
3528 conspicuously and clearly state that neither the authorized
3529 insurer nor the corporation may be held responsible beyond its
3530 specified percentage of coverage of hurricane losses.

3531 (II) "Eligible risks" means personal lines residential and
3532 commercial lines residential risks that meet the underwriting
3533 criteria of the corporation and are located in areas that were
3534 eligible for coverage by the Florida Windstorm Underwriting
3535 Association on January 1, 2002.

3536 b. The corporation may enter into quota share primary
3537 insurance agreements with authorized insurers at corporation
3538 coverage levels of 90 percent and 50 percent.

3539 c. If the corporation determines that additional coverage
3540 levels are necessary to maximize participation in quota share
3541 primary insurance agreements by authorized insurers, the
3542 corporation may establish additional coverage levels. However,
3543 the corporation's quota share primary insurance coverage level
3544 may not exceed 90 percent.

3545 d. Any quota share primary insurance agreement entered
3546 into between an authorized insurer and the corporation must
3547 provide for a uniform specified percentage of coverage of
3548 hurricane losses, by county or territory as set forth by the
3549 corporation board, for all eligible risks of the authorized
3550 insurer covered under the quota share primary insurance
3551 agreement.

3552 e. Any quota share primary insurance agreement entered
3553 into between an authorized insurer and the corporation is
3554 subject to review and approval by the office. However, such
3555 agreement shall be authorized only as to insurance contracts
3556 entered into between an authorized insurer and an insured who is
3557 already insured by the corporation for wind coverage.

3558 f. For all eligible risks covered under quota share
3559 primary insurance agreements, the exposure and coverage levels
3560 for both the corporation and authorized insurers shall be
3561 reported by the corporation to the Florida Hurricane Catastrophe
3562 Fund. For all policies of eligible risks covered under quota

3563 share primary insurance agreements, the corporation and the
3564 authorized insurer shall maintain complete and accurate records
3565 for the purpose of exposure and loss reimbursement audits as
3566 required by Florida Hurricane Catastrophe Fund rules. The
3567 corporation and the authorized insurer shall each maintain
3568 duplicate copies of policy declaration pages and supporting
3569 claims documents.

3570 g. The corporation board shall establish in its plan of
3571 operation standards for quota share agreements which ensure that
3572 there is no discriminatory application among insurers as to the
3573 terms of quota share agreements, pricing of quota share
3574 agreements, incentive provisions if any, and consideration paid
3575 for servicing policies or adjusting claims.

3576 h. The quota share primary insurance agreement between the
3577 corporation and an authorized insurer must set forth the
3578 specific terms under which coverage is provided, including, but
3579 not limited to, the sale and servicing of policies issued under
3580 the agreement by the insurance agent of the authorized insurer
3581 producing the business, the reporting of information concerning
3582 eligible risks, the payment of premium to the corporation, and
3583 arrangements for the adjustment and payment of hurricane claims
3584 incurred on eligible risks by the claims adjuster and personnel
3585 of the authorized insurer. Entering into a quota sharing
3586 insurance agreement between the corporation and an authorized
3587 insurer shall be voluntary and at the discretion of the
3588 authorized insurer.

3589 3. May provide that the corporation may employ or
 3590 otherwise contract with individuals or other entities to provide
 3591 administrative or professional services that may be appropriate
 3592 to effectuate the plan. The corporation shall have the power to
 3593 borrow funds, by issuing bonds or by incurring other
 3594 indebtedness, and shall have other powers reasonably necessary
 3595 to effectuate the requirements of this subsection, including,
 3596 without limitation, the power to issue bonds and incur other
 3597 indebtedness in order to refinance outstanding bonds or other
 3598 indebtedness. The corporation may, but is not required to, seek
 3599 judicial validation of its bonds or other indebtedness under
 3600 chapter 75. The corporation may issue bonds or incur other
 3601 indebtedness, or have bonds issued on its behalf by a unit of
 3602 local government pursuant to subparagraph (g)2., in the absence
 3603 of a hurricane or other weather-related event, upon a
 3604 determination by the corporation, subject to approval by the
 3605 office, that such action would enable it to efficiently meet the
 3606 financial obligations of the corporation and that such
 3607 financings are reasonably necessary to effectuate the
 3608 requirements of this subsection. The corporation is authorized
 3609 to take all actions needed to facilitate tax-free status for any
 3610 such bonds or indebtedness, including formation of trusts or
 3611 other affiliated entities. The corporation shall have the
 3612 authority to pledge assessments, projected recoveries from the
 3613 Florida Hurricane Catastrophe Fund, other reinsurance
 3614 recoverables, market equalization and other surcharges, and
 3615 other funds available to the corporation as security for bonds

3616 or other indebtedness. In recognition of s. 10, Art. I of the
3617 State Constitution, prohibiting the impairment of obligations of
3618 contracts, it is the intent of the Legislature that no action be
3619 taken whose purpose is to impair any bond indenture or financing
3620 agreement or any revenue source committed by contract to such
3621 bond or other indebtedness.

3622 4.a. Must require that the corporation operate subject to
3623 the supervision and approval of a board of governors consisting
3624 of 8 individuals who are residents of this state, from different
3625 geographical areas of this state. The Governor, the Chief
3626 Financial Officer, the President of the Senate, and the Speaker
3627 of the House of Representatives shall each appoint two members
3628 of the board, effective August 1, 2005. At least one of the two
3629 members appointed by each appointing officer must have
3630 demonstrated expertise in insurance. The Chief Financial Officer
3631 shall designate one of the appointees as chair. All board
3632 members serve at the pleasure of the appointing officer. All
3633 board members, including the chair, must be appointed to serve
3634 for 3-year terms beginning annually on a date designated by the
3635 plan. Any board vacancy shall be filled for the unexpired term
3636 by the appointing officer. The Chief Financial Officer shall
3637 appoint a technical advisory group to provide information and
3638 advice to the board of governors in connection with the board's
3639 duties under this subsection. The executive director and senior
3640 managers of the corporation shall be engaged by the board, as
3641 recommended by the Chief Financial Officer, and serve at the
3642 pleasure of the board. The executive director is responsible for

3643 | employing other staff as the corporation may require, subject to
3644 | review and concurrence by the board and the Chief Financial
3645 | Officer.

3646 | b. The board shall create a Market Accountability Advisory
3647 | Committee to assist the corporation in developing awareness of
3648 | its rates and its customer and agent service levels in
3649 | relationship to the voluntary market insurers writing similar
3650 | coverage. The members of the advisory committee shall consist of
3651 | the following 11 persons, one of whom must be elected chair by
3652 | the members of the committee: four representatives, one
3653 | appointed by the Florida Association of Insurance Agents, one by
3654 | the Florida Association of Insurance and Financial Advisors, one
3655 | by the Professional Insurance Agents of Florida, and one by the
3656 | Latin American Association of Insurance Agencies; three
3657 | representatives appointed by the insurers with the three highest
3658 | voluntary market share of residential property insurance
3659 | business in the state; one representative from the Office of
3660 | Insurance Regulation; one consumer appointed by the board who is
3661 | insured by the corporation at the time of appointment to the
3662 | committee; one representative appointed by the Florida
3663 | Association of Realtors; and one representative appointed by the
3664 | Florida Bankers Association. All members must serve for 3-year
3665 | terms and may serve for consecutive terms. The committee shall
3666 | report to the corporation at each board meeting on insurance
3667 | market issues which may include rates and rate competition with
3668 | the voluntary market; service, including policy issuance, claims

3669 processing, and general responsiveness to policyholders,
3670 applicants, and agents; and matters relating to depopulation.

3671 5. Must provide a procedure for determining the
3672 eligibility of a risk for coverage, as follows:

3673 a. Subject to the provisions of s. 627.3517, with respect
3674 to personal lines residential risks, if the risk is offered
3675 coverage from an authorized insurer at the insurer's approved
3676 rate under either a standard policy including wind coverage or,
3677 if consistent with the insurer's underwriting rules as filed
3678 with the office, a basic policy including wind coverage, the
3679 risk is not eligible for any policy issued by the corporation.
3680 If the risk is not able to obtain any such offer, the risk is
3681 eligible for either a standard policy including wind coverage or
3682 a basic policy including wind coverage issued by the
3683 corporation; however, if the risk could not be insured under a
3684 standard policy including wind coverage regardless of market
3685 conditions, the risk shall be eligible for a basic policy
3686 including wind coverage unless rejected under subparagraph 8.
3687 The corporation shall determine the type of policy to be
3688 provided on the basis of objective standards specified in the
3689 underwriting manual and based on generally accepted underwriting
3690 practices.

3691 (I) If the risk accepts an offer of coverage through the
3692 market assistance plan or an offer of coverage through a
3693 mechanism established by the corporation before a policy is
3694 issued to the risk by the corporation or during the first 30
3695 days of coverage by the corporation, and the producing agent who

3696 submitted the application to the plan or to the corporation is
 3697 not currently appointed by the insurer, the insurer shall:

3698 (A) Pay to the producing agent of record of the policy,
 3699 for the first year, an amount that is the greater of the
 3700 insurer's usual and customary commission for the type of policy
 3701 written or a fee equal to the usual and customary commission of
 3702 the corporation; or

3703 (B) Offer to allow the producing agent of record of the
 3704 policy to continue servicing the policy for a period of not less
 3705 than 1 year and offer to pay the agent the greater of the
 3706 insurer's or the corporation's usual and customary commission
 3707 for the type of policy written.

3708
 3709 If the producing agent is unwilling or unable to accept
 3710 appointment, the new insurer shall pay the agent in accordance
 3711 with sub-sub-sub-subparagraph (A).

3712 (II) When the corporation enters into a contractual
 3713 agreement for a take-out plan, the producing agent of record of
 3714 the corporation policy is entitled to retain any unearned
 3715 commission on the policy, and the insurer shall:

3716 (A) Pay to the producing agent of record of the
 3717 corporation policy, for the first year, an amount that is the
 3718 greater of the insurer's usual and customary commission for the
 3719 type of policy written or a fee equal to the usual and customary
 3720 commission of the corporation; or

3721 (B) Offer to allow the producing agent of record of the
 3722 corporation policy to continue servicing the policy for a period

3723 of not less than 1 year and offer to pay the agent the greater
3724 of the insurer's or the corporation's usual and customary
3725 commission for the type of policy written.

3726

3727 If the producing agent is unwilling or unable to accept
3728 appointment, the new insurer shall pay the agent in accordance
3729 with sub-sub-sub-subparagraph (A).

3730 b. With respect to commercial lines residential risks, if
3731 the risk is offered coverage under a policy including wind
3732 coverage from an authorized insurer at its approved rate, the
3733 risk is not eligible for any policy issued by the corporation.
3734 If the risk is not able to obtain any such offer, the risk is
3735 eligible for a policy including wind coverage issued by the
3736 corporation.

3737 (I) If the risk accepts an offer of coverage through the
3738 market assistance plan or an offer of coverage through a
3739 mechanism established by the corporation before a policy is
3740 issued to the risk by the corporation or during the first 30
3741 days of coverage by the corporation, and the producing agent who
3742 submitted the application to the plan or the corporation is not
3743 currently appointed by the insurer, the insurer shall:

3744 (A) Pay to the producing agent of record of the policy,
3745 for the first year, an amount that is the greater of the
3746 insurer's usual and customary commission for the type of policy
3747 written or a fee equal to the usual and customary commission of
3748 the corporation; or

3749 (B) Offer to allow the producing agent of record of the
 3750 policy to continue servicing the policy for a period of not less
 3751 than 1 year and offer to pay the agent the greater of the
 3752 insurer's or the corporation's usual and customary commission
 3753 for the type of policy written.

3754
 3755 If the producing agent is unwilling or unable to accept
 3756 appointment, the new insurer shall pay the agent in accordance
 3757 with sub-sub-sub-subparagraph (A).

3758 (II) When the corporation enters into a contractual
 3759 agreement for a take-out plan, the producing agent of record of
 3760 the corporation policy is entitled to retain any unearned
 3761 commission on the policy, and the insurer shall:

3762 (A) Pay to the producing agent of record of the
 3763 corporation policy, for the first year, an amount that is the
 3764 greater of the insurer's usual and customary commission for the
 3765 type of policy written or a fee equal to the usual and customary
 3766 commission of the corporation; or

3767 (B) Offer to allow the producing agent of record of the
 3768 corporation policy to continue servicing the policy for a period
 3769 of not less than 1 year and offer to pay the agent the greater
 3770 of the insurer's or the corporation's usual and customary
 3771 commission for the type of policy written.

3772
 3773 If the producing agent is unwilling or unable to accept
 3774 appointment, the new insurer shall pay the agent in accordance
 3775 with sub-sub-sub-subparagraph (A).

3776 c. To preserve existing incentives for carriers to write
3777 dwellings in the voluntary market and not in the corporation,
3778 the corporation shall continue to offer authorized insurers,
3779 including insurers writing dwellings valued at \$1 million or
3780 more, the same voluntary writing credits that were available on
3781 January 1, 2006, to carriers writing wind coverage for dwellings
3782 in the areas eligible for coverage in the high-risk account.

3783 d. With respect to personal lines residential risks, if
3784 the risk is a dwelling with an insured value of \$1 million or
3785 more, or if the risk is one that is excluded from the coverage
3786 to be provided by the condominium association under s.
3787 718.111(11)(b) and that is insured by the condominium unit owner
3788 for a combined dwelling and contents replacement cost of \$1
3789 million or more, the risk is not eligible for any policy issued
3790 by the corporation. Rates and forms for personal lines
3791 residential risks not eligible for coverage by the corporation
3792 specified by this sub-subparagraph are not subject to ss.
3793 627.062 and 627.0629. Such rates and forms are subject to all
3794 other applicable provisions of this code and rules adopted under
3795 this code. During the course of an insurer's market conduct
3796 examination, the office may review the rate for any risk to
3797 which the provisions of this sub-subparagraph are applicable to
3798 determine if such rate is inadequate or unfairly discriminatory.
3799 Rates on personal lines residential risks not eligible for
3800 coverage by the corporation may be found inadequate by the
3801 office if they are clearly insufficient, together with the
3802 investment income attributable to such risks, to sustain

3803 | projected losses and expenses in the class of business to which
3804 | such rates apply. Rates on personal lines residential risks not
3805 | eligible for coverage by the corporation may also be found
3806 | inadequate as to the premium charged to a risk or group of risks
3807 | if discounts or credits are allowed that exceed a reasonable
3808 | reflection of expense savings and reasonably expected loss
3809 | experience from the risk or group of risks. Rates on personal
3810 | lines residential risks not eligible for coverage by the
3811 | corporation may be found to be unfairly discriminatory as to a
3812 | risk or group of risks by the office if the application of
3813 | premium discounts, credits, or surcharges among such risks does
3814 | not bear a reasonable relationship to the expected loss and
3815 | expense experience among the various risks. A rating plan,
3816 | including discounts, credits, or surcharges on personal lines
3817 | residential risks not eligible for coverage by the corporation
3818 | may also be found to be unfairly discriminatory if the plan
3819 | fails to clearly and equitably reflect consideration of the
3820 | policyholder's participation in a risk management program
3821 | adjusted pursuant to s. 627.0625. The office may order an
3822 | insurer to discontinue using a rate for new policies or upon
3823 | renewal of a policy if the office finds the rate to be
3824 | inadequate or unfairly discriminatory. Insurers must maintain
3825 | records and documentation relating to rates and forms subject to
3826 | this sub-subparagraph for a period of at least 5 years after the
3827 | effective date of the policy.

3828 | e. For policies subject to nonrenewal as a result of the
3829 | risk being no longer eligible for coverage pursuant to sub-

3830 subparagraph d., the corporation shall, directly or through the
3831 market assistance plan, make information from confidential
3832 underwriting and claims files of policyholders available only to
3833 licensed general lines agents who register with the corporation
3834 to receive such information according to the following
3835 procedures:

3836 (I) By August 1, 2006, the corporation shall provide
3837 policyholders who are not eligible for renewal pursuant to sub-
3838 subparagraph d. the opportunity to request in writing, within 30
3839 days after the notification is sent, that information from their
3840 confidential underwriting and claims files not be released to
3841 licensed general lines agents registered pursuant to sub-sub-
3842 subparagraph e. (II);

3843 (II) By August 1, 2006, the corporation shall make
3844 available to licensed general lines agents the registration
3845 procedures to be used to obtain confidential information from
3846 underwriting and claims files for policies not eligible for
3847 renewal pursuant to sub-subparagraph d. As a condition of
3848 registration, the corporation shall require the licensed general
3849 lines agent to attest that the agent has the experience and
3850 relationships with authorized or surplus lines carriers to
3851 attempt to offer replacement coverage for policies not eligible
3852 for renewal pursuant to sub-subparagraph d.

3853 (III) By September 1, 2006, the corporation shall make
3854 available through a secured website to licensed general lines
3855 agents registered pursuant to sub-sub-subparagraph e. (II)
3856 application, rating, loss history, mitigation, and policy type

3857 information relating to all policies not eligible for renewal
3858 pursuant to sub-subparagraph d. and for which the policyholder
3859 has not requested the corporation withhold such information
3860 pursuant to sub-sub-subparagraph e.(I). The licensed general
3861 lines agent registered pursuant to sub-sub-subparagraph e.(II)
3862 may use such information to contact and assist the policyholder
3863 in securing replacement policies and the agent may disclose to
3864 the policyholder such information was obtained from the
3865 corporation.

3866 f. With respect to nonhomestead property, eligibility must
3867 be determined in accordance with sub-sub-sub-subparagraph
3868 (b)2.a.(II)(A).

3869 6. Must provide by July 1, 2007, that an application for
3870 coverage for a new policy is subject to a waiting period of 10
3871 days before coverage is effective, during which time the
3872 corporation shall make such application available for review by
3873 general lines agents and authorized property and casualty
3874 insurers. The board may approve exceptions that allow for
3875 coverage to be effective before the end of the 10-day waiting
3876 period, for coverage issued in conjunction with a real estate
3877 closing, and for such other exceptions as the board determines
3878 are necessary to prevent lapses in coverage.

3879 7. Must include rules for classifications of risks and
3880 rates therefor.

3881 8. Must provide that if premium and investment income for
3882 an account attributable to a particular calendar year are in
3883 excess of projected losses and expenses for the account

3884 | attributable to that year, such excess shall be held in surplus
 3885 | in the account. Such surplus shall be available to defray
 3886 | deficits in that account as to future years and shall be used
 3887 | for that purpose prior to assessing assessable insurers and
 3888 | assessable insureds as to any calendar year.

3889 | 9. Must provide objective criteria and procedures to be
 3890 | uniformly applied for all applicants in determining whether an
 3891 | individual risk is so hazardous as to be uninsurable. In making
 3892 | this determination and in establishing the criteria and
 3893 | procedures, the following shall be considered:

3894 | a. Whether the likelihood of a loss for the individual
 3895 | risk is substantially higher than for other risks of the same
 3896 | class; and

3897 | b. Whether the uncertainty associated with the individual
 3898 | risk is such that an appropriate premium cannot be determined.

3899 |
 3900 | The acceptance or rejection of a risk by the corporation shall
 3901 | be construed as the private placement of insurance, and the
 3902 | provisions of chapter 120 shall not apply.

3903 | 10. Must provide that the corporation shall make its best
 3904 | efforts to procure catastrophe reinsurance at reasonable rates,
 3905 | to cover its projected 100-year probable maximum loss in the
 3906 | homestead accounts as determined by the board of governors.

3907 | 11. Must provide that in the event of regular deficit
 3908 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph
 3909 | (b)3.b., in the personal lines homestead account, the commercial
 3910 | lines residential homestead account, or the high-risk homestead

3911 account, the corporation shall levy upon corporation homestead
 3912 account policyholders in its next rate filing, or by a separate
 3913 rate filing solely for this purpose, a Citizens policyholder
 3914 surcharge arising from a regular assessment in such account in a
 3915 percentage equal to the total amount of such regular assessments
 3916 divided by the aggregate statewide direct written premium for
 3917 subject lines of business for the year preceding the year in
 3918 which the deficit to which the regular assessment related is
 3919 incurred. Citizens policyholder surcharges under this
 3920 subparagraph are not considered premium and are not subject to
 3921 commissions, fees, or premium taxes; however, failure to pay the
 3922 Citizens policyholder a market equalization surcharge shall be
 3923 treated as failure to pay premium. Notwithstanding any other
 3924 provision of this section, for purposes of the Citizens
 3925 policyholder surcharges to be levied pursuant to this
 3926 subparagraph, the total amount of the regular assessment to
 3927 which such Citizens policyholder surcharge relates shall be
 3928 determined as set forth in sub-subparagraphs (b)3.a., b., and c.

3929 12. The policies issued by the corporation must provide
 3930 that, if the corporation or the market assistance plan obtains
 3931 an offer from an authorized insurer to cover the risk at its
 3932 approved rates, the risk is no longer eligible for renewal
 3933 through the corporation.

3934 13. Corporation policies and applications must include a
 3935 notice that the corporation policy could, under this section, be
 3936 replaced with a policy issued by an authorized insurer that does
 3937 not provide coverage identical to the coverage provided by the

3938 corporation or an insurer writing coverage pursuant to part VIII
 3939 of chapter 626. The notice shall also specify that acceptance of
 3940 corporation coverage creates a conclusive presumption that the
 3941 applicant or policyholder is aware of this potential.

3942 14. May establish, subject to approval by the office,
 3943 different eligibility requirements and operational procedures
 3944 for any line or type of coverage for any specified county or
 3945 area if the board determines that such changes to the
 3946 eligibility requirements and operational procedures are
 3947 justified due to the voluntary market being sufficiently stable
 3948 and competitive in such area or for such line or type of
 3949 coverage and that consumers who, in good faith, are unable to
 3950 obtain insurance through the voluntary market through ordinary
 3951 methods would continue to have access to coverage from the
 3952 corporation. When coverage is sought in connection with a real
 3953 property transfer, such requirements and procedures shall not
 3954 provide for an effective date of coverage later than the date of
 3955 the closing of the transfer as established by the transferor,
 3956 the transferee, and, if applicable, the lender.

3957 15. Must provide that, with respect to the high-risk
 3958 homestead account, any assessable insurer with a surplus as to
 3959 policyholders of \$25 million or less writing 25 percent or more
 3960 of its total countrywide property insurance premiums in this
 3961 state may petition the office, within the first 90 days of each
 3962 calendar year, to qualify as a limited apportionment company. ~~In~~
 3963 ~~no event shall a limited apportionment company be required to~~
 3964 ~~participate in the portion of any assessment, within the high-~~

3965 ~~risk account, pursuant to sub-subparagraph (b)3.a. or sub-~~
 3966 ~~subparagraph (b)3.b. in the aggregate which exceeds \$50 million~~
 3967 ~~after payment of available high risk account funds in any~~
 3968 ~~calendar year. However, A limited apportionment company shall~~
 3969 collect from its policyholders any emergency assessment imposed
 3970 under sub-subparagraph (b)3.d. The plan shall provide that, if
 3971 the office determines that any regular assessment will result in
 3972 an impairment of the surplus of a limited apportionment company,
 3973 the office may direct that all or part of such assessment be
 3974 deferred as provided in subparagraph (g)4. However, there shall
 3975 be no limitation or deferment of an emergency assessment to be
 3976 collected from policyholders under sub-subparagraph (b)3.d.

3977 16. Must provide that the corporation appoint as its
 3978 licensed agents only those agents who also hold an appointment
 3979 as defined in s. 626.015(3) with an insurer who at the time of
 3980 the agent's initial appointment by the corporation is authorized
 3981 to write and is actually writing personal lines residential
 3982 property coverage, commercial residential property coverage, or
 3983 commercial nonresidential property coverage within the state.

3984 17. Must provide, by July 1, 2007, a premium payment plan
 3985 option to its policyholders which allows for quarterly and
 3986 semiannual payment of premiums.

3987 18. Must provide that the hurricane deductible for any
 3988 property in the nonhomestead account with an insured value of
 3989 \$250,000 or more must be at least 5 percent of the insured
 3990 value.

3991 19. Must provide that the application for coverage under
 3992 the nonhomestead account and the declaration page of each
 3993 nonhomestead account policy include a statement in boldface 12-
 3994 point type specifying that public subsidies do not support the
 3995 corporation's coverage of nonhomestead property; that if the
 3996 nonhomestead account of the corporation sustains a deficit or is
 3997 unable to pay claims, the nonhomestead policyholder shall be
 3998 subject to an immediate assessment in an amount up to 100
 3999 percent of the premium and a further assessment upon renewal of
 4000 the policy; and that the applicant or policyholder may wish to
 4001 seek alternative coverage from an authorized insurer or surplus
 4002 lines insurer that will not be subject to such potential
 4003 assessments.

4004 20. Must provide that the application for coverage under
 4005 any of the homestead accounts and the declaration page of each
 4006 homestead account policy include a statement in boldface 12-
 4007 point type specifying that a false declaration of homestead
 4008 status for purposes of obtaining coverage in any of the
 4009 homestead accounts may constitute the offense of insurance
 4010 fraud, as prohibited and punishable as a felony under s.
 4011 817.234.

4012 21. Must limit coverage on mobile homes or manufactured
 4013 homes built prior to 1994 to actual cash value of the dwelling
 4014 rather than replacement costs of the dwelling.

4015 Section 14. Effective July 1, 2006, section 627.3517,
 4016 Florida Statutes, is amended to read:
 4017 627.3517 Consumer choice.--

4018 (1) Except as provided in subsection (2), no provision of
4019 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to
4020 impair the right of any insurance risk apportionment plan
4021 policyholder, upon receipt of any keepout or take-out offer, to
4022 retain his or her current agent, so long as that agent is duly
4023 licensed and appointed by the insurance risk apportionment plan
4024 or otherwise authorized to place business with the insurance
4025 risk apportionment plan. This right shall not be canceled,
4026 suspended, impeded, abridged, or otherwise compromised by any
4027 rule, plan of operation, or depopulation plan, whether through
4028 keepout, take-out, midterm assumption, or any other means, of
4029 any insurance risk apportionment plan or depopulation plan,
4030 including, but not limited to, those described in s. 627.351, s.
4031 627.3511, or s. 627.3515. The commission shall adopt any rules
4032 necessary to cause any insurance risk apportionment plan or
4033 market assistance plan under such sections to demonstrate that
4034 the operations of the plan do not interfere with, promote, or
4035 allow interference with the rights created under this section.
4036 If the policyholder's current agent is unable or unwilling to be
4037 appointed with the insurer making the take-out or keepout offer,
4038 the policyholder shall not be disqualified from participation in
4039 the appropriate insurance risk apportionment plan because of an
4040 offer of coverage in the voluntary market. An offer of full
4041 property insurance coverage by the insurer currently insuring
4042 either the ex-wind or wind-only coverage on the policy to which
4043 the offer applies shall not be considered a take-out or keepout
4044 offer. Any rule, plan of operation, or plan of depopulation,

4045 through keepout, take-out, midterm assumption, or any other
4046 means, of any property insurance risk apportionment plan under
4047 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
4048 and 627.3511(4).

4049 (2) This section does not apply during the first 10 days
4050 after a new application for coverage has been submitted to
4051 Citizens Property Insurance Corporation under s. 627.351(6),
4052 whether or not coverage is bound during this period.

4053 Section 15. Section 627.3519, Florida Statutes, is created
4054 to read:

4055 627.3519 Annual report of aggregate net probable maximum
4056 losses, financing options, and potential assessments.--No later
4057 than February 1 of each year, the Financial Services Commission
4058 shall provide to the Legislature a report of the aggregate net
4059 probable maximum losses, financing options, and potential
4060 assessments of the Florida Hurricane Catastrophe Fund and
4061 Citizens Property Insurance Corporation. The report must include
4062 the respective 50-year, 100-year, and 250-year probable maximum
4063 losses of the fund and the corporation; analysis of all
4064 reasonable financing strategies for each such probable maximum
4065 loss, including the amount and term of debt instruments;
4066 specification of the percentage assessments that would be needed
4067 to support each of the financing strategies; and calculations of
4068 the aggregate assessment burden on Florida property and casualty
4069 policyholders for each of the probable maximum losses. The
4070 commission shall require the fund and the corporation to provide

4071 the commission with such data and analysis as the commission
 4072 considers necessary to prepare the report.

4073 Section 16. Paragraph (b) of subsection (3) of section
 4074 627.4035, Florida Statutes, is amended to read:

4075 627.4035 Cash payment of premiums; claims.--

4076 (3) All payments of claims made in this state under any
 4077 contract of insurance shall be paid:

4078 (b) If authorized in writing by the recipient or the
 4079 recipient's representative, by debit card or any other form of
 4080 electronic transfer. Any fees or costs to be charged against the
 4081 recipient must be disclosed in writing to the recipient or the
 4082 recipient's representative at the time of written authorization.

4083 However, the written authorization requirement may be waived by
 4084 the recipient or the recipient's representative if the insurer
 4085 verifies the identity of the insured or the insured's recipient
 4086 and does not charge a fee for the transaction. If the funds are
 4087 misdirected, the insurer would remain liable for the payment of
 4088 the claim.

4089 Section 17. Paragraph (b) of subsection (3) of section
 4090 627.701, Florida Statutes, is amended to read:

4091 627.701 Liability of insureds; coinsurance; deductibles.--

4092 (3)

4093 (b)1. Except as otherwise provided in this paragraph,
 4094 prior to issuing a personal lines residential property insurance
 4095 policy on or after January 1, 2006, or prior to the first
 4096 renewal of a residential property insurance policy on or after
 4097 January 1, 2006, the insurer must offer alternative deductible

4098 amounts applicable to hurricane losses equal to \$500, 2 percent,
4099 5 percent, and 10 percent of the policy dwelling limits, unless
4100 the specific percentage deductible is less than \$500. The
4101 written notice of the offer shall specify the hurricane or wind
4102 deductible to be applied in the event that the applicant or
4103 policyholder fails to affirmatively choose a hurricane
4104 deductible. The insurer must provide such policyholder with
4105 notice of the availability of the deductible amounts specified
4106 in this paragraph in a form approved by the office in
4107 conjunction with each renewal of the policy. The failure to
4108 provide such notice constitutes a violation of this code but
4109 does not affect the coverage provided under the policy.

4110 2. This paragraph does not apply with respect to a
4111 deductible program lawfully in effect on June 14, 1995, or to
4112 any similar deductible program, if the deductible program
4113 requires a minimum deductible amount of no less than 2 percent
4114 of the policy limits.

4115 3. With respect to a policy covering a risk with dwelling
4116 limits of at least \$100,000, ~~but less than \$250,000~~, the insurer
4117 may, in lieu of offering a policy with a ~~\$500 hurricane or~~ wind
4118 deductible as required by subparagraph 1., offer a policy that
4119 the insurer guarantees it will not nonrenew for reasons of
4120 reducing hurricane loss for one renewal period and that contains
4121 up to a 2 percent hurricane deductible, for two renewal periods
4122 and that contains up to a 5 percent hurricane deductible, or for
4123 three renewal periods and that contains up to a 10 percent
4124 hurricane deductible. Notwithstanding the requirements of this

4125 paragraph, the Office of Insurance Regulation may approve the
 4126 nonrenewal of such policies if the guarantee renewal of the
 4127 policies may jeopardize the financial ratings of an insurer ~~or~~
 4128 ~~wind deductible as required by subparagraph 1.~~

4129 4. With respect to a policy covering a risk with dwelling
 4130 limits of \$250,000 or more, the insurer need not offer the \$500
 4131 hurricane deductible as required by subparagraph 1., but must,
 4132 except as otherwise provided in this subsection, offer the other
 4133 hurricane deductibles as required by subparagraph 1.

4134 Section 18. Effective January 1, 2007, subsection (9) is
 4135 added to section 627.701, Florida Statutes, to read:

4136 627.701 Liability of insureds; coinsurance; deductibles.--

4137 (9) With respect to hurricane coverage provided in a
 4138 policy of residential coverage, when the policyholder has taken
 4139 appropriate hurricane mitigation measures regarding the
 4140 residence covered under the policy, the insurer may provide the
 4141 insured the option of selecting an appropriate reduction in the
 4142 policy's hurricane deductible in lieu of selecting the
 4143 appropriate discount credit or other rate differential as
 4144 provided in s. 627.0629. If made available by the insurer, the
 4145 insurer must provide the policyholder with notice of the options
 4146 available under this subsection on a form approved by the
 4147 office.

4148 Section 19. Subsections (2) and (3) of section 627.7011,
 4149 Florida Statutes, are amended, and subsection (6) is added to
 4150 that section, to read:

4151 627.7011 Homeowners' policies; offer of replacement cost
4152 coverage and law and ordinance coverage.--

4153 (2) Unless the insurer obtains the policyholder's written
4154 refusal of the policies or endorsements specified in subsection
4155 (1), any policy covering the dwelling is deemed to include the
4156 law and ordinance coverage limited to 25 percent of the dwelling
4157 limit ~~specified in paragraph (1)(b)~~. The rejection or selection
4158 of alternative coverage shall be made on a form approved by the
4159 office. The form shall fully advise the applicant of the nature
4160 of the coverage being rejected. If this form is signed by a
4161 named insured, it will be conclusively presumed that there was
4162 an informed, knowing rejection of the coverage or election of
4163 the alternative coverage on behalf of all insureds. Unless the
4164 policyholder requests in writing the coverage specified in this
4165 section, it need not be provided in or supplemental to any other
4166 policy that renews, insures, extends, changes, supersedes, or
4167 replaces an existing policy when the policyholder has rejected
4168 the coverage specified in this section or has selected
4169 alternative coverage. The insurer must provide such policyholder
4170 with notice of the availability of such coverage in a form
4171 approved by the office at least once every 3 years. The failure
4172 to provide such notice constitutes a violation of this code, but
4173 does not affect the coverage provided under the policy.

4174 (3) In the event of a loss for which a dwelling ~~or~~
4175 ~~personal property~~ is insured on the basis of replacement costs,
4176 the insurer shall pay the replacement cost without reservation

4177 or holdback of any depreciation in value, whether or not the
4178 insured replaces or repairs the dwelling ~~or property~~.

4179 (6) Insurers shall issue separate checks for living
4180 expenses, contents, and casualty proceeds. Checks for living
4181 expenses and contents should be issued directly to the
4182 policyholder.

4183 Section 20. Effective upon this act becoming a law,
4184 section 627.7019, Florida Statutes, is created to read:

4185 627.7019 Standardization of requirements applicable to
4186 insurers after natural disasters.--

4187 (1) The commission shall adopt by rule, pursuant to s.
4188 120.54(1)-(3), standardized requirements that may be applied to
4189 insurers as a consequence of a hurricane or other natural
4190 disaster. The rules shall address the following areas:

4191 (a) Claims reporting requirements.

4192 (b) Grace periods for payment of premiums and performance
4193 of other duties by insureds.

4194 (c) Temporary postponement of cancellations and
4195 nonrenewals.

4196 (2) The rules adopted pursuant to this section shall
4197 require the office to issue an order within 72 hours after the
4198 occurrence of a hurricane or other natural disaster specifying,
4199 by line of insurance, which of the standardized requirements
4200 apply, the geographic areas in which they apply, the time at
4201 which applicability commences, and the time at which
4202 applicability terminates.

4203 (3) The commission and the office may not adopt an
 4204 emergency rule under s. 120.54(4) in conflict with any provision
 4205 of the rules adopted under this section.

4206 (4) The commission shall initiate rulemaking under this
 4207 section no later than June 1, 2006.

4208 Section 21. Subsection (5) of section 627.727, Florida
 4209 Statutes, is amended to read:

4210 627.727 Motor vehicle insurance; uninsured and
 4211 underinsured vehicle coverage; insolvent insurer protection.--

4212 (5) Any person having a claim against an insolvent insurer
 4213 as defined in s. 631.54~~(6)~~~~(5)~~ under the provisions of this
 4214 section shall present such claim for payment to the Florida
 4215 Insurance Guaranty Association only. In the event of a payment
 4216 to any person in settlement of a claim arising under the
 4217 provisions of this section, the association is not subrogated or
 4218 entitled to any recovery against the claimant's insurer. The
 4219 association, however, has the rights of recovery as set forth in
 4220 chapter 631 in the proceeds recoverable from the assets of the
 4221 insolvent insurer.

4222 Section 22. Paragraph (f) is added to subsection (2) of
 4223 section 631.181, Florida Statutes, to read:

4224 631.181 Filing and proof of claim.--

4225 (2)

4226 (f) The signed statement required by this section shall
 4227 not be required on claims for which adequate claims file
 4228 documentation exists within the records of the insolvent
 4229 insurer. Claims for payment of unearned premium shall not be

4230 required to use the signed statement required by this section if
4231 the receiver certifies to the guaranty fund that the records of
4232 the insolvent insurer are sufficient to determine the amount of
4233 unearned premium owed to each policyholder of the insurer and
4234 such information is remitted to the guaranty fund by the
4235 receiver in electronic or other mutually agreed-upon format.

4236 Section 23. Subsections (5), (6), (7), and (8) of section
4237 631.54, Florida Statutes, are renumbered as subsections (6),
4238 (7), (8), and (9), respectively, and a new subsection (5) is
4239 added to that section, to read:

4240 631.54 Definitions.--As used in this part:

4241 (5) "Homeowner's insurance" means personal lines
4242 residential property insurance coverage that consists of the
4243 type of coverage provided under homeowner's, dwelling, and
4244 similar policies for repair or replacement of the insured
4245 structure and contents, which policies are written directly to
4246 the individual homeowner. Residential coverage for personal
4247 lines as set forth in this section includes policies that
4248 provide coverage for particular perils such as windstorm and
4249 hurricane coverage but excludes all coverage for mobile homes,
4250 renter's insurance, or tenant's coverage. The term "homeowner's
4251 insurance" excludes commercial residential policies covering
4252 condominium associations or homeowners' associations, which
4253 associations have a responsibility to provide insurance coverage
4254 on residential units within the association, and also excludes
4255 coverage for the common elements of a homeowners' association.

4256 Section 24. Subsection (1) of section 631.55, Florida
 4257 Statutes, is amended to read:

4258 631.55 Creation of the association.--

4259 (1) There is created a nonprofit corporation to be known
 4260 as the "Florida Insurance Guaranty Association, Incorporated."
 4261 All insurers defined as member insurers in s. 631.54 (7) ~~(6)~~ shall
 4262 be members of the association as a condition of their authority
 4263 to transact insurance in this state, and, further, as a
 4264 condition of such authority, an insurer shall agree to reimburse
 4265 the association for all claim payments the association makes on
 4266 said insurer's behalf if such insurer is subsequently
 4267 rehabilitated. The association shall perform its functions under
 4268 a plan of operation established and approved under s. 631.58 and
 4269 shall exercise its powers through a board of directors
 4270 established under s. 631.56. The corporation shall have all
 4271 those powers granted or permitted nonprofit corporations, as
 4272 provided in chapter 617.

4273 Section 25. Paragraph (a) of subsection (1), paragraph (d)
 4274 of subsection (2), and paragraph (a) of subsection (3) of
 4275 section 631.57, Florida Statutes, are amended, and paragraph (e)
 4276 is added to subsection (3) of that section, to read:

4277 631.57 Powers and duties of the association.--

4278 (1) The association shall:

4279 (a)1. Be obligated to the extent of the covered claims
 4280 existing:

4281 a. Prior to adjudication of insolvency and arising within
 4282 30 days after the determination of insolvency;

4283 b. Before the policy expiration date if less than 30 days
4284 after the determination; or

4285 c. Before the insured replaces the policy or causes its
4286 cancellation, if she or he does so within 30 days of the
4287 determination.

4288 2. The obligation under subparagraph 1. shall include only
4289 the amount of each covered claim that is in excess of \$100 and
4290 is less than \$300,000, except policies providing coverage for
4291 homeowner's insurance shall provide for an additional \$200,000
4292 for the portion of a covered claim that relates only to the
4293 damage to the structure and contents.

4294 ~~3.a.2.~~ Notwithstanding subparagraph 2., the obligation
4295 under subparagraph 1. ~~for shall include only that amount of each~~
4296 ~~covered claim which is in excess of \$100 and is less than~~
4297 ~~\$300,000, except with respect to~~ policies covering condominium
4298 associations or homeowners' associations, which associations
4299 have a responsibility to provide insurance coverage on
4300 residential units within the association, ~~the obligation~~ shall
4301 include that amount of each covered property insurance claim
4302 which is less than \$100,000 multiplied by the number of
4303 condominium units or other residential units; however, as to
4304 homeowners' associations, this sub-subparagraph ~~subparagraph~~
4305 applies only to claims for damage or loss to residential units
4306 and structures attached to residential units.

4307 b. Notwithstanding sub-subparagraph a., the association
4308 has no obligation to pay covered claims that are to be paid from
4309 the proceeds of bonds issued under s. 631.695. However, the

4310 association shall assign and pledge the first available moneys
4311 from all or part of the assessments to be made under paragraph
4312 (3) (a) to or on behalf of the issuer of such bonds for the
4313 benefit of the holders of such bonds. The association shall
4314 administer any such covered claims and present valid covered
4315 claims for payment in accordance with the provisions of the
4316 assistance program in connection with which such bonds have been
4317 issued.

4318 3. In no event shall the association be obligated to a
4319 policyholder or claimant in an amount in excess of the
4320 obligation of the insolvent insurer under the policy from which
4321 the claim arises.

4322 (2) The association may:

4323 (d) Negotiate and become a party to such contracts as are
4324 necessary to carry out the purpose of this part. Additionally,
4325 the association may enter into such contracts with a
4326 municipality, a county, or a legal entity created pursuant to s.
4327 163.01(7) (g) as are necessary in order for the municipality,
4328 county, or legal entity to issue bonds under s. 631.695. In
4329 connection with the issuance of any such bonds and the entering
4330 into of any such necessary contracts, the association may agree
4331 to such terms and conditions as the association deems necessary
4332 and proper.

4333 (3) (a) To the extent necessary to secure the funds for the
4334 respective accounts for the payment of covered claims, ~~and also~~
4335 to pay the reasonable costs to administer the same, and to the
4336 extent necessary to secure the funds for the account specified

4337 in s. 631.55(2)(c) or to retire indebtedness, including, without
4338 limitation, the principal, redemption premium, if any, and
4339 interest on, and related costs of issuance of, bonds issued
4340 under s. 631.695 and the funding of any reserves and other
4341 payments required under the bond resolution or trust indenture
4342 pursuant to which such bonds have been issued, the office, upon
4343 certification of the board of directors, shall levy assessments
4344 in the proportion that each insurer's net direct written
4345 premiums in this state in the classes protected by the account
4346 bears to the total of said net direct written premiums received
4347 in this state by all such insurers for the preceding calendar
4348 year for the kinds of insurance included within such account.
4349 Assessments shall be remitted to and administered by the board
4350 of directors in the manner specified by the approved plan. Each
4351 insurer so assessed shall have at least 30 days' written notice
4352 as to the date the assessment is due and payable. Every
4353 assessment shall be made as a uniform percentage applicable to
4354 the net direct written premiums of each insurer in the kinds of
4355 insurance included within the account in which the assessment is
4356 made. The assessments levied against any insurer shall not
4357 exceed in any one year more than 2 percent of that insurer's net
4358 direct written premiums in this state for the kinds of insurance
4359 included within such account during the calendar year next
4360 preceding the date of such assessments.

4361 (e)1.a. In addition to assessments otherwise authorized in
4362 paragraph (a) and to the extent necessary to secure the funds
4363 for the account specified in s. 631.55(2)(c) or to retire

4364 indebtedness, including, without limitation, the principal,
4365 redemption premium, if any, and interest on, and related costs
4366 of issuance of, bonds issued under s. 631.695 and the funding of
4367 any reserves and other payments required under the bond
4368 resolution or trust indenture pursuant to which such bonds have
4369 been issued, the office, upon certification of the board of
4370 directors, shall levy emergency assessments upon insurers
4371 holding a certificate of authority. The emergency assessments
4372 payable under this paragraph by any insurer shall not exceed in
4373 any single year more than 2 percent of that insurer's direct
4374 written premiums, net of refunds, in this state during the
4375 preceding calendar year for the kinds of insurance within the
4376 account specified in s. 631.55(2)(c).

4377 b. Any emergency assessments authorized under this
4378 paragraph shall be levied by the office upon insurers referred
4379 to in sub-subparagraph a., upon certification as to the need for
4380 such assessments by the board of directors, in each year that
4381 bonds issued under s. 631.695 and secured by such emergency
4382 assessments are outstanding, in such amounts up to such 2-
4383 percent limit as required in order to provide for the full and
4384 timely payment of the principal of, redemption premium, if any,
4385 and interest on, and related costs of issuance of, such bonds.
4386 The emergency assessments provided for in this paragraph are
4387 assigned and pledged to the municipality, county, or legal
4388 entity issuing bonds under s. 631.695 for the benefit of the
4389 holders of such bonds, in order to enable such municipality,
4390 county, or legal entity to provide for the payment of the

4391 principal of, redemption premium, if any, and interest on such
4392 bonds, the cost of issuance of such bonds, and the funding of
4393 any reserves and other payments required under the bond
4394 resolution or trust indenture pursuant to which such bonds have
4395 been issued, without the necessity of any further action by the
4396 association, the office, or any other party. To the extent bonds
4397 are issued under s. 631.695 and the association determines to
4398 secure such bonds by a pledge of revenues received from the
4399 emergency assessments, such bonds, upon such pledge of revenues,
4400 shall be secured by and payable from the proceeds of such
4401 emergency assessments, and the proceeds of emergency assessments
4402 levied under this paragraph shall be remitted directly to and
4403 administered by the trustee or custodian appointed for such
4404 bonds.

4405 c. Emergency assessments under this paragraph may be
4406 payable in a single payment or, at the option of the
4407 association, may be payable in 12 monthly installments with the
4408 first installment being due and payable at the end of the month
4409 after an emergency assessment is levied and subsequent
4410 installments being due not later than the end of each succeeding
4411 month.

4412 d. If emergency assessments are imposed, the report
4413 required by s. 631.695(7) shall include an analysis of the
4414 revenues generated from the emergency assessments imposed under
4415 this paragraph.

4416 e. If emergency assessments are imposed, the references in
4417 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to

4418 assessments levied under paragraph (a) shall include emergency
4419 assessments imposed under this paragraph.

4420 2. In order to ensure that insurers paying emergency
4421 assessments levied under this paragraph continue to charge rates
4422 that are neither inadequate nor excessive, within 90 days after
4423 being notified of such assessments, each insurer that is to be
4424 assessed pursuant to this paragraph shall submit a rate filing
4425 for coverage included within the account specified in s.
4426 631.55(2)(c) and for which rates are required to be filed under
4427 s. 627.062. If the filing reflects a rate change that, as a
4428 percentage, is equal to the difference between the rate of such
4429 assessment and the rate of the previous year's assessment under
4430 this paragraph, the filing shall consist of a certification so
4431 stating and shall be deemed approved when made. Any rate change
4432 of a different percentage shall be subject to the standards and
4433 procedures of s. 627.062.

4434 3. An annual assessment under this paragraph shall
4435 continue while the bonds issued with respect to which the
4436 assessment was imposed are outstanding, including any bonds the
4437 proceeds of which were used to refund bonds issued pursuant to
4438 s. 631.695, unless adequate provision has been made for the
4439 payment of the bonds in the documents authorizing the issuance
4440 of such bonds.

4441 4. Emergency assessments under this paragraph are not
4442 premium and are not subject to the premium tax, to any fees, or
4443 to any commissions. An insurer is liable for all emergency
4444 assessments that the insurer collects and shall treat the

4445 failure of an insured to pay an emergency assessment as a
4446 failure to pay the premium. An insurer is not liable for
4447 uncollectible emergency assessments.

4448 Section 26. Section 631.695, Florida Statutes, is created
4449 to read:

4450 631.695 Revenue bond issuance through counties or
4451 municipalities.--

4452 (1) The Legislature finds:

4453 (a) The potential for widespread and massive damage to
4454 persons and property caused by hurricanes making landfall in
4455 this state can generate insurance claims of such a number as to
4456 render numerous insurers operating within this state insolvent
4457 and therefore unable to satisfy covered claims.

4458 (b) The inability of insureds within this state to receive
4459 payment of covered claims or to timely receive such payment
4460 creates financial and other hardships for such insureds and
4461 places undue burdens on the state, the affected units of local
4462 government, and the community at large.

4463 (c) In addition, the failure of insurers to pay covered
4464 claims or to timely pay such claims due to the insolvency of
4465 such insurers can undermine the public's confidence in insurers
4466 operating within this state, thereby adversely affecting the
4467 stability of the insurance industry in this state.

4468 (d) The state has previously taken action to address these
4469 problems by adopting the Florida Insurance Guaranty Association
4470 Act, which, among other things, provides a mechanism for the
4471 payment of covered claims under certain insurance policies to

4472 avoid excessive delay in payment and to avoid financial loss to
4473 claimants or policyholders because of the insolvency of an
4474 insurer.

4475 (e) In the wake of the unprecedented destruction caused by
4476 various hurricanes that have made landfall in this state, the
4477 resultant covered claims, and the number of insurers rendered
4478 insolvent thereby, make it evident that alternative programs
4479 must be developed to allow the Florida Insurance Guaranty
4480 Association to more expeditiously and effectively provide for
4481 the payment of covered claims.

4482 (f) It is therefore determined to be in the best interests
4483 of, and necessary for, the protection of the public health,
4484 safety, and general welfare of the residents of this state and
4485 for the protection and preservation of the economic stability of
4486 insurers operating in this state and it is declared to be an
4487 essential public purpose to permit certain municipalities and
4488 counties to take such actions as will provide relief to
4489 claimants and policyholders having covered claims against
4490 insolvent insurers operating in this state by expediting the
4491 handling and payment of covered claims.

4492 (g) To achieve the foregoing purposes, it is proper to
4493 authorize municipalities and counties of this state
4494 substantially affected by the landfall of a hurricane to issue
4495 bonds to assist the Florida Insurance Guaranty Association in
4496 expediting the handling and payment of covered claims of
4497 insolvent insurers.

4498 (h) In order to avoid the needless and indiscriminate
4499 proliferation, duplication, and fragmentation of such assistance
4500 programs, it is in the best interests of the residents of this
4501 state to authorize municipalities and counties severely affected
4502 by a hurricane to provide for the payment of covered claims
4503 beyond their territorial limits in the implementation of such
4504 programs.

4505 (i) It is a paramount public purpose for municipalities
4506 and counties substantially affected by the landfall of a
4507 hurricane to be able to issue bonds for the purposes described
4508 in this section. Such issuance shall provide assistance to
4509 residents of those municipalities and counties as well as to
4510 other residents of this state.

4511 (2) The governing body of any municipality or county, the
4512 residents of which have been substantially affected by a
4513 hurricane, may issue bonds to fund an assistance program in
4514 conjunction with, and with the consent of, the Florida Insurance
4515 Guaranty Association for the purpose of paying claimants' or
4516 policyholders' covered claims, as defined in s. 631.54, arising
4517 through the insolvency of an insurer, which insolvency is
4518 determined by the Florida Insurance Guaranty Association to have
4519 been a result of a hurricane, regardless of whether the
4520 claimants or policyholders are residents of such municipality or
4521 county or the property to which the claim relates is located
4522 within or outside the territorial jurisdiction of the
4523 municipality or county. The power of a municipality or county to
4524 issue bonds, as described in this section, is in addition to any

4525 powers granted by law and may not be abrogated or restricted by
4526 any provisions in such municipality's or county's charter. A
4527 municipality or county issuing bonds for this purpose shall
4528 enter into such contracts with the Florida Insurance Guaranty
4529 Association or any entity acting on behalf of the Florida
4530 Insurance Guaranty Association as are necessary to implement the
4531 assistance program. Any bonds issued by a municipality or county
4532 or a combination thereof under this subsection shall be payable
4533 from and secured by moneys received by or on behalf of the
4534 municipality or county from assessments levied under s.
4535 631.57(3) (a) and assigned and pledged to or on behalf of the
4536 municipality or county for the benefit of the holders of the
4537 bonds in connection with the assistance program. The funds,
4538 credit, property, and taxing power of the state or any
4539 municipality or county shall not be pledged for the payment of
4540 such bonds.

4541 (3) Bonds may be validated by the municipality or county
4542 pursuant to chapter 75. The proceeds of the bonds may be used to
4543 pay covered claims of insolvent insurers; to refinance or
4544 replace previously existing borrowings or financial
4545 arrangements; to pay interest on bonds; to fund reserves for the
4546 bonds; to pay expenses incident to the issuance or sale of any
4547 bond issued under this section, including costs of validating,
4548 printing, and delivering the bonds, costs of printing the
4549 official statement, costs of publishing notices of sale of the
4550 bonds, costs of obtaining credit enhancement or liquidity
4551 support, and related administrative expenses; or for such other

4552 purposes related to the financial obligations of the fund as the
4553 association may determine. The term of the bonds may not exceed
4554 30 years.

4555 (4) The state covenants with holders of bonds of the
4556 assistance program that the state will not take any action that
4557 will have a material adverse effect on the holders and will not
4558 repeal or abrogate the power of the board of directors of the
4559 association to direct the Office of Insurance Regulation to levy
4560 the assessments and to collect the proceeds of the revenues
4561 pledged to the payment of the bonds as long as any of the bonds
4562 remain outstanding, unless adequate provision has been made for
4563 the payment of the bonds in the documents authorizing the
4564 issuance of the bonds.

4565 (5) The accomplishment of the authorized purposes of such
4566 municipality or county under this section is in all respects for
4567 the benefit of the people of the state, for the increase of
4568 their commerce and prosperity, and for the improvement of their
4569 health and living conditions. The municipality or county, in
4570 performing essential governmental functions in accomplishing its
4571 purposes, is not required to pay any taxes or assessments of any
4572 kind whatsoever upon any property acquired or used by the county
4573 or municipality for such purposes or upon any revenues at any
4574 time received by the county or municipality. The bonds, notes,
4575 and other obligations of the municipality or county and the
4576 transfer of and income from such bonds, notes, and other
4577 obligations, including any profits made on the sale of such
4578 bonds, notes, and other obligations, are exempt from taxation of

4579 any kind by the state or by any political subdivision or other
4580 agency or instrumentality of the state. The exemption granted in
4581 this subsection is not applicable to any tax imposed by chapter
4582 220 on interest, income, or profits on debt obligations owned by
4583 corporations.

4584 (6) Two or more municipalities or counties, the residents
4585 of which have been substantially affected by a hurricane, may
4586 create a legal entity pursuant to s. 163.01(7)(g) to exercise
4587 the powers described in this section as well as those powers
4588 granted in s. 163.01(7)(g). References in this section to a
4589 municipality or county includes such legal entity.

4590 (7) The association shall issue an annual report on the
4591 status of the use of bond proceeds as related to insolvencies
4592 caused by hurricanes. The report must contain the number and
4593 amount of claims paid. The association shall also include an
4594 analysis of the revenue generated from the assessment levied
4595 under s. 631.57(3)(a) to pay such bonds. The association shall
4596 submit a copy of the report to the President of the Senate, the
4597 Speaker of the House of Representatives, and the Chief Financial
4598 Officer within 90 days after the end of each calendar year in
4599 which bonds were outstanding.

4600 Section 27. No provision of s. 631.57 or s. 631.695,
4601 Florida Statutes, shall be repealed until such time as the
4602 principal, redemption premium, if any, and interest on all bonds
4603 issued under s. 631.695, Florida Statutes, payable and secured
4604 from assessments levied under s. 631.57(3)(a), Florida Statutes,
4605 have been paid in full or adequate provision for such payment

4606 has been made in accordance with the bond resolution or trust
4607 indenture pursuant to which the bonds were issued.

4608 Section 28. Paragraph (a) of subsection (1) of section
4609 817.234, Florida Statutes, is amended to read:

4610 817.234 False and fraudulent insurance claims.--

4611 (1)(a) A person commits insurance fraud punishable as
4612 provided in subsection (11) if that person, with the intent to
4613 injure, defraud, or deceive any insurer:

4614 1. Presents or causes to be presented any written or oral
4615 statement as part of, or in support of, a claim for payment or
4616 other benefit pursuant to an insurance policy or a health
4617 maintenance organization subscriber or provider contract,
4618 knowing that such statement contains any false, incomplete, or
4619 misleading information concerning any fact or thing material to
4620 such claim;

4621 2. Prepares or makes any written or oral statement that is
4622 intended to be presented to any insurer in connection with, or
4623 in support of, any claim for payment or other benefit pursuant
4624 to an insurance policy or a health maintenance organization
4625 subscriber or provider contract, knowing that such statement
4626 contains any false, incomplete, or misleading information
4627 concerning any fact or thing material to such claim; or

4628 3.a. Knowingly presents, causes to be presented, or
4629 prepares or makes with knowledge or belief that it will be
4630 presented to any insurer, purported insurer, servicing
4631 corporation, insurance broker, or insurance agent, or any
4632 employee or agent thereof, any false, incomplete, or misleading

4633 information or written or oral statement as part of, or in
4634 support of, an application for the issuance of, or the rating
4635 of, any insurance policy, or a health maintenance organization
4636 subscriber or provider contract, including any false declaration
4637 of homestead status for the purpose of obtaining coverage in a
4638 homestead account under s. 627.351(6); or

4639 b. Who knowingly conceals information concerning any fact
4640 material to such application.

4641 Section 29. By January 1, 2007, the Office of Insurance
4642 Regulation shall submit a report to the President of the Senate,
4643 the Speaker of the House of Representatives, the minority party
4644 leaders of the Senate and the House of Representatives, and the
4645 chairs of the standing committees of the Senate and the House of
4646 Representatives having jurisdiction over matters relating to
4647 property and casualty insurance. In preparing the report, the
4648 office shall consult with the Department of Highway Safety and
4649 Motor Vehicles, the Department of Community Affairs, the Florida
4650 Building Commission, the Florida Home Builders Association,
4651 representatives of the mobile and manufactured home industry,
4652 representatives of the property and casualty insurance industry,
4653 and any other party the office determines is appropriate. The
4654 report shall include findings and recommendations on the
4655 insurability of attached or free standing structures to
4656 residential homes, mobile, or manufactured homes, such as
4657 carports or pool enclosures; the increase or decrease in
4658 insurance costs associated with insuring such structures; the
4659 feasibility of insuring such structures; the impact on

4660 homeowners of not having insurance coverage for such structures;
4661 the ability of mitigation measures relating to such structures
4662 to reduce risk and loss; and such other related information as
4663 the office determines is appropriate for the Legislature to
4664 consider.

4665 Section 30. (1) The Office of Insurance Regulation, in
4666 consultation with the Department of Community Affairs, the
4667 Department of Financial Services, the Federal Alliance for Safe
4668 Homes, the Florida Insurance Council, the Florida Home Builders
4669 Association, the Florida Manufactured Housing Association, the
4670 Risk and Insurance Department of Florida State University, and
4671 the Institute for Business and Homes Safety, shall study and
4672 develop a program that will provide an objective rating system
4673 that will allow homeowners to evaluate the relative ability of
4674 Florida properties to withstand the wind load from a sustained
4675 severe tropical storm or hurricane.

4676 (2) The rating system will be designed in a manner that is
4677 easy to understand for the property owner, based on proven
4678 readily verifiable mitigation techniques and devices, and able
4679 to be implemented based on a visual inspection program. The
4680 Department of Financial Services shall implement a pilot program
4681 for use in the Florida Comprehensive Hurricane Damage Mitigation
4682 Program.

4683 (3) The Department shall provide a report to the Governor,
4684 the President of the Senate, and the Speaker of the House of
4685 Representatives by March 31, 2007, detailing the nature and
4686 construction of the rating scale, its effectiveness based on

4687 implementation in a pilot program, and an operational plan for
4688 statewide implementation of the rating scale.

4689 Section 31. (1) For fiscal year 2006-2007, the sum of
4690 \$100 million is appropriated from the General Revenue Fund to
4691 the Department of Financial Services for the Florida Hurricane
4692 Damage Prevention Endowment as a nonrecurring appropriation for
4693 the purposes specified in s. 215.558, Florida Statutes.

4694 (2) The sum of \$400 million is appropriated from the
4695 General Revenue Fund to the Department of Financial Services as
4696 a nonrecurring appropriation for the purposes specified in s.
4697 215.5586, Florida Statutes.

4698 (3) Funds provided in subsections (1) and (2) shall be
4699 transferred by the department to the Florida Hurricane Damage
4700 Prevention Trust Fund, as created in s. 215.5585, Florida
4701 Statutes.

4702 (4) For fiscal year 2006-2007, the recurring sum of \$5
4703 million is appropriated to the Department of Financial Services
4704 from the Florida Hurricane Damage Prevention Trust Fund, Special
4705 Category - Financial Incentives for Hurricane Damage Prevention.

4706 (5) For fiscal year 2006-2007, the nonrecurring sum of
4707 \$400 million is appropriated to the Department of Financial
4708 Services from the Florida Hurricane Damage Prevention Trust
4709 Fund, Special Category - Florida Comprehensive Hurricane Damage
4710 Mitigation Program. The department may spend up to 1 percent of
4711 the funds appropriated to administer the program. The department
4712 shall contract with Tallahassee Community College for \$7.5
4713 million to implement the Manufactured Housing and Mobile Home

4714 Hurricane Mitigation Program that is part of the Florida
 4715 Comprehensive Hurricane Damage Mitigation Program. Tallahassee
 4716 Community College may spend up to 5 percent of the funds
 4717 appropriated to administer the Manufactured Housing and Mobile
 4718 Home Hurricane Mitigation and Enhancement Program.
 4719 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
 4720 216.351, Florida Statutes, any unexpended balance from this
 4721 appropriation shall be carried forward at the end of each fiscal
 4722 year until the 2010-2011 fiscal year. At the end of the 2010-
 4723 2011 fiscal year, any obligated funds for qualified projects
 4724 that are not yet disbursed shall remain with the department to
 4725 be used for the purposes of this act. Any unobligated funds of
 4726 this appropriation shall revert to the Florida Hurricane Damage
 4727 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

4728 Section 32. (1) For fiscal year 2006-2007, the sum of
 4729 \$920 million in nonrecurring funds is appropriated from the
 4730 General Revenue Fund to the Department of Financial Services for
 4731 transfer to the Citizens Property Insurance Corporation as an
 4732 allocation to regular assessments on assessable insurers and
 4733 insureds, as authorized under s. 627.351(6)(b)3.b., Florida
 4734 Statutes, for the 2005 Plan Year deficit. The board of governors
 4735 of the corporation shall allocate the appropriated state moneys
 4736 to each of the personal lines, commercial lines, and high-risk
 4737 accounts so as to totally eliminate the deficit for calendar
 4738 year 2005 in each such account that would have been paid from
 4739 the proceeds of regular assessment but for the appropriated
 4740 moneys. The moneys allocated to each account from the

4741 appropriations shall be considered to be and shall be treated as
4742 proceeds of regular assessments for purposes of financing
4743 documents of the corporation. No regular assessments shall be
4744 imposed for any portion of the calendar year 2005 deficit paid
4745 from the appropriated moneys. The transfer made by the
4746 department to the corporation shall be limited to the amount of
4747 the total regular assessments that were authorized by law to
4748 cover the 2005 Plan Year deficit. Any unused and remaining funds
4749 in this appropriation shall revert to the General Revenue Fund.

4750 (2) The corporation shall amortize over a 10-year period
4751 any emergency assessments resulting from the 2005 Plan Year
4752 deficit.

4753 (3) Each insurer that recoups an assessment from its
4754 policyholders as allowed by law shall include on the premium
4755 notice sent to policyholders, in 12-point type, the following
4756 statement, with the appropriate dollar amounts shown:

4757 "THE \$ SURCHARGE IN YOUR PREMIUM FOR THE ASSESSMENT BY
4758 CITIZENS PROPERTY INSURANCE CORPORATION HAS BEEN REDUCED BY
4759 \$ DUE TO AN APPROPRIATION BY THE FLORIDA LEGISLATURE."

4760 (4) A violation of this section by an insurer is a
4761 violation of the Insurance Code and the insurer is subject to
4762 the penalties provided in ss. 624.418 and 624.4211, Florida
4763 Statutes.

4764 Section 33. For fiscal year 2006-2007, the sums of
4765 \$250,000 in recurring funds and \$425,000 in nonrecurring funds
4766 are appropriated from the Insurance Regulatory Trust Fund in the
4767 Department of Financial Services to the Office of Insurance

4768 | Regulation for the purpose of carrying out reporting and
4769 | administrative responsibilities of this act.

4770 | Section 34. Except as otherwise expressly provided in this
4771 | act, this act shall take effect July 1, 2006.