

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; amending s.
38 | 215.559, F.S.; deleting provisions relating to the
39 | development of a low-interest loan program for homeowners
40 | and mobile home owners to retrofit their homes by the
41 | Department of Community Affairs; creating the Manufactured
42 | Housing and Mobile Home Mitigation and Enhancement Program
43 | for certain purposes; requiring Tallahassee Community
44 | College to develop the program in consultation with
45 | certain entities; specifying requirements of the program;
46 | specifying certain requirements of the program as to
47 | certain concerns of the Department of Highway Safety and
48 | Motor Vehicles relating to manufactured homes and mobile
49 | homes; specifying the program as a grant program for
50 | improvement of mobile homes and manufactured home parks;
51 | requiring the Department of Financial Services to
52 | distribute the grants to Tallahassee Community College for
53 | certain purposes; requiring Citizens Property Insurance
54 | Corporation to grant certain insurance discounts, credits,

55 rate differentials, or deductible reductions for property
56 insurance premiums for manufactured home or mobile home
57 owners; specifying criteria for such premiums; requiring a
58 program report each year to the Governor and Legislature;
59 providing report requirements; specifying funding for tie-
60 down enhancement systems; requiring Tallahassee Community
61 College to provide a program report each year to the
62 Governor and Legislature; providing report requirements;
63 creating s. 252.63, F.S.; providing purpose and intent;
64 providing powers of the Commissioner of Insurance
65 Regulation during a state of emergency; providing a
66 purpose and intent; authorizing the commissioner to issue
67 certain orders in a state of emergency; providing for
68 effect and duration of such orders; providing for
69 legislative termination of such orders; requiring the
70 commissioner to publish such orders and an explanatory
71 statement; amending s. 626.918, F.S.; authorizing certain
72 letters of credit to fund an insurer's required
73 policyholder protection trust fund; providing a
74 definition; amending s. 627.062, F.S.; specifying certain
75 rate filings as not subject to office determination as
76 excessive or unfairly discriminatory; providing
77 limitations; providing a definition; prohibiting certain
78 rate filings under certain circumstances; preserving the
79 office's authority to disapprove certain rate filings
80 under certain circumstances; providing procedures for
81 insurers submitting certain rate filings; revising

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

109 | for coverage rates for nonhomestead properties; providing
110 | for office review of such rates or rating plans for being
111 | inadequate or unfairly discriminatory; authorizing the
112 | office to order discontinuance of certain policies under
113 | certain circumstances; requiring insurers to maintain
114 | certain records; providing for reducing regular
115 | assessments by the Citizen policyholder surcharge under
116 | certain circumstances; providing for deficit assessments
117 | against nonhomestead account policyholders under certain
118 | circumstances; authorizing the board of governors of the
119 | corporation to make loans from the homestead accounts to
120 | the nonhomestead account under certain circumstances;
121 | specifying ineligibility of certain nonhomestead account
122 | policyholders for certain coverage under certain
123 | circumstances; revising the requirements of the plan of
124 | operation of the corporation; requiring additional
125 | procedures for determining eligibility of a risk for
126 | coverage; prescribing a 10-day waiting period for
127 | applications for coverage for a new policy; authorizing
128 | exceptions; providing for determination of regular
129 | assessments to which the Citizen policyholder surcharge
130 | applies; providing for optional payment plans; specifying
131 | a minimum requirement for a hurricane deductible for
132 | certain property; specifying contents of required
133 | statements in applications for nonhomestead and homestead
134 | account coverage; requiring prospective senior management
135 | employees of the corporation to successfully pass a

136 background check; requiring employees of the corporation
137 to sign annually a statement that they have no conflict of
138 interest; providing that senior managers and members of
139 the board of governors are subject to the code of ethics
140 and must file financial disclosure; prohibiting employees
141 and members of the board of governors from accepting gifts
142 or expenditures from a persons or entity, or employee
143 thereof, which has or is under consideration for a
144 contract with the corporation; providing penalties;
145 providing a limitation on senior managers' representation
146 of persons before the corporation after retirement or
147 termination of employment and on employment with an
148 insurer that has received a take-out bonus; prescribing
149 guidelines for purchases of goods and services; providing
150 guidelines on use of outside counsel; prohibiting the
151 corporation from retaining a lobbyist; authorizing full-
152 time employees to register and engage in lobbying;
153 creating the Office of Internal Auditor and prescribing
154 its duties; providing record-retention requirements;
155 requiring establishment of a unit or division to
156 investigate claims involving possible fraud against the
157 corporation and another to receive and respond to consumer
158 complaints; requiring a periodic comprehensive market
159 conduct examination of the corporation; requiring periodic
160 operational audits of the corporation by the Auditor
161 General; prescribing elements to be included in such
162 audits; requiring the corporation to limit coverage on

163 certain mobile homes or manufactured homes; providing
164 additional legislative intent relating to rate adequacy in
165 the residual market; revising provisions relating to a
166 pilot program in Monroe County; providing program
167 requirements of the office; deleting provisions relating
168 to a rate methodology panel appointed by the corporation;
169 providing requirements and limitations for a corporation
170 adopted bonus payment program; specifying absence of
171 liability of producing agents of record of the corporation
172 and employees for a take-out insurer's insolvency;
173 deleting provisions for immunity for certain persons and
174 entities; providing a criterion for calculating reduction
175 or increase in probable maximum loss; providing bankruptcy
176 petition limitations; delaying application of certain
177 high-risk area boundary reduction provisions; providing
178 for application of provisions relating to homestead and
179 nonhomestead accounts to certain policies; requiring
180 certain corporation employees to comply with certain
181 ethics code requirements; requiring corporation employees
182 to notify the Division of Insurance Fraud of probable
183 commissions of fraud by corporation employees; requiring
184 the corporation to report on the feasibility of requiring
185 authorized insurers to issue and service specified
186 policies of the corporation; specifying report
187 requirements; providing immunity to producing agents and
188 employees for specified actions taken relating to removal
189 of policies from the corporation; providing a limitation;

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

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

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

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

291

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

293

294 Section 1. This act may be cited as the "John F. Cosgrove
295 Memorial Act."

296 Section 2. Paragraph (d) of subsection (2), paragraphs
297 (b), (c), and (d) of subsection (4), paragraph (b) of subsection

298 (5), and paragraphs (a) and (b) of subsection (6) of section
 299 215.555, Florida Statutes, are amended, and paragraph (e) is
 300 added to subsection (5) of that section, to read:

301 215.555 Florida Hurricane Catastrophe Fund.--

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

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

310 (4) REIMBURSEMENT CONTRACTS.--

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

316 2. The insurer must elect one of the percentage coverage
 317 levels specified in this paragraph and may, upon renewal of a
 318 reimbursement contract, elect a lower percentage coverage level
 319 if no revenue bonds issued under subsection (6) after a covered
 320 event are outstanding, or elect a higher percentage coverage
 321 level, regardless of whether or not revenue bonds are
 322 outstanding. All members of an insurer group must elect the same
 323 percentage coverage level. Any joint underwriting association,

324 risk apportionment plan, or other entity created under s.
325 627.351 must elect the 90-percent coverage level.

326 3. The contract shall provide that reimbursement amounts
327 shall not be reduced by reinsurance paid or payable to the
328 insurer from other sources.

329 4. Notwithstanding any other provision contained in this
330 section, the board shall make available to insurers qualifying
331 as limited apportionment companies under s. 627.351(6)(c)14. a
332 contract which cedes to the fund, after retention, an amount of
333 up to \$10 million. The rate to be charged for this coverage
334 shall be 50 percent rate-on-line which includes one prepaid
335 reinstatement. The minimum retention level that a carrier must
336 retain is 30 percent of surplus as of June 1, 2006. This
337 coverage shall be in addition to all other coverage which may be
338 provided under this section. This provision shall expire May 31,
339 2007.

340 5. Notwithstanding any other provisions contained in this
341 section, the board shall make available for the contract year
342 beginning June 1, 2006, and the contract year beginning June 1,
343 2007, additional contracts to insurers, other than entities
344 created pursuant to s. 627.351, which cede to the fund an amount
345 of additional first-event liability up to \$2.5 billion. This
346 additional capacity shall be provided by the fund provided that:

347 a. The layer of excess reinsurance provides coverage below
348 the attachment point of the fund;

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

352 c. The fund provides coverage at the same terms and
353 conditions as the independent reinsurers, not related to the
354 cedent; and

355 d. The fund receives 100 percent of the gross reinsurance
356 premium for its participation without deduction for reinsurance
357 brokerage.

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

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

375 2. In May before the start of the upcoming contract year
376 and in October during the contract year, the board shall publish
377 in the Florida Administrative Weekly a statement of the fund's
378 estimated borrowing capacity and the projected balance of the
379 fund as of December 31. After the end of each calendar year, the
380 board shall notify insurers of the estimated borrowing capacity
381 and the balance of the fund as of December 31 to provide
382 insurers with data necessary to assist them in determining their
383 retention and projected payout from the fund for loss
384 reimbursement purposes. In conjunction with the development of
385 the premium formula, as provided for in subsection (5), the
386 board shall publish factors or multiples that assist insurers in
387 determining their retention and projected payout for the next
388 contract year. For all regulatory and reinsurance purposes, an
389 insurer may calculate its projected payout from the fund as its
390 share of the total fund premium for the current contract year
391 multiplied by the sum of the projected balance of the fund as of
392 December 31 and the estimated borrowing capacity for that
393 contract year as reported under this subparagraph.

394 (d)1. For purposes of determining potential liability and
395 to aid in the sound administration of the fund, the contract
396 shall require each insurer to report such insurer's losses from
397 each covered event on an interim basis, as directed by the
398 board. The contract shall require the insurer to report to the
399 board no later than December 31 of each year, and quarterly
400 thereafter, its reimbursable losses from covered events for the
401 year. The contract shall require the board to determine and pay,

402 as soon as practicable after receiving these reports of
403 reimbursable losses, the initial amount of reimbursement due and
404 adjustments to this amount based on later loss information. The
405 adjustments to reimbursement amounts shall require the board to
406 pay, or the insurer to return, amounts reflecting the most
407 recent calculation of losses.

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

410 ~~a. First reimburse insurers writing covered policies,~~
411 ~~which insurers are in full compliance with this section and have~~
412 ~~petitioned the Office of Insurance Regulation and qualified as~~
413 ~~limited apportionment companies under s. 627.351(2)(b)3. The~~
414 ~~amount of such reimbursement shall be the lesser of \$10 million~~
415 ~~or an amount equal to 10 times the insurer's reimbursement~~
416 ~~premium for the current year. The amount of reimbursement paid~~
417 ~~under this sub-subparagraph may not exceed the full amount of~~
418 ~~reimbursement promised in the reimbursement contract. This sub-~~
419 ~~subparagraph does not apply with respect to any contract year in~~
420 ~~which the year end projected cash balance of the fund, exclusive~~
421 ~~of any bonding capacity of the fund, exceeds \$2 billion. Only~~
422 ~~one member of any insurer group may receive reimbursement under~~
423 ~~this sub-subparagraph.~~

424 a.b. Next Pay to each insurer such insurer's projected
425 payout, which is the amount of reimbursement it is owed, up to
426 an amount equal to the insurer's share of the actual premium
427 paid for that contract year, multiplied by the actual claims-
428 paying capacity available for that contract year; provided,

429 entities created pursuant to s. 627.351 shall be further
430 reimbursed in accordance with sub-subparagraph b. ~~e.~~

431 ~~b.e.~~ Thereafter, establish the prorated reimbursement
432 level at the highest level for which any remaining fund balance
433 or bond proceeds are sufficient to reimburse entities created
434 pursuant to s. 627.351 based on reimbursable losses exceeding
435 the amounts payable pursuant to sub-subparagraph a. ~~b.~~ for the
436 current contract year.

437 (5) REIMBURSEMENT PREMIUMS.--

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

456 starts writing covered policies, the potential exposure of the
457 insurer, the potential exposure of the fund, the administrative
458 costs to the insurer and to the fund, and any other factors
459 deemed appropriate by the board. The formula shall include a
460 factor of 25 percent of the fund's actuarially indicated premium
461 in order to provide for more rapid cash buildup in the fund. The
462 formula must be approved by unanimous vote of the board. The
463 board may, at any time, revise the formula pursuant to the
464 procedure provided in this paragraph.

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

478 (6) REVENUE BONDS.--

479 (a) General provisions.--

480 1. Upon the occurrence of a hurricane and a determination
481 that the moneys in the fund are or will be insufficient to pay
482 reimbursement at the levels promised in the reimbursement

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

510 The board may also enter into agreements under paragraph (c) or
511 paragraph (d) for the purpose of issuing revenue bonds in the
512 absence of a hurricane upon a determination that such action
513 would maximize the ability of the fund to meet future
514 obligations.

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

527 (b) Emergency assessments.--

528 1. If the board determines that the amount of revenue
529 produced under subsection (5) is insufficient to fund the
530 obligations, costs, and expenses of the fund and the
531 corporation, including repayment of revenue bonds and that
532 portion of the debt service coverage not met by reimbursement
533 premiums, the board shall direct the Office of Insurance
534 Regulation to levy, by order, an emergency assessment on direct
535 premiums for all property and casualty lines of business in this
536 state, including property and casualty business of surplus lines

537 insurers regulated under part VIII of chapter 626, but not
538 including any workers' compensation premiums or medical
539 malpractice premiums. As used in this subsection, the term
540 "property and casualty business" includes all lines of business
541 identified on Form 2, Exhibit of Premiums and Losses, in the
542 annual statement required of authorized insurers by s. 624.424
543 and any rule adopted under this section, except for those lines
544 identified as accident and health insurance and except for
545 policies written under the National Flood Insurance Program. The
546 assessment shall be specified as a percentage of direct written
547 ~~future premium collections~~ and is subject to annual adjustments
548 by the board ~~to reflect changes in premiums subject to~~
549 ~~assessments collected under this subparagraph~~ in order to meet
550 debt obligations. The same percentage shall apply to all
551 policies in lines of business subject to the assessment issued
552 or renewed during the 12-month period beginning on the effective
553 date of the assessment.

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

564 the payment of the bonds under the documents authorizing
565 issuance of the bonds.

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

582 4. With respect to assessments of surplus lines premiums,
583 each surplus lines agent shall collect the assessment at the
584 same time as the agent collects the surplus lines tax required
585 by s. 626.932, and the surplus lines agent shall remit the
586 assessment to the Florida Surplus Lines Service Office created
587 by s. 626.921 at the same time as the agent remits the surplus
588 lines tax to the Florida Surplus Lines Service Office. The
589 emergency assessment on each insured procuring coverage and
590 filing under s. 626.938 shall be remitted by the insured to the

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

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

618 provided that the assessments in the aggregate do not exceed the
619 limits specified in subparagraph 2.

620 6. The assessments otherwise payable to the corporation
621 under this paragraph shall be paid to the fund unless and until
622 the Office of Insurance Regulation and the Florida Surplus Lines
623 Service Office have received from the corporation and the fund a
624 notice, which shall be conclusive and upon which they may rely
625 without further inquiry, that the corporation has issued bonds
626 and the fund has no agreements in effect with local governments
627 under paragraph (c). On or after the date of the notice and
628 until the date the corporation has no bonds outstanding, the
629 fund shall have no right, title, or interest in or to the
630 assessments, except as provided in the fund's agreement with the
631 corporation.

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

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

644 9. When a surplus lines insured or an insured who has
 645 procured coverage and filed under s. 626.938 is entitled to the
 646 return of an unearned premium, the Florida Surplus Lines Service
 647 Office shall provide a credit or refund to the agent or such
 648 insured for the collected assessment attributable to the
 649 unearned premium prior to remitting the emergency assessment
 650 collected to the fund or corporation.

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

657 Section 3. Section 215.558, Florida Statutes, is created
 658 to read:

659 215.558 Florida Hurricane Damage Prevention Endowment.--

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

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

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

672 (b) "Corpus" means the money that has been appropriated to
673 the endowment by the 2006 Legislature, together with any amounts
674 subsequently appropriated to the endowment that are specifically
675 designated as contributions to the corpus and any grants, gifts,
676 or donations to the endowment that are specifically designated
677 as contributions to the corpus.

678 (c) "Earnings" means any money in the endowment in excess
679 of the corpus, including any income generated by investments,
680 any increase in the market value of investments net of decreases
681 in market value, and any appropriations, grants, gifts, or
682 donations to the endowment not specifically designated as
683 contributions to the corpus.

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

686 (e) "Program administrator" means the Department of
687 Financial Services.

688 (3) ADMINISTRATION.--

689 (a) The board shall invest endowment assets as provided in
690 this section.

691 (b) The board may invest and reinvest funds of the
692 endowment in accordance with s. 215.47 and consistent with board
693 policy.

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

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

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

703 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE
704 PREVENTION ACTIVITIES.--

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

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

723 2. In order to qualify for funding under this paragraph,
724 an interest-free loan program must include an inspection of

725 homestead property to determine what mitigation measures are
726 needed, a means for verifying that the improvements to be paid
727 for from loan proceeds have been demonstrated to reduce a
728 homestead property's vulnerability to hurricane damage, and a
729 means for verifying that the proceeds were actually spent on
730 such improvements. The program must include a method for
731 awarding loans according to the following priorities:

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

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

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

743 d. The next highest priority must be given to all other
744 single-family owner-occupied homestead dwellings insured at
745 \$500,000 or less.

746 3. The program administrator shall evaluate proposals
747 based on the following factors:

748 a. The degree to which the proposal meets the requirements
749 of subparagraph 2.

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

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

753 4. The program administrator shall annually solicit
754 proposals from local governments and nonprofit entities for
755 projects that will reduce hurricane damage to homestead
756 properties. The program administrator may provide up to 50
757 percent of the funding for such projects. The projects may
758 include educational programs, repair services, property
759 inspections, and hurricane vulnerability analyses and such other
760 projects as the program administrator determines to be
761 consistent with the purposes of this section.

762 (5) ADVISORY COUNCIL.--There is created an advisory
763 council to provide advice and assistance to the program
764 administrator with regard to its administration of the
765 endowment. The advisory council shall consist of:

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

769 (b) A representative of residential property insurers,
770 selected by the Financial Services Commission from a list of at
771 least three persons recommended by the Florida Insurance
772 Council.

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

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

779 (e) Two members of the House of Representatives selected
780 by the Speaker of the House of Representatives.

781 (f) Two members of the Senate selected by the President of
782 the Senate.

783 (g) The senior officer of the Florida Hurricane
784 Catastrophe Fund.

785 (h) The executive director of Citizens Property Insurance
786 Corporation.

787 (i) The director of the Division of Emergency Management
788 of the Department of Community Affairs.

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

798 Section 4. Section 215.5586, Florida Statutes, is created
799 to read:

800 215.5586 Florida Comprehensive Hurricane Damage Mitigation
801 Program.--There is established within the Department of
802 Financial Services the Florida Comprehensive Hurricane Damage

803 Mitigation Program. The program shall be administered by an
804 individual with prior executive experience in the private sector
805 in the areas of insurance, business, or construction. The
806 program shall develop and implement a comprehensive and
807 coordinated approach for hurricane damage mitigation that shall
808 include the following:

809 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
810 INSPECTIONS.--

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

822 1. A home inspection and report that summarizes the
823 results and identifies corrective actions a homeowner may take
824 to mitigate hurricane damage.

825 2. A range of cost estimates regarding the mitigation
826 features.

827 3. Insurer-specific information regarding premium
828 discounts correlated to recommended mitigation features
829 identified by the inspection.

830 4. A hurricane resistance rating scale specifying the
 831 home's current as well as projected wind resistance
 832 capabilities.

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

836 1. Use wind certification and hurricane mitigation
 837 inspectors who:

838 a. Have prior experience in residential construction or
 839 inspection and have received specialized training in hurricane
 840 mitigation procedures.

841 b. Have undergone drug testing and background checks.

842 c. Have been certified, in a manner satisfactory to the
 843 department, to conduct the inspections.

844 2. Provide a quality assurance program including a
 845 reinspection component.

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

850 (a) To be eligible for a grant, a residential property
 851 must:

852 1. Have been granted a homestead exemption under chapter
 853 196.

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

856 3. Have undergone an acceptable wind certification and
857 hurricane mitigation inspection.

858
859 A residential property which is part of a multi-family
860 residential unit may receive a grant only if all homeowners
861 participate and the total number of units does not exceed four.

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

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

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

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

878 (4) EDUCATION AND CONSUMER AWARENESS.--Multimedia public
879 education, awareness, and advertising efforts designed to
880 specifically address mitigation techniques shall be employed, as
881 well as a component to support ongoing consumer resources and
882 referral services.

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

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

890 (b) A representative of residential property insurers,
 891 selected by the Financial Services Commission from a list of at
 892 least three persons recommended by the Florida Insurance
 893 Council.

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

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

900 (e) Two members of the House of Representatives, selected
 901 by the Speaker of the House of Representatives.

902 (f) Two members of the Senate, selected by the President
 903 of the Senate.

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

906 (h) The senior officer of the Florida Hurricane
 907 Catastrophe Fund.

908 (i) The executive director of Citizens Property Insurance
 909 Corporation.

910 (j) The director of the Division of Emergency Management
 911 of the Department of Community Affairs.

912
 913 Members appointed under paragraphs (a)-(d) shall serve at the
 914 pleasure of the Financial Services Commission. Members appointed
 915 under paragraphs (e) and (f) shall serve at the pleasure of the
 916 appointing officer. All other members shall serve voting ex
 917 officio. Members of the advisory council shall serve without
 918 compensation but may receive reimbursement as provided in s.
 919 112.061 for per diem and travel expenses incurred in the
 920 performance of their official duties.

921 (6) FEDERAL FUNDING.--The department shall use its best
 922 efforts to obtain grants or funds from the federal government to
 923 supplement the financial resources of the program.

924 (7) RULES.--The Department of Financial Services shall
 925 adopt rules pursuant to ss. 120.536(1) and 120.54 governing the
 926 Florida Comprehensive Hurricane Damage Mitigation Program.

927 Section 5. Section 215.559, Florida Statutes, is amended
 928 to read:

929 215.559 Hurricane Loss Mitigation Program.--

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

935 (2)(a) Seven million dollars in funds provided in
 936 subsection (1) shall be used for programs to improve the wind

937 resistance of residences and mobile homes, including loans,
938 subsidies, grants, demonstration projects, and direct
939 assistance; cooperative programs with local governments and the
940 Federal Government; and other efforts to prevent or reduce
941 losses or reduce the cost of rebuilding after a disaster.

942 (b) Three million dollars in funds provided in subsection
943 (1) shall be used to retrofit existing facilities used as public
944 hurricane shelters. The department must prioritize the use of
945 these funds for projects included in the September 1, 2000,
946 version of the Shelter Retrofit Report prepared in accordance
947 with s. 252.385(3), and each annual report thereafter. The
948 department must give funding priority to projects in regional
949 planning council regions that have shelter deficits and to
950 projects that maximize use of state funds.

951 ~~(3) By the 2006 2007 fiscal year, the Department of~~
952 ~~Community Affairs shall develop a low interest loan program for~~
953 ~~homeowners and mobile home owners to retrofit their homes with~~
954 ~~fixtures or apply construction techniques that have been~~
955 ~~demonstrated to reduce the amount of damage or loss due to a~~
956 ~~hurricane. Funding for the program shall be used to subsidize or~~
957 ~~guaranty private sector loans for this purpose to qualified~~
958 ~~homeowners by financial institutions chartered by the state or~~
959 ~~Federal Government. The department may enter into contracts with~~
960 ~~financial institutions for this purpose. The department shall~~
961 ~~establish criteria for determining eligibility for the loans and~~
962 ~~selecting recipients, standards for retrofitting homes or mobile~~
963 ~~homes, limitations on loan subsidies and loan guaranties, and~~

964 ~~other terms and conditions of the program, which must be~~
965 ~~specified in the department's report to the Legislature on~~
966 ~~January 1, 2006, required by subsection (8). For the 2005-2006~~
967 ~~fiscal year, the Department of Community Affairs may use up to~~
968 ~~\$1 million of the funds appropriated pursuant to paragraph~~
969 ~~(2)(a) to begin the low-interest loan program as a pilot project~~
970 ~~in one or more counties. The Department of Financial Services,~~
971 ~~the Office of Financial Regulation, the Florida Housing Finance~~
972 ~~Corporation, and the Office of Tourism, Trade, and Economic~~
973 ~~Development shall assist the Department of Community Affairs in~~
974 ~~establishing the program and pilot project. The department may~~
975 ~~use up to 2.5 percent of the funds appropriated in any given~~
976 ~~fiscal year for administering the loan program. The department~~
977 ~~may adopt rules to implement the program.~~

978 (3)(a)~~(4)~~ Forty percent of the total appropriation in
979 paragraph (2)(a) shall be used to inspect and improve tie-downs
980 for mobile homes. ~~Within 30 days after the effective date of~~
981 ~~that appropriation, the department shall contract with a public~~
982 ~~higher educational institution in this state which has previous~~
983 ~~experience in administering the programs set forth in this~~
984 ~~subsection to serve as the administrative entity and fiscal~~
985 ~~agent pursuant to s. 216.346 for the purpose of administering~~
986 ~~the programs set forth in this subsection in accordance with~~
987 ~~established policy and procedures. The administrative entity~~
988 ~~working with the advisory council set up under subsection (6)~~
989 ~~shall develop a list of mobile home parks and counties that may~~
990 ~~be eligible to participate in the tie down program.~~

991 (b)1. There is created the Manufactured Housing and Mobile
992 Home Mitigation and Enhancement Program. The program shall
993 require the mitigation of damage to or enhancement of homes for
994 the areas of concern raised by the Department of Highway Safety
995 and Motor Vehicles in the 2004-2005 Hurricane Reports on the
996 effects of the 2004 and 2005 hurricanes on manufactured and
997 mobile homes in this state. The mitigation of damage or
998 enhancement of homes shall include, but not be limited to,
999 structural components; site-built additions; or tie-down systems
1000 and may also address any other issues deemed appropriate by
1001 Tallahassee Community College, the Federation of Manufactured
1002 Home Owners of Florida, Inc., the Florida Manufactured Housing
1003 Association, and the Department of Highway Safety and Motor
1004 Vehicles. The program shall include an education and outreach
1005 component to ensure that owners of manufactured and mobile homes
1006 are aware of the benefits of participation.

1007 2. The program shall be a grant program that ensures
1008 entire manufactured home communities and mobile home parks may
1009 be improved wherever practicable.

1010 3. Upon evidence of completion of the program, the
1011 Citizens Property Insurance Corporation shall grant, on a pro
1012 rata basis, actuarially reasonable discounts, credits, or other
1013 rate differentials or appropriate reductions in deductibles for
1014 the properties of owners of manufactured homes or mobile homes
1015 on which fixtures or construction techniques that have been
1016 demonstrated to reduce the amount of loss in a windstorm have
1017 been installed or implemented. The discount on the premium shall

1018 be applied to subsequent renewal premium amounts. Premiums of
1019 the Citizens Property Insurance Corporation shall reflect the
1020 location of the home and the fact that the home has been
1021 installed in compliance with building codes adopted after
1022 Hurricane Andrew. Rates resulting from the completion of the
1023 Manufactured Housing and Mobile Home Mitigation and Enhancement
1024 Program are not considered competitive rates for the purposes of
1025 ss. 627.351(6) (d)1. and 2.

1026 4. On or before January 1 of each year, Tallahassee
1027 Community College shall provide a report of activities under
1028 this section to the Governor, the President of the Senate, and
1029 the Speaker of the House of Representatives. The report shall
1030 set forth the number of homes that have taken advantage of the
1031 program, the types of enhancements and improvements made to the
1032 manufactured or mobile homes and attachments to such homes, and
1033 whether there has been an increase of availability of insurance
1034 products to owners of manufactured homes or mobile homes.

1035
1036 Tallahassee Community College shall develop the programs set
1037 forth in this subsection in consultation with the Federation of
1038 Manufactured Home Owners of Florida, Inc., the Florida
1039 Manufactured Housing Association, and the Department of Highway
1040 Safety and Motor Vehicles. The moneys appropriated for the
1041 programs set forth in this section shall be distributed by the
1042 Department of Financial Services directly to Tallahassee
1043 Community College for the uses set forth in this section.

1044 ~~(4)-(5)~~ Of moneys provided to the Department of Community
1045 Affairs in paragraph (2)(a), 10 percent shall be allocated to a
1046 Type I Center within the State University System dedicated to
1047 hurricane research. The Type I Center shall develop a
1048 preliminary work plan approved by the advisory council set forth
1049 in subsection (5) ~~(6)~~ to eliminate the state and local barriers
1050 to upgrading existing mobile homes and communities, research and
1051 develop a program for the recycling of existing older mobile
1052 homes, and support programs of research and development relating
1053 to hurricane loss reduction devices and techniques for site-
1054 built residences. The State University System also shall consult
1055 with the Department of Community Affairs and assist the
1056 department with the report required under subsection (7) ~~(8)~~.

1057 (5) ~~(6)~~ Except for the programs set forth in subsection
1058 (3), the Department of Community Affairs shall develop the
1059 programs set forth in this section in consultation with an
1060 advisory council consisting of a representative designated by
1061 the Chief Financial Officer, a representative designated by the
1062 Florida Home Builders Association, a representative designated
1063 by the Florida Insurance Council, a representative designated by
1064 the Federation of Manufactured Home Owners, a representative
1065 designated by the Florida Association of Counties, and a
1066 representative designated by the Florida Manufactured Housing
1067 Association.

1068 (6) ~~(7)~~ Moneys provided to the Department of Community
1069 Affairs under this section are intended to supplement other
1070 funding sources of the Department of Community Affairs and may

1071 not supplant other funding sources of the Department of
 1072 Community Affairs.

1073 (7)~~(8)~~ On January 1st of each year, the Department of
 1074 Community Affairs shall provide a full report and accounting of
 1075 activities under this section and an evaluation of such
 1076 activities to the Speaker of the House of Representatives, the
 1077 President of the Senate, and the Majority and Minority Leaders
 1078 of the House of Representatives and the Senate.

1079 (8)~~(9)~~ This section is repealed June 30, 2011.

1080 Section 6. Section 252.63, Florida Statutes, is created to
 1081 read:

1082 252.63 Commissioner of Insurance Regulation; powers in a
 1083 state of emergency.--

1084 (1) When the Governor declares a state of emergency
 1085 pursuant to s. 252.36, the commissioner may issue one or more
 1086 general orders applicable to all insurance companies, entities,
 1087 and persons, as defined in s. 624.04, that are subject to the
 1088 Florida Insurance Code and that serve any portion of the area of
 1089 the state under the state of emergency.

1090 (2) An order issued by the commissioner under this section
 1091 becomes effective upon issuance and continues for 120 days
 1092 unless terminated sooner by the commissioner. The commissioner
 1093 may extend an order for one additional period of 120 days if he
 1094 or she determines that the emergency conditions that gave rise
 1095 to the initial order still exist. By concurrent resolution, the
 1096 Legislature may terminate any order issued under this section.

1097 (3) The commissioner shall publish in the next available
 1098 publication of the Florida Administrative Weekly a copy of the
 1099 text of any order issued under this section, together with a
 1100 statement describing the modification or suspension and
 1101 explaining how the modification or suspension will facilitate
 1102 recovery from the emergency.

1103 Section 7. Subsections (1) and (2) of section 626.918,
 1104 Florida Statutes, are amended to read:

1105 626.918 Eligible surplus lines insurers.--

1106 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any
 1107 coverage with any unauthorized insurer which is not then an
 1108 eligible surplus lines insurer, except as permitted under
 1109 subsections (5) and (6).

1110 (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or become
 1111 an eligible surplus lines insurer unless made eligible by the
 1112 office in accordance with the following conditions:

1113 (a) Eligibility of the insurer must be requested in
 1114 writing by the Florida Surplus Lines Service Office.†

1115 (b) The insurer must be currently an authorized insurer in
 1116 the state or country of its domicile as to the kind or kinds of
 1117 insurance proposed to be so placed and must have been such an
 1118 insurer for not less than the 3 years next preceding or must be
 1119 the wholly owned subsidiary of such authorized insurer or must
 1120 be the wholly owned subsidiary of an already eligible surplus
 1121 lines insurer as to the kind or kinds of insurance proposed for
 1122 a period of not less than the 3 years next preceding. However,
 1123 the office may waive the 3-year requirement if the insurer

1124 provides a product or service not readily available to the
 1125 consumers of this state or has operated successfully for a
 1126 period of at least 1 year next preceding and has capital and
 1127 surplus of not less than \$25 million.†

1128 (c) Before granting eligibility, the requesting surplus
 1129 lines agent or the insurer shall furnish the office with a duly
 1130 authenticated copy of its current annual financial statement in
 1131 the English language and with all monetary values therein
 1132 expressed in United States dollars, at an exchange rate (in the
 1133 case of statements originally made in the currencies of other
 1134 countries) then-current and shown in the statement, and with
 1135 such additional information relative to the insurer as the
 1136 office may request.†

1137 (d)1.a. The insurer must have and maintain surplus as to
 1138 policyholders of not less than \$15 million; in addition, an
 1139 alien insurer must also have and maintain in the United States a
 1140 trust fund for the protection of all its policyholders in the
 1141 United States under terms deemed by the office to be reasonably
 1142 adequate, in an amount not less than \$5.4 million. Any such
 1143 surplus as to policyholders or trust fund shall be represented
 1144 by investments consisting of eligible investments for like funds
 1145 of like domestic insurers under part II of chapter 625 provided,
 1146 however, that in the case of an alien insurance company, any
 1147 such surplus as to policyholders may be represented by
 1148 investments permitted by the domestic regulator of such alien
 1149 insurance company if such investments are substantially similar
 1150 in terms of quality, liquidity, and security to eligible

1151 investments for like funds of like domestic insurers under part
 1152 II of chapter 625. Clean, irrevocable, unconditional, and
 1153 evergreen letters of credit issued or confirmed by a qualified
 1154 United States financial institution, as defined in subparagraph
 1155 2., may be used to fund the trust.†

1156 b.2. For those surplus lines insurers that were eligible
 1157 on January 1, 1994, and that maintained their eligibility
 1158 thereafter, the required surplus as to policyholders shall be:

1159 (I)a. On December 31, 1994, and until December 30, 1995,
 1160 \$2.5 million.

1161 (II)b. On December 31, 1995, and until December 30, 1996,
 1162 \$3.5 million.

1163 (III)c. On December 31, 1996, and until December 30, 1997,
 1164 \$4.5 million.

1165 (IV)d. On December 31, 1997, and until December 30, 1998,
 1166 \$5.5 million.

1167 (V)e. On December 31, 1998, and until December 30, 1999,
 1168 \$6.5 million.

1169 (VI)f. On December 31, 1999, and until December 30, 2000,
 1170 \$8 million.

1171 (VII)g. On December 31, 2000, and until December 30, 2001,
 1172 \$9.5 million.

1173 (VIII)h. On December 31, 2001, and until December 30,
 1174 2002, \$11 million.

1175 (IX)i. On December 31, 2002, and until December 30, 2003,
 1176 \$13 million.

1177 (X)j. On December 31, 2003, and thereafter, \$15 million.

1178 c.3. The capital and surplus requirements as set forth in
1179 sub-subparagraph b. subparagraph 2. do not apply in the case of
1180 an insurance exchange created by the laws of individual states,
1181 where the exchange maintains capital and surplus pursuant to the
1182 requirements of that state, or maintains capital and surplus in
1183 an amount not less than \$50 million in the aggregate. For an
1184 insurance exchange which maintains funds in the amount of at
1185 least \$12 million for the protection of all insurance exchange
1186 policyholders, each individual syndicate shall maintain minimum
1187 capital and surplus in an amount not less than \$3 million. If
1188 the insurance exchange does not maintain funds in the amount of
1189 at least \$12 million for the protection of all insurance
1190 exchange policyholders, each individual syndicate shall meet the
1191 minimum capital and surplus requirements set forth in sub-
1192 subparagraph b. subparagraph 2.;

1193 d.4. A surplus lines insurer which is a member of an
1194 insurance holding company that includes a member which is a
1195 Florida domestic insurer as set forth in its holding company
1196 registration statement, as set forth in s. 628.801 and rules
1197 adopted thereunder, may elect to maintain surplus as to
1198 policyholders in an amount equal to the requirements of s.
1199 624.408, subject to the requirement that the surplus lines
1200 insurer shall at all times be in compliance with the
1201 requirements of chapter 625.

1202
1203 The election shall be submitted to the office and shall be
1204 effective upon the office's being satisfied that the

1205 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
 1206 met. The initial date of election shall be the date of office
 1207 approval. The election approval application shall be on a form
 1208 adopted by commission rule. The office may approve an election
 1209 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
 1210 only if it was on file with the former Department of Insurance
 1211 before February 28, 1998. +

1212 2. For purposes of letters of credit under subparagraph
 1213 1., the term "qualified United States financial institution"
 1214 means an institution that:

1215 a. Is organized or, in the case of a United States office
 1216 of a foreign banking organization, is licensed under the laws of
 1217 the United States or any state.

1218 b. Is regulated, supervised, and examined by authorities
 1219 of the United States or any state having regulatory authority
 1220 over banks and trust companies.

1221 c. Has been determined by the office or the Securities
 1222 Valuation Office of the National Association of Insurance
 1223 Commissioners to meet such standards of financial condition and
 1224 standing as are considered necessary and appropriate to regulate
 1225 the quality of financial institutions whose letters of credit
 1226 are acceptable to the office.

1227 (e) The insurer must be of good reputation as to the
 1228 providing of service to its policyholders and the payment of
 1229 losses and claims. +

1230 (f) The insurer must be eligible, as for authority to
 1231 transact insurance in this state, under s. 624.404(3). + ~~and~~

1232 (g) This subsection does not apply as to unauthorized
1233 insurers made eligible under s. 626.917 as to wet marine and
1234 aviation risks.

1235 Section 8. Paragraph (j) is added to subsection (2) of
1236 section 627.062, Florida Statutes, subsection (5) of that
1237 section is amended, and subsections (9) and (10) are added to
1238 that section, to read:

1239 627.062 Rate standards.--

1240 (2) As to all such classes of insurance:

1241 (j) Effective January 1, 2007, notwithstanding any other
1242 provision of this section:

1243 1. With respect to any residential property insurance
1244 subject to regulation under this section, a rate filing,
1245 including, but not limited to, any rate changes, rating factors,
1246 territories, classification, discounts, and credits, with
1247 respect to any policy form, including endorsements issued with
1248 the form, that results in an overall average statewide premium
1249 increase or decrease of no more than 5 percent above or below
1250 the premium that would result from the insurer's rates then in
1251 effect shall not be subject to a determination by the office
1252 that the rate is excessive or unfairly discriminatory except as
1253 provided in subparagraph 3., or any other provision of law,
1254 provided all changes specified in the filing do not result in an
1255 overall premium increase of more than 10 percent for any one
1256 territory, for reasons related solely to the rate change. As
1257 used in this subparagraph, the term "insurer's rates then in
1258 effect" includes only rates that have been lawfully in effect

1259 under this section or rates that have been determined to be
1260 lawful through administrative proceedings or judicial
1261 proceedings.

1262 2. An insurer may not make filings under this paragraph
1263 with respect to any policy form, including endorsements issued
1264 with the form, if the overall premium changes resulting from
1265 such filings exceed the amounts specified in this paragraph in
1266 any 12-month period. An insurer may proceed under other
1267 provisions of this section or other provisions of law if the
1268 insurer seeks to exceed the premium or rate limitations of this
1269 paragraph.

1270 3. This paragraph does not affect the authority of the
1271 office to disapprove a rate as inadequate or to disapprove a
1272 filing for the unlawful use of unfairly discriminatory rating
1273 factors that are prohibited by the laws of this state. An
1274 insurer electing to implement a rate change under this paragraph
1275 shall submit a filing to the office at least 40 days prior to
1276 the effective date of the rate change. The office shall have 30
1277 days after the filing's submission to review the filing and
1278 determine if the rate is inadequate or uses unfairly
1279 discriminatory rating factors. Absent a finding by the office
1280 within such 30-day period that the rate is inadequate or that
1281 the insurer has used unfairly discriminatory rating factors, the
1282 filing is deemed approved. If the office finds during the 30-day
1283 period that the filing will result in inadequate premiums or
1284 otherwise endanger the insurer's solvency, the office shall
1285 suspend the rate decrease. If the insurer is implementing an

1286 overall rate increase, the results of which continue to produce
1287 an inadequate rate, such increase shall proceed pending
1288 additional action by the office to ensure the adequacy of the
1289 rate.

1290 4. This paragraph does not apply to rate filings for any
1291 insurance other than residential property insurance.

1292
1293 The provisions of this subsection shall not apply to workers'
1294 compensation and employer's liability insurance and to motor
1295 vehicle insurance.

1296 (5) With respect to a rate filing involving coverage of
1297 the type for which the insurer is required to pay a
1298 reimbursement premium to the Florida Hurricane Catastrophe Fund,
1299 the insurer may fully recoup in its property insurance premiums
1300 any reimbursement premiums paid to the Florida Hurricane
1301 Catastrophe Fund, together with ~~reasonable~~ costs of other
1302 reinsurance consistent with prudent business practices and sound
1303 actuarial principles, but may not recoup reinsurance costs that
1304 duplicate coverage provided by the Florida Hurricane Catastrophe
1305 Fund. The burden is on the office to establish that any costs of
1306 other reinsurance are in excess of amounts consistent with
1307 prudent business practices and sound actuarial principles. An
1308 insurer may not recoup more than 1 year of reimbursement premium
1309 at a time. Any under-recoupment from the prior year may be added
1310 to the following year's reimbursement premium and any over-
1311 recoupment shall be subtracted from the following year's
1312 reimbursement premium.

1313 (9) Notwithstanding any other provision of this section,
1314 any rate filing or applicable portion of the rate filing that
1315 includes the peril of wind within the boundary of the area
1316 covered by the high-risk account of the Citizens Property
1317 Insurance Corporation shall be deemed approved upon submission
1318 to the office if the filing or the applicable portion of the
1319 filing requests approval of a rate that is less than the
1320 approved rate for similar risks insured in the high-risk account
1321 of the corporation unless the office determines that such rate
1322 is inadequate or unfairly discriminatory as provided in
1323 subsection (2).

1324 (10) (a) Beginning January 1, 2007, the office shall
1325 annually provide a report to the President of the Senate, the
1326 Speaker of the House of Representatives, the minority party
1327 leader of each house of the Legislature, and the chairs of the
1328 standing committees of each house of the Legislature having
1329 jurisdiction over insurance issues, specifying the impact of
1330 flexible rate regulation under paragraph (2) (j) on the degree of
1331 competition in insurance markets in this state.

1332 (b) The report shall include a year-by-year comparison of
1333 the number of companies participating in the market for each
1334 class of insurance and the relative rate levels. The report
1335 shall also specify:

1336 1. The number of rate filings made under paragraph (2) (j),
1337 the rate levels under those filings, and the market share
1338 affected by those filings.

1339 2. The number of filings made on a file and use basis, the
 1340 rate levels under those filings, and the market share affected
 1341 by those filings.

1342 3. The number of filings made on a use and file basis, the
 1343 rate levels under those filings, and the market share affected
 1344 by those filings.

1345 4. Recommendations to promote competition in the insurance
 1346 market and further protect insurance consumers.

1347 Section 9. Paragraph (c) of subsection (3) of section
 1348 627.0628, Florida Statutes, is amended to read:

1349 627.0628 Florida Commission on Hurricane Loss Projection
 1350 Methodology; public records exemption; public meetings
 1351 exemption.--

1352 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1353 (c) With respect to a rate filing under s. 627.062, an
 1354 insurer may employ actuarial methods, principles, standards,
 1355 models, or output ranges found by the commission to be accurate
 1356 or reliable to determine hurricane loss factors for use in a
 1357 rate filing under s. 627.062. Such findings and factors are
 1358 admissible and relevant in consideration of a rate filing by the
 1359 office or in any arbitration or administrative or judicial
 1360 review only if the office and the consumer advocate appointed
 1361 pursuant to s. 627.0613 have a reasonable opportunity to review
 1362 ~~access to~~ all of the basic assumptions and factors that were
 1363 used in developing the actuarial methods, principles, standards,
 1364 models, or output ranges. After review of the specific models by
 1365 the commission, the office and the consumer advocate may not

1366 pose any questions generated from their respective reviews that
1367 duplicate or compromise the conclusions of the commission
1368 relative to the accuracy or reliability of the models in
1369 producing hurricane loss factors for use in a rate filing under
1370 s. 627.062, and are not precluded from disclosing such
1371 information in a rate proceeding.

1372 Section 10. Section 627.06281, Florida Statutes, is
1373 amended to read:

1374 627.06281 Public hurricane loss projection model;
1375 reporting of data by insurers.--

1376 (1) Within 30 days after a written request for loss data
1377 and associated exposure data by the office or a type I center
1378 within the State University System established to study
1379 mitigation, residential property insurers and licensed rating
1380 and advisory organizations that compile residential property
1381 insurance loss data shall provide loss data and associated
1382 exposure data for residential property insurance policies to the
1383 office or to a type I center within the State University System
1384 established to study mitigation, as directed by the office, for
1385 the purposes of developing, maintaining, and updating a public
1386 model for hurricane loss projections. The loss data and
1387 associated exposure data provided shall be in writing.

1388 (2) The office may not use the public model for hurricane
1389 loss projection referred to in subsection (1) for any purpose
1390 under s. 627.062 or s. 627.351 until the model has been
1391 submitted to the Florida Commission on Hurricane Loss Projection
1392 Methodology for review under s. 627.0628 and the commission has

1393 found the model to be accurate and reliable pursuant to the same
1394 process and standards as the commission uses for the review of
1395 other hurricane loss projection models.

1396 Section 11. Subsection (2) of section 627.0645, Florida
1397 Statutes, is amended to read:

1398 627.0645 Annual filings.--

1399 (2)(a) Deviations filed by an insurer to any rating
1400 organization's base rate filing are not subject to this section.

1401 (b) The office, after receiving a request to be exempted
1402 from the provisions of this section, may, for good cause due to
1403 insignificant numbers of policies in force or insignificant
1404 premium volume, exempt a company, by line of coverage, from
1405 filing rates or rate certification as required by this section.

1406 (c) The office, after receiving a request to be exempted
1407 from the provisions of this section, shall exempt a company with
1408 less than 500 residential homeowner or mobile homeowner policies
1409 from filing rates or rate certification as required by this
1410 section.

1411 Section 12. Subsection (6) of section 627.351, Florida
1412 Statutes, is amended to read:

1413 627.351 Insurance risk apportionment plans.--

1414 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1415 (a)1.a. The Legislature finds that actual and threatened
1416 catastrophic losses to property in this state from hurricanes
1417 have caused insurers to be unwilling or unable to provide
1418 property insurance coverage to the extent sought and needed. It
1419 is in the public interest and a public purpose to assist in

1420 ensuring ~~assuring~~ that homestead property in the state is
1421 insured so as to facilitate the remediation, reconstruction, and
1422 replacement of damaged or destroyed property in order to reduce
1423 or avoid the negative effects otherwise resulting to the public
1424 health, safety, and welfare; to the economy of the state; and to
1425 the revenues of the state and local governments needed to
1426 provide for the public welfare. It is necessary, therefore, to
1427 provide property insurance to applicants who are in good faith
1428 entitled to procure insurance through the voluntary market but
1429 are unable to do so. The Legislature intends by this subsection
1430 that property insurance be provided and that it continues, as
1431 long as necessary, through an entity organized to achieve
1432 efficiencies and economies, while providing service to
1433 policyholders, applicants, and agents that is no less than the
1434 quality generally provided in the voluntary market, all toward
1435 the achievement of the foregoing public purposes. Because it is
1436 essential for the corporation to have the maximum financial
1437 resources to pay claims following a catastrophic hurricane, it
1438 is the intent of the Legislature that the income of the
1439 corporation be exempt from federal income taxation and that
1440 interest on the debt obligations issued by the corporation be
1441 exempt from federal income taxation.

1442 b. The Legislature finds and declares that:

1443 (I) The commitment of the state, as expressed in sub-
1444 subparagraph a., to providing a means of ensuring the
1445 availability of property insurance through a residual market
1446 mechanism is hereby reaffirmed.

1447 (II) Despite legislative efforts to ensure that the
1448 residual market for property insurance is self-supporting to the
1449 greatest reasonable extent, residual market policyholders are to
1450 some degree subsidized by the general public through assessments
1451 on owners of property insured in the voluntary market and their
1452 insurers and through the potential use of general revenues of
1453 the state to eliminate or reduce residual market deficits.

1454 (III) The degree of such subsidy is a matter of public
1455 policy. It is the intent of the Legislature to better control
1456 the subsidy through at least the following means:

1457 (A) Restructuring the residual market mechanism to provide
1458 separate treatment of homestead and nonhomestead properties,
1459 with the intent of continuing to provide an insurance program
1460 with limited subsidies for homestead properties while providing
1461 a nonsubsidized insurance program for nonhomestead properties.

1462 (B) Redefining the concept of rate adequacy in the
1463 subsidized residual market with the intent of ensuring a rate
1464 structure that will enable the subsidized residual market to be
1465 self-supporting except in the event of hurricane losses of a
1466 legislatively specified magnitude. It is the intent of the
1467 Legislature that the funding of the subsidized residual market
1468 be structured to be self-supporting up to the point of its 100-
1469 year probable maximum loss and that the funding be structured to
1470 make reliance on assessments or other sources of public funding
1471 necessary only in the event of a 100-year probable maximum loss
1472 or larger loss.

1473 2. The Residential Property and Casualty Joint
1474 Underwriting Association originally created by this statute
1475 shall be known, as of July 1, 2002, as the Citizens Property
1476 Insurance Corporation. The corporation shall provide insurance
1477 for residential and commercial property, for applicants who are
1478 in good faith entitled, but are unable, to procure insurance
1479 through the voluntary market. The corporation shall operate
1480 pursuant to a plan of operation approved by order of the
1481 commission ~~office~~. The plan is subject to continuous review by
1482 the commission ~~office~~. The commission ~~office~~ may, by order,
1483 withdraw approval of all or part of a plan if the commission
1484 ~~office~~ determines that conditions have changed since approval
1485 was granted and that the purposes of the plan require changes in
1486 the plan. The corporation shall continue to operate pursuant to
1487 the plan of operation approved by the office until October 1,
1488 2006. For the purposes of this subsection, residential coverage
1489 includes both personal lines residential coverage, which
1490 consists of the type of coverage provided by homeowner's, mobile
1491 home owner's, dwelling, tenant's, condominium unit owner's, and
1492 similar policies, and commercial lines residential coverage,
1493 which consists of the type of coverage provided by condominium
1494 association, apartment building, and similar policies.

1495 3. It is the intent of the Legislature that policyholders,
1496 applicants, and agents of the corporation receive service and
1497 treatment of the highest possible level but never less than that
1498 generally provided in the voluntary market. It also is intended
1499 that the corporation be held to service standards no less than

1500 those applied to insurers in the voluntary market by the office
 1501 with respect to responsiveness, timeliness, customer courtesy,
 1502 and overall dealings with policyholders, applicants, or agents
 1503 of the corporation.

1504 (b)1. All insurers authorized to write one or more subject
 1505 lines of business in this state are subject to assessment by the
 1506 corporation and, for the purposes of this subsection, are
 1507 referred to collectively as "assessable insurers." Insurers
 1508 writing one or more subject lines of business in this state
 1509 pursuant to part VIII of chapter 626 are not assessable
 1510 insurers, but insureds who procure one or more subject lines of
 1511 business in this state pursuant to part VIII of chapter 626 are
 1512 subject to assessment by the corporation and are referred to
 1513 collectively as "assessable insureds." An authorized insurer's
 1514 assessment liability shall begin on the first day of the
 1515 calendar year following the year in which the insurer was issued
 1516 a certificate of authority to transact insurance for subject
 1517 lines of business in this state and shall terminate 1 year after
 1518 the end of the first calendar year during which the insurer no
 1519 longer holds a certificate of authority to transact insurance
 1520 for subject lines of business in this state.

1521 2.a. All revenues, assets, liabilities, losses, and
 1522 expenses of the corporation shall be divided into four ~~three~~
 1523 separate accounts as follows:

1524 (I) Three separate homestead accounts that may provide
 1525 coverage only for homestead properties. The term "homestead
 1526 property" means a residential property that has been granted a

1527 homestead exemption under chapter 196. The term also includes a
 1528 property that is qualified for such exemption but has not
 1529 applied for the exemption as of the date of issuance of the
 1530 policy, provided the policyholder obtains the exemption within 1
 1531 year after initial issuance of the policy. The term also
 1532 includes an owner-occupied mobile or manufactured home as
 1533 defined in s. 320.01 permanently affixed to real property
 1534 regardless of whether the owner of the mobile or manufactured
 1535 home is also the owner of the land on which the mobile or
 1536 manufactured home is permanently affixed. However, the term does
 1537 not include a mobile home that is being held for display by a
 1538 licensed mobile home dealer or a licensed mobile home
 1539 manufacturer and is not owner-occupied. For the purposes of this
 1540 sub-sub-subparagraph, the term "homestead property" also
 1541 includes property covered by tenant's insurance; commercial
 1542 lines residential policies; any county, district, or municipal
 1543 hospital, or hospital licensed by any not-for-profit corporation
 1544 that is qualified under s. 501(c)(3) of the United State
 1545 Internal Revenue Code; and continuing care retirement
 1546 communities certified under chapter 651 that receives an ad
 1547 valorem tax exemption under chapter 196. The accounts providing
 1548 coverage only for homestead properties are:

1549 (A) ~~(I)~~ A personal lines account for personal residential
 1550 policies issued by the corporation or issued by the Residential
 1551 Property and Casualty Joint Underwriting Association and renewed
 1552 by the corporation that provide comprehensive, multiperil
 1553 coverage on risks that are not located in areas eligible for

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

1558 (B)~~(II)~~ A commercial lines account for commercial
 1559 residential policies issued by the corporation or issued by the
 1560 Residential Property and Casualty Joint Underwriting Association
 1561 and renewed by the corporation that provide coverage for basic
 1562 property perils on risks that are not located in areas eligible
 1563 for coverage in the Florida Windstorm Underwriting Association
 1564 as those areas were defined on January 1, 2002, and for such
 1565 policies that do not provide coverage for the peril of wind on
 1566 risks that are located in such areas; and

1567 (C)~~(III)~~ A high-risk account for personal residential
 1568 policies and commercial residential ~~and commercial~~
 1569 ~~nonresidential~~ property policies issued by the corporation or
 1570 transferred to the corporation that provide coverage for the
 1571 peril of wind on risks that are located in areas eligible for
 1572 coverage in the Florida Windstorm Underwriting Association as
 1573 those areas were defined on January 1, 2002. The high-risk
 1574 account must also include quota share primary insurance under
 1575 subparagraph (c)2. The area eligible for coverage under the
 1576 high-risk account also includes the area within Port Canaveral,
 1577 which is bordered on the south by the City of Cape Canaveral,
 1578 bordered on the west by the Banana River, and bordered on the
 1579 north by Federal Government property. The office may remove
 1580 territory from the area eligible for wind-only and quota share

1581 coverage if, after a public hearing, the office finds that
1582 authorized insurers in the voluntary market are willing and able
1583 to write sufficient amounts of personal and commercial
1584 residential coverage for all perils in the territory, including
1585 coverage for the peril of wind, such that risks covered by wind-
1586 only policies in the removed territory could be issued a policy
1587 by the corporation in either the personal lines or commercial
1588 lines account without a significant increase in the
1589 corporation's probable maximum loss in such account. Removal of
1590 territory from the area eligible for wind-only or quota share
1591 coverage does not alter the assignment of wind coverage written
1592 in such areas to the high-risk account.

1593 (II) (A) A separate nonhomestead account for commercial
1594 nonresidential property policies and for all properties that
1595 otherwise meet all of the criteria for eligibility for coverage
1596 within one of the three homestead accounts described in sub-sub-
1597 subparagraph (I) but that do not meet the definition of
1598 homestead property specified in sub-sub-subparagraph (I). The
1599 nonhomestead account shall provide the same types of coverage as
1600 are provided by the three homestead accounts, including wind-
1601 only coverage in the high-risk account area. In order to be
1602 eligible for coverage in the nonhomestead account, at the
1603 initial issuance of the policy and at renewal the property owner
1604 shall provide the corporation with a sworn affidavit stating
1605 that the property has been rejected for coverage by at least
1606 three authorized insurers and at least three surplus lines
1607 insurers.

1608 (B) An authorized insurer or approved insurer as defined
 1609 in s. 626.914(2) may provide coverage to a nonhomestead property
 1610 owner on an individual risk rate basis. Rates and forms of an
 1611 authorized insurer for nonhomestead properties are not subject
 1612 to ss. 627.062 and 627.0629, except s. 627.0629(2)(b). Such
 1613 rates and forms are subject to all other applicable provisions
 1614 of this code and rules adopted under this code. During the
 1615 course of an insurer's market conduct examination, the office
 1616 may review the rate for any nonhomestead property to determine
 1617 if such rate is inadequate or unfairly discriminatory. Rates on
 1618 nonhomestead property may be found inadequate by the office if
 1619 they are clearly insufficient, together with the investment
 1620 income attributable to the insurer, to sustain projected losses
 1621 and expenses in the class of business to which such rates apply.
 1622 Rates on nonhomestead property may also be found inadequate as
 1623 to the premium charged to a risk or group of risks if discounts
 1624 or credits are allowed that exceed a reasonable reflection of
 1625 expense savings and reasonably expected loss experience from the
 1626 risk or group of risks. Rates on nonhomestead property may be
 1627 found to be unfairly discriminatory as to a risk or group of
 1628 risks by the office if the application of premium discounts,
 1629 credits, or surcharges among such risks does not bear a
 1630 reasonable relationship to the expected loss and expense
 1631 experience among the various risks. A rating plan, including
 1632 discounts, credits, or surcharges on nonhomestead property, may
 1633 also be found to be unfairly discriminatory if the plan fails to
 1634 clearly and equitably reflect consideration of the

1635 policyholder's participation in a risk management program
 1636 adjusted pursuant to s. 627.0625. The office may order an
 1637 insurer to discontinue using a rate for new policies or upon
 1638 renewal of a policy if the office finds the rate to be
 1639 inadequate or unfairly discriminatory. Insurers shall maintain
 1640 records and documentation relating to rates and forms subject to
 1641 this sub-sub-sub-subparagraph for a period of at least 5 years
 1642 after the effective date of the policy.

1643 b. The three separate homestead accounts must be
 1644 maintained as long as financing obligations entered into by the
 1645 Florida Windstorm Underwriting Association or Residential
 1646 Property and Casualty Joint Underwriting Association are
 1647 outstanding, in accordance with the terms of the corresponding
 1648 financing documents. When the financing obligations are no
 1649 longer outstanding, in accordance with the terms of the
 1650 corresponding financing documents, the corporation may use a
 1651 single homestead account for all revenues, assets, liabilities,
 1652 losses, and expenses of the corporation. All revenues, assets,
 1653 liabilities, losses, and expenses attributable to the
 1654 nonhomestead account shall be maintained separately.

1655 c. Creditors of the Residential Property and Casualty
 1656 Joint Underwriting Association shall have a claim against, and
 1657 recourse to, the accounts referred to in sub-sub-sub-
 1658 subparagraphs ~~sub-sub-subparagraphs~~ a.(I) (A) and (B) ~~(II)~~ and
 1659 shall have no claim against, or recourse to, the account
 1660 referred to in sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~
 1661 a. (I) (C) ~~(III)~~. Creditors of the Florida Windstorm Underwriting

1662 Association shall have a claim against, and recourse to, the
 1663 account referred to in sub-sub-sub-subparagraph ~~sub-sub-~~
 1664 ~~subparagraph~~ a. (I) (C) ~~(III)~~ and shall have no claim against, or
 1665 recourse to, the accounts referred to in sub-sub-sub-
 1666 subparagraphs ~~sub-sub-subparagraphs~~ a. (I) (A) and (B) ~~(II)~~.

1667 d. Revenues, assets, liabilities, losses, and expenses not
 1668 attributable to particular accounts shall be prorated among the
 1669 accounts.

1670 e. The Legislature finds that the revenues of the
 1671 corporation are revenues that are necessary to meet the
 1672 requirements set forth in documents authorizing the issuance of
 1673 bonds under this subsection.

1674 f. No part of the income of the corporation may inure to
 1675 the benefit of any private person.

1676 3. With respect to a deficit in any of the homestead
 1677 accounts ~~an account~~:

1678 a. When the deficit incurred in a particular calendar year
 1679 is not greater than 10 percent of the aggregate statewide direct
 1680 written premium for the subject lines of business for the prior
 1681 calendar year, the entire deficit shall be recovered through
 1682 regular assessments of assessable insurers under paragraph (g)
 1683 and assessable insureds.

1684 b. When the deficit incurred in a particular calendar year
 1685 exceeds 10 percent of the aggregate statewide direct written
 1686 premium for the subject lines of business for the prior calendar
 1687 year, the corporation shall levy regular assessments on
 1688 assessable insurers under paragraph (g) and on assessable

1689 insureds in an amount equal to the greater of 10 percent of the
1690 deficit or 10 percent of the aggregate statewide direct written
1691 premium for the subject lines of business for the prior calendar
1692 year. Any remaining deficit shall be recovered through emergency
1693 assessments under sub-subparagraph d.

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

1716 policyholder surcharge imposed under subparagraph (c)10.
1717 Assessments levied by the corporation on assessable insureds
1718 under sub-subparagraphs a. and b. shall be collected by the
1719 surplus lines agent at the time the surplus lines agent collects
1720 the surplus lines tax required by s. 626.932 and shall be paid
1721 to the Florida Surplus Lines Service Office at the time the
1722 surplus lines agent pays the surplus lines tax to the Florida
1723 Surplus Lines Service Office. Upon receipt of regular
1724 assessments from surplus lines agents, the Florida Surplus Lines
1725 Service Office shall transfer the assessments directly to the
1726 corporation as determined by the corporation.

1727 d. Upon a determination by the board of governors that a
1728 deficit in an account exceeds the amount that will be recovered
1729 through regular assessments under sub-subparagraph a. or sub-
1730 subparagraph b., the board shall levy, after verification by the
1731 office, emergency assessments, for as many years as necessary to
1732 cover the deficits, to be collected by assessable insurers and
1733 the corporation and collected from assessable insureds upon
1734 issuance or renewal of policies for subject lines of business,
1735 excluding National Flood Insurance policies. The amount of the
1736 emergency assessment collected in a particular year shall be a
1737 uniform percentage of that year's direct written premium for
1738 subject lines of business and all accounts of the corporation,
1739 excluding National Flood Insurance Program policy premiums, as
1740 annually determined by the board and verified by the office. The
1741 office shall verify the arithmetic calculations involved in the
1742 board's determination within 30 days after receipt of the

1743 information on which the determination was based.
1744 Notwithstanding any other provision of law, the corporation and
1745 each assessable insurer that writes subject lines of business
1746 shall collect emergency assessments from its policyholders
1747 without such obligation being affected by any credit,
1748 limitation, exemption, or deferment. Emergency assessments
1749 levied by the corporation on assessable insureds shall be
1750 collected by the surplus lines agent at the time the surplus
1751 lines agent collects the surplus lines tax required by s.
1752 626.932 and shall be paid to the Florida Surplus Lines Service
1753 Office at the time the surplus lines agent pays the surplus
1754 lines tax to the Florida Surplus Lines Service Office. The
1755 emergency assessments so collected shall be transferred directly
1756 to the corporation on a periodic basis as determined by the
1757 corporation and shall be held by the corporation solely in the
1758 applicable account. The aggregate amount of emergency
1759 assessments levied for an account under this sub-subparagraph in
1760 any calendar year may not exceed the greater of 10 percent of
1761 the amount needed to cover the original deficit, plus interest,
1762 fees, commissions, required reserves, and other costs associated
1763 with financing of the original deficit, or 10 percent of the
1764 aggregate statewide direct written premium for subject lines of
1765 business and for all accounts of the corporation for the prior
1766 year, plus interest, fees, commissions, required reserves, and
1767 other costs associated with financing the original deficit.
1768 e. The corporation may pledge the proceeds of assessments,
1769 projected recoveries from the Florida Hurricane Catastrophe

1770 Fund, other insurance and reinsurance recoverables, Citizens
1771 policyholder ~~market equalization~~ surcharges and other
1772 surcharges, and other funds available to the corporation as the
1773 source of revenue for and to secure bonds issued under paragraph
1774 (g), bonds or other indebtedness issued under subparagraph
1775 (c)3., or lines of credit or other financing mechanisms issued
1776 or created under this subsection, or to retire any other debt
1777 incurred as a result of deficits or events giving rise to
1778 deficits, or in any other way that the board determines will
1779 efficiently recover such deficits. The purpose of the lines of
1780 credit or other financing mechanisms is to provide additional
1781 resources to assist the corporation in covering claims and
1782 expenses attributable to a catastrophe. As used in this
1783 subsection, the term "assessments" includes regular assessments
1784 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1785 (g)1. and emergency assessments under sub-subparagraph d.
1786 Emergency assessments collected under sub-subparagraph d. are
1787 not part of an insurer's rates, are not premium, and are not
1788 subject to premium tax, fees, or commissions; however, failure
1789 to pay the emergency assessment shall be treated as failure to
1790 pay premium. The emergency assessments under sub-subparagraph d.
1791 shall continue as long as any bonds issued or other indebtedness
1792 incurred with respect to a deficit for which the assessment was
1793 imposed remain outstanding, unless adequate provision has been
1794 made for the payment of such bonds or other indebtedness
1795 pursuant to the documents governing such bonds or other
1796 indebtedness.

1797 f. As used in this subsection, the term "subject lines of
1798 business" means insurance written by assessable insurers or
1799 procured by assessable insureds on real or personal property, as
1800 defined in s. 624.604, including insurance for fire, industrial
1801 fire, allied lines, farmowners multiperil, homeowners
1802 multiperil, commercial multiperil, and mobile homes, and
1803 including liability coverage on all such insurance, but
1804 excluding inland marine as defined in s. 624.607(3) and
1805 excluding vehicle insurance as defined in s. 624.605(1) other
1806 than insurance on mobile homes used as permanent dwellings.

1807 g. The Florida Surplus Lines Service Office shall
1808 determine annually the aggregate statewide written premium in
1809 subject lines of business procured by assessable insureds and
1810 shall report that information to the corporation in a form and
1811 at a time the corporation specifies to ensure that the
1812 corporation can meet the requirements of this subsection and the
1813 corporation's financing obligations.

1814 h. The Florida Surplus Lines Service Office shall verify
1815 the proper application by surplus lines agents of assessment
1816 percentages for regular assessments and emergency assessments
1817 levied under this subparagraph on assessable insureds and shall
1818 assist the corporation in ensuring the accurate, timely
1819 collection and payment of assessments by surplus lines agents as
1820 required by the corporation.

1821 4. With respect to a deficit in the nonhomestead account
1822 or to any cash flow shortfall that the board determines will

1823 create an inability for the nonhomestead account to pay claims
1824 when due:

1825 a. The board shall levy an immediate assessment against
1826 the premium of each nonhomestead account policyholder, expressed
1827 as a uniform percentage of the premium for the policy then in
1828 effect. The maximum amount of such assessment is 100 percent of
1829 such premium.

1830 b. If the assessment under sub-subparagraph a. is
1831 insufficient to enable the account to pay claims and eliminate
1832 the deficit in the account, the board may levy an additional
1833 assessment to be collected at the time of any issuance or
1834 renewal of a nonhomestead account policy during the 1-year
1835 period following the levy of the assessment under sub-
1836 subparagraph a., expressed as a uniform percentage of the
1837 premium for the policy for the forthcoming policy period. The
1838 maximum amount of such assessment is 100 percent of such
1839 premium.

1840 c. If the assessments under sub-subparagraphs a. and b.
1841 are insufficient to enable the account to pay claims and
1842 eliminate the deficit in the account, the board may make a loan
1843 from any of the homestead accounts to the nonhomestead account,
1844 subject to approval by the office and provided that such loan
1845 does not impair the financial status of any of the homestead
1846 accounts.

1847 5. A policyholder in a nonhomestead account who has not
1848 paid a deficit assessment levied by the corporation shall be

1849 ineligible for coverage by a surplus lines insurer or authorized
1850 insurer.

1851 (c) The plan of operation of the corporation:

1852 1. Must provide for adoption of residential property and
1853 casualty insurance policy forms and commercial residential and
1854 nonresidential property insurance forms, which forms must be
1855 approved by the office prior to use. The corporation shall adopt
1856 the following policy forms:

1857 a. Standard personal lines policy forms that are
1858 comprehensive multiperil policies providing full coverage of a
1859 residential property equivalent to the coverage provided in the
1860 private insurance market under an HO-3, HO-4, or HO-6 policy.

1861 b. Basic personal lines policy forms that are policies
1862 similar to an HO-8 policy or a dwelling fire policy that provide
1863 coverage meeting the requirements of the secondary mortgage
1864 market, but which coverage is more limited than the coverage
1865 under a standard policy.

1866 c. Commercial lines residential policy forms that are
1867 generally similar to the basic perils of full coverage
1868 obtainable for commercial residential structures in the admitted
1869 voluntary market.

1870 d. Personal lines and commercial lines residential
1871 property insurance forms that cover the peril of wind only. The
1872 forms are applicable only to residential properties located in
1873 areas eligible for coverage under the high-risk account referred
1874 to in sub-subparagraph (b)2.a.

1875 e. Commercial lines nonresidential property insurance
 1876 forms that cover the peril of wind only. The forms are
 1877 applicable only to nonresidential properties located in areas
 1878 eligible for coverage under the high-risk account referred to in
 1879 sub-subparagraph (b)2.a.

1880 f. The corporation may adopt variations of the policy
 1881 forms listed in sub-subparagraphs a.-e. that contain more
 1882 restrictive coverage.

1883 2.a. Must provide that the corporation adopt a program in
 1884 which the corporation and authorized insurers enter into quota
 1885 share primary insurance agreements for hurricane coverage, as
 1886 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1887 property insurance forms for eligible risks which cover the
 1888 peril of wind only. As used in this subsection, the term:

1889 (I) "Quota share primary insurance" means an arrangement
 1890 in which the primary hurricane coverage of an eligible risk is
 1891 provided in specified percentages by the corporation and an
 1892 authorized insurer. The corporation and authorized insurer are
 1893 each solely responsible for a specified percentage of hurricane
 1894 coverage of an eligible risk as set forth in a quota share
 1895 primary insurance agreement between the corporation and an
 1896 authorized insurer and the insurance contract. The
 1897 responsibility of the corporation or authorized insurer to pay
 1898 its specified percentage of hurricane losses of an eligible
 1899 risk, as set forth in the quota share primary insurance
 1900 agreement, may not be altered by the inability of the other
 1901 party to the agreement to pay its specified percentage of

1902 hurricane losses. Eligible risks that are provided hurricane
1903 coverage through a quota share primary insurance arrangement
1904 must be provided policy forms that set forth the obligations of
1905 the corporation and authorized insurer under the arrangement,
1906 clearly specify the percentages of quota share primary insurance
1907 provided by the corporation and authorized insurer, and
1908 conspicuously and clearly state that neither the authorized
1909 insurer nor the corporation may be held responsible beyond its
1910 specified percentage of coverage of hurricane losses.

1911 (II) "Eligible risks" means personal lines residential and
1912 commercial lines residential risks that meet the underwriting
1913 criteria of the corporation and are located in areas that were
1914 eligible for coverage by the Florida Windstorm Underwriting
1915 Association on January 1, 2002.

1916 b. The corporation may enter into quota share primary
1917 insurance agreements with authorized insurers at corporation
1918 coverage levels of 90 percent and 50 percent.

1919 c. If the corporation determines that additional coverage
1920 levels are necessary to maximize participation in quota share
1921 primary insurance agreements by authorized insurers, the
1922 corporation may establish additional coverage levels. However,
1923 the corporation's quota share primary insurance coverage level
1924 may not exceed 90 percent.

1925 d. Any quota share primary insurance agreement entered
1926 into between an authorized insurer and the corporation must
1927 provide for a uniform specified percentage of coverage of
1928 hurricane losses, by county or territory as set forth by the

1929 corporation board, for all eligible risks of the authorized
1930 insurer covered under the quota share primary insurance
1931 agreement.

1932 e. Any quota share primary insurance agreement entered
1933 into between an authorized insurer and the corporation is
1934 subject to review and approval by the office. However, such
1935 agreement shall be authorized only as to insurance contracts
1936 entered into between an authorized insurer and an insured who is
1937 already insured by the corporation for wind coverage.

1938 f. For all eligible risks covered under quota share
1939 primary insurance agreements, the exposure and coverage levels
1940 for both the corporation and authorized insurers shall be
1941 reported by the corporation to the Florida Hurricane Catastrophe
1942 Fund. For all policies of eligible risks covered under quota
1943 share primary insurance agreements, the corporation and the
1944 authorized insurer shall maintain complete and accurate records
1945 for the purpose of exposure and loss reimbursement audits as
1946 required by Florida Hurricane Catastrophe Fund rules. The
1947 corporation and the authorized insurer shall each maintain
1948 duplicate copies of policy declaration pages and supporting
1949 claims documents.

1950 g. The corporation board shall establish in its plan of
1951 operation standards for quota share agreements which ensure that
1952 there is no discriminatory application among insurers as to the
1953 terms of quota share agreements, pricing of quota share
1954 agreements, incentive provisions if any, and consideration paid
1955 for servicing policies or adjusting claims.

1956 h. The quota share primary insurance agreement between the
 1957 corporation and an authorized insurer must set forth the
 1958 specific terms under which coverage is provided, including, but
 1959 not limited to, the sale and servicing of policies issued under
 1960 the agreement by the insurance agent of the authorized insurer
 1961 producing the business, the reporting of information concerning
 1962 eligible risks, the payment of premium to the corporation, and
 1963 arrangements for the adjustment and payment of hurricane claims
 1964 incurred on eligible risks by the claims adjuster and personnel
 1965 of the authorized insurer. Entering into a quota sharing
 1966 insurance agreement between the corporation and an authorized
 1967 insurer shall be voluntary and at the discretion of the
 1968 authorized insurer.

1969 3. May provide that the corporation may employ or
 1970 otherwise contract with individuals or other entities to provide
 1971 administrative or professional services that may be appropriate
 1972 to effectuate the plan. The corporation shall have the power to
 1973 borrow funds, by issuing bonds or by incurring other
 1974 indebtedness, and shall have other powers reasonably necessary
 1975 to effectuate the requirements of this subsection, including,
 1976 without limitation, the power to issue bonds and incur other
 1977 indebtedness in order to refinance outstanding bonds or other
 1978 indebtedness. The corporation may, but is not required to, seek
 1979 judicial validation of its bonds or other indebtedness under
 1980 chapter 75. The corporation may issue bonds or incur other
 1981 indebtedness, or have bonds issued on its behalf by a unit of
 1982 local government pursuant to subparagraph (g)2., in the absence

1983 of a hurricane or other weather-related event, upon a
1984 determination by the corporation, subject to approval by the
1985 office, that such action would enable it to efficiently meet the
1986 financial obligations of the corporation and that such
1987 financings are reasonably necessary to effectuate the
1988 requirements of this subsection. The corporation is authorized
1989 to take all actions needed to facilitate tax-free status for any
1990 such bonds or indebtedness, including formation of trusts or
1991 other affiliated entities. The corporation shall have the
1992 authority to pledge assessments, projected recoveries from the
1993 Florida Hurricane Catastrophe Fund, other reinsurance
1994 recoverables, market equalization and other surcharges, and
1995 other funds available to the corporation as security for bonds
1996 or other indebtedness. In recognition of s. 10, Art. I of the
1997 State Constitution, prohibiting the impairment of obligations of
1998 contracts, it is the intent of the Legislature that no action be
1999 taken whose purpose is to impair any bond indenture or financing
2000 agreement or any revenue source committed by contract to such
2001 bond or other indebtedness.

2002 4.a. Must require that the corporation operate subject to
2003 the supervision and approval of a board of governors consisting
2004 of 8 individuals who are residents of this state, from different
2005 geographical areas of this state. The Governor, the Chief
2006 Financial Officer, the President of the Senate, and the Speaker
2007 of the House of Representatives shall each appoint two members
2008 of the board, effective August 1, 2005. At least one of the two
2009 members appointed by each appointing officer must have

2010 demonstrated expertise in insurance. The Chief Financial Officer
2011 shall designate one of the appointees as chair. All board
2012 members serve at the pleasure of the appointing officer. All
2013 board members, including the chair, must be appointed to serve
2014 for 3-year terms beginning annually on a date designated by the
2015 plan. Any board vacancy shall be filled for the unexpired term
2016 by the appointing officer. The Chief Financial Officer shall
2017 appoint a technical advisory group to provide information and
2018 advice to the board of governors in connection with the board's
2019 duties under this subsection. The executive director and senior
2020 managers of the corporation shall be engaged by the board, as
2021 recommended by the Chief Financial Officer, and serve at the
2022 pleasure of the board. The executive director is responsible for
2023 employing other staff as the corporation may require, subject to
2024 review and concurrence by the board and the Chief Financial
2025 Officer.

2026 b. The board shall create a Market Accountability Advisory
2027 Committee to assist the corporation in developing awareness of
2028 its rates and its customer and agent service levels in
2029 relationship to the voluntary market insurers writing similar
2030 coverage. The members of the advisory committee shall consist of
2031 the following 11 persons, one of whom must be elected chair by
2032 the members of the committee: four representatives, one
2033 appointed by the Florida Association of Insurance Agents, one by
2034 the Florida Association of Insurance and Financial Advisors, one
2035 by the Professional Insurance Agents of Florida, and one by the
2036 Latin American Association of Insurance Agencies; three

2037 representatives appointed by the insurers with the three highest
2038 voluntary market share of residential property insurance
2039 business in the state; one representative from the Office of
2040 Insurance Regulation; one consumer appointed by the board who is
2041 insured by the corporation at the time of appointment to the
2042 committee; one representative appointed by the Florida
2043 Association of Realtors; and one representative appointed by the
2044 Florida Bankers Association. All members must serve for 3-year
2045 terms and may serve for consecutive terms. The committee shall
2046 report to the corporation at each board meeting on insurance
2047 market issues which may include rates and rate competition with
2048 the voluntary market; service, including policy issuance, claims
2049 processing, and general responsiveness to policyholders,
2050 applicants, and agents; and matters relating to depopulation.

2051 5. Must provide a procedure for determining the
2052 eligibility of a risk for coverage, as follows:

2053 a. Subject to the provisions of s. 627.3517, with respect
2054 to personal lines residential risks, if the risk is offered
2055 coverage from an authorized insurer at the insurer's approved
2056 rate under either a standard policy including wind coverage or,
2057 if consistent with the insurer's underwriting rules as filed
2058 with the office, a basic policy including wind coverage, the
2059 risk is not eligible for any policy issued by the corporation.
2060 If the risk is not able to obtain any such offer, the risk is
2061 eligible for either a standard policy including wind coverage or
2062 a basic policy including wind coverage issued by the
2063 corporation; however, if the risk could not be insured under a

2064 standard policy including wind coverage regardless of market
2065 conditions, the risk shall be eligible for a basic policy
2066 including wind coverage unless rejected under subparagraph 8.
2067 The corporation shall determine the type of policy to be
2068 provided on the basis of objective standards specified in the
2069 underwriting manual and based on generally accepted underwriting
2070 practices.

2071 (I) If the risk accepts an offer of coverage through the
2072 market assistance plan or an offer of coverage through a
2073 mechanism established by the corporation before a policy is
2074 issued to the risk by the corporation or during the first 30
2075 days of coverage by the corporation, and the producing agent who
2076 submitted the application to the plan or to the corporation is
2077 not currently appointed by the insurer, the insurer shall:

2078 (A) Pay to the producing agent of record of the policy,
2079 for the first year, an amount that is the greater of the
2080 insurer's usual and customary commission for the type of policy
2081 written or a fee equal to the usual and customary commission of
2082 the corporation; or

2083 (B) Offer to allow the producing agent of record of the
2084 policy to continue servicing the policy for a period of not less
2085 than 1 year and offer to pay the agent the greater of the
2086 insurer's or the corporation's usual and customary commission
2087 for the type of policy written.

2088

2089 If the producing agent is unwilling or unable to accept
 2090 appointment, the new insurer shall pay the agent in accordance
 2091 with sub-sub-sub-subparagraph (A).

2092 (II) When the corporation enters into a contractual
 2093 agreement for a take-out plan, the producing agent of record of
 2094 the corporation policy is entitled to retain any unearned
 2095 commission on the policy, and the insurer shall:

2096 (A) Pay to the producing agent of record of the
 2097 corporation policy, for the first year, an amount that is the
 2098 greater of the insurer's usual and customary commission for the
 2099 type of policy written or a fee equal to the usual and customary
 2100 commission of the corporation; or

2101 (B) Offer to allow the producing agent of record of the
 2102 corporation policy to continue servicing the policy for a period
 2103 of not less than 1 year and offer to pay the agent the greater
 2104 of the insurer's or the corporation's usual and customary
 2105 commission for the type of policy written.

2106
 2107 If the producing agent is unwilling or unable to accept
 2108 appointment, the new insurer shall pay the agent in accordance
 2109 with sub-sub-sub-subparagraph (A).

2110 b. With respect to commercial lines residential risks, if
 2111 the risk is offered coverage under a policy including wind
 2112 coverage from an authorized insurer at its approved rate, the
 2113 risk is not eligible for any policy issued by the corporation.
 2114 If the risk is not able to obtain any such offer, the risk is

2115 eligible for a policy including wind coverage issued by the
2116 corporation.

2117 (I) If the risk accepts an offer of coverage through the
2118 market assistance plan or an offer of coverage through a
2119 mechanism established by the corporation before a policy is
2120 issued to the risk by the corporation or during the first 30
2121 days of coverage by the corporation, and the producing agent who
2122 submitted the application to the plan or the corporation is not
2123 currently appointed by the insurer, the insurer shall:

2124 (A) Pay to the producing agent of record of the policy,
2125 for the first year, an amount that is the greater of the
2126 insurer's usual and customary commission for the type of policy
2127 written or a fee equal to the usual and customary commission of
2128 the corporation; or

2129 (B) Offer to allow the producing agent of record of the
2130 policy to continue servicing the policy for a period of not less
2131 than 1 year and offer to pay the agent the greater of the
2132 insurer's or the corporation's usual and customary commission
2133 for the type of policy written.

2134
2135 If the producing agent is unwilling or unable to accept
2136 appointment, the new insurer shall pay the agent in accordance
2137 with sub-sub-sub-subparagraph (A).

2138 (II) When the corporation enters into a contractual
2139 agreement for a take-out plan, the producing agent of record of
2140 the corporation policy is entitled to retain any unearned
2141 commission on the policy, and the insurer shall:

2142 (A) Pay to the producing agent of record of the
 2143 corporation policy, for the first year, an amount that is the
 2144 greater of the insurer's usual and customary commission for the
 2145 type of policy written or a fee equal to the usual and customary
 2146 commission of the corporation; or

2147 (B) Offer to allow the producing agent of record of the
 2148 corporation policy to continue servicing the policy for a period
 2149 of not less than 1 year and offer to pay the agent the greater
 2150 of the insurer's or the corporation's usual and customary
 2151 commission for the type of policy written.

2152
 2153 If the producing agent is unwilling or unable to accept
 2154 appointment, the new insurer shall pay the agent in accordance
 2155 with sub-sub-sub-subparagraph (A).

2156 c. To preserve existing incentives for carriers to write
 2157 dwelling in the voluntary market and not in the corporation,
 2158 the corporation shall continue to offer authorized insurers,
 2159 including insurers writing dwellings valued at \$1 million or
 2160 more, the same voluntary writing credits that were available on
 2161 January 1, 2006, to carriers writing wind coverage for dwellings
 2162 in the areas eligible for coverage in the high-risk account.

2163 d. With respect to personal lines residential risks, if
 2164 the risk is a dwelling with an insured value of \$1 million or
 2165 more, or if the risk is one that is excluded from the coverage
 2166 to be provided by the condominium association under s.
 2167 718.111(11)(b) and that is insured by the condominium unit owner
 2168 for a combined dwelling and contents replacement cost of \$1

2169 million or more, the risk is not eligible for any policy issued
2170 by the corporation. Rates and forms for personal lines
2171 residential risks not eligible for coverage by the corporation
2172 specified by this sub-subparagraph are not subject to ss.
2173 627.062 and 627.0629. Such rates and forms are subject to all
2174 other applicable provisions of this code and rules adopted under
2175 this code. During the course of an insurer's market conduct
2176 examination, the office may review the rate for any risk to
2177 which the provisions of this sub-subparagraph are applicable to
2178 determine if such rate is inadequate or unfairly discriminatory.
2179 Rates on personal lines residential risks not eligible for
2180 coverage by the corporation may be found inadequate by the
2181 office if they are clearly insufficient, together with the
2182 investment income attributable to such risks, to sustain
2183 projected losses and expenses in the class of business to which
2184 such rates apply. Rates on personal lines residential risks not
2185 eligible for coverage by the corporation may also be found
2186 inadequate as to the premium charged to a risk or group of risks
2187 if discounts or credits are allowed that exceed a reasonable
2188 reflection of expense savings and reasonably expected loss
2189 experience from the risk or group of risks. Rates on personal
2190 lines residential risks not eligible for coverage by the
2191 corporation may be found to be unfairly discriminatory as to a
2192 risk or group of risks by the office if the application of
2193 premium discounts, credits, or surcharges among such risks does
2194 not bear a reasonable relationship to the expected loss and
2195 expense experience among the various risks. A rating plan,

2196 including discounts, credits, or surcharges on personal lines
2197 residential risks not eligible for coverage by the corporation
2198 may also be found to be unfairly discriminatory if the plan
2199 fails to clearly and equitably reflect consideration of the
2200 policyholder's participation in a risk management program
2201 adjusted pursuant to s. 627.0625. The office may order an
2202 insurer to discontinue using a rate for new policies or upon
2203 renewal of a policy if the office finds the rate to be
2204 inadequate or unfairly discriminatory. Insurers must maintain
2205 records and documentation relating to rates and forms subject to
2206 this sub-subparagraph for a period of at least 5 years after the
2207 effective date of the policy.

2208 e. For policies subject to nonrenewal as a result of the
2209 risk being no longer eligible for coverage pursuant to sub-
2210 paragraph d., the corporation shall, directly or through the
2211 market assistance plan, make information from confidential
2212 underwriting and claims files of policyholders available only to
2213 licensed general lines agents who register with the corporation
2214 to receive such information according to the following
2215 procedures:

2216 (I) By August 1, 2006, the corporation shall provide
2217 policyholders who are not eligible for renewal pursuant to sub-
2218 paragraph d. the opportunity to request in writing, within 30
2219 days after the notification is sent, that information from their
2220 confidential underwriting and claims files not be released to
2221 licensed general lines agents registered pursuant to sub-sub-
2222 paragraph e. (II);

2223 (II) By August 1, 2006, the corporation shall make
2224 available to licensed general lines agents the registration
2225 procedures to be used to obtain confidential information from
2226 underwriting and claims files for policies not eligible for
2227 renewal pursuant to sub-subparagraph d. As a condition of
2228 registration, the corporation shall require the licensed general
2229 lines agent to attest that the agent has the experience and
2230 relationships with authorized or surplus lines carriers to
2231 attempt to offer replacement coverage for policies not eligible
2232 for renewal pursuant to sub-subparagraph d.

2233 (III) By September 1, 2006, the corporation shall make
2234 available through a secured website to licensed general lines
2235 agents registered pursuant to sub-sub-subparagraph e. (II)
2236 application, rating, loss history, mitigation, and policy type
2237 information relating to all policies not eligible for renewal
2238 pursuant to sub-subparagraph d. and for which the policyholder
2239 has not requested the corporation withhold such information
2240 pursuant to sub-sub-subparagraph e. (I). The licensed general
2241 lines agent registered pursuant to sub-sub-subparagraph e. (II)
2242 may use such information to contact and assist the policyholder
2243 in securing replacement policies and the agent may disclose to
2244 the policyholder such information was obtained from the
2245 corporation.

2246 f. With respect to nonhomestead property, eligibility must
2247 be determined in accordance with sub-sub-sub-subparagraph
2248 (b) 2.a. (II) (A) .

2249 6. Must provide by July 1, 2007, that an application for
2250 coverage for a new policy is subject to a waiting period of 10
2251 days before coverage is effective, during which time the
2252 corporation shall make such application available for review by
2253 general lines agents and authorized property and casualty
2254 insurers. The board may approve exceptions that allow for
2255 coverage to be effective before the end of the 10-day waiting
2256 period, for coverage issued in conjunction with a real estate
2257 closing, and for such other exceptions as the board determines
2258 are necessary to prevent lapses in coverage.

2259 ~~7.6-~~ Must include rules for classifications of risks and
2260 rates therefor.

2261 ~~8.7-~~ Must provide that if premium and investment income
2262 for an account attributable to a particular calendar year are in
2263 excess of projected losses and expenses for the account
2264 attributable to that year, such excess shall be held in surplus
2265 in the account. Such surplus shall be available to defray
2266 deficits in that account as to future years and shall be used
2267 for that purpose prior to assessing assessable insurers and
2268 assessable insureds as to any calendar year.

2269 ~~9.8-~~ Must provide objective criteria and procedures to be
2270 uniformly applied for all applicants in determining whether an
2271 individual risk is so hazardous as to be uninsurable. In making
2272 this determination and in establishing the criteria and
2273 procedures, the following shall be considered:

2274 a. Whether the likelihood of a loss for the individual
 2275 risk is substantially higher than for other risks of the same
 2276 class; and

2277 b. Whether the uncertainty associated with the individual
 2278 risk is such that an appropriate premium cannot be determined.

2279
 2280 The acceptance or rejection of a risk by the corporation shall
 2281 be construed as the private placement of insurance, and the
 2282 provisions of chapter 120 shall not apply.

2283 ~~10.9.~~ Must provide that the corporation shall make its
 2284 best efforts to procure catastrophe reinsurance at reasonable
 2285 rates, to cover its projected 100-year probable maximum loss in
 2286 the homestead accounts as determined by the board of governors.

2287 ~~11.10.~~ Must provide that in the event of regular deficit
 2288 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
 2289 (b)3.b., in the personal lines homestead account, the commercial
 2290 lines residential homestead account, or the high-risk homestead
 2291 account, the corporation shall levy upon corporation homestead
 2292 account policyholders in its next rate filing, or by a separate
 2293 rate filing solely for this purpose, a Citizens policyholder
 2294 ~~market equalization~~ surcharge arising from a regular assessment
 2295 in such account in a percentage equal to the total amount of
 2296 such regular assessments divided by the aggregate statewide
 2297 direct written premium for subject lines of business for the
 2298 prior calendar year preceding the year in which the deficit to
 2299 which the regular assessment related is incurred. Citizens
 2300 policyholder ~~Market equalization~~ surcharges under this

2301 subparagraph are not considered premium and are not subject to
 2302 commissions, fees, or premium taxes; however, failure to pay the
 2303 Citizens policyholder a market equalization surcharge shall be
 2304 treated as failure to pay premium. Notwithstanding any other
 2305 provision of this section, for purposes of the Citizens
 2306 policyholder surcharges to be levied pursuant to this
 2307 subparagraph, the total amount of the regular assessment to
 2308 which such Citizens policyholder surcharge relates shall be
 2309 determined as set forth in sub-subparagraphs (b)3.a., b., and c.

2310 ~~12.11.~~ The policies issued by the corporation must provide
 2311 that, if the corporation or the market assistance plan obtains
 2312 an offer from an authorized insurer to cover the risk at its
 2313 approved rates, the risk is no longer eligible for renewal
 2314 through the corporation.

2315 ~~13.12.~~ Corporation policies and applications must include
 2316 a notice that the corporation policy could, under this section,
 2317 be replaced with a policy issued by an authorized insurer that
 2318 does not provide coverage identical to the coverage provided by
 2319 the corporation or an insurer writing coverage pursuant to part
 2320 VIII of chapter 626. The notice shall also specify that
 2321 acceptance of corporation coverage creates a conclusive
 2322 presumption that the applicant or policyholder is aware of this
 2323 potential.

2324 ~~14.13.~~ May establish, subject to approval by the office,
 2325 different eligibility requirements and operational procedures
 2326 for any line or type of coverage for any specified county or
 2327 area if the board determines that such changes to the

2328 eligibility requirements and operational procedures are
2329 justified due to the voluntary market being sufficiently stable
2330 and competitive in such area or for such line or type of
2331 coverage and that consumers who, in good faith, are unable to
2332 obtain insurance through the voluntary market through ordinary
2333 methods would continue to have access to coverage from the
2334 corporation. When coverage is sought in connection with a real
2335 property transfer, such requirements and procedures shall not
2336 provide for an effective date of coverage later than the date of
2337 the closing of the transfer as established by the transferor,
2338 the transferee, and, if applicable, the lender.

2339 ~~15.14.~~ Must provide that, with respect to the high-risk
2340 homestead account, any assessable insurer with a surplus as to
2341 policyholders of \$25 million or less writing 25 percent or more
2342 of its total countrywide property insurance premiums in this
2343 state may petition the office, within the first 90 days of each
2344 calendar year, to qualify as a limited apportionment company. In
2345 no event shall a limited apportionment company be required to
2346 participate in the portion of any assessment, within the high-
2347 risk account, pursuant to sub-subparagraph (b)3.a. or sub-
2348 subparagraph (b)3.b. in the aggregate which exceeds \$50 million
2349 after payment of available high-risk account funds in any
2350 calendar year. However, a limited apportionment company shall
2351 collect from its policyholders any emergency assessment imposed
2352 under sub-subparagraph (b)3.d. The plan shall provide that, if
2353 the office determines that any regular assessment will result in
2354 an impairment of the surplus of a limited apportionment company,

2355 the office may direct that all or part of such assessment be
2356 deferred as provided in subparagraph (g)4. However, there shall
2357 be no limitation or deferment of an emergency assessment to be
2358 collected from policyholders under sub-subparagraph (b)3.d.

2359 ~~16.15-~~ Must provide that the corporation appoint as its
2360 licensed agents only those agents who also hold an appointment
2361 as defined in s. 626.015(3) with an insurer who at the time of
2362 the agent's initial appointment by the corporation is authorized
2363 to write and is actually writing personal lines residential
2364 property coverage, commercial residential property coverage, or
2365 commercial nonresidential property coverage within the state.

2366 17. Must provide, by July 1, 2007, a premium payment plan
2367 option to its policyholders which allows for quarterly and
2368 semiannual payment of premiums.

2369 18. Must provide that the hurricane deductible for any
2370 property in the nonhomestead account with an insured value of
2371 \$250,000 or more must be at least 5 percent of the insured
2372 value.

2373 19. Must provide that the application for coverage under
2374 the nonhomestead account and the declaration page of each
2375 nonhomestead account policy include a statement in boldface 12-
2376 point type specifying that public subsidies do not support the
2377 corporation's coverage of nonhomestead property; that if the
2378 nonhomestead account of the corporation sustains a deficit or is
2379 unable to pay claims, the nonhomestead policyholder shall be
2380 subject to an immediate assessment in an amount up to 100
2381 percent of the premium and a further assessment upon renewal of

2382 the policy; and that the applicant or policyholder may wish to
2383 seek alternative coverage from an authorized insurer or surplus
2384 lines insurer that will not be subject to such potential
2385 assessments.

2386 20. Must provide that the application for coverage under
2387 any of the homestead accounts and the declaration page of each
2388 homestead account policy include a statement in boldface 12-
2389 point type specifying that a false declaration of homestead
2390 status for purposes of obtaining coverage in any of the
2391 homestead accounts may constitute the offense of insurance
2392 fraud, as prohibited and punishable as a felony under s.
2393 817.234.

2394 21. Must limit coverage on mobile homes or manufactured
2395 homes built prior to 1994 to actual cash value of the dwelling
2396 rather than replacement costs of the dwelling. The actual cash
2397 value of these dwellings may be determined by:

2398 a. A residential appraisal no more than 1 year old from a
2399 Florida licensed appraiser which provides the Depreciated Value
2400 of Improvements; or

2401 b. A purchase agreement or bill of sale no more than 1
2402 year old which reflects the purchase price less the land value.

2403 22. Must provide that, notwithstanding any limitation to
2404 the contrary regarding coverage of residential structures,
2405 including, but not limited to, classification or location of
2406 risks, the corporation shall provide coverage to residential
2407 structures constructed after the adoption of the Florida
2408 Building Code for the full value of such structures. Premiums

2409 for such residential structures shall fully reflect all
2410 appropriate discounts, credits, or other rate differentials
2411 based upon actual experience or any other loss relativity
2412 studies available to the corporation.

2413 (d)1. All prospective employees for senior management
2414 positions, as defined by the plan of operation, are subject to
2415 background checks as a prerequisite for employment. The office
2416 shall conduct background checks on such prospective employees
2417 pursuant to ss. 624.404(3), 624.34, and 628.261.

2418 2. On or before July 1 of each year, employees of the
2419 corporation are required to sign and submit a statement
2420 attesting that they do not have a conflict of interest, as
2421 defined in part III of chapter 112. As a condition of
2422 employment, all prospective employees are required to sign and
2423 submit to the corporation a conflict-of-interest statement.

2424 3. Senior managers and members of the board of governors
2425 are subject to the provisions of part III of chapter 112,
2426 including, but not limited to, the code of ethics and public
2427 disclosure and reporting of financial interests, pursuant to s.
2428 112.3145. Senior managers and board members are also required to
2429 file such disclosures with the Office of Insurance Regulation.
2430 The executive director of the corporation or his or her designee
2431 shall notify each newly appointed and existing appointed member
2432 of the board of governors and senior managers of his or her duty
2433 to comply with the reporting requirements of part III of chapter
2434 112. At least quarterly, the executive director or his or her
2435 designee shall submit to the Commission on Ethics a list of

2436 names of the senior managers and members of the board of
2437 governors that are subject to the public disclosure requirements
2438 under s. 112.3145.

2439 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
2440 other provision of law, an employee or board member may not
2441 knowingly accept, directly or indirectly, any gift or
2442 expenditure from a person or entity, or an employee or
2443 representative of such person or entity, that has a contractual
2444 relationship with the corporation or who is under consideration
2445 for a contract. An employee or board member that fails to comply
2446 with this subparagraph is subject to penalties provided under
2447 ss. 112.317 and 112.3173.

2448 5. Any senior manager of the corporation who is employed
2449 on or after January 1, 2007, regardless of the date of hire, who
2450 subsequently retires or terminates employment is prohibited from
2451 representing another person or entity before the corporation for
2452 2 years after retirement or termination of employment from the
2453 corporation.

2454 6. Any employee of the corporation who is employed on or
2455 after January 1, 2007, regardless of the date of hire, who
2456 subsequently retires or terminates employment is prohibited from
2457 having any employment or contractual relationship for 2 years
2458 with an insurer that has received a take-out bonus from the
2459 corporation.

2460 (e) Purchases that equal or exceed \$2,500, but are less
2461 than \$25,000, shall be made by receipt of written quotes,
2462 written record of telephone quotes, or informal bids, whenever

2463 practical. The procurement of goods or services valued at or
2464 over \$25,000 shall be subject to competitive solicitation,
2465 except in situations where the goods or services are provided by
2466 a sole source or are deemed an emergency purchase; the services
2467 are exempted from competitive solicitation requirements under s.
2468 287.057(5)(f); or the procurement of services is subject to s.
2469 627.3513. Justification for the sole-sourcing or emergency
2470 procurement must be documented. Contracts for goods or services
2471 valued at or over \$100,000 are subject to approval by the board.

2472 (f) The board shall determine whether it is more cost-
2473 effective and in the best interests of the corporation to use
2474 legal services provided by in-house attorneys employed by the
2475 corporation rather than contracting with outside counsel. In
2476 making such determination, the board shall document its findings
2477 and shall consider: the expertise needed; whether time
2478 commitments exceed in-house staff resources; whether local
2479 representation is needed; the travel, lodging and other costs
2480 associated with in-house representation; and such other factors
2481 that the board determines are relevant.

2482 (g) The corporation may not retain a lobbyist to represent
2483 it before the legislative branch or executive branch. However,
2484 full-time employees of the corporation may register as lobbyists
2485 and represent the corporation before the legislative branch or
2486 executive branch.

2487 (h)1. The Office of the Internal Auditor is established
2488 within the corporation to provide a central point for
2489 coordination of and responsibility for activities that promote

2490 accountability, integrity, and efficiency to the policyholders
2491 and to the taxpayers of this state. The internal auditor shall
2492 be appointed by the board of governors, shall report to and be
2493 under the general supervision of the board of governors, and is
2494 not subject to supervision by any employee of the corporation.
2495 Administrative staff and support shall be provided by the
2496 corporation. The internal auditor shall be appointed without
2497 regard to political affiliation. It is the duty and
2498 responsibility of the internal auditor to:

2499 a. Provide direction for, supervise, conduct, and
2500 coordinate audits, investigations, and management reviews
2501 relating to the programs and operations of the corporation.

2502 b. Conduct, supervise, or coordinate other activities
2503 carried out or financed by the corporation for the purpose of
2504 promoting efficiency in the administration of, or preventing and
2505 detecting fraud, abuse, and mismanagement in, its programs and
2506 operations.

2507 c. Submit final audit reports, reviews, or investigative
2508 reports to the board of governors, the executive director, the
2509 members of the Financial Services Commission, the President of
2510 the Senate, and the Speaker of the House of Representatives.

2511 d. Keep the board of governors informed concerning fraud,
2512 abuses, and internal control deficiencies relating to programs
2513 and operations administered or financed by the corporation,
2514 recommend corrective action, and report on the progress made in
2515 implementing corrective action.

2516 e. Report expeditiously to the Department of Law
2517 Enforcement or other law enforcement agencies, as appropriate,
2518 whenever the internal auditor has reasonable grounds to believe
2519 there has been a violation of criminal law.

2520 2. On or before February 15, the internal auditor shall
2521 prepare an annual report evaluating the effectiveness of the
2522 internal controls of the corporation and providing
2523 recommendations for corrective action, if necessary, and
2524 summarizing the audits, reviews, and investigations conducted by
2525 the office during the preceding fiscal year. The final report
2526 shall be furnished to the board of governors and the executive
2527 director, the President of the Senate, the Speaker of the House
2528 of Representatives, and the Financial Services Commission.

2529 (i) The corporation shall establish a unit or division
2530 responsible for receiving and responding to consumer complaints,
2531 which unit or division is the sole responsibility of a senior
2532 manager of the corporation.

2533 (j) The office shall conduct a comprehensive market
2534 conduct examination of the corporation every 2 years to
2535 determine compliance with its plan of operation and internal
2536 operations procedures. The first market conduct examination
2537 report shall be submitted to the President of the Senate and the
2538 Speaker of the House of Representatives no later than February
2539 1, 2009. Subsequent reports shall be submitted on or before
2540 February 1 every 2 years thereafter.

2541 (k) The Auditor General shall conduct an operational audit
2542 of the corporations every 3 years to evaluate management's

2543 performance in administering laws, policies, and procedures
2544 governing the operations of the corporation in an efficient and
2545 effective manner. The scope of the review shall include, but is
2546 not limited to, evaluating claims handling, customer service,
2547 take-out programs and bonuses, financing arrangements,
2548 procurement of goods and services, internal controls, and the
2549 internal audit function.

2550 (1)-(d)1.a. It is the intent of the Legislature that the
2551 rates for coverage provided by the corporation be actuarially
2552 adequate ~~sound~~ and not competitive with approved rates charged
2553 in the admitted voluntary market, so that the corporation
2554 functions as a residual market mechanism to provide insurance
2555 only when the insurance cannot be procured in the voluntary
2556 market. Rates shall include a residual market risk load that
2557 reflects the concentrated exposure of the corporation and the
2558 impact of adverse selection as well as an appropriate
2559 catastrophe loading factor that reflects the actual catastrophic
2560 exposure of the corporation.

2561 b. It is the intent of the Legislature to reaffirm the
2562 requirement of rate adequacy in the residual market. Recognizing
2563 that rates may comply with the intent expressed in sub-
2564 paragraph a. and yet be inadequate and recognizing the public
2565 need to limit subsidies within the residual market, it is the
2566 further intent of the Legislature to establish statutory
2567 standards for rate adequacy. Such standards are intended to
2568 supplement the standard specified in s. 627.062(2)(e)3.,
2569 providing that rates are inadequate if they are clearly

2570 insufficient to sustain projected losses and expenses in the
2571 class of business to which they apply.

2572 2. For each county, the average rates of the corporation
2573 for each line of business for personal lines residential
2574 policies excluding rates for wind-only policies shall be no
2575 lower than the average rates charged by the insurer that had the
2576 highest average rate in that county among the 20 insurers with
2577 the greatest total direct written premium in the state for that
2578 line of business in the preceding year, except that with respect
2579 to mobile home coverages, the average rates of the corporation
2580 shall be no lower than the average rates charged by the insurer
2581 that had the highest average rate in that county among the 5
2582 insurers with the greatest total written premium for mobile home
2583 owner's policies in the state in the preceding year.

2584 3. Rates for personal lines residential wind-only policies
2585 must be actuarially adequate ~~sound~~ and not competitive with
2586 approved rates charged by authorized insurers. If the filing
2587 under this paragraph is made at least 90 days before the
2588 proposed effective date and the filing is not implemented during
2589 the office's review of the filing and any proceeding and
2590 judicial review, such filing shall be considered a file and use
2591 filing. In such case, the office shall finalize its review by
2592 issuance of a notice of intent to approve or a notice of intent
2593 to disapprove within 90 days after receipt of the filing. The
2594 notice of intent to approve and the notice of intent to
2595 disapprove constitute agency action for purposes of the
2596 Administrative Procedure Act. Requests for supporting

2597 information, requests for mathematical or mechanical
2598 corrections, or notification to the insurer by the office of its
2599 preliminary findings shall not toll the 90-day period during any
2600 such proceedings and subsequent judicial review. The rate shall
2601 be deemed approved if the office does not issue a notice of
2602 intent to approve or a notice of intent to disapprove within 90
2603 days after receipt of the filing. Corporation rate manuals shall
2604 include a rate surcharge for seasonal occupancy. To ensure that
2605 personal lines residential wind-only rates are not competitive
2606 with approved rates charged by authorized insurers, the
2607 corporation, in conjunction with the office, shall develop a
2608 wind-only ratemaking methodology, which methodology shall be
2609 contained in each rate filing made by the corporation with the
2610 office. If the office determines that the wind-only rates or
2611 rating factors filed by the corporation fail to comply with the
2612 wind-only ratemaking methodology provided for in this
2613 subsection, it shall so notify the corporation and require the
2614 corporation to amend its rates or rating factors to come into
2615 compliance within 90 days of notice from the office.

2616 4.a. For the purposes of establishing a pilot program to
2617 evaluate issues relating to the availability and affordability
2618 of insurance in an area where historically there has been little
2619 market competition, the provisions of subparagraph 2. do not
2620 apply to coverage provided by the corporation in Monroe County
2621 if the office determines that a reasonable degree of competition
2622 does not exist for personal lines residential policies. The
2623 provisions of subparagraph 3. do not apply to coverage provided

2624 by the corporation in Monroe County if the office determines
2625 that a reasonable degree of competition does not exist for
2626 personal lines residential policies in the area of that county
2627 which is eligible for wind-only coverage. In this county, the
2628 rates for personal lines residential coverage shall be
2629 actuarially adequate ~~sound~~ and not excessive, inadequate, or
2630 unfairly discriminatory and are subject to the other provisions
2631 of the paragraph and s. 627.062. The commission shall adopt
2632 rules establishing the criteria for determining whether a
2633 reasonable degree of competition exists for personal lines
2634 residential policies in Monroe County. Any proposed rate
2635 increase filed by the corporation after May 1, 2006, but before
2636 October 1, 2006, for Monroe County based upon actuarial adequacy
2637 shall be implemented in equal amounts over a period of 3 years.

2638 b. Pursuant to a report by March 1, 2006, the office shall
2639 submit a report to the Legislature providing an evaluation of
2640 the implementation of the pilot program affecting Monroe County
2641 and indicating that there has historically been a lack of a
2642 reasonable degree of competition in Monroe County, the office
2643 shall proceed as follows:

2644 (I) The office shall order the corporation to charge only
2645 approved rates in effect for Monroe County on October 1, 2005,
2646 until any new rates are approved by the office.

2647 (II) The office shall hold one or more public hearings,
2648 with at least 30 days' advance notice to interested persons, in
2649 Monroe County prior to the approval or implementation of a rate

2650 filing which proposes rates that exceed rates that were in
2651 effect for Monroe County on October 1, 2005.

2652 (III) The office shall make available for public
2653 inspection 30 days prior to such hearings the office's written
2654 actuarial analysis if such analysis differs materially from that
2655 submitted by the corporation in support of the new rates filed.
2656 The office and the corporation shall also provide actuaries and
2657 qualified experts in attendance at such hearings to answer
2658 questions from actuaries or other qualified experts representing
2659 Monroe County or the public concerning the new rates filed.
2660 Additionally, the office shall provide for a technical hearing
2661 at which only actuaries and qualified experts representing the
2662 office, the corporation, Monroe County, or the Office of the
2663 Insurance Consumer Advocate may testify and at which the public
2664 may attend.

2665 (IV) Notwithstanding any other provision of law, the
2666 office shall order the portion of any premium collected in 2006
2667 based on a rate charged on a use and file bases above that which
2668 was actuarially justified to be returned to such policyholder in
2669 the form of a credit or refund.

2670 5. Rates for commercial lines coverage shall not be
2671 subject to the requirements of subparagraph 2., but shall be
2672 subject to all other requirements of this paragraph and s.
2673 627.062.

2674 6.a. Nothing in this paragraph shall require or allow the
2675 corporation to adopt a rate that is inadequate under s. 627.062
2676 or under sub-subparagraph b. or sub-subparagraph c.

2677 b. With respect to rates for coverage in any homestead
2678 account, a rate is deemed inadequate if the rate is not
2679 sufficient to generate, by means of cash flow, procurement of
2680 coverage under the Florida Hurricane Catastrophe Fund,
2681 reinsurance costs whether or not reinsurance is procured, and
2682 investment income, moneys sufficient to pay all claims and
2683 expenses reasonably expected to result from a 100-year probable
2684 maximum loss event without resort to any regular or emergency
2685 assessments, long-term debt, state revenues, or other funding
2686 sources that reflect any subsidy from persons or entities other
2687 than corporation homestead accounts policyholders.

2688 c.(I) With respect to rates for coverage in the
2689 nonhomestead account, a rate is deemed inadequate if the rate is
2690 not sufficient to generate, by means of cash flow, procurement
2691 of coverage under the Florida Hurricane Catastrophe Fund,
2692 reinsurance costs, whether or not reinsurance is procured, and
2693 investment income and moneys sufficient to pay all claims and
2694 expenses reasonably expected to result from a 125-year probable
2695 maximum loss event without resort to any assessments, debt,
2696 state revenues, or other funding sources that reflect any
2697 subsidy from persons or entities other than corporation
2698 nonhomestead account policyholders. The rate initially filed by
2699 the corporation to comply with this sub-sub-subparagraph shall
2700 only be effective for 1 year.

2701 (II) For the year following the initial year under sub-
2702 sub-subparagraph (I), the rate is deemed inadequate if the rate
2703 is not sufficient to generate moneys sufficient to pay all

2704 claims and expenses reasonably expected to result from a 150-
2705 year probable maximum loss event using the same criteria
2706 provided in sub-sub-subparagraph (I).

2707 (III) For the 2 years following the year under sub-sub-
2708 subparagraph (II), the rate shall be based upon a 175-year and
2709 200-year probable maximum loss event, respectively.

2710 7. The corporation shall certify to the office at least
2711 twice annually that its personal lines rates comply with the
2712 requirements of subparagraphs 1., and 2., and 6. If any
2713 adjustment in the rates or rating factors of the corporation is
2714 necessary to ensure such compliance, the corporation shall make
2715 and implement such adjustments and file its revised rates and
2716 rating factors with the office. If the office thereafter
2717 determines that the revised rates and rating factors fail to
2718 comply with the provisions of subparagraphs 1. and 2., it shall
2719 notify the corporation and require the corporation to amend its
2720 rates or rating factors in conjunction with its next rate
2721 filing. The office must notify the corporation by electronic
2722 means of any rate filing it approves for any insurer among the
2723 insurers referred to in subparagraph 2.

2724 8. In addition to the rates otherwise determined pursuant
2725 to this paragraph, the corporation shall impose and collect an
2726 amount equal to the premium tax provided for in s. 624.509 to
2727 augment the financial resources of the corporation.

2728 ~~9.a. To assist the corporation in developing additional~~
2729 ~~ratemaking methods to assure compliance with subparagraphs 1.~~
2730 ~~and 4., the corporation shall appoint a rate methodology panel~~

2731 ~~consisting of one person recommended by the Florida Association~~
 2732 ~~of Insurance Agents, one person recommended by the Professional~~
 2733 ~~Insurance Agents of Florida, one person recommended by the~~
 2734 ~~Florida Association of Insurance and Financial Advisors, one~~
 2735 ~~person recommended by the insurer with the highest voluntary~~
 2736 ~~market share of residential property insurance business in the~~
 2737 ~~state, one person recommended by the insurer with the second-~~
 2738 ~~highest voluntary market share of residential property insurance~~
 2739 ~~business in the state, one person recommended by an insurer~~
 2740 ~~writing commercial residential property insurance in this state,~~
 2741 ~~one person recommended by the Office of Insurance Regulation,~~
 2742 ~~and one board member designated by the board chairman, who shall~~
 2743 ~~serve as chairman of the panel.~~

2744 ~~b. By January 1, 2004, the rate methodology panel shall~~
 2745 ~~provide a report to the corporation of its findings and~~
 2746 ~~recommendations for the use of additional ratemaking methods and~~
 2747 ~~procedures, including the use of a rate equalization surcharge~~
 2748 ~~in an amount sufficient to assure that the total cost of~~
 2749 ~~coverage for policyholders or applicants to the corporation is~~
 2750 ~~sufficient to comply with subparagraph 1.~~

2751 ~~e. Within 30 days after such report, the corporation shall~~
 2752 ~~present to the President of the Senate, the Speaker of the House~~
 2753 ~~of Representatives, the minority party leaders of each house of~~
 2754 ~~the Legislature, and the chairs of the standing committees of~~
 2755 ~~each house of the Legislature having jurisdiction of insurance~~
 2756 ~~issues, a plan for implementing the additional ratemaking~~

2757 ~~methods and an outline of any legislation needed to facilitate~~
2758 ~~use of the new methods.~~

2759 ~~d. The plan must include a provision that producer~~
2760 ~~commissions paid by the corporation shall not be calculated in~~
2761 ~~such a manner as to include any rate equalization surcharge.~~
2762 ~~However, without regard to the plan to be developed or its~~
2763 ~~implementation, producer commissions paid by the corporation for~~
2764 ~~each account, other than the quota share primary program, shall~~
2765 ~~remain fixed as to percentage, effective rate, calculation, and~~
2766 ~~payment method until January 1, 2004.~~

2767 ~~9.10.~~ By January 1, 2004, The corporation shall provide
2768 ~~develop~~ a notice to policyholders or applicants that the rates
2769 of Citizens Property Insurance Corporation are intended to be
2770 higher than the rates of any admitted carrier and providing
2771 other information the corporation deems necessary to assist
2772 consumers in finding other voluntary admitted insurers willing
2773 to insure their property.

2774 ~~(m)(e)~~ If coverage in an account is deactivated pursuant
2775 to paragraph (f), coverage through the corporation shall be
2776 reactivated by order of the office only under one of the
2777 following circumstances:

2778 1. If the market assistance plan receives a minimum of 100
2779 applications for coverage within a 3-month period, or 200
2780 applications for coverage within a 1-year period or less for
2781 residential coverage, unless the market assistance plan provides
2782 a quotation from admitted carriers at their filed rates for at
2783 least 90 percent of such applicants. Any market assistance plan

2784 application that is rejected because an individual risk is so
2785 hazardous as to be uninsurable using the criteria specified in
2786 subparagraph (c)8. shall not be included in the minimum
2787 percentage calculation provided herein. In the event that there
2788 is a legal or administrative challenge to a determination by the
2789 office that the conditions of this subparagraph have been met
2790 for eligibility for coverage in the corporation, any eligible
2791 risk may obtain coverage during the pendency of such challenge.

2792 2. In response to a state of emergency declared by the
2793 Governor under s. 252.36, the office may activate coverage by
2794 order for the period of the emergency upon a finding by the
2795 office that the emergency significantly affects the availability
2796 of residential property insurance.

2797 (n)~~(f)~~1. The corporation shall file with the office
2798 quarterly statements of financial condition, an annual statement
2799 of financial condition, and audited financial statements in the
2800 manner prescribed by law. In addition, the corporation shall
2801 report to the office monthly on the types, premium, exposure,
2802 and distribution by county of its policies in force, and shall
2803 submit other reports as the office requires to carry out its
2804 oversight of the corporation.

2805 2. The activities of the corporation shall be reviewed at
2806 least annually by the office to determine whether coverage shall
2807 be deactivated in an account on the basis that the conditions
2808 giving rise to its activation no longer exist.

2809 (o)~~(g)~~1. The corporation shall certify to the office its
2810 needs for annual assessments as to a particular calendar year,

2811 and for any interim assessments that it deems to be necessary to
2812 sustain operations as to a particular year pending the receipt
2813 of annual assessments. Upon verification, the office shall
2814 approve such certification, and the corporation shall levy such
2815 annual or interim assessments. Such assessments shall be
2816 prorated as provided in paragraph (b). The corporation shall
2817 take all reasonable and prudent steps necessary to collect the
2818 amount of assessment due from each assessable insurer,
2819 including, if prudent, filing suit to collect such assessment.
2820 If the corporation is unable to collect an assessment from any
2821 assessable insurer, the uncollected assessments shall be levied
2822 as an additional assessment against the assessable insurers and
2823 any assessable insurer required to pay an additional assessment
2824 as a result of such failure to pay shall have a cause of action
2825 against such nonpaying assessable insurer. Assessments shall be
2826 included as an appropriate factor in the making of rates. The
2827 failure of a surplus lines agent to collect and remit any
2828 regular or emergency assessment levied by the corporation is
2829 considered to be a violation of s. 626.936 and subjects the
2830 surplus lines agent to the penalties provided in that section.

2831 2. The governing body of any unit of local government, any
2832 residents of which are insured by the corporation, may issue
2833 bonds as defined in s. 125.013 or s. 166.101 from time to time
2834 to fund an assistance program, in conjunction with the
2835 corporation, for the purpose of defraying deficits of the
2836 corporation. In order to avoid needless and indiscriminate
2837 proliferation, duplication, and fragmentation of such assistance

2838 programs, any unit of local government, any residents of which
2839 are insured by the corporation, may provide for the payment of
2840 losses, regardless of whether or not the losses occurred within
2841 or outside of the territorial jurisdiction of the local
2842 government. Revenue bonds under this subparagraph may not be
2843 issued until validated pursuant to chapter 75, unless a state of
2844 emergency is declared by executive order or proclamation of the
2845 Governor pursuant to s. 252.36 making such findings as are
2846 necessary to determine that it is in the best interests of, and
2847 necessary for, the protection of the public health, safety, and
2848 general welfare of residents of this state and declaring it an
2849 essential public purpose to permit certain municipalities or
2850 counties to issue such bonds as will permit relief to claimants
2851 and policyholders of the corporation. Any such unit of local
2852 government may enter into such contracts with the corporation
2853 and with any other entity created pursuant to this subsection as
2854 are necessary to carry out this paragraph. Any bonds issued
2855 under this subparagraph shall be payable from and secured by
2856 moneys received by the corporation from emergency assessments
2857 under sub-subparagraph (b)3.d., and assigned and pledged to or
2858 on behalf of the unit of local government for the benefit of the
2859 holders of such bonds. The funds, credit, property, and taxing
2860 power of the state or of the unit of local government shall not
2861 be pledged for the payment of such bonds. If any of the bonds
2862 remain unsold 60 days after issuance, the office shall require
2863 all insurers subject to assessment to purchase the bonds, which
2864 shall be treated as admitted assets; each insurer shall be

2865 required to purchase that percentage of the unsold portion of
2866 the bond issue that equals the insurer's relative share of
2867 assessment liability under this subsection. An insurer shall not
2868 be required to purchase the bonds to the extent that the office
2869 determines that the purchase would endanger or impair the
2870 solvency of the insurer.

2871 3.a. The corporation shall adopt one or more programs
2872 subject to approval by the office for the reduction of both new
2873 and renewal writings in the corporation. Beginning January 1,
2874 2008, any program the corporation adopts for the payment of
2875 bonuses to an insurer for each risk the insurer removes from the
2876 corporation shall comply with s. 627.3511(2) and may not exceed
2877 the amount referenced in s. 627.3511(2) for each risk removed.

2878 The corporation may consider any prudent and not unfairly
2879 discriminatory approach to reducing corporation writings, and
2880 may adopt a credit against assessment liability or other
2881 liability that provides an incentive for insurers to take risks
2882 out of the corporation and to keep risks out of the corporation
2883 by maintaining or increasing voluntary writings in counties or
2884 areas in which corporation risks are highly concentrated and a
2885 program to provide a formula under which an insurer voluntarily
2886 taking risks out of the corporation by maintaining or increasing
2887 voluntary writings will be relieved wholly or partially from
2888 assessments under sub-subparagraphs (b)3.a. and b. When the
2889 corporation enters into a contractual agreement for a take-out
2890 plan, the producing agent of record of the corporation policy is

2891 entitled to retain any unearned commission on such policy, and
 2892 the insurer shall either:

2893 (I) Pay to the producing agent of record of the policy,
 2894 for the first year, an amount which is the greater of the
 2895 insurer's usual and customary commission for the type of policy
 2896 written or a policy fee equal to the usual and customary
 2897 commission of the corporation; or

2898 (II) Offer to allow the producing agent of record of the
 2899 policy to continue servicing the policy for a period of not less
 2900 than 1 year and offer to pay the agent the insurer's usual and
 2901 customary commission for the type of policy written. If the
 2902 producing agent is unwilling or unable to accept appointment by
 2903 the new insurer, the new insurer shall pay the agent in
 2904 accordance with sub-sub-subparagraph (I).

2905 b. Any credit or exemption from regular assessments
 2906 adopted under this subparagraph shall last no longer than the 3
 2907 years following the cancellation or expiration of the policy by
 2908 the corporation. With the approval of the office, the board may
 2909 extend such credits for an additional year if the insurer
 2910 guarantees an additional year of renewability for all policies
 2911 removed from the corporation, or for 2 additional years if the
 2912 insurer guarantees 2 additional years of renewability for all
 2913 policies so removed.

2914 c. There shall be no credit, limitation, exemption, or
 2915 deferment from emergency assessments to be collected from
 2916 policyholders pursuant to sub-subparagraph (b)3.d.

2917 4. The plan shall provide for the deferment, in whole or
 2918 in part, of the assessment of an assessable insurer, other than
 2919 an emergency assessment collected from policyholders pursuant to
 2920 sub-subparagraph (b)3.d., if the office finds that payment of
 2921 the assessment would endanger or impair the solvency of the
 2922 insurer. In the event an assessment against an assessable
 2923 insurer is deferred in whole or in part, the amount by which
 2924 such assessment is deferred may be assessed against the other
 2925 assessable insurers in a manner consistent with the basis for
 2926 assessments set forth in paragraph (b).

2927 (p) ~~(h)~~ Nothing in this subsection shall be construed to
 2928 preclude the issuance of residential property insurance coverage
 2929 pursuant to part VIII of chapter 626.

2930 (q) ~~(i)~~ There shall be no liability on the part of, and no
 2931 cause of action of any nature shall arise against, any
 2932 assessable insurer or its agents or employees, the corporation
 2933 or its agents or employees, members of the board of governors or
 2934 their respective designees at a board meeting, corporation
 2935 committee members, or the office or its representatives, for any
 2936 action taken by them in the performance of their duties or
 2937 responsibilities under this subsection. Such immunity does not
 2938 apply to:

- 2939 1. Any of the foregoing persons or entities for any
- 2940 willful tort;
- 2941 2. The corporation or its producing agents for breach of
- 2942 any contract or agreement pertaining to insurance coverage;

2943 3. The corporation with respect to issuance or payment of
2944 debt; or

2945 4. Any assessable insurer with respect to any action to
2946 enforce an assessable insurer's obligations to the corporation
2947 under this subsection.

2948 (r)~~(j)~~ For the purposes of s. 199.183(1), the corporation
2949 shall be considered a political subdivision of the state and
2950 shall be exempt from the corporate income tax. The premiums,
2951 assessments, investment income, and other revenue of the
2952 corporation are funds received for providing property insurance
2953 coverage as required by this subsection, paying claims for
2954 Florida citizens insured by the corporation, securing and
2955 repaying debt obligations issued by the corporation, and
2956 conducting all other activities of the corporation, and shall
2957 not be considered taxes, fees, licenses, or charges for services
2958 imposed by the Legislature on individuals, businesses, or
2959 agencies outside state government. Bonds and other debt
2960 obligations issued by or on behalf of the corporation are not to
2961 be considered "state bonds" within the meaning of s. 215.58(8).
2962 The corporation is not subject to the procurement provisions of
2963 chapter 287, and policies and decisions of the corporation
2964 relating to incurring debt, levying of assessments and the sale,
2965 issuance, continuation, terms and claims under corporation
2966 policies, and all services relating thereto, are not subject to
2967 the provisions of chapter 120. The corporation is not required
2968 to obtain or to hold a certificate of authority issued by the
2969 office, nor is it required to participate as a member insurer of

2970 the Florida Insurance Guaranty Association. However, the
 2971 corporation is required to pay, in the same manner as an
 2972 authorized insurer, assessments pledged by the Florida Insurance
 2973 Guaranty Association to secure bonds issued or other
 2974 indebtedness incurred to pay covered claims arising from insurer
 2975 insolvencies caused by, or proximately related to, hurricane
 2976 losses. It is the intent of the Legislature that the tax
 2977 exemptions provided in this paragraph will augment the financial
 2978 resources of the corporation to better enable the corporation to
 2979 fulfill its public purposes. Any debt obligations ~~bonds~~ issued
 2980 by the corporation, their transfer, and the income therefrom,
 2981 including any profit made on the sale thereof, shall at all
 2982 times be free from taxation of every kind by the state and any
 2983 political subdivision or local unit or other instrumentality
 2984 thereof; however, this exemption does not apply to any tax
 2985 imposed by chapter 220 on interest, income, or profits on debt
 2986 obligations owned by corporations other than the corporation.

2987 (s) ~~(k)~~ Upon a determination by the office that the
 2988 conditions giving rise to the establishment and activation of
 2989 the corporation no longer exist, the corporation is dissolved.
 2990 Upon dissolution, the assets of the corporation shall be applied
 2991 first to pay all debts, liabilities, and obligations of the
 2992 corporation, including the establishment of reasonable reserves
 2993 for any contingent liabilities or obligations, and all remaining
 2994 assets of the corporation shall become property of the state and
 2995 shall be deposited in the Florida Hurricane Catastrophe Fund.
 2996 However, no dissolution shall take effect as long as the

2997 corporation has bonds or other financial obligations outstanding
 2998 unless adequate provision has been made for the payment of the
 2999 bonds or other financial obligations pursuant to the documents
 3000 authorizing the issuance of the bonds or other financial
 3001 obligations.

3002 (t)~~(l)~~1. Effective July 1, 2002, policies of the
 3003 Residential Property and Casualty Joint Underwriting Association
 3004 shall become policies of the corporation. All obligations,
 3005 rights, assets and liabilities of the Residential Property and
 3006 Casualty Joint Underwriting Association, including bonds, note
 3007 and debt obligations, and the financing documents pertaining to
 3008 them become those of the corporation as of July 1, 2002. The
 3009 corporation is not required to issue endorsements or
 3010 certificates of assumption to insureds during the remaining term
 3011 of in-force transferred policies.

3012 2. Effective July 1, 2002, policies of the Florida
 3013 Windstorm Underwriting Association are transferred to the
 3014 corporation and shall become policies of the corporation. All
 3015 obligations, rights, assets, and liabilities of the Florida
 3016 Windstorm Underwriting Association, including bonds, note and
 3017 debt obligations, and the financing documents pertaining to them
 3018 are transferred to and assumed by the corporation on July 1,
 3019 2002. The corporation is not required to issue endorsement or
 3020 certificates of assumption to insureds during the remaining term
 3021 of in-force transferred policies.

3022 3. The Florida Windstorm Underwriting Association and the
 3023 Residential Property and Casualty Joint Underwriting Association

3024 shall take all actions as may be proper to further evidence the
3025 transfers and shall provide the documents and instruments of
3026 further assurance as may reasonably be requested by the
3027 corporation for that purpose. The corporation shall execute
3028 assumptions and instruments as the trustees or other parties to
3029 the financing documents of the Florida Windstorm Underwriting
3030 Association or the Residential Property and Casualty Joint
3031 Underwriting Association may reasonably request to further
3032 evidence the transfers and assumptions, which transfers and
3033 assumptions, however, are effective on the date provided under
3034 this paragraph whether or not, and regardless of the date on
3035 which, the assumptions or instruments are executed by the
3036 corporation. Subject to the relevant financing documents
3037 pertaining to their outstanding bonds, notes, indebtedness, or
3038 other financing obligations, the moneys, investments,
3039 receivables, choses in action, and other intangibles of the
3040 Florida Windstorm Underwriting Association shall be credited to
3041 the high-risk account of the corporation, and those of the
3042 personal lines residential coverage account and the commercial
3043 lines residential coverage account of the Residential Property
3044 and Casualty Joint Underwriting Association shall be credited to
3045 the personal lines account and the commercial lines account,
3046 respectively, of the corporation.

3047 ~~4. Effective July 1, 2002, a new applicant for property~~
3048 ~~insurance coverage who would otherwise have been eligible for~~
3049 ~~coverage in the Florida Windstorm Underwriting Association is~~

3050 ~~eligible for coverage from the corporation as provided in this~~
3051 ~~subsection.~~

3052 4.5. The transfer of all policies, obligations, rights,
3053 assets, and liabilities from the Florida Windstorm Underwriting
3054 Association to the corporation and the renaming of the
3055 Residential Property and Casualty Joint Underwriting Association
3056 as the corporation shall in no way affect the coverage with
3057 respect to covered policies as defined in s. 215.555(2)(c)
3058 provided to these entities by the Florida Hurricane Catastrophe
3059 Fund. The coverage provided by the Florida Hurricane Catastrophe
3060 Fund to the Florida Windstorm Underwriting Association based on
3061 its exposures as of June 30, 2002, and each June 30 thereafter
3062 shall be redesignated as coverage for the high-risk account of
3063 the corporation. Notwithstanding any other provision of law, the
3064 coverage provided by the Florida Hurricane Catastrophe Fund to
3065 the Residential Property and Casualty Joint Underwriting
3066 Association based on its exposures as of June 30, 2002, and each
3067 June 30 thereafter shall be transferred to the personal lines
3068 account and the commercial lines account of the corporation.
3069 Notwithstanding any other provision of law, the high-risk
3070 account shall be treated, for all Florida Hurricane Catastrophe
3071 Fund purposes, as if it were a separate participating insurer
3072 with its own exposures, reimbursement premium, and loss
3073 reimbursement. Likewise, the personal lines and commercial lines
3074 accounts shall be viewed together, for all Florida Hurricane
3075 Catastrophe Fund purposes, as if the two accounts were one and
3076 represent a single, separate participating insurer with its own

3077 exposures, reimbursement premium, and loss reimbursement. The
3078 coverage provided by the Florida Hurricane Catastrophe Fund to
3079 the corporation shall constitute and operate as a full transfer
3080 of coverage from the Florida Windstorm Underwriting Association
3081 and Residential Property and Casualty Joint Underwriting to the
3082 corporation.

3083 (u) ~~(m)~~ Notwithstanding any other provision of law:

3084 1. The pledge or sale of, the lien upon, and the security
3085 interest in any rights, revenues, or other assets of the
3086 corporation created or purported to be created pursuant to any
3087 financing documents to secure any bonds or other indebtedness of
3088 the corporation shall be and remain valid and enforceable,
3089 notwithstanding the commencement of and during the continuation
3090 of, and after, any rehabilitation, insolvency, liquidation,
3091 bankruptcy, receivership, conservatorship, reorganization, or
3092 similar proceeding against the corporation under the laws of
3093 this state.

3094 2. No such proceeding shall relieve the corporation of its
3095 obligation, or otherwise affect its ability to perform its
3096 obligation, to continue to collect, or levy and collect,
3097 assessments, Citizens Property Insurance Corporation
3098 policyholder ~~market equalization~~ or other surcharges under
3099 subparagraph (c)10., or any other rights, revenues, or other
3100 assets of the corporation pledged pursuant to any financing
3101 documents.

3102 3. Each such pledge or sale of, lien upon, and security
3103 interest in, including the priority of such pledge, lien, or

3104 security interest, any such assessments, market equalization or
3105 other surcharges, or other rights, revenues, or other assets
3106 which are collected, or levied and collected, after the
3107 commencement of and during the pendency of, or after, any such
3108 proceeding shall continue unaffected by such proceeding. As used
3109 in this subsection, the term "financing documents" means any
3110 agreement or agreements, instrument or instruments, or other
3111 document or documents now existing or hereafter created
3112 evidencing any bonds or other indebtedness of the corporation or
3113 pursuant to which any such bonds or other indebtedness has been
3114 or may be issued and pursuant to which any rights, revenues, or
3115 other assets of the corporation are pledged or sold to secure
3116 the repayment of such bonds or indebtedness, together with the
3117 payment of interest on such bonds or such indebtedness, or the
3118 payment of any other obligation or financial product, as defined
3119 in the plan of operation of the corporation related to such
3120 bonds or indebtedness.

3121 4. Any such pledge or sale of assessments, revenues,
3122 contract rights, or other rights or assets of the corporation
3123 shall constitute a lien and security interest, or sale, as the
3124 case may be, that is immediately effective and attaches to such
3125 assessments, revenues, or contract rights or other rights or
3126 assets, whether or not imposed or collected at the time the
3127 pledge or sale is made. Any such pledge or sale is effective,
3128 valid, binding, and enforceable against the corporation or other
3129 entity making such pledge or sale, and valid and binding against
3130 and superior to any competing claims or obligations owed to any

3131 other person or entity, including policyholders in this state,
3132 asserting rights in any such assessments, revenues, or contract
3133 rights or other rights or assets to the extent set forth in and
3134 in accordance with the terms of the pledge or sale contained in
3135 the applicable financing documents, whether or not any such
3136 person or entity has notice of such pledge or sale and without
3137 the need for any physical delivery, recordation, filing, or
3138 other action.

3139 5. As long as the corporation has any bonds outstanding,
3140 the corporation may not file a voluntary petition under chapter
3141 9 of the federal Bankruptcy Code, or such corresponding chapter
3142 or sections as may be in effect from time to time, and any
3143 public officer and any organization, entity, or other person may
3144 not authorize the corporation to be or become a debtor under
3145 chapter 9 of the federal Bankruptcy Code, or such corresponding
3146 chapter or sections as may be in effect from time to time,
3147 during any such period.

3148 6. If ordered by a court of competent jurisdiction, the
3149 corporation may assume policies or otherwise provide coverage
3150 for policyholders of an insurer placed in liquidation under
3151 chapter 631, under such forms, rates, terms, and conditions as
3152 the corporation deems appropriate, subject to approval by the
3153 office.

3154 (v) ~~(n)~~1. The following records of the corporation are
3155 confidential and exempt from the provisions of s. 119.07(1) and
3156 s. 24(a), Art. I of the State Constitution:

3157 a. Underwriting files, except that a policyholder or an
 3158 applicant shall have access to his or her own underwriting
 3159 files.

3160 b. Claims files, until termination of all litigation and
 3161 settlement of all claims arising out of the same incident,
 3162 although portions of the claims files may remain exempt, as
 3163 otherwise provided by law. Confidential and exempt claims file
 3164 records may be released to other governmental agencies upon
 3165 written request and demonstration of need; such records held by
 3166 the receiving agency remain confidential and exempt as provided
 3167 for herein.

3168 c. Records obtained or generated by an internal auditor
 3169 pursuant to a routine audit, until the audit is completed, or if
 3170 the audit is conducted as part of an investigation, until the
 3171 investigation is closed or ceases to be active. An investigation
 3172 is considered "active" while the investigation is being
 3173 conducted with a reasonable, good faith belief that it could
 3174 lead to the filing of administrative, civil, or criminal
 3175 proceedings.

3176 d. Matters reasonably encompassed in privileged attorney-
 3177 client communications.

3178 e. Proprietary information licensed to the corporation
 3179 under contract and the contract provides for the confidentiality
 3180 of such proprietary information.

3181 f. All information relating to the medical condition or
 3182 medical status of a corporation employee which is not relevant
 3183 to the employee's capacity to perform his or her duties, except

3184 as otherwise provided in this paragraph. Information which is
3185 exempt shall include, but is not limited to, information
3186 relating to workers' compensation, insurance benefits, and
3187 retirement or disability benefits.

3188 g. Upon an employee's entrance into the employee
3189 assistance program, a program to assist any employee who has a
3190 behavioral or medical disorder, substance abuse problem, or
3191 emotional difficulty which affects the employee's job
3192 performance, all records relative to that participation shall be
3193 confidential and exempt from the provisions of s. 119.07(1) and
3194 s. 24(a), Art. I of the State Constitution, except as otherwise
3195 provided in s. 112.0455(11).

3196 h. Information relating to negotiations for financing,
3197 reinsurance, depopulation, or contractual services, until the
3198 conclusion of the negotiations.

3199 i. Minutes of closed meetings regarding underwriting
3200 files, and minutes of closed meetings regarding an open claims
3201 file until termination of all litigation and settlement of all
3202 claims with regard to that claim, except that information
3203 otherwise confidential or exempt by law will be redacted.

3204
3205 When an authorized insurer is considering underwriting a risk
3206 insured by the corporation, relevant underwriting files and
3207 confidential claims files may be released to the insurer
3208 provided the insurer agrees in writing, notarized and under
3209 oath, to maintain the confidentiality of such files. When a file
3210 is transferred to an insurer that file is no longer a public

3211 record because it is not held by an agency subject to the
3212 provisions of the public records law. Underwriting files and
3213 confidential claims files may also be released to staff of and
3214 the board of governors of the market assistance plan established
3215 pursuant to s. 627.3515, who must retain the confidentiality of
3216 such files, except such files may be released to authorized
3217 insurers that are considering assuming the risks to which the
3218 files apply, provided the insurer agrees in writing, notarized
3219 and under oath, to maintain the confidentiality of such files.
3220 Finally, the corporation or the board or staff of the market
3221 assistance plan may make the following information obtained from
3222 underwriting files and confidential claims files available to
3223 licensed general lines insurance agents: name, address, and
3224 telephone number of the residential property owner or insured;
3225 location of the risk; rating information; loss history; and
3226 policy type. The receiving licensed general lines insurance
3227 agent must retain the confidentiality of the information
3228 received.

3229 2. Portions of meetings of the corporation are exempt from
3230 the provisions of s. 286.011 and s. 24(b), Art. I of the State
3231 Constitution wherein confidential underwriting files or
3232 confidential open claims files are discussed. All portions of
3233 corporation meetings which are closed to the public shall be
3234 recorded by a court reporter. The court reporter shall record
3235 the times of commencement and termination of the meeting, all
3236 discussion and proceedings, the names of all persons present at
3237 any time, and the names of all persons speaking. No portion of

3238 any closed meeting shall be off the record. Subject to the
3239 provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
3240 notes of any closed meeting shall be retained by the corporation
3241 for a minimum of 5 years. A copy of the transcript, less any
3242 exempt matters, of any closed meeting wherein claims are
3243 discussed shall become public as to individual claims after
3244 settlement of the claim.

3245 (w)~~(e)~~ It is the intent of the Legislature that the
3246 amendments to this subsection enacted in 2002 should, over time,
3247 reduce the probable maximum windstorm losses in the residual
3248 markets and should reduce the potential assessments to be levied
3249 on property insurers and policyholders statewide. In furtherance
3250 of this intent:

3251 1. The board shall, on or before February 1 of each year,
3252 provide a report to the President of the Senate and the Speaker
3253 of the House of Representatives showing the reduction or
3254 increase in the 100-year probable maximum loss attributable to
3255 wind-only coverages and the quota share program under this
3256 subsection combined, as compared to the benchmark 100-year
3257 probable maximum loss of the Florida Windstorm Underwriting
3258 Association. For purposes of this paragraph, the benchmark 100-
3259 year probable maximum loss of the Florida Windstorm Underwriting
3260 Association shall be the calculation dated February 2001 and
3261 based on November 30, 2000, exposures. In order to ensure
3262 comparability of data, the board shall use the same methods for
3263 calculating its probable maximum loss as were used to calculate
3264 the benchmark probable maximum loss. The reduction or increase

3265 in probable maximum loss shall be calculated without taking into
3266 account the probable maximum loss attributable to the
3267 nonhomestead account.

3268 2. Beginning February 1, 2013 ~~2007~~, if the report under
3269 subparagraph 1. for any year indicates that the 100-year
3270 probable maximum loss attributable to wind-only coverages and
3271 the quota share program combined does not reflect a reduction of
3272 at least 25 percent from the benchmark, the board shall reduce
3273 the boundaries of the high-risk area eligible for wind-only
3274 coverages under this subsection in a manner calculated to reduce
3275 such probable maximum loss to an amount at least 25 percent
3276 below the benchmark.

3277 3. Beginning February 1, 2018 ~~2012~~, if the report under
3278 subparagraph 1. for any year indicates that the 100-year
3279 probable maximum loss attributable to wind-only coverages and
3280 the quota share program combined does not reflect a reduction of
3281 at least 50 percent from the benchmark, the boundaries of the
3282 high-risk area eligible for wind-only coverages under this
3283 subsection shall be reduced by the elimination of any area that
3284 is not seaward of a line 1,000 feet inland from the Intracoastal
3285 Waterway.

3286 (x) ~~(p)~~ In enacting the provisions of this section, the
3287 Legislature recognizes that both the Florida Windstorm
3288 Underwriting Association and the Residential Property and
3289 Casualty Joint Underwriting Association have entered into
3290 financing arrangements that obligate each entity to service its
3291 debts and maintain the capacity to repay funds secured under

3292 | these financing arrangements. It is the intent of the
3293 | Legislature that nothing in this section be construed to
3294 | compromise, diminish, or interfere with the rights of creditors
3295 | under such financing arrangements. It is further the intent of
3296 | the Legislature to preserve the obligations of the Florida
3297 | Windstorm Underwriting Association and Residential Property and
3298 | Casualty Joint Underwriting Association with regard to
3299 | outstanding financing arrangements, with such obligations
3300 | passing entirely and unchanged to the corporation and,
3301 | specifically, to the applicable account of the corporation. So
3302 | long as any bonds, notes, indebtedness, or other financing
3303 | obligations of the Florida Windstorm Underwriting Association or
3304 | the Residential Property and Casualty Joint Underwriting
3305 | Association are outstanding, under the terms of the financing
3306 | documents pertaining to them, the governing board of the
3307 | corporation shall have and shall exercise the authority to levy,
3308 | charge, collect, and receive all premiums, assessments,
3309 | surcharges, charges, revenues, and receipts that the
3310 | associations had authority to levy, charge, collect, or receive
3311 | under the provisions of subsection (2) and this subsection,
3312 | respectively, as they existed on January 1, 2002, to provide
3313 | moneys, without exercise of the authority provided by this
3314 | subsection, in at least the amounts, and by the times, as would
3315 | be provided under those former provisions of subsection (2) or
3316 | this subsection, respectively, so that the value, amount, and
3317 | collectability of any assets, revenues, or revenue source
3318 | pledged or committed to, or any lien thereon securing such

3319 outstanding bonds, notes, indebtedness, or other financing
3320 obligations will not be diminished, impaired, or adversely
3321 affected by the amendments made by this act and to permit
3322 compliance with all provisions of financing documents pertaining
3323 to such bonds, notes, indebtedness, or other financing
3324 obligations, or the security or credit enhancement for them, and
3325 any reference in this subsection to bonds, notes, indebtedness,
3326 financing obligations, or similar obligations, of the
3327 corporation shall include like instruments or contracts of the
3328 Florida Windstorm Underwriting Association and the Residential
3329 Property and Casualty Joint Underwriting Association to the
3330 extent not inconsistent with the provisions of the financing
3331 documents pertaining to them.

3332 (y) ~~(e)~~ The corporation shall not require the securing of
3333 flood insurance as a condition of coverage if the insured or
3334 applicant executes a form approved by the office affirming that
3335 flood insurance is not provided by the corporation and that if
3336 flood insurance is not secured by the applicant or insured in
3337 addition to coverage by the corporation, the risk will not be
3338 covered for flood damage. A corporation policyholder electing
3339 not to secure flood insurance and executing a form as provided
3340 herein making a claim for water damage against the corporation
3341 shall have the burden of proving the damage was not caused by
3342 flooding. Notwithstanding other provisions of this subsection,
3343 the corporation may deny coverage to an applicant or insured who
3344 refuses to execute the form described herein.

3345 (z)~~(r)~~ A salaried employee of the corporation who performs
3346 policy administration services subsequent to the effectuation of
3347 a corporation policy is not required to be licensed as an agent
3348 under the provisions of s. 626.112.

3349 (aa)~~(s)~~ The transition to homestead and nonhomestead
3350 accounts shall begin on October 1, 2006. A policy issued on or
3351 after that date shall be issued in the applicable homestead
3352 account or the nonhomestead account, based upon whether the
3353 property constitutes homestead property as provided in
3354 subparagraph (b)2. A policy in effect on October 1, 2006, shall
3355 be placed in the applicable homestead account or the
3356 nonhomestead account, based upon whether the property
3357 constitutes homestead property as provided in subparagraph
3358 (b)2., upon the first renewal of such policy after October 1,
3359 2006.

3360 (bb)~~(u)~~ An employee of the corporation shall notify the
3361 Division of Insurance Fraud within 48 hours after having
3362 information that would lead a reasonable person to suspect that
3363 fraud may have been committed by any employee of the
3364 corporation.

3365 (cc)~~(v)~~ By February 1, 2007, the corporation shall submit
3366 a report to the President of the Senate, the Speaker of the
3367 House of Representatives, the minority party leaders of the
3368 Senate and the House of Representatives, and the chairs of the
3369 standing committees of the Senate and the House of
3370 Representatives having jurisdiction over matters relating to
3371 property and casualty insurance. In preparing the report, the

3372 corporation shall consult with the Office of Insurance
3373 Regulation, the Department of Financial Services, and any other
3374 party the corporation determines is appropriate. The report
3375 shall include findings and recommendations on the feasibility of
3376 requiring authorized insurers that issue and service personal
3377 and commercial residential policies and commercial
3378 nonresidential policies that provide coverage for basic property
3379 perils except for the peril of wind to issue and service for a
3380 fee personal and commercial residential policies and commercial
3381 nonresidential policies providing coverage for the peril of wind
3382 issued by the corporation. The report shall include:

- 3383 1. The expense savings to the corporation of issuing and
3384 servicing such policies as determined through a cost benefit
3385 analysis.
- 3386 2. The expenses and liability to authorized insurers
3387 associated with issuing and servicing such policies.
- 3388 3. The impact on service to policyholders of the
3389 corporation relating to issuing and servicing such policies.
- 3390 4. The impact on the producing agent of the corporation of
3391 issuing and servicing such policies.
- 3392 5. Recommendations as to the amount of the fee that should
3393 be paid to authorized insurers for issuing and servicing such
3394 policies.
- 3395 6. The impact issuing and servicing such policies will
3396 have on the corporation's number of policies, total insured
3397 value, and probable maximum loss.

3398 (dd) ~~(w)~~ There shall be no liability on the part of, and no
 3399 cause of action of any nature shall arise against, producing
 3400 agents of record of the corporation or employees of such agents
 3401 for insolvency of any take-out insurer.

3402 (ee) ~~(x)~~ The Legislature finds that the total area eligible
 3403 for the high-risk account of the corporation has a material
 3404 impact on the availability of wind coverage from the voluntary
 3405 admitted market, deficits of the corporation, assessments to be
 3406 levied on property insurers and policyholders statewide, the
 3407 ability and willingness of authorized insurers to write wind
 3408 coverage in the high-risk areas, the probable maximum windstorm
 3409 losses of the corporation, general commerce in coastal areas,
 3410 and the overall financial condition of the state. Therefore, in
 3411 furtherance of these findings and intent:

- 3412 1. The High Risk Eligibility Panel is created.
- 3413 2. The members of the panel shall be appointed as follows:
 - 3414 a. The board shall appoint two board members.
 - 3415 b. The Governor shall appoint one member.
 - 3416 c. The Chief Financial Officer shall appoint one member.
 - 3417 d. The Commissioner of Insurance Regulation shall appoint
 3418 a representative of the office to serve as a member.
 - 3419 e. The President of the Senate shall appoint one member.
 - 3420 f. The Speaker of the House of Representatives shall
 3421 appoint one member.

3422

3423 Members of the panel must be residents of this state with
 3424 insurance expertise. Members shall elect a chair and shall serve

3425 3-year terms each. The panel shall operate independently of any
3426 state agency and shall be administered by the corporation. The
3427 panel shall make an annual report to the President of the Senate
3428 and the Speaker of the House of Representatives on or before
3429 February 1 of each year recommending the areas that should be
3430 eligible for the high-risk account of the corporation. Members
3431 shall not receive compensation and are not entitled to receive
3432 reimbursement for per diem and travel expenses as provided in s.
3433 112.061, except for any panel member who is a state employee.

3434 3. The Legislature's intent provided in subparagraphs
3435 (a)1. and 2. shall provide guidance for the panel to use in the
3436 panel's recommendations to the Legislature required in
3437 subparagraph 1. The panel shall consider the following factors
3438 in fulfilling its responsibilities under this paragraph:

3439 a. The number of commercial risks in a given area that are
3440 unable to find wind coverage from the voluntary admitted market.

3441 b. Reports from members of the mortgage industry
3442 indicating difficulty in finding forced placed policies for
3443 commercial wind coverage.

3444 c. The number of approved excess and surplus lines
3445 carriers certifying an unwillingness to provide commercial wind
3446 coverage similar to that approved for use by the office for the
3447 voluntary admitted market.

3448 d. Other relevant factors.

3449
3450 The office and the corporation shall provide the panel with any
3451 information the panel considers necessary to determine areas

3452 eligible for the high-risk account of the corporation. For the
3453 purpose of making accurate determinations for areas eligible for
3454 the high-risk account of the corporation, the panel may
3455 interview and request and receive information from residents of
3456 this state in areas impacted by this paragraph, including, but
3457 not limited to, insurance agents, insurance companies,
3458 actuaries, and other insurance professionals. Upon request of
3459 the panel, the office may conduct public hearings in areas that
3460 may be impacted by the panel's recommendations.

3461 4. Notwithstanding other provisions of this paragraph, the
3462 panel shall conduct an analysis to determine the areas to be
3463 eligible for the high-risk account of the corporation for any
3464 county that contains an eligible area extending more than 2
3465 miles from the coast, any coastal county that does not have
3466 areas designated as eligible for the high-risk account, and
3467 counties with barrier islands whether or not such islands or
3468 portions of such islands are currently eligible for the high
3469 risk account. The panel shall submit a report, including its
3470 analysis, to the office and to the corporation by November 30,
3471 2006. The report shall specify changes to the areas eligible for
3472 the high-risk account for such affected counties based on its
3473 analysis.

3474 Section 13. Effective January 1, 2007, paragraph (c) of
3475 subsection (6) of section 627.351, Florida Statutes, as amended
3476 by this act, is amended to read:

3477 627.351 Insurance risk apportionment plans.--

3478 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

3479 (c) The plan of operation of the corporation:
 3480 1. Must provide for adoption of residential property and
 3481 casualty insurance policy forms and commercial residential and
 3482 nonresidential property insurance forms, which forms must be
 3483 approved by the office prior to use. The corporation shall adopt
 3484 the following policy forms:
 3485 a. Standard personal lines policy forms that are
 3486 comprehensive multiperil policies providing full coverage of a
 3487 residential property equivalent to the coverage provided in the
 3488 private insurance market under an HO-3, HO-4, or HO-6 policy.
 3489 b. Basic personal lines policy forms that are policies
 3490 similar to an HO-8 policy or a dwelling fire policy that provide
 3491 coverage meeting the requirements of the secondary mortgage
 3492 market, but which coverage is more limited than the coverage
 3493 under a standard policy.
 3494 c. Commercial lines residential policy forms that are
 3495 generally similar to the basic perils of full coverage
 3496 obtainable for commercial residential structures in the admitted
 3497 voluntary market.
 3498 d. Personal lines and commercial lines residential
 3499 property insurance forms that cover the peril of wind only. The
 3500 forms are applicable only to residential properties located in
 3501 areas eligible for coverage under the high-risk account referred
 3502 to in sub-subparagraph (b)2.a.
 3503 e. Commercial lines nonresidential property insurance
 3504 forms that cover the peril of wind only. The forms are
 3505 applicable only to nonresidential properties located in areas

3506 eligible for coverage under the high-risk account referred to in
 3507 sub-subparagraph (b)2.a.

3508 f. The corporation may adopt variations of the policy
 3509 forms listed in sub-subparagraphs a.-e. that contain more
 3510 restrictive coverage.

3511 2.a. Must provide that the corporation adopt a program in
 3512 which the corporation and authorized insurers enter into quota
 3513 share primary insurance agreements for hurricane coverage, as
 3514 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 3515 property insurance forms for eligible risks which cover the
 3516 peril of wind only. As used in this subsection, the term:

3517 (I) "Quota share primary insurance" means an arrangement
 3518 in which the primary hurricane coverage of an eligible risk is
 3519 provided in specified percentages by the corporation and an
 3520 authorized insurer. The corporation and authorized insurer are
 3521 each solely responsible for a specified percentage of hurricane
 3522 coverage of an eligible risk as set forth in a quota share
 3523 primary insurance agreement between the corporation and an
 3524 authorized insurer and the insurance contract. The
 3525 responsibility of the corporation or authorized insurer to pay
 3526 its specified percentage of hurricane losses of an eligible
 3527 risk, as set forth in the quota share primary insurance
 3528 agreement, may not be altered by the inability of the other
 3529 party to the agreement to pay its specified percentage of
 3530 hurricane losses. Eligible risks that are provided hurricane
 3531 coverage through a quota share primary insurance arrangement
 3532 must be provided policy forms that set forth the obligations of

3533 the corporation and authorized insurer under the arrangement,
3534 clearly specify the percentages of quota share primary insurance
3535 provided by the corporation and authorized insurer, and
3536 conspicuously and clearly state that neither the authorized
3537 insurer nor the corporation may be held responsible beyond its
3538 specified percentage of coverage of hurricane losses.

3539 (II) "Eligible risks" means personal lines residential and
3540 commercial lines residential risks that meet the underwriting
3541 criteria of the corporation and are located in areas that were
3542 eligible for coverage by the Florida Windstorm Underwriting
3543 Association on January 1, 2002.

3544 b. The corporation may enter into quota share primary
3545 insurance agreements with authorized insurers at corporation
3546 coverage levels of 90 percent and 50 percent.

3547 c. If the corporation determines that additional coverage
3548 levels are necessary to maximize participation in quota share
3549 primary insurance agreements by authorized insurers, the
3550 corporation may establish additional coverage levels. However,
3551 the corporation's quota share primary insurance coverage level
3552 may not exceed 90 percent.

3553 d. Any quota share primary insurance agreement entered
3554 into between an authorized insurer and the corporation must
3555 provide for a uniform specified percentage of coverage of
3556 hurricane losses, by county or territory as set forth by the
3557 corporation board, for all eligible risks of the authorized
3558 insurer covered under the quota share primary insurance
3559 agreement.

3560 e. Any quota share primary insurance agreement entered
3561 into between an authorized insurer and the corporation is
3562 subject to review and approval by the office. However, such
3563 agreement shall be authorized only as to insurance contracts
3564 entered into between an authorized insurer and an insured who is
3565 already insured by the corporation for wind coverage.

3566 f. For all eligible risks covered under quota share
3567 primary insurance agreements, the exposure and coverage levels
3568 for both the corporation and authorized insurers shall be
3569 reported by the corporation to the Florida Hurricane Catastrophe
3570 Fund. For all policies of eligible risks covered under quota
3571 share primary insurance agreements, the corporation and the
3572 authorized insurer shall maintain complete and accurate records
3573 for the purpose of exposure and loss reimbursement audits as
3574 required by Florida Hurricane Catastrophe Fund rules. The
3575 corporation and the authorized insurer shall each maintain
3576 duplicate copies of policy declaration pages and supporting
3577 claims documents.

3578 g. The corporation board shall establish in its plan of
3579 operation standards for quota share agreements which ensure that
3580 there is no discriminatory application among insurers as to the
3581 terms of quota share agreements, pricing of quota share
3582 agreements, incentive provisions if any, and consideration paid
3583 for servicing policies or adjusting claims.

3584 h. The quota share primary insurance agreement between the
3585 corporation and an authorized insurer must set forth the
3586 specific terms under which coverage is provided, including, but

3587 not limited to, the sale and servicing of policies issued under
3588 the agreement by the insurance agent of the authorized insurer
3589 producing the business, the reporting of information concerning
3590 eligible risks, the payment of premium to the corporation, and
3591 arrangements for the adjustment and payment of hurricane claims
3592 incurred on eligible risks by the claims adjuster and personnel
3593 of the authorized insurer. Entering into a quota sharing
3594 insurance agreement between the corporation and an authorized
3595 insurer shall be voluntary and at the discretion of the
3596 authorized insurer.

3597 3. May provide that the corporation may employ or
3598 otherwise contract with individuals or other entities to provide
3599 administrative or professional services that may be appropriate
3600 to effectuate the plan. The corporation shall have the power to
3601 borrow funds, by issuing bonds or by incurring other
3602 indebtedness, and shall have other powers reasonably necessary
3603 to effectuate the requirements of this subsection, including,
3604 without limitation, the power to issue bonds and incur other
3605 indebtedness in order to refinance outstanding bonds or other
3606 indebtedness. The corporation may, but is not required to, seek
3607 judicial validation of its bonds or other indebtedness under
3608 chapter 75. The corporation may issue bonds or incur other
3609 indebtedness, or have bonds issued on its behalf by a unit of
3610 local government pursuant to subparagraph (g)2., in the absence
3611 of a hurricane or other weather-related event, upon a
3612 determination by the corporation, subject to approval by the
3613 office, that such action would enable it to efficiently meet the

3614 financial obligations of the corporation and that such
3615 financings are reasonably necessary to effectuate the
3616 requirements of this subsection. The corporation is authorized
3617 to take all actions needed to facilitate tax-free status for any
3618 such bonds or indebtedness, including formation of trusts or
3619 other affiliated entities. The corporation shall have the
3620 authority to pledge assessments, projected recoveries from the
3621 Florida Hurricane Catastrophe Fund, other reinsurance
3622 recoverables, market equalization and other surcharges, and
3623 other funds available to the corporation as security for bonds
3624 or other indebtedness. In recognition of s. 10, Art. I of the
3625 State Constitution, prohibiting the impairment of obligations of
3626 contracts, it is the intent of the Legislature that no action be
3627 taken whose purpose is to impair any bond indenture or financing
3628 agreement or any revenue source committed by contract to such
3629 bond or other indebtedness.

3630 4.a. Must require that the corporation operate subject to
3631 the supervision and approval of a board of governors consisting
3632 of 8 individuals who are residents of this state, from different
3633 geographical areas of this state. The Governor, the Chief
3634 Financial Officer, the President of the Senate, and the Speaker
3635 of the House of Representatives shall each appoint two members
3636 of the board, effective August 1, 2005. At least one of the two
3637 members appointed by each appointing officer must have
3638 demonstrated expertise in insurance. The Chief Financial Officer
3639 shall designate one of the appointees as chair. All board
3640 members serve at the pleasure of the appointing officer. All

3641 board members, including the chair, must be appointed to serve
 3642 for 3-year terms beginning annually on a date designated by the
 3643 plan. Any board vacancy shall be filled for the unexpired term
 3644 by the appointing officer. The Chief Financial Officer shall
 3645 appoint a technical advisory group to provide information and
 3646 advice to the board of governors in connection with the board's
 3647 duties under this subsection. The executive director and senior
 3648 managers of the corporation shall be engaged by the board, as
 3649 recommended by the Chief Financial Officer, and serve at the
 3650 pleasure of the board. The executive director is responsible for
 3651 employing other staff as the corporation may require, subject to
 3652 review and concurrence by the board and the Chief Financial
 3653 Officer.

3654 b. The board shall create a Market Accountability Advisory
 3655 Committee to assist the corporation in developing awareness of
 3656 its rates and its customer and agent service levels in
 3657 relationship to the voluntary market insurers writing similar
 3658 coverage. The members of the advisory committee shall consist of
 3659 the following 11 persons, one of whom must be elected chair by
 3660 the members of the committee: four representatives, one
 3661 appointed by the Florida Association of Insurance Agents, one by
 3662 the Florida Association of Insurance and Financial Advisors, one
 3663 by the Professional Insurance Agents of Florida, and one by the
 3664 Latin American Association of Insurance Agencies; three
 3665 representatives appointed by the insurers with the three highest
 3666 voluntary market share of residential property insurance
 3667 business in the state; one representative from the Office of

3668 Insurance Regulation; one consumer appointed by the board who is
3669 insured by the corporation at the time of appointment to the
3670 committee; one representative appointed by the Florida
3671 Association of Realtors; and one representative appointed by the
3672 Florida Bankers Association. All members must serve for 3-year
3673 terms and may serve for consecutive terms. The committee shall
3674 report to the corporation at each board meeting on insurance
3675 market issues which may include rates and rate competition with
3676 the voluntary market; service, including policy issuance, claims
3677 processing, and general responsiveness to policyholders,
3678 applicants, and agents; and matters relating to depopulation.

3679 5. Must provide a procedure for determining the
3680 eligibility of a risk for coverage, as follows:

3681 a. Subject to the provisions of s. 627.3517, with respect
3682 to personal lines residential risks, if the risk is offered
3683 coverage from an authorized insurer at the insurer's approved
3684 rate under either a standard policy including wind coverage or,
3685 if consistent with the insurer's underwriting rules as filed
3686 with the office, a basic policy including wind coverage, the
3687 risk is not eligible for any policy issued by the corporation.
3688 If the risk is not able to obtain any such offer, the risk is
3689 eligible for either a standard policy including wind coverage or
3690 a basic policy including wind coverage issued by the
3691 corporation; however, if the risk could not be insured under a
3692 standard policy including wind coverage regardless of market
3693 conditions, the risk shall be eligible for a basic policy
3694 including wind coverage unless rejected under subparagraph 8.

3695 The corporation shall determine the type of policy to be
3696 provided on the basis of objective standards specified in the
3697 underwriting manual and based on generally accepted underwriting
3698 practices.

3699 (I) If the risk accepts an offer of coverage through the
3700 market assistance plan or an offer of coverage through a
3701 mechanism established by the corporation before a policy is
3702 issued to the risk by the corporation or during the first 30
3703 days of coverage by the corporation, and the producing agent who
3704 submitted the application to the plan or to the corporation is
3705 not currently appointed by the insurer, the insurer shall:

3706 (A) Pay to the producing agent of record of the policy,
3707 for the first year, an amount that is the greater of the
3708 insurer's usual and customary commission for the type of policy
3709 written or a fee equal to the usual and customary commission of
3710 the corporation; or

3711 (B) Offer to allow the producing agent of record of the
3712 policy to continue servicing the policy for a period of not less
3713 than 1 year and offer to pay the agent the greater of the
3714 insurer's or the corporation's usual and customary commission
3715 for the type of policy written.

3716

3717 If the producing agent is unwilling or unable to accept
3718 appointment, the new insurer shall pay the agent in accordance
3719 with sub-sub-sub-subparagraph (A).

3720 (II) When the corporation enters into a contractual
3721 agreement for a take-out plan, the producing agent of record of

3722 the corporation policy is entitled to retain any unearned
3723 commission on the policy, and the insurer shall:

3724 (A) Pay to the producing agent of record of the
3725 corporation policy, for the first year, an amount that is the
3726 greater of the insurer's usual and customary commission for the
3727 type of policy written or a fee equal to the usual and customary
3728 commission of the corporation; or

3729 (B) Offer to allow the producing agent of record of the
3730 corporation policy to continue servicing the policy for a period
3731 of not less than 1 year and offer to pay the agent the greater
3732 of the insurer's or the corporation's usual and customary
3733 commission for the type of policy written.

3734
3735 If the producing agent is unwilling or unable to accept
3736 appointment, the new insurer shall pay the agent in accordance
3737 with sub-sub-sub-subparagraph (A).

3738 b. With respect to commercial lines residential risks, if
3739 the risk is offered coverage under a policy including wind
3740 coverage from an authorized insurer at its approved rate, the
3741 risk is not eligible for any policy issued by the corporation.
3742 If the risk is not able to obtain any such offer, the risk is
3743 eligible for a policy including wind coverage issued by the
3744 corporation.

3745 (I) If the risk accepts an offer of coverage through the
3746 market assistance plan or an offer of coverage through a
3747 mechanism established by the corporation before a policy is
3748 issued to the risk by the corporation or during the first 30

3749 days of coverage by the corporation, and the producing agent who
 3750 submitted the application to the plan or the corporation is not
 3751 currently appointed by the insurer, the insurer shall:

3752 (A) Pay to the producing agent of record of the policy,
 3753 for the first year, an amount that is the greater of the
 3754 insurer's usual and customary commission for the type of policy
 3755 written or a fee equal to the usual and customary commission of
 3756 the corporation; or

3757 (B) Offer to allow the producing agent of record of the
 3758 policy to continue servicing the policy for a period of not less
 3759 than 1 year and offer to pay the agent the greater of the
 3760 insurer's or the corporation's usual and customary commission
 3761 for the type of policy written.

3762
 3763 If the producing agent is unwilling or unable to accept
 3764 appointment, the new insurer shall pay the agent in accordance
 3765 with sub-sub-sub-subparagraph (A).

3766 (II) When the corporation enters into a contractual
 3767 agreement for a take-out plan, the producing agent of record of
 3768 the corporation policy is entitled to retain any unearned
 3769 commission on the policy, and the insurer shall:

3770 (A) Pay to the producing agent of record of the
 3771 corporation policy, for the first year, an amount that is the
 3772 greater of the insurer's usual and customary commission for the
 3773 type of policy written or a fee equal to the usual and customary
 3774 commission of the corporation; or

3775 (B) Offer to allow the producing agent of record of the
 3776 corporation policy to continue servicing the policy for a period
 3777 of not less than 1 year and offer to pay the agent the greater
 3778 of the insurer's or the corporation's usual and customary
 3779 commission for the type of policy written.

3780
 3781 If the producing agent is unwilling or unable to accept
 3782 appointment, the new insurer shall pay the agent in accordance
 3783 with sub-sub-sub-subparagraph (A).

3784 c. To preserve existing incentives for carriers to write
 3785 dwellings in the voluntary market and not in the corporation,
 3786 the corporation shall continue to offer authorized insurers,
 3787 including insurers writing dwellings valued at \$1 million or
 3788 more, the same voluntary writing credits that were available on
 3789 January 1, 2006, to carriers writing wind coverage for dwellings
 3790 in the areas eligible for coverage in the high-risk account.

3791 d. With respect to personal lines residential risks, if
 3792 the risk is a dwelling with an insured value of \$1 million or
 3793 more, or if the risk is one that is excluded from the coverage
 3794 to be provided by the condominium association under s.
 3795 718.111(11)(b) and that is insured by the condominium unit owner
 3796 for a combined dwelling and contents replacement cost of \$1
 3797 million or more, the risk is not eligible for any policy issued
 3798 by the corporation. Rates and forms for personal lines
 3799 residential risks not eligible for coverage by the corporation
 3800 specified by this sub-subparagraph are not subject to ss.
 3801 627.062 and 627.0629. Such rates and forms are subject to all

3802 other applicable provisions of this code and rules adopted under
3803 this code. During the course of an insurer's market conduct
3804 examination, the office may review the rate for any risk to
3805 which the provisions of this sub-subparagraph are applicable to
3806 determine if such rate is inadequate or unfairly discriminatory.
3807 Rates on personal lines residential risks not eligible for
3808 coverage by the corporation may be found inadequate by the
3809 office if they are clearly insufficient, together with the
3810 investment income attributable to such risks, to sustain
3811 projected losses and expenses in the class of business to which
3812 such rates apply. Rates on personal lines residential risks not
3813 eligible for coverage by the corporation may also be found
3814 inadequate as to the premium charged to a risk or group of risks
3815 if discounts or credits are allowed that exceed a reasonable
3816 reflection of expense savings and reasonably expected loss
3817 experience from the risk or group of risks. Rates on personal
3818 lines residential risks not eligible for coverage by the
3819 corporation may be found to be unfairly discriminatory as to a
3820 risk or group of risks by the office if the application of
3821 premium discounts, credits, or surcharges among such risks does
3822 not bear a reasonable relationship to the expected loss and
3823 expense experience among the various risks. A rating plan,
3824 including discounts, credits, or surcharges on personal lines
3825 residential risks not eligible for coverage by the corporation
3826 may also be found to be unfairly discriminatory if the plan
3827 fails to clearly and equitably reflect consideration of the
3828 policyholder's participation in a risk management program

3829 adjusted pursuant to s. 627.0625. The office may order an
3830 insurer to discontinue using a rate for new policies or upon
3831 renewal of a policy if the office finds the rate to be
3832 inadequate or unfairly discriminatory. Insurers must maintain
3833 records and documentation relating to rates and forms subject to
3834 this sub-subparagraph for a period of at least 5 years after the
3835 effective date of the policy.

3836 e. For policies subject to nonrenewal as a result of the
3837 risk being no longer eligible for coverage pursuant to sub-
3838 subparagraph d., the corporation shall, directly or through the
3839 market assistance plan, make information from confidential
3840 underwriting and claims files of policyholders available only to
3841 licensed general lines agents who register with the corporation
3842 to receive such information according to the following
3843 procedures:

3844 (I) By August 1, 2006, the corporation shall provide
3845 policyholders who are not eligible for renewal pursuant to sub-
3846 subparagraph d. the opportunity to request in writing, within 30
3847 days after the notification is sent, that information from their
3848 confidential underwriting and claims files not be released to
3849 licensed general lines agents registered pursuant to sub-sub-
3850 subparagraph e. (II);

3851 (II) By August 1, 2006, the corporation shall make
3852 available to licensed general lines agents the registration
3853 procedures to be used to obtain confidential information from
3854 underwriting and claims files for policies not eligible for
3855 renewal pursuant to sub-subparagraph d. As a condition of

3856 registration, the corporation shall require the licensed general
 3857 lines agent to attest that the agent has the experience and
 3858 relationships with authorized or surplus lines carriers to
 3859 attempt to offer replacement coverage for policies not eligible
 3860 for renewal pursuant to sub-subparagraph d.

3861 (III) By September 1, 2006, the corporation shall make
 3862 available through a secured website to licensed general lines
 3863 agents registered pursuant to sub-sub-subparagraph e. (II)
 3864 application, rating, loss history, mitigation, and policy type
 3865 information relating to all policies not eligible for renewal
 3866 pursuant to sub-subparagraph d. and for which the policyholder
 3867 has not requested the corporation withhold such information
 3868 pursuant to sub-sub-subparagraph e. (I). The licensed general
 3869 lines agent registered pursuant to sub-sub-subparagraph e. (II)
 3870 may use such information to contact and assist the policyholder
 3871 in securing replacement policies and the agent may disclose to
 3872 the policyholder such information was obtained from the
 3873 corporation.

3874 f. With respect to nonhomestead property, eligibility must
 3875 be determined in accordance with sub-sub-sub-subparagraph
 3876 (b)2.a. (II) (A) .

3877 6. Must provide by July 1, 2007, that an application for
 3878 coverage for a new policy is subject to a waiting period of 10
 3879 days before coverage is effective, during which time the
 3880 corporation shall make such application available for review by
 3881 general lines agents and authorized property and casualty
 3882 insurers. The board may approve exceptions that allow for

3883 coverage to be effective before the end of the 10-day waiting
3884 period, for coverage issued in conjunction with a real estate
3885 closing, and for such other exceptions as the board determines
3886 are necessary to prevent lapses in coverage.

3887 7. Must include rules for classifications of risks and
3888 rates therefor.

3889 8. Must provide that if premium and investment income for
3890 an account attributable to a particular calendar year are in
3891 excess of projected losses and expenses for the account
3892 attributable to that year, such excess shall be held in surplus
3893 in the account. Such surplus shall be available to defray
3894 deficits in that account as to future years and shall be used
3895 for that purpose prior to assessing assessable insurers and
3896 assessable insureds as to any calendar year.

3897 9. Must provide objective criteria and procedures to be
3898 uniformly applied for all applicants in determining whether an
3899 individual risk is so hazardous as to be uninsurable. In making
3900 this determination and in establishing the criteria and
3901 procedures, the following shall be considered:

3902 a. Whether the likelihood of a loss for the individual
3903 risk is substantially higher than for other risks of the same
3904 class; and

3905 b. Whether the uncertainty associated with the individual
3906 risk is such that an appropriate premium cannot be determined.
3907

3908 The acceptance or rejection of a risk by the corporation shall
3909 be construed as the private placement of insurance, and the
3910 provisions of chapter 120 shall not apply.

3911 10. Must provide that the corporation shall make its best
3912 efforts to procure catastrophe reinsurance at reasonable rates,
3913 to cover its projected 100-year probable maximum loss in the
3914 homestead accounts as determined by the board of governors.

3915 11. Must provide that in the event of regular deficit
3916 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
3917 (b)3.b., in the personal lines homestead account, the commercial
3918 lines residential homestead account, or the high-risk homestead
3919 account, the corporation shall levy upon corporation homestead
3920 account policyholders in its next rate filing, or by a separate
3921 rate filing solely for this purpose, a Citizens policyholder
3922 surcharge arising from a regular assessment in such account in a
3923 percentage equal to the total amount of such regular assessments
3924 divided by the aggregate statewide direct written premium for
3925 subject lines of business for the year preceding the year in
3926 which the deficit to which the regular assessment related is
3927 incurred. Citizens policyholder surcharges under this
3928 subparagraph are not considered premium and are not subject to
3929 commissions, fees, or premium taxes; however, failure to pay the
3930 Citizens policyholder a market equalization surcharge shall be
3931 treated as failure to pay premium. Notwithstanding any other
3932 provision of this section, for purposes of the Citizens
3933 policyholder surcharges to be levied pursuant to this
3934 subparagraph, the total amount of the regular assessment to

3935 | which such Citizens policyholder surcharge relates shall be
 3936 | determined as set forth in sub-subparagraphs (b)3.a., b., and c.

3937 | 12. The policies issued by the corporation must provide
 3938 | that, if the corporation or the market assistance plan obtains
 3939 | an offer from an authorized insurer to cover the risk at its
 3940 | approved rates, the risk is no longer eligible for renewal
 3941 | through the corporation.

3942 | 13. Corporation policies and applications must include a
 3943 | notice that the corporation policy could, under this section, be
 3944 | replaced with a policy issued by an authorized insurer that does
 3945 | not provide coverage identical to the coverage provided by the
 3946 | corporation or an insurer writing coverage pursuant to part VIII
 3947 | of chapter 626. The notice shall also specify that acceptance of
 3948 | corporation coverage creates a conclusive presumption that the
 3949 | applicant or policyholder is aware of this potential.

3950 | 14. May establish, subject to approval by the office,
 3951 | different eligibility requirements and operational procedures
 3952 | for any line or type of coverage for any specified county or
 3953 | area if the board determines that such changes to the
 3954 | eligibility requirements and operational procedures are
 3955 | justified due to the voluntary market being sufficiently stable
 3956 | and competitive in such area or for such line or type of
 3957 | coverage and that consumers who, in good faith, are unable to
 3958 | obtain insurance through the voluntary market through ordinary
 3959 | methods would continue to have access to coverage from the
 3960 | corporation. When coverage is sought in connection with a real
 3961 | property transfer, such requirements and procedures shall not

3962 provide for an effective date of coverage later than the date of
3963 the closing of the transfer as established by the transferor,
3964 the transferee, and, if applicable, the lender.

3965 15. Must provide that, with respect to the high-risk
3966 homestead account, any assessable insurer with a surplus as to
3967 policyholders of \$25 million or less writing 25 percent or more
3968 of its total countrywide property insurance premiums in this
3969 state may petition the office, within the first 90 days of each
3970 calendar year, to qualify as a limited apportionment company. ~~In~~
3971 ~~no event shall a limited apportionment company be required to~~
3972 ~~participate in the portion of any assessment, within the high-~~
3973 ~~risk account, pursuant to sub-subparagraph (b)3.a. or sub-~~
3974 ~~subparagraph (b)3.b. in the aggregate which exceeds \$50 million~~
3975 ~~after payment of available high risk account funds in any~~
3976 ~~calendar year. However,~~ A limited apportionment company shall
3977 collect from its policyholders any emergency assessment imposed
3978 under sub-subparagraph (b)3.d. The plan shall provide that, if
3979 the office determines that any regular assessment will result in
3980 an impairment of the surplus of a limited apportionment company,
3981 the office may direct that all or part of such assessment be
3982 deferred as provided in subparagraph (g)4. However, there shall
3983 be no limitation or deferment of an emergency assessment to be
3984 collected from policyholders under sub-subparagraph (b)3.d.

3985 16. Must provide that the corporation appoint as its
3986 licensed agents only those agents who also hold an appointment
3987 as defined in s. 626.015(3) with an insurer who at the time of
3988 the agent's initial appointment by the corporation is authorized

3989 | to write and is actually writing personal lines residential
 3990 | property coverage, commercial residential property coverage, or
 3991 | commercial nonresidential property coverage within the state.

3992 | 17. Must provide, by July 1, 2007, a premium payment plan
 3993 | option to its policyholders which allows for quarterly and
 3994 | semiannual payment of premiums.

3995 | 18. Must provide that the hurricane deductible for any
 3996 | property in the nonhomestead account with an insured value of
 3997 | \$250,000 or more must be at least 5 percent of the insured
 3998 | value.

3999 | 19. Must provide that the application for coverage under
 4000 | the nonhomestead account and the declaration page of each
 4001 | nonhomestead account policy include a statement in boldface 12-
 4002 | point type specifying that public subsidies do not support the
 4003 | corporation's coverage of nonhomestead property; that if the
 4004 | nonhomestead account of the corporation sustains a deficit or is
 4005 | unable to pay claims, the nonhomestead policyholder shall be
 4006 | subject to an immediate assessment in an amount up to 100
 4007 | percent of the premium and a further assessment upon renewal of
 4008 | the policy; and that the applicant or policyholder may wish to
 4009 | seek alternative coverage from an authorized insurer or surplus
 4010 | lines insurer that will not be subject to such potential
 4011 | assessments.

4012 | 20. Must provide that the application for coverage under
 4013 | any of the homestead accounts and the declaration page of each
 4014 | homestead account policy include a statement in boldface 12-
 4015 | point type specifying that a false declaration of homestead

4016 status for purposes of obtaining coverage in any of the
 4017 homestead accounts may constitute the offense of insurance
 4018 fraud, as prohibited and punishable as a felony under s.
 4019 817.234.

4020 21. Must limit coverage on mobile homes or manufactured
 4021 homes built prior to 1994 to actual cash value of the dwelling
 4022 rather than replacement costs of the dwelling.

4023 Section 14. Effective July 1, 2006, section 627.3517,
 4024 Florida Statutes, is amended to read:

4025 627.3517 Consumer choice.--

4026 (1) Except as provided in subsection (2), no provision of
 4027 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to
 4028 impair the right of any insurance risk apportionment plan
 4029 policyholder, upon receipt of any keepout or take-out offer, to
 4030 retain his or her current agent, so long as that agent is duly
 4031 licensed and appointed by the insurance risk apportionment plan
 4032 or otherwise authorized to place business with the insurance
 4033 risk apportionment plan. This right shall not be canceled,
 4034 suspended, impeded, abridged, or otherwise compromised by any
 4035 rule, plan of operation, or depopulation plan, whether through
 4036 keepout, take-out, midterm assumption, or any other means, of
 4037 any insurance risk apportionment plan or depopulation plan,
 4038 including, but not limited to, those described in s. 627.351, s.
 4039 627.3511, or s. 627.3515. The commission shall adopt any rules
 4040 necessary to cause any insurance risk apportionment plan or
 4041 market assistance plan under such sections to demonstrate that
 4042 the operations of the plan do not interfere with, promote, or

4043 allow interference with the rights created under this section.
4044 If the policyholder's current agent is unable or unwilling to be
4045 appointed with the insurer making the take-out or keepout offer,
4046 the policyholder shall not be disqualified from participation in
4047 the appropriate insurance risk apportionment plan because of an
4048 offer of coverage in the voluntary market. An offer of full
4049 property insurance coverage by the insurer currently insuring
4050 either the ex-wind or wind-only coverage on the policy to which
4051 the offer applies shall not be considered a take-out or keepout
4052 offer. Any rule, plan of operation, or plan of depopulation,
4053 through keepout, take-out, midterm assumption, or any other
4054 means, of any property insurance risk apportionment plan under
4055 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
4056 and 627.3511(4).

4057 (2) This section does not apply during the first 10 days
4058 after a new application for coverage has been submitted to
4059 Citizens Property Insurance Corporation under s. 627.351(6),
4060 whether or not coverage is bound during this period.

4061 Section 15. Section 627.3519, Florida Statutes, is created
4062 to read:

4063 627.3519 Annual report of aggregate net probable maximum
4064 losses, financing options, and potential assessments.--No later
4065 than February 1 of each year, the Financial Services Commission
4066 shall provide to the Legislature a report of the aggregate net
4067 probable maximum losses, financing options, and potential
4068 assessments of the Florida Hurricane Catastrophe Fund and
4069 Citizens Property Insurance Corporation. The report must include

4070 the respective 50-year, 100-year, and 250-year probable maximum
4071 losses of the fund and the corporation; analysis of all
4072 reasonable financing strategies for each such probable maximum
4073 loss, including the amount and term of debt instruments;
4074 specification of the percentage assessments that would be needed
4075 to support each of the financing strategies; and calculations of
4076 the aggregate assessment burden on Florida property and casualty
4077 policyholders for each of the probable maximum losses. The
4078 commission shall require the fund and the corporation to provide
4079 the commission with such data and analysis as the commission
4080 considers necessary to prepare the report.

4081 Section 16. Paragraph (b) of subsection (3) of section
4082 627.4035, Florida Statutes, is amended to read:

4083 627.4035 Cash payment of premiums; claims.--

4084 (3) All payments of claims made in this state under any
4085 contract of insurance shall be paid:

4086 (b) If authorized in writing by the recipient or the
4087 recipient's representative, by debit card or any other form of
4088 electronic transfer. Any fees or costs to be charged against the
4089 recipient must be disclosed in writing to the recipient or the
4090 recipient's representative at the time of written authorization.
4091 However, the written authorization requirement may be waived by
4092 the recipient or the recipient's representative if the insurer
4093 verifies the identity of the insured or the insured's recipient
4094 and does not charge a fee for the transaction. If the funds are
4095 misdirected, the insurer would remain liable for the payment of
4096 the claim.

4097 Section 17. Paragraph (b) of subsection (3) of section
 4098 627.701, Florida Statutes, is amended to read:
 4099 627.701 Liability of insureds; coinsurance; deductibles.--
 4100 (3)
 4101 (b)1. Except as otherwise provided in this paragraph,
 4102 prior to issuing a personal lines residential property insurance
 4103 policy on or after January 1, 2006, or prior to the first
 4104 renewal of a residential property insurance policy on or after
 4105 January 1, 2006, the insurer must offer alternative deductible
 4106 amounts applicable to hurricane losses equal to \$500, 2 percent,
 4107 5 percent, and 10 percent of the policy dwelling limits, unless
 4108 the specific percentage deductible is less than \$500. The
 4109 written notice of the offer shall specify the hurricane or wind
 4110 deductible to be applied in the event that the applicant or
 4111 policyholder fails to affirmatively choose a hurricane
 4112 deductible. The insurer must provide such policyholder with
 4113 notice of the availability of the deductible amounts specified
 4114 in this paragraph in a form approved by the office in
 4115 conjunction with each renewal of the policy. The failure to
 4116 provide such notice constitutes a violation of this code but
 4117 does not affect the coverage provided under the policy.
 4118 2. This paragraph does not apply with respect to a
 4119 deductible program lawfully in effect on June 14, 1995, or to
 4120 any similar deductible program, if the deductible program
 4121 requires a minimum deductible amount of no less than 2 percent
 4122 of the policy limits.

4123 3. With respect to a policy covering a risk with dwelling
4124 limits of at least \$100,000, ~~but less than \$250,000~~, the insurer
4125 may, in lieu of offering a policy with a ~~\$500 hurricane or~~ wind
4126 deductible as required by subparagraph 1., offer a policy that
4127 the insurer guarantees it will not nonrenew for reasons of
4128 reducing hurricane loss for one renewal period and that contains
4129 up to a 2 percent hurricane deductible, for two renewal periods
4130 and that contains up to a 5 percent hurricane deductible, or for
4131 three renewal periods and that contains up to a 10 percent
4132 hurricane deductible. Notwithstanding the requirements of this
4133 paragraph, the Office of Insurance Regulation may approve the
4134 nonrenewal of such policies if the guarantee renewal of the
4135 policies may jeopardize the financial ratings of an insurer or
4136 ~~wind deductible as required by subparagraph 1.~~

4137 4. With respect to a policy covering a risk with dwelling
4138 limits of \$250,000 or more, the insurer need not offer the \$500
4139 hurricane deductible as required by subparagraph 1., but must,
4140 except as otherwise provided in this subsection, offer the other
4141 hurricane deductibles as required by subparagraph 1.

4142 Section 18. Effective January 1, 2007, subsection (9) is
4143 added to section 627.701, Florida Statutes, to read:

4144 627.701 Liability of insureds; coinsurance; deductibles.--

4145 (9) With respect to hurricane coverage provided in a
4146 policy of residential coverage, when the policyholder has taken
4147 appropriate hurricane mitigation measures regarding the
4148 residence covered under the policy, the insurer may provide the
4149 insured the option of selecting an appropriate reduction in the

4150 policy's hurricane deductible in lieu of selecting the
4151 appropriate discount credit or other rate differential as
4152 provided in s. 627.0629. If made available by the insurer, the
4153 insurer must provide the policyholder with notice of the options
4154 available under this subsection on a form approved by the
4155 office.

4156 Section 19. Subsections (2) and (3) of section 627.7011,
4157 Florida Statutes, are amended, and subsection (6) is added to
4158 that section, to read:

4159 627.7011 Homeowners' policies; offer of replacement cost
4160 coverage and law and ordinance coverage.--

4161 (2) Unless the insurer obtains the policyholder's written
4162 refusal of the policies or endorsements specified in subsection
4163 (1), any policy covering the dwelling is deemed to include the
4164 law and ordinance coverage limited to 25 percent of the dwelling
4165 limit ~~specified in paragraph (1)(b)~~. The rejection or selection
4166 of alternative coverage shall be made on a form approved by the
4167 office. The form shall fully advise the applicant of the nature
4168 of the coverage being rejected. If this form is signed by a
4169 named insured, it will be conclusively presumed that there was
4170 an informed, knowing rejection of the coverage or election of
4171 the alternative coverage on behalf of all insureds. Unless the
4172 policyholder requests in writing the coverage specified in this
4173 section, it need not be provided in or supplemental to any other
4174 policy that renews, insures, extends, changes, supersedes, or
4175 replaces an existing policy when the policyholder has rejected
4176 the coverage specified in this section or has selected

4177 alternative coverage. The insurer must provide such policyholder
 4178 with notice of the availability of such coverage in a form
 4179 approved by the office at least once every 3 years. The failure
 4180 to provide such notice constitutes a violation of this code, but
 4181 does not affect the coverage provided under the policy.

4182 (3) In the event of a loss for which a dwelling ~~or~~
 4183 ~~personal property~~ is insured on the basis of replacement costs,
 4184 the insurer shall pay the replacement cost without reservation
 4185 or holdback of any depreciation in value, whether or not the
 4186 insured replaces or repairs the dwelling ~~or property~~.

4187 (6) Insurers shall issue separate checks for living
 4188 expenses, contents, and casualty proceeds. Checks for living
 4189 expenses and contents should be issued directly to the
 4190 policyholder.

4191 Section 20. Effective upon this act becoming a law,
 4192 section 627.7019, Florida Statutes, is created to read:

4193 627.7019 Standardization of requirements applicable to
 4194 insurers after natural disasters.--

4195 (1) The commission shall adopt by rule, pursuant to s.
 4196 120.54(1)-(3), standardized requirements that may be applied to
 4197 insurers as a consequence of a hurricane or other natural
 4198 disaster. The rules shall address the following areas:

4199 (a) Claims reporting requirements.

4200 (b) Grace periods for payment of premiums and performance
 4201 of other duties by insureds.

4202 (c) Temporary postponement of cancellations and
 4203 nonrenewals.

4204 (2) The rules adopted pursuant to this section shall
 4205 require the office to issue an order within 72 hours after the
 4206 occurrence of a hurricane or other natural disaster specifying,
 4207 by line of insurance, which of the standardized requirements
 4208 apply, the geographic areas in which they apply, the time at
 4209 which applicability commences, and the time at which
 4210 applicability terminates.

4211 (3) The commission and the office may not adopt an
 4212 emergency rule under s. 120.54(4) in conflict with any provision
 4213 of the rules adopted under this section.

4214 (4) The commission shall initiate rulemaking under this
 4215 section no later than June 1, 2006.

4216 Section 21. Subsection (5) of section 627.727, Florida
 4217 Statutes, is amended to read:

4218 627.727 Motor vehicle insurance; uninsured and
 4219 underinsured vehicle coverage; insolvent insurer protection.--

4220 (5) Any person having a claim against an insolvent insurer
 4221 as defined in s. 631.54(6)~~(5)~~ under the provisions of this
 4222 section shall present such claim for payment to the Florida
 4223 Insurance Guaranty Association only. In the event of a payment
 4224 to any person in settlement of a claim arising under the
 4225 provisions of this section, the association is not subrogated or
 4226 entitled to any recovery against the claimant's insurer. The
 4227 association, however, has the rights of recovery as set forth in
 4228 chapter 631 in the proceeds recoverable from the assets of the
 4229 insolvent insurer.

4230 Section 22. Paragraph (f) is added to subsection (2) of
4231 section 631.181, Florida Statutes, to read:

4232 631.181 Filing and proof of claim.--

4233 (2)

4234 (f) The signed statement required by this section shall
4235 not be required on claims for which adequate claims file
4236 documentation exists within the records of the insolvent
4237 insurer. Claims for payment of unearned premium shall not be
4238 required to use the signed statement required by this section if
4239 the receiver certifies to the guaranty fund that the records of
4240 the insolvent insurer are sufficient to determine the amount of
4241 unearned premium owed to each policyholder of the insurer and
4242 such information is remitted to the guaranty fund by the
4243 receiver in electronic or other mutually agreed-upon format.

4244 Section 23. Subsections (5), (6), (7), and (8) of section
4245 631.54, Florida Statutes, are renumbered as subsections (6),
4246 (7), (8), and (9), respectively, and a new subsection (5) is
4247 added to that section, to read:

4248 631.54 Definitions.--As used in this part:

4249 (5) "Homeowner's insurance" means personal lines
4250 residential property insurance coverage that consists of the
4251 type of coverage provided under homeowner's, dwelling, and
4252 similar policies for repair or replacement of the insured
4253 structure and contents, which policies are written directly to
4254 the individual homeowner. Residential coverage for personal
4255 lines as set forth in this section includes policies that
4256 provide coverage for particular perils such as windstorm and

4257 hurricane coverage but excludes all coverage for mobile homes,
 4258 renter's insurance, or tenant's coverage. The term "homeowner's
 4259 insurance" excludes commercial residential policies covering
 4260 condominium associations or homeowners' associations, which
 4261 associations have a responsibility to provide insurance coverage
 4262 on residential units within the association, and also excludes
 4263 coverage for the common elements of a homeowners' association.

4264 Section 24. Subsection (1) of section 631.55, Florida
 4265 Statutes, is amended to read:

4266 631.55 Creation of the association.--

4267 (1) There is created a nonprofit corporation to be known
 4268 as the "Florida Insurance Guaranty Association, Incorporated."
 4269 All insurers defined as member insurers in s. 631.54 (7) ~~(6)~~ shall
 4270 be members of the association as a condition of their authority
 4271 to transact insurance in this state, and, further, as a
 4272 condition of such authority, an insurer shall agree to reimburse
 4273 the association for all claim payments the association makes on
 4274 said insurer's behalf if such insurer is subsequently
 4275 rehabilitated. The association shall perform its functions under
 4276 a plan of operation established and approved under s. 631.58 and
 4277 shall exercise its powers through a board of directors
 4278 established under s. 631.56. The corporation shall have all
 4279 those powers granted or permitted nonprofit corporations, as
 4280 provided in chapter 617.

4281 Section 25. Paragraph (a) of subsection (1), paragraph (d)
 4282 of subsection (2), and paragraph (a) of subsection (3) of

4283 section 631.57, Florida Statutes, are amended, and paragraph (e)
 4284 is added to subsection (3) of that section, to read:

4285 631.57 Powers and duties of the association.--

4286 (1) The association shall:

4287 (a)1. Be obligated to the extent of the covered claims
 4288 existing:

4289 a. Prior to adjudication of insolvency and arising within
 4290 30 days after the determination of insolvency;

4291 b. Before the policy expiration date if less than 30 days
 4292 after the determination; or

4293 c. Before the insured replaces the policy or causes its
 4294 cancellation, if she or he does so within 30 days of the
 4295 determination.

4296 2. The obligation under subparagraph 1. shall include only
 4297 the amount of each covered claim that is in excess of \$100 and
 4298 is less than \$300,000, except policies providing coverage for
 4299 homeowner's insurance shall provide for an additional \$200,000
 4300 for the portion of a covered claim that relates only to the
 4301 damage to the structure and contents.

4302 3.a.2. Notwithstanding subparagraph 2., the obligation
 4303 under subparagraph 1. for shall include only that amount of each
 4304 covered claim which is in excess of \$100 and is less than
 4305 \$300,000, except with respect to policies covering condominium
 4306 associations or homeowners' associations, which associations
 4307 have a responsibility to provide insurance coverage on
 4308 residential units within the association, the obligation shall
 4309 include that amount of each covered property insurance claim

4310 which is less than \$100,000 multiplied by the number of
4311 condominium units or other residential units; however, as to
4312 homeowners' associations, this sub-subparagraph ~~subparagraph~~
4313 applies only to claims for damage or loss to residential units
4314 and structures attached to residential units.

4315 b. Notwithstanding sub-subparagraph a., the association
4316 has no obligation to pay covered claims that are to be paid from
4317 the proceeds of bonds issued under s. 631.695. However, the
4318 association shall assign and pledge the first available moneys
4319 from all or part of the assessments to be made under paragraph
4320 (3) (a) to or on behalf of the issuer of such bonds for the
4321 benefit of the holders of such bonds. The association shall
4322 administer any such covered claims and present valid covered
4323 claims for payment in accordance with the provisions of the
4324 assistance program in connection with which such bonds have been
4325 issued.

4326 3. In no event shall the association be obligated to a
4327 policyholder or claimant in an amount in excess of the
4328 obligation of the insolvent insurer under the policy from which
4329 the claim arises.

4330 (2) The association may:

4331 (d) Negotiate and become a party to such contracts as are
4332 necessary to carry out the purpose of this part. Additionally,
4333 the association may enter into such contracts with a
4334 municipality, a county, or a legal entity created pursuant to s.
4335 163.01(7)(g) as are necessary in order for the municipality,
4336 county, or legal entity to issue bonds under s. 631.695. In

4337 connection with the issuance of any such bonds and the entering
4338 into of any such necessary contracts, the association may agree
4339 to such terms and conditions as the association deems necessary
4340 and proper.

4341 (3) (a) To the extent necessary to secure the funds for the
4342 respective accounts for the payment of covered claims, ~~and also~~
4343 to pay the reasonable costs to administer the same, and to the
4344 extent necessary to secure the funds for the account specified
4345 in s. 631.55(2)(c) or to retire indebtedness, including, without
4346 limitation, the principal, redemption premium, if any, and
4347 interest on, and related costs of issuance of, bonds issued
4348 under s. 631.695 and the funding of any reserves and other
4349 payments required under the bond resolution or trust indenture
4350 pursuant to which such bonds have been issued, the office, upon
4351 certification of the board of directors, shall levy assessments
4352 in the proportion that each insurer's net direct written
4353 premiums in this state in the classes protected by the account
4354 bears to the total of said net direct written premiums received
4355 in this state by all such insurers for the preceding calendar
4356 year for the kinds of insurance included within such account.
4357 Assessments shall be remitted to and administered by the board
4358 of directors in the manner specified by the approved plan. Each
4359 insurer so assessed shall have at least 30 days' written notice
4360 as to the date the assessment is due and payable. Every
4361 assessment shall be made as a uniform percentage applicable to
4362 the net direct written premiums of each insurer in the kinds of
4363 insurance included within the account in which the assessment is

4364 made. The assessments levied against any insurer shall not
4365 exceed in any one year more than 2 percent of that insurer's net
4366 direct written premiums in this state for the kinds of insurance
4367 included within such account during the calendar year next
4368 preceding the date of such assessments.

4369 (e)1.a. In addition to assessments otherwise authorized in
4370 paragraph (a) and to the extent necessary to secure the funds
4371 for the account specified in s. 631.55(2)(c) or to retire
4372 indebtedness, including, without limitation, the principal,
4373 redemption premium, if any, and interest on, and related costs
4374 of issuance of, bonds issued under s. 631.695 and the funding of
4375 any reserves and other payments required under the bond
4376 resolution or trust indenture pursuant to which such bonds have
4377 been issued, the office, upon certification of the board of
4378 directors, shall levy emergency assessments upon insurers
4379 holding a certificate of authority. The emergency assessments
4380 payable under this paragraph by any insurer shall not exceed in
4381 any single year more than 2 percent of that insurer's direct
4382 written premiums, net of refunds, in this state during the
4383 preceding calendar year for the kinds of insurance within the
4384 account specified in s. 631.55(2)(c).

4385 b. Any emergency assessments authorized under this
4386 paragraph shall be levied by the office upon insurers referred
4387 to in sub-subparagraph a., upon certification as to the need for
4388 such assessments by the board of directors, in each year that
4389 bonds issued under s. 631.695 and secured by such emergency
4390 assessments are outstanding, in such amounts up to such 2-

4391 percent limit as required in order to provide for the full and
4392 timely payment of the principal of, redemption premium, if any,
4393 and interest on, and related costs of issuance of, such bonds.
4394 The emergency assessments provided for in this paragraph are
4395 assigned and pledged to the municipality, county, or legal
4396 entity issuing bonds under s. 631.695 for the benefit of the
4397 holders of such bonds, in order to enable such municipality,
4398 county, or legal entity to provide for the payment of the
4399 principal of, redemption premium, if any, and interest on such
4400 bonds, the cost of issuance of such bonds, and the funding of
4401 any reserves and other payments required under the bond
4402 resolution or trust indenture pursuant to which such bonds have
4403 been issued, without the necessity of any further action by the
4404 association, the office, or any other party. To the extent bonds
4405 are issued under s. 631.695 and the association determines to
4406 secure such bonds by a pledge of revenues received from the
4407 emergency assessments, such bonds, upon such pledge of revenues,
4408 shall be secured by and payable from the proceeds of such
4409 emergency assessments, and the proceeds of emergency assessments
4410 levied under this paragraph shall be remitted directly to and
4411 administered by the trustee or custodian appointed for such
4412 bonds.

4413 c. Emergency assessments under this paragraph may be
4414 payable in a single payment or, at the option of the
4415 association, may be payable in 12 monthly installments with the
4416 first installment being due and payable at the end of the month
4417 after an emergency assessment is levied and subsequent

4418 installments being due not later than the end of each succeeding
 4419 month.

4420 d. If emergency assessments are imposed, the report
 4421 required by s. 631.695(7) shall include an analysis of the
 4422 revenues generated from the emergency assessments imposed under
 4423 this paragraph.

4424 e. If emergency assessments are imposed, the references in
 4425 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
 4426 assessments levied under paragraph (a) shall include emergency
 4427 assessments imposed under this paragraph.

4428 2. In order to ensure that insurers paying emergency
 4429 assessments levied under this paragraph continue to charge rates
 4430 that are neither inadequate nor excessive, within 90 days after
 4431 being notified of such assessments, each insurer that is to be
 4432 assessed pursuant to this paragraph shall submit a rate filing
 4433 for coverage included within the account specified in s.
 4434 631.55(2)(c) and for which rates are required to be filed under
 4435 s. 627.062. If the filing reflects a rate change that, as a
 4436 percentage, is equal to the difference between the rate of such
 4437 assessment and the rate of the previous year's assessment under
 4438 this paragraph, the filing shall consist of a certification so
 4439 stating and shall be deemed approved when made. Any rate change
 4440 of a different percentage shall be subject to the standards and
 4441 procedures of s. 627.062.

4442 3. An annual assessment under this paragraph shall
 4443 continue while the bonds issued with respect to which the
 4444 assessment was imposed are outstanding, including any bonds the

4445 proceeds of which were used to refund bonds issued pursuant to
4446 s. 631.695, unless adequate provision has been made for the
4447 payment of the bonds in the documents authorizing the issuance
4448 of such bonds.

4449 4. Emergency assessments under this paragraph are not
4450 premium and are not subject to the premium tax, to any fees, or
4451 to any commissions. An insurer is liable for all emergency
4452 assessments that the insurer collects and shall treat the
4453 failure of an insured to pay an emergency assessment as a
4454 failure to pay the premium. An insurer is not liable for
4455 uncollectible emergency assessments.

4456 Section 26. Section 631.695, Florida Statutes, is created
4457 to read:

4458 631.695 Revenue bond issuance through counties or
4459 municipalities.--

4460 (1) The Legislature finds:

4461 (a) The potential for widespread and massive damage to
4462 persons and property caused by hurricanes making landfall in
4463 this state can generate insurance claims of such a number as to
4464 render numerous insurers operating within this state insolvent
4465 and therefore unable to satisfy covered claims.

4466 (b) The inability of insureds within this state to receive
4467 payment of covered claims or to timely receive such payment
4468 creates financial and other hardships for such insureds and
4469 places undue burdens on the state, the affected units of local
4470 government, and the community at large.

4471 (c) In addition, the failure of insurers to pay covered
4472 claims or to timely pay such claims due to the insolvency of
4473 such insurers can undermine the public's confidence in insurers
4474 operating within this state, thereby adversely affecting the
4475 stability of the insurance industry in this state.

4476 (d) The state has previously taken action to address these
4477 problems by adopting the Florida Insurance Guaranty Association
4478 Act, which, among other things, provides a mechanism for the
4479 payment of covered claims under certain insurance policies to
4480 avoid excessive delay in payment and to avoid financial loss to
4481 claimants or policyholders because of the insolvency of an
4482 insurer.

4483 (e) In the wake of the unprecedented destruction caused by
4484 various hurricanes that have made landfall in this state, the
4485 resultant covered claims, and the number of insurers rendered
4486 insolvent thereby, make it evident that alternative programs
4487 must be developed to allow the Florida Insurance Guaranty
4488 Association to more expeditiously and effectively provide for
4489 the payment of covered claims.

4490 (f) It is therefore determined to be in the best interests
4491 of, and necessary for, the protection of the public health,
4492 safety, and general welfare of the residents of this state and
4493 for the protection and preservation of the economic stability of
4494 insurers operating in this state and it is declared to be an
4495 essential public purpose to permit certain municipalities and
4496 counties to take such actions as will provide relief to
4497 claimants and policyholders having covered claims against

4498 insolvent insurers operating in this state by expediting the
4499 handling and payment of covered claims.

4500 (g) To achieve the foregoing purposes, it is proper to
4501 authorize municipalities and counties of this state
4502 substantially affected by the landfall of a hurricane to issue
4503 bonds to assist the Florida Insurance Guaranty Association in
4504 expediting the handling and payment of covered claims of
4505 insolvent insurers.

4506 (h) In order to avoid the needless and indiscriminate
4507 proliferation, duplication, and fragmentation of such assistance
4508 programs, it is in the best interests of the residents of this
4509 state to authorize municipalities and counties severely affected
4510 by a hurricane to provide for the payment of covered claims
4511 beyond their territorial limits in the implementation of such
4512 programs.

4513 (i) It is a paramount public purpose for municipalities
4514 and counties substantially affected by the landfall of a
4515 hurricane to be able to issue bonds for the purposes described
4516 in this section. Such issuance shall provide assistance to
4517 residents of those municipalities and counties as well as to
4518 other residents of this state.

4519 (2) The governing body of any municipality or county, the
4520 residents of which have been substantially affected by a
4521 hurricane, may issue bonds to fund an assistance program in
4522 conjunction with, and with the consent of, the Florida Insurance
4523 Guaranty Association for the purpose of paying claimants' or
4524 policyholders' covered claims, as defined in s. 631.54, arising

4525 through the insolvency of an insurer, which insolvency is
4526 determined by the Florida Insurance Guaranty Association to have
4527 been a result of a hurricane, regardless of whether the
4528 claimants or policyholders are residents of such municipality or
4529 county or the property to which the claim relates is located
4530 within or outside the territorial jurisdiction of the
4531 municipality or county. The power of a municipality or county to
4532 issue bonds, as described in this section, is in addition to any
4533 powers granted by law and may not be abrogated or restricted by
4534 any provisions in such municipality's or county's charter. A
4535 municipality or county issuing bonds for this purpose shall
4536 enter into such contracts with the Florida Insurance Guaranty
4537 Association or any entity acting on behalf of the Florida
4538 Insurance Guaranty Association as are necessary to implement the
4539 assistance program. Any bonds issued by a municipality or county
4540 or a combination thereof under this subsection shall be payable
4541 from and secured by moneys received by or on behalf of the
4542 municipality or county from assessments levied under s.
4543 631.57(3) (a) and assigned and pledged to or on behalf of the
4544 municipality or county for the benefit of the holders of the
4545 bonds in connection with the assistance program. The funds,
4546 credit, property, and taxing power of the state or any
4547 municipality or county shall not be pledged for the payment of
4548 such bonds.

4549 (3) Bonds may be validated by the municipality or county
4550 pursuant to chapter 75. The proceeds of the bonds may be used to
4551 pay covered claims of insolvent insurers; to refinance or

4552 replace previously existing borrowings or financial
 4553 arrangements; to pay interest on bonds; to fund reserves for the
 4554 bonds; to pay expenses incident to the issuance or sale of any
 4555 bond issued under this section, including costs of validating,
 4556 printing, and delivering the bonds, costs of printing the
 4557 official statement, costs of publishing notices of sale of the
 4558 bonds, costs of obtaining credit enhancement or liquidity
 4559 support, and related administrative expenses; or for such other
 4560 purposes related to the financial obligations of the fund as the
 4561 association may determine. The term of the bonds may not exceed
 4562 30 years.

4563 (4) The state covenants with holders of bonds of the
 4564 assistance program that the state will not take any action that
 4565 will have a material adverse effect on the holders and will not
 4566 repeal or abrogate the power of the board of directors of the
 4567 association to direct the Office of Insurance Regulation to levy
 4568 the assessments and to collect the proceeds of the revenues
 4569 pledged to the payment of the bonds as long as any of the bonds
 4570 remain outstanding, unless adequate provision has been made for
 4571 the payment of the bonds in the documents authorizing the
 4572 issuance of the bonds.

4573 (5) The accomplishment of the authorized purposes of such
 4574 municipality or county under this section is in all respects for
 4575 the benefit of the people of the state, for the increase of
 4576 their commerce and prosperity, and for the improvement of their
 4577 health and living conditions. The municipality or county, in
 4578 performing essential governmental functions in accomplishing its

4579 purposes, is not required to pay any taxes or assessments of any
4580 kind whatsoever upon any property acquired or used by the county
4581 or municipality for such purposes or upon any revenues at any
4582 time received by the county or municipality. The bonds, notes,
4583 and other obligations of the municipality or county and the
4584 transfer of and income from such bonds, notes, and other
4585 obligations, including any profits made on the sale of such
4586 bonds, notes, and other obligations, are exempt from taxation of
4587 any kind by the state or by any political subdivision or other
4588 agency or instrumentality of the state. The exemption granted in
4589 this subsection is not applicable to any tax imposed by chapter
4590 220 on interest, income, or profits on debt obligations owned by
4591 corporations.

4592 (6) Two or more municipalities or counties, the residents
4593 of which have been substantially affected by a hurricane, may
4594 create a legal entity pursuant to s. 163.01(7)(g) to exercise
4595 the powers described in this section as well as those powers
4596 granted in s. 163.01(7)(g). References in this section to a
4597 municipality or county includes such legal entity.

4598 (7) The association shall issue an annual report on the
4599 status of the use of bond proceeds as related to insolvencies
4600 caused by hurricanes. The report must contain the number and
4601 amount of claims paid. The association shall also include an
4602 analysis of the revenue generated from the assessment levied
4603 under s. 631.57(3)(a) to pay such bonds. The association shall
4604 submit a copy of the report to the President of the Senate, the
4605 Speaker of the House of Representatives, and the Chief Financial

4606 Officer within 90 days after the end of each calendar year in
4607 which bonds were outstanding.

4608 Section 27. No provision of s. 631.57 or s. 631.695,
4609 Florida Statutes, shall be repealed until such time as the
4610 principal, redemption premium, if any, and interest on all bonds
4611 issued under s. 631.695, Florida Statutes, payable and secured
4612 from assessments levied under s. 631.57(3)(a), Florida Statutes,
4613 have been paid in full or adequate provision for such payment
4614 has been made in accordance with the bond resolution or trust
4615 indenture pursuant to which the bonds were issued.

4616 Section 28. Paragraph (a) of subsection (1) of section
4617 817.234, Florida Statutes, is amended to read:

4618 817.234 False and fraudulent insurance claims.--

4619 (1)(a) A person commits insurance fraud punishable as
4620 provided in subsection (11) if that person, with the intent to
4621 injure, defraud, or deceive any insurer:

4622 1. Presents or causes to be presented any written or oral
4623 statement as part of, or in support of, a claim for payment or
4624 other benefit pursuant to an insurance policy or a health
4625 maintenance organization subscriber or provider contract,
4626 knowing that such statement contains any false, incomplete, or
4627 misleading information concerning any fact or thing material to
4628 such claim;

4629 2. Prepares or makes any written or oral statement that is
4630 intended to be presented to any insurer in connection with, or
4631 in support of, any claim for payment or other benefit pursuant
4632 to an insurance policy or a health maintenance organization

4633 subscriber or provider contract, knowing that such statement
 4634 contains any false, incomplete, or misleading information
 4635 concerning any fact or thing material to such claim; or

4636 3.a. Knowingly presents, causes to be presented, or
 4637 prepares or makes with knowledge or belief that it will be
 4638 presented to any insurer, purported insurer, servicing
 4639 corporation, insurance broker, or insurance agent, or any
 4640 employee or agent thereof, any false, incomplete, or misleading
 4641 information or written or oral statement as part of, or in
 4642 support of, an application for the issuance of, or the rating
 4643 of, any insurance policy, or a health maintenance organization
 4644 subscriber or provider contract, including any false declaration
 4645 of homestead status for the purpose of obtaining coverage in a
 4646 homestead account under s. 627.351(6); or

4647 b. Who knowingly conceals information concerning any fact
 4648 material to such application.

4649 Section 29. By January 1, 2007, the Office of Insurance
 4650 Regulation shall submit a report to the President of the Senate,
 4651 the Speaker of the House of Representatives, the minority party
 4652 leaders of the Senate and the House of Representatives, and the
 4653 chairs of the standing committees of the Senate and the House of
 4654 Representatives having jurisdiction over matters relating to
 4655 property and casualty insurance. In preparing the report, the
 4656 office shall consult with the Department of Highway Safety and
 4657 Motor Vehicles, the Department of Community Affairs, the Florida
 4658 Building Commission, the Florida Home Builders Association,
 4659 representatives of the mobile and manufactured home industry,

4660 representatives of the property and casualty insurance industry,
4661 and any other party the office determines is appropriate. The
4662 report shall include findings and recommendations on the
4663 insurability of attached or free standing structures to
4664 residential homes, mobile, or manufactured homes, such as
4665 carports or pool enclosures; the increase or decrease in
4666 insurance costs associated with insuring such structures; the
4667 feasibility of insuring such structures; the impact on
4668 homeowners of not having insurance coverage for such structures;
4669 the ability of mitigation measures relating to such structures
4670 to reduce risk and loss; and such other related information as
4671 the office determines is appropriate for the Legislature to
4672 consider.

4673 Section 30. (1) The Office of Insurance Regulation, in
4674 consultation with the Department of Community Affairs, the
4675 Department of Financial Services, the Federal Alliance for Safe
4676 Homes, the Florida Insurance Council, the Florida Home Builders
4677 Association, the Florida Manufactured Housing Association, the
4678 Risk and Insurance Department of Florida State University, and
4679 the Institute for Business and Homes Safety, shall study and
4680 develop a program that will provide an objective rating system
4681 that will allow homeowners to evaluate the relative ability of
4682 Florida properties to withstand the wind load from a sustained
4683 severe tropical storm or hurricane.

4684 (2) The rating system will be designed in a manner that is
4685 easy to understand for the property owner, based on proven
4686 readily verifiable mitigation techniques and devices, and able

4687 to be implemented based on a visual inspection program. The
4688 Department of Financial Services shall implement a pilot program
4689 for use in the Florida Comprehensive Hurricane Damage Mitigation
4690 Program.

4691 (3) The Department shall provide a report to the Governor,
4692 the President of the Senate, and the Speaker of the House of
4693 Representatives by March 31, 2007, detailing the nature and
4694 construction of the rating scale, its effectiveness based on
4695 implementation in a pilot program, and an operational plan for
4696 statewide implementation of the rating scale.

4697 Section 31. (1) For fiscal year 2006-2007, the sum of
4698 \$100 million is appropriated from the General Revenue Fund to
4699 the Department of Financial Services for the Florida Hurricane
4700 Damage Prevention Endowment as a nonrecurring appropriation for
4701 the purposes specified in s. 215.558, Florida Statutes.

4702 (2) The sum of \$400 million is appropriated from the
4703 General Revenue Fund to the Department of Financial Services as
4704 a nonrecurring appropriation for the purposes specified in s.
4705 215.5586, Florida Statutes.

4706 (3) Funds provided in subsections (1) and (2) shall be
4707 transferred by the department to the Florida Hurricane Damage
4708 Prevention Trust Fund, as created in s. 215.5585, Florida
4709 Statutes.

4710 (4) For fiscal year 2006-2007, the recurring sum of \$5
4711 million is appropriated to the Department of Financial Services
4712 from the Florida Hurricane Damage Prevention Trust Fund, Special
4713 Category - Financial Incentives for Hurricane Damage Prevention.

4714 (5) For fiscal year 2006-2007, the nonrecurring sum of
 4715 \$400 million is appropriated to the Department of Financial
 4716 Services from the Florida Hurricane Damage Prevention Trust
 4717 Fund, Special Category - Florida Comprehensive Hurricane Damage
 4718 Mitigation Program. The department may spend up to 1 percent of
 4719 the funds appropriated to administer the program. The department
 4720 shall contract with Tallahassee Community College for \$7.5
 4721 million to implement the Manufactured Housing and Mobile Home
 4722 Hurricane Mitigation and Enhancement Program. Tallahassee
 4723 Community College may spend up to 5 percent of the funds
 4724 appropriated to administer the Manufactured Housing and Mobile
 4725 Home Hurricane Mitigation and Enhancement Program.
 4726 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
 4727 216.351, Florida Statutes, any unexpended balance from this
 4728 appropriation shall be carried forward at the end of each fiscal
 4729 year until the 2010-2011 fiscal year. At the end of the 2010-
 4730 2011 fiscal year, any obligated funds for qualified projects
 4731 that are not yet disbursed shall remain with the department to
 4732 be used for the purposes of this act. Any unobligated funds of
 4733 this appropriation shall revert to the Florida Hurricane Damage
 4734 Prevention Trust Fund at the end of the 2010-2011 fiscal year.

4735 Section 32. (1) For fiscal year 2006-2007, the sum of
 4736 \$920 million in nonrecurring funds is appropriated from the
 4737 General Revenue Fund to the Department of Financial Services for
 4738 transfer to the Citizens Property Insurance Corporation as an
 4739 allocation to regular assessments on assessable insurers and
 4740 insureds, as authorized under s. 627.351(6)(b)3.b., Florida

4741 Statutes, for the 2005 Plan Year deficit. The board of governors
4742 of the corporation shall allocate the appropriated state moneys
4743 to each of the personal lines, commercial lines, and high-risk
4744 accounts so as to totally eliminate the deficit for calendar
4745 year 2005 in each such account that would have been paid from
4746 the proceeds of regular assessment but for the appropriated
4747 moneys. The moneys allocated to each account from the
4748 appropriations shall be considered to be and shall be treated as
4749 proceeds of regular assessments for purposes of financing
4750 documents of the corporation. No regular assessments shall be
4751 imposed for any portion of the calendar year 2005 deficit paid
4752 from the appropriated moneys. The transfer made by the
4753 department to the corporation shall be limited to the amount of
4754 the total regular assessments that were authorized by law to
4755 cover the 2005 Plan Year deficit. Any unused and remaining funds
4756 in this appropriation shall revert to the General Revenue Fund.

4757 (2) The corporation shall amortize over a 10-year period
4758 any emergency assessments resulting from the 2005 Plan Year
4759 deficit.

4760 (3) Each insurer that recoups an assessment from its
4761 policyholders as allowed by law shall include on the premium
4762 notice sent to policyholders, in 12-point type, the following
4763 statement, with the appropriate dollar amounts shown:

4764 "THE \$ SURCHARGE IN YOUR PREMIUM FOR THE ASSESSMENT BY
4765 CITIZENS PROPERTY INSURANCE CORPORATION HAS BEEN REDUCED BY
4766 \$ DUE TO AN APPROPRIATION BY THE FLORIDA LEGISLATURE."

4767 (4) A violation of this section by an insurer is a
4768 violation of the Insurance Code and the insurer is subject to
4769 the penalties provided in ss. 624.418 and 624.4211, Florida
4770 Statutes.

4771 Section 33. For fiscal year 2006-2007, the sums of
4772 \$250,000 in recurring funds and \$425,000 in nonrecurring funds
4773 are appropriated from the Insurance Regulatory Trust Fund in the
4774 Department of Financial Services to the Office of Insurance
4775 Regulation for the purpose of carrying out reporting and
4776 administrative responsibilities of this act.

4777 Section 34. Except as otherwise expressly provided in this
4778 act, this act shall take effect July 1, 2006.