

By Senator Klein

30-348B-06

1                                   A bill to be entitled  
2           An act relating to property and casualty  
3           insurance; transferring, renumbering, and  
4           amending ss. 350.061, 350.0611, 350.0612,  
5           350.0613, and 350.0614, F.S.; authorizing the  
6           Public Counsel to represent the general public  
7           before the Office of Insurance Regulation;  
8           including certain proceedings related to rules  
9           and rate filings for residential property  
10          insurance; authorizing the Public Counsel to  
11          have access to files of the office, to seek  
12          review of orders of the office, to issue  
13          reports, recommendations, and proposed orders  
14          to the office; specifying where the Public  
15          Counsel shall maintain his or her office;  
16          authorizing the Joint Legislative Auditing  
17          Committee to authorize the Public Counsel to  
18          employ certain types of employees; requiring  
19          the Office of Insurance Regulation to provide  
20          copies of certain filings to the Public  
21          Counsel; amending s. 112.3145, F.S.; conforming  
22          a cross-reference; amending s. 215.559, F.S.;  
23          revising the distribution of funds in the  
24          Hurricane Loss Mitigation Program; revising  
25          provisions relating to a low-interest loan  
26          program; amending s. 408.40, F.S.; conforming a  
27          cross-reference; amending s. 624.319, F.S.;  
28          authorizing the Public Counsel to have access  
29          to certain confidential information held by the  
30          Department of Financial Services or the Office  
31          of Insurance Regulation; amending s. 627.062,

1 F.S.; abolishing "use and file" rate filings;  
2 amending s. 627.062, F.S.; deleting provisions  
3 that allow an insurer to require arbitration of  
4 a rate filing for property and casualty  
5 insurance; amending s. 627.0629, F.S.;  
6 requiring underwriting rules for homeowners'  
7 insurance to be filed with and approved by the  
8 Office of Insurance Regulation; providing for  
9 filing and approval provisions; amending s.  
10 627.0651, F.S.; abolishing "use and file" rate  
11 filings; deleting reference to the filing of  
12 specified underwriting rules for homeowners'  
13 insurance; amending s. 627.311, F.S.;  
14 abolishing "use and file" rate filings;  
15 amending s. 627.4025, F.S.; redefining the term  
16 "hurricane coverage" to include coverage for  
17 damage from wind-driven water; amending s.  
18 627.4133, F.S.; prohibiting an insurer from  
19 canceling or nonrenewing a residential property  
20 insurance policy for certain reasons; amending  
21 s. 627.4145, F.S.; increasing the minimum score  
22 on the reading ease test for insurance  
23 policies; creating s. 627.41494, F.S.;  
24 providing for consumer participation in review  
25 of insurance rate changes; providing for public  
26 inspection of rate filings; providing for  
27 adoption of rules by the Financial Services  
28 Commission; requiring insurers to pay costs of  
29 consumer advocacy groups under certain  
30 circumstances; amending s. 627.701, F.S.;  
31 revising the hurricane deductibles that

1 insurers must offer for personal lines  
2 residential property insurance policies;  
3 creating s. 627.70105, F.S.; requiring payment  
4 of living expenses required due to  
5 uninhabitability of insured property within a  
6 specified time; providing an appropriation;  
7 providing effective dates.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. This act may be cited as the "Homeowners'  
12 Defense Act."

13 Section 2. Section 350.061, Florida Statutes, is  
14 transferred, renumbered as section 11.402, Florida Statutes,  
15 and amended to read:

16 11.402 ~~350.061~~ Public Counsel; appointment; oath;  
17 restrictions on Public Counsel and his or her employees.--

18 (1) The Committee on Public Service Commission  
19 Oversight shall appoint a Public Counsel by majority vote of  
20 the members of the committee to represent the general public  
21 of Florida before the Florida Public Service Commission and  
22 the Office of Insurance Regulation. The Public Counsel shall  
23 be an attorney admitted to practice before the Florida Supreme  
24 Court and shall serve at the pleasure of the Committee on  
25 Public Service Commission Oversight, subject to biennial  
26 reconfirmation by the committee. The Public Counsel shall  
27 perform his or her duties independently. Vacancies in the  
28 office shall be filled in the same manner as the original  
29 appointment.

1           (2) The Public Counsel shall take and subscribe to the  
2 oath of office required of state officers by the State  
3 Constitution.

4           (3) No officer or full-time employee of the Public  
5 Counsel shall actively engage in any other business or  
6 profession; serve as the representative of any political party  
7 or on any executive committee or other governing body thereof;  
8 serve as an executive, officer, or employee of any political  
9 party, committee, organization, or association; receive  
10 remuneration for activities on behalf of any candidate for  
11 public office; or engage on behalf of any candidate for public  
12 office in the solicitation of votes or other activities in  
13 behalf of such candidacy. Neither the Public Counsel nor any  
14 employee of the Public Counsel shall become a candidate for  
15 election to public office unless he or she shall first resign  
16 from his or her office or employment.

17           Section 3. Section 350.0611, Florida Statutes, is  
18 transferred, renumbered as section 11.403, Florida Statutes,  
19 and amended to read:

20           11.403 ~~350.0611~~ Public Counsel; duties and powers.--It  
21 shall be the duty of the Public Counsel to provide legal  
22 representation for the people of the state in proceedings  
23 before the Public Service Commission and the Office of  
24 Insurance Regulation and in proceedings before counties  
25 pursuant to s. 367.171(8). The Public Counsel shall have such  
26 powers as are necessary to carry out the duties of his or her  
27 office, including, but not limited to, the following specific  
28 powers:

29           (1) To recommend to the Public Service Commission or  
30 the counties, by petition, the commencement of any proceeding  
31 or action or to appear, in the name of the state or its

1 citizens, in any proceeding or action before the commission or  
2 the counties.

3 (2) To recommend to the Office of Insurance  
4 Regulation, by petition, the commencement of, and to appear in  
5 the name of the state or its citizens in, any proceeding or  
6 action before the office relating to:

7 (a) Rules governing residential property insurance; or  
8 (b) Rate filings for residential property insurance  
9 which, pursuant to standards determined by the office, request  
10 an average statewide rate increase of 10 percent or greater as  
11 compared to the current rates in effect or the rates in effect  
12 12 months prior to the proposed effective date.

13  
14 The Public Counsel may not stay any final order of the Office  
15 of Insurance Regulation.

16 (3) To ~~and~~ urge in any proceeding or action to which  
17 he or she is a party therein any position that ~~which~~ he or she  
18 deems to be in the public interest, whether consistent or  
19 inconsistent with positions previously adopted by the  
20 commission, ~~or~~ the counties, or the office, and use ~~utilize~~  
21 therein all forms of discovery available to attorneys in civil  
22 actions generally, subject to protective orders of the  
23 commission, ~~or~~ the counties, or the office, which shall be  
24 reviewable by summary procedure in the circuit courts of this  
25 state.†

26 (4)~~(2)~~ To have access to and use of all files,  
27 records, and data of the commission, ~~or~~ the counties, or the  
28 office available to any other attorney representing parties in  
29 a proceeding before the commission, ~~or~~ the counties, or the  
30 office.†

1           ~~(5)(3)~~ In any proceeding in which he or she has  
2 participated as a party, to seek review of any determination,  
3 finding, or order of the commission, ~~or~~ the counties, or the  
4 office, or of any hearing examiner designated by the  
5 commission, ~~or~~ the counties, or the office, in the name of the  
6 state or its citizens.†

7           ~~(6)(4)~~ To prepare and issue reports, recommendations,  
8 and proposed orders to the commission or office, the Governor,  
9 and the Legislature on any matter or subject within the  
10 jurisdiction of the commission or office, and to make such  
11 recommendations as he or she deems appropriate for legislation  
12 relative to commission or office procedures, rules,  
13 jurisdiction, personnel, and functions.†~~and~~

14           ~~(7)(5)~~ To appear before other state agencies, federal  
15 agencies, and state and federal courts in connection with  
16 matters under the jurisdiction of the commission or office, in  
17 the name of the state or its citizens.

18           Section 4. Section 350.0612, Florida Statutes, is  
19 transferred, renumbered as section 11.404, Florida Statutes,  
20 and amended to read:

21           11.404 ~~350.0612~~ Public Counsel; location.--The Public  
22 Counsel shall maintain his or her office in Leon County ~~on the~~  
23 ~~premises of the commission or, if suitable space there cannot~~  
24 ~~be provided,~~ at such ~~other~~ place convenient to the offices of  
25 the Public Services Commission or the Office of Insurance  
26 Regulation ~~commissioners~~ as will enable him or her to carry  
27 out expeditiously the duties and functions of his or her  
28 office.

29           Section 5. Section 350.0613, Florida Statutes, is  
30 transferred, renumbered as section 11.405, Florida Statutes,  
31 and amended to read:

1           11.405 ~~350.0613~~ Public Counsel; employees; receipt of  
2 pleadings.--The Joint Legislative Auditing Committee may  
3 authorize the Public Counsel to employ clerical and technical  
4 assistants whose qualifications, duties, and responsibilities  
5 the committee shall from time to time prescribe. The committee  
6 may from time to time authorize retention of the services of  
7 additional attorneys, actuaries, economists, or experts to the  
8 extent that the best interests of the people of the state will  
9 be better served thereby, including the retention of expert  
10 witnesses and other technical personnel for participation in  
11 contested proceedings before the Public Service Commission or  
12 Office of Insurance Regulation. The commission shall furnish  
13 the Public Counsel with copies of the initial pleadings in all  
14 proceedings before the commission. The office shall furnish  
15 the Public Counsel with copies of all filings that relate to  
16 the jurisdiction of the Public Counsel pursuant to s.  
17 11.403(2). ~~and~~ If the Public Counsel intervenes as a party in  
18 any proceeding he or she shall be served with copies of all  
19 subsequent pleadings, exhibits, and prepared testimony, if  
20 used. Upon filing notice of intervention, the Public Counsel  
21 shall serve all interested parties with copies of such notice  
22 and all of his or her subsequent pleadings and exhibits.

23           Section 6. Section 350.0614, Florida Statutes, is  
24 transferred, renumbered as section 11.406, Florida Statutes,  
25 and amended to read:

26           11.406 ~~350.0614~~ Public Counsel; compensation and  
27 expenses.--

28           (1) The salaries and expenses of the Public Counsel  
29 and his or her employees shall be allocated by the committee  
30 only from moneys appropriated to the Public Counsel by the  
31 Legislature.

1           (2) The Legislature declares and determines that the  
2 Public Counsel is under the legislative branch of government  
3 within the intention of the legislation as expressed in  
4 chapter 216, and no power shall be in the Executive Office of  
5 the Governor or its successor to release or withhold funds  
6 appropriated to it, but the same shall be available for  
7 expenditure as provided by law and the rules or decisions of  
8 the Committee on Public Service Commission Oversight.

9           (3) Neither the Executive Office of the Governor nor  
10 the Department of Management Services or its successor shall  
11 have power to determine the number, or fix the compensation,  
12 of the employees of the Public Counsel or to exercise any  
13 manner of control over them.

14           Section 7. Paragraph (b) of subsection (1) of section  
15 112.3145, Florida Statutes, is amended to read:

16           112.3145 Disclosure of financial interests and clients  
17 represented before agencies.--

18           (1) For purposes of this section, unless the context  
19 otherwise requires, the term:

20           (b) "Specified state employee" means:

21           1. Public counsel created by chapter 11 350, an  
22 assistant state attorney, an assistant public defender, a  
23 full-time state employee who serves as counsel or assistant  
24 counsel to any state agency, the Deputy Chief Judge of  
25 Compensation Claims, a judge of compensation claims, an  
26 administrative law judge, or a hearing officer.

27           2. Any person employed in the office of the Governor  
28 or in the office of any member of the Cabinet if that person  
29 is exempt from the Career Service System, except persons  
30 employed in clerical, secretarial, or similar positions.

31



1           3. Each appointed secretary, assistant secretary,  
2 deputy secretary, executive director, assistant executive  
3 director, or deputy executive director of each state  
4 department, commission, board, or council; unless otherwise  
5 provided, the division director, assistant division director,  
6 deputy director, bureau chief, and assistant bureau chief of  
7 any state department or division; or any person having the  
8 power normally conferred upon such persons, by whatever title.

9           4. The superintendent or institute director of a state  
10 mental health institute established for training and research  
11 in the mental health field or the warden or director of any  
12 major state institution or facility established for  
13 corrections, training, treatment, or rehabilitation.

14           5. Business managers, purchasing agents having the  
15 power to make any purchase exceeding the threshold amount  
16 provided for in s. 287.017 for CATEGORY ONE, finance and  
17 accounting directors, personnel officers, or grants  
18 coordinators for any state agency.

19           6. Any person, other than a legislative assistant  
20 exempted by the presiding officer of the house by which the  
21 legislative assistant is employed, who is employed in the  
22 legislative branch of government, except persons employed in  
23 maintenance, clerical, secretarial, or similar positions.

24           7. Each employee of the Commission on Ethics.

25           Section 8. Section 215.559, Florida Statutes, is  
26 amended to read:

27           215.559 Hurricane Loss Mitigation Program.--

28           (1) There is created a Hurricane Loss Mitigation  
29 Program. The Legislature shall annually appropriate \$10  
30 million of the moneys authorized for appropriation under s.  
31 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to

1 | the Department of Community Affairs for the purposes set forth  
2 | in this section.

3 |         (2)(a) ~~One Seven~~ million dollars in funds provided in  
4 | subsection (1) shall be used for programs to improve the wind  
5 | resistance of ~~residences and mobile homes, including loans,~~  
6 | ~~subsidies, grants, demonstration projects, and direct~~  
7 | ~~assistance; cooperative programs with local governments and~~  
8 | ~~the Federal Government; and other efforts~~ to prevent or reduce  
9 | losses or reduce the cost of rebuilding after a disaster.

10 |         (b) Six million dollars in funds provided in  
11 | subsection (1) shall be used for programs to improve the wind  
12 | resistance of residences to prevent or reduce losses or reduce  
13 | the cost of rebuilding after a disaster.

14 |         (c) The department shall, with the funds authorized in  
15 | paragraphs (a) and (b), establish a program of low-interest  
16 | loans to qualified owners of residences and qualified owners  
17 | of mobile homes. For the purpose of this section, the term  
18 | "low-interest loan" means any direct loan or loan guarantee  
19 | issued or backed by such authorized funds to a qualified owner  
20 | to finance efforts to prevent or reduce losses or reduce the  
21 | cost of rebuilding after a disaster with a requirement for  
22 | repayment by the owner. Loans provided under this section  
23 | shall be made at a rate of up to 2 percent below the qualified  
24 | loan rate as determined by the department. The terms and  
25 | conditions of the low-interest loan program, including loan  
26 | incentive provisions, and the qualifications required of  
27 | owners of residences and owners of mobile homes shall be  
28 | determined by the department.

29 |         ~~(d)(b)~~ Three million dollars in funds provided in  
30 | subsection (1) shall be used to retrofit existing facilities  
31 | used as public hurricane shelters. The department must

1 | prioritize the use of these funds for projects included in the  
2 | September 1, 2000, version of the Shelter Retrofit Report  
3 | prepared in accordance with s. 252.385(3), and each annual  
4 | report thereafter. The department must give funding priority  
5 | to projects in regional planning council regions that have  
6 | shelter deficits and to projects that maximize use of state  
7 | funds.

8 |       ~~(3) By the 2006-2007 fiscal year, the Department of~~  
9 | ~~Community Affairs shall develop a low interest loan program~~  
10 | ~~for homeowners and mobile home owners to retrofit their homes~~  
11 | ~~with fixtures or apply construction techniques that have been~~  
12 | ~~demonstrated to reduce the amount of damage or loss due to a~~  
13 | ~~hurricane. Funding for the program shall be used to subsidize~~  
14 | ~~or guaranty private sector loans for this purpose to qualified~~  
15 | ~~homeowners by financial institutions chartered by the state or~~  
16 | ~~Federal Government. The department may enter into contracts~~  
17 | ~~with financial institutions for this purpose. The department~~  
18 | ~~shall establish criteria for determining eligibility for the~~  
19 | ~~loans and selecting recipients, standards for retrofitting~~  
20 | ~~homes or mobile homes, limitations on loan subsidies and loan~~  
21 | ~~guaranties, and other terms and conditions of the program,~~  
22 | ~~which must be specified in the department's report to the~~  
23 | ~~Legislature on January 1, 2006, required by subsection (8).~~  
24 | ~~For the 2005-2006 fiscal year, the Department of Community~~  
25 | ~~Affairs may use up to \$1 million of the funds appropriated~~  
26 | ~~pursuant to paragraph (2)(a) to begin the low interest loan~~  
27 | ~~program as a pilot project in one or more counties. The~~  
28 | ~~Department of Financial Services, the Office of Financial~~  
29 | ~~Regulation, the Florida Housing Finance Corporation, and the~~  
30 | ~~Office of Tourism, Trade, and Economic Development shall~~  
31 | ~~assist the Department of Community Affairs in establishing the~~

1 ~~program and pilot project. The department may use up to 2.5~~  
2 ~~percent of the funds appropriated in any given fiscal year for~~  
3 ~~administering the loan program. The department may adopt rules~~  
4 ~~to implement the program.~~

5       ~~(3)(4)~~ Forty percent of the total appropriation in  
6 paragraph (2)(a) shall be used to inspect and improve  
7 tie-downs for mobile homes. Within 30 days after the effective  
8 date of that appropriation, the department shall contract with  
9 a public higher educational institution in this state which  
10 has previous experience in administering the programs set  
11 forth in this subsection to serve as the administrative entity  
12 and fiscal agent pursuant to s. 216.346 for the purpose of  
13 administering the programs set forth in this subsection in  
14 accordance with established policy and procedures. The  
15 administrative entity working with the advisory council set up  
16 under subsection (6) shall develop a list of mobile home parks  
17 and counties that may be eligible to participate in the  
18 tie-down program.

19       ~~(4)(5)~~ Of moneys provided to the Department of  
20 Community Affairs in ~~paragraphs~~ paragraph (2)(a) and (b), 10  
21 percent shall be allocated to a Type I Center within the State  
22 University System dedicated to hurricane research. The Type I  
23 Center shall develop a preliminary work plan approved by the  
24 advisory council set forth in subsection ~~(5)(6)~~ to eliminate  
25 the state and local barriers to upgrading existing residences,  
26 mobile homes, and communities; and research and develop a program  
27 for the recycling of existing older mobile homes; and support  
28 programs of research and development relating to hurricane  
29 loss reduction devices and techniques for site-built  
30 residences. The State University System also shall consult  
31

1 with the Department of Community Affairs and assist the  
2 department with the report required under subsection ~~(7)~~~~(8)~~.

3 ~~(5)~~~~(6)~~ The Department of Community Affairs shall  
4 develop the programs set forth in this section in consultation  
5 with an advisory council consisting of a representative  
6 designated by the Chief Financial Officer, a representative  
7 designated by the Florida Home Builders Association, a  
8 representative designated by the Florida Insurance Council, a  
9 representative designated by the Federation of Manufactured  
10 Home Owners, a representative designated by the Florida  
11 Association of Counties, and a representative designated by  
12 the Florida Manufactured Housing Association.

13 ~~(6)~~~~(7)~~ Moneys provided to the Department of Community  
14 Affairs under this section are intended to supplement other  
15 funding sources of the Department of Community Affairs and may  
16 not supplant other funding sources of the Department of  
17 Community Affairs.

18 ~~(7)~~~~(8)~~ On January 1st of each year, the Department of  
19 Community Affairs shall provide a full report and accounting  
20 of activities under this section and an evaluation of such  
21 activities to the Speaker of the House of Representatives, the  
22 President of the Senate, and the Majority and Minority Leaders  
23 of the House of Representatives and the Senate.

24 ~~(8)~~~~(9)~~ This section is repealed June 30, 2011.

25 Section 9. Subsection (1) of section 408.40, Florida  
26 Statutes, is amended to read:

27 408.40 Public Counsel.--

28 (1) Notwithstanding any other provisions of this  
29 chapter, the Public Counsel shall represent the public in any  
30 proceeding before the agency or its advisory panels in any  
31 administrative hearing conducted pursuant to chapter 120 or

1 before any other state and federal agencies and courts in any  
2 issue before the agency, any court, or any agency. With  
3 respect to any such proceeding, the Public Counsel is subject  
4 to the provisions of and may use the powers granted to him or  
5 her by ss. 11.402-11.406 ~~ss. 350.061-350.0614~~.

6 Section 10. Paragraph (b) of subsection (3) of section  
7 624.319, Florida Statutes, is amended to read:

8 624.319 Examination and investigation reports.--

9 (3)

10 (b) Workpapers and other information held by the  
11 department or office, and workpapers and other information  
12 received from another governmental entity or the National  
13 Association of Insurance Commissioners, for the department's  
14 or office's use in the performance of its examination or  
15 investigation duties pursuant to this section and ss. 624.316,  
16 624.3161, 624.317, and 624.318 are confidential and exempt  
17 from the provisions of s. 119.07(1) and s. 24(a), Art. I of  
18 the State Constitution. This exemption applies to workpapers  
19 and other information held by the department or office before,  
20 on, or after the effective date of this exemption. Such  
21 confidential and exempt information may be disclosed to  
22 another governmental entity, if disclosure is necessary for  
23 the receiving entity to perform its duties and  
24 responsibilities, and may be disclosed to the National  
25 Association of Insurance Commissioners. The Public Counsel  
26 shall have access to such confidential and exempt information  
27 pertaining to residential property insurance at any time. The  
28 receiving governmental entity or the association must maintain  
29 the confidential and exempt status of the information. The  
30 information made confidential and exempt by this paragraph may  
31 be used in a criminal, civil, or administrative proceeding so

1 long as the confidential and exempt status of such information  
2 is maintained. This paragraph is subject to the Open  
3 Government Sunset Review Act of 1995 in accordance with s.  
4 119.15 and shall stand repealed on October 2, 2007, unless  
5 reviewed and saved from repeal through reenactment by the  
6 Legislature.

7 Section 11. Subsection (2) of section 627.062, Florida  
8 Statutes, is amended to read:

9 627.062 Rate standards.--

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

11 (a) Insurers or rating organizations shall establish  
12 and use rates, rating schedules, or rating manuals to allow  
13 the insurer a reasonable rate of return on such classes of  
14 insurance written in this state. A copy of rates, rating  
15 schedules, rating manuals, premium credits or discount  
16 schedules, and surcharge schedules, and changes thereto, shall  
17 be filed with the office ~~under one of the following~~  
18 ~~procedures:~~

19 ~~1. If the filing is made~~ at least 90 days before the  
20 proposed effective date. ~~and~~ The filing may ~~is~~ not be  
21 implemented during the office's review of the filing and any  
22 proceeding and judicial review. ~~, then~~ Such filing is ~~shall be~~  
23 considered a "file and use" filing. ~~In such case,~~ The office  
24 shall finalize its review by issuance of a notice of intent to  
25 approve or a notice of intent to disapprove within 90 days  
26 after receipt of the filing. The notice of intent to approve  
27 and the notice of intent to disapprove constitute agency  
28 action for purposes of the Administrative Procedure Act.  
29 Requests for supporting information, requests for mathematical  
30 or mechanical corrections, or notification to the insurer by  
31 the office of its preliminary findings shall not toll the

1 90-day period during any such proceedings and subsequent  
2 judicial review. The rate shall be deemed approved if the  
3 office does not issue a notice of intent to approve or a  
4 notice of intent to disapprove within 90 days after receipt of  
5 the filing.

6 ~~2. If the filing is not made in accordance with the~~  
7 ~~provisions of subparagraph 1., such filing shall be made as~~  
8 ~~soon as practicable, but no later than 30 days after the~~  
9 ~~effective date, and shall be considered a "use and file"~~  
10 ~~filing. An insurer making a "use and file" filing is~~  
11 ~~potentially subject to an order by the office to return to~~  
12 ~~policyholders portions of rates found to be excessive, as~~  
13 ~~provided in paragraph (h).~~

14 (b) Upon receiving a rate filing, the office shall  
15 review the rate filing to determine if a rate is excessive,  
16 inadequate, or unfairly discriminatory. In making that  
17 determination, the office shall, in accordance with generally  
18 accepted and reasonable actuarial techniques, consider the  
19 following factors:

20 1. Past and prospective loss experience within and  
21 without this state.

22 2. Past and prospective expenses.

23 3. The degree of competition among insurers for the  
24 risk insured.

25 4. Investment income reasonably expected by the  
26 insurer, consistent with the insurer's investment practices,  
27 from investable premiums anticipated in the filing, plus any  
28 other expected income from currently invested assets  
29 representing the amount expected on unearned premium reserves  
30 and loss reserves. The commission may adopt rules utilizing  
31 reasonable techniques of actuarial science and economics to



1 specify the manner in which insurers shall calculate  
2 investment income attributable to such classes of insurance  
3 written in this state and the manner in which such investment  
4 income shall be used in the calculation of insurance rates.  
5 Such manner shall contemplate allowances for an underwriting  
6 profit factor and full consideration of investment income  
7 which produce a reasonable rate of return; however, investment  
8 income from invested surplus shall not be considered.

9           5. The reasonableness of the judgment reflected in the  
10 filing.

11           6. Dividends, savings, or unabsorbed premium deposits  
12 allowed or returned to Florida policyholders, members, or  
13 subscribers.

14           7. The adequacy of loss reserves.

15           8. The cost of reinsurance.

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

18           10. Conflagration and catastrophe hazards, if  
19 applicable.

20           11. A reasonable margin for underwriting profit and  
21 contingencies.

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

23           13. Other relevant factors which impact upon the  
24 frequency or severity of claims or upon expenses.

25           (c) In the case of fire insurance rates, consideration  
26 shall be given to the availability of water supplies and the  
27 experience of the fire insurance business during a period of  
28 not less than the most recent 5-year period for which such  
29 experience is available.

30           (d) If conflagration or catastrophe hazards are given  
31 consideration by an insurer in its rates or rating plan,

1 including surcharges and discounts, the insurer shall  
2 establish a reserve for that portion of the premium allocated  
3 to such hazard and shall maintain the premium in a catastrophe  
4 reserve. Any removal of such premiums from the reserve for  
5 purposes other than paying claims associated with a  
6 catastrophe or purchasing reinsurance for catastrophes shall  
7 be subject to approval of the office. Any ceding commission  
8 received by an insurer purchasing reinsurance for catastrophes  
9 shall be placed in the catastrophe reserve.

10 (e) After consideration of the rate factors provided  
11 in paragraphs (b), (c), and (d), a rate may be found by the  
12 office to be excessive, inadequate, or unfairly discriminatory  
13 based upon the following standards:

14 1. Rates shall be deemed excessive if they are likely  
15 to produce a profit from Florida business that is unreasonably  
16 high in relation to the risk involved in the class of business  
17 or if expenses are unreasonably high in relation to services  
18 rendered.

19 2. Rates shall be deemed excessive if, among other  
20 things, the rate structure established by a stock insurance  
21 company provides for replenishment of surpluses from premiums,  
22 when the replenishment is attributable to investment losses.

23 3. Rates shall be deemed inadequate if they are  
24 clearly insufficient, together with the investment income  
25 attributable to them, to sustain projected losses and expenses  
26 in the class of business to which they apply.

27 4. A rating plan, including discounts, credits, or  
28 surcharges, shall be deemed unfairly discriminatory if it  
29 fails to clearly and equitably reflect consideration of the  
30 policyholder's participation in a risk management program  
31 adopted pursuant to s. 627.0625.

1           5. A rate shall be deemed inadequate as to the premium  
2 charged to a risk or group of risks if discounts or credits  
3 are allowed which exceed a reasonable reflection of expense  
4 savings and reasonably expected loss experience from the risk  
5 or group of risks.

6           6. A rate shall be deemed unfairly discriminatory as  
7 to a risk or group of risks if the application of premium  
8 discounts, credits, or surcharges among such risks does not  
9 bear a reasonable relationship to the expected loss and  
10 expense experience among the various risks.

11           (f) In reviewing a rate filing, the office may require  
12 the insurer to provide at the insurer's expense all  
13 information necessary to evaluate the condition of the company  
14 and the reasonableness of the filing according to the criteria  
15 enumerated in this section.

16           (g) The office may at any time review a rate, rating  
17 schedule, rating manual, or rate change; the pertinent records  
18 of the insurer; and market conditions. If the office finds on  
19 a preliminary basis that a rate may be excessive, inadequate,  
20 or unfairly discriminatory, the office shall initiate  
21 proceedings to disapprove the rate and shall so notify the  
22 insurer. However, the office may not disapprove as excessive  
23 any rate for which it has given final approval or which has  
24 been deemed approved for a period of 1 year after the  
25 effective date of the filing unless the office finds that a  
26 material misrepresentation or material error was made by the  
27 insurer or was contained in the filing. Upon being so  
28 notified, the insurer or rating organization shall, within 60  
29 days, file with the office all information which, in the  
30 belief of the insurer or organization, proves the  
31 reasonableness, adequacy, and fairness of the rate or rate

1 change. The office shall issue a notice of intent to approve  
2 or a notice of intent to disapprove pursuant to the procedures  
3 of paragraph (a) within 90 days after receipt of the insurer's  
4 initial response. In such instances and in any administrative  
5 proceeding relating to the legality of the rate, the insurer  
6 or rating organization shall carry the burden of proof by a  
7 preponderance of the evidence to show that the rate is not  
8 excessive, inadequate, or unfairly discriminatory. After the  
9 office notifies an insurer that a rate may be excessive,  
10 inadequate, or unfairly discriminatory, unless the office  
11 withdraws the notification, the insurer shall not alter the  
12 rate except to conform with the office's notice until the  
13 earlier of 120 days after the date the notification was  
14 provided or 180 days after the date of the implementation of  
15 the rate. The office may, subject to chapter 120, disapprove  
16 without the 60-day notification any rate increase filed by an  
17 insurer within the prohibited time period or during the time  
18 that the legality of the increased rate is being contested.

19 (h) If ~~In the event~~ the office finds that a rate or  
20 rate change is excessive, inadequate, or unfairly  
21 discriminatory, the office shall issue an order of disapproval  
22 specifying that a new rate or rate schedule which responds to  
23 the findings of the office be filed by the insurer. ~~The office~~  
24 ~~shall further order, for any "use and file" filing made in~~  
25 ~~accordance with subparagraph (a)2., that premiums charged each~~  
26 ~~policyholder constituting the portion of the rate above that~~  
27 ~~which was actuarially justified be returned to such~~  
28 ~~policyholder in the form of a credit or refund.~~ If the office  
29 finds that an insurer's rate or rate change is inadequate, the  
30 new rate or rate schedule filed with the office in response to  
31 such a finding shall be applicable only to new or renewal

1 business of the insurer written on or after the effective date  
2 of the responsive filing.

3 (i) Except as otherwise specifically provided in this  
4 chapter, the office shall not prohibit any insurer, including  
5 any residual market plan or joint underwriting association,  
6 from paying acquisition costs based on the full amount of  
7 premium, as defined in s. 627.403, applicable to any policy,  
8 or prohibit any such insurer from including the full amount of  
9 acquisition costs in a rate filing.

10  
11 ~~The provisions of~~ This subsection does ~~shall~~ not apply to  
12 workers' compensation and employer's liability insurance and  
13 to motor vehicle insurance.

14 Section 12. Effective upon this act becoming a law,  
15 subsection (6) of section 627.062, Florida Statutes, is  
16 amended to read:

17 627.062 Rate standards.--

18 ~~(6)(a) After any action with respect to a rate filing~~  
19 ~~that constitutes agency action for purposes of the~~  
20 ~~Administrative Procedure Act, except for a rate filing for~~  
21 ~~medical malpractice, an insurer may, in lieu of demanding a~~  
22 ~~hearing under s. 120.57, require arbitration of the rate~~  
23 ~~filing. Arbitration shall be conducted by a board of~~  
24 ~~arbitrators consisting of an arbitrator selected by the~~  
25 ~~office, an arbitrator selected by the insurer, and an~~  
26 ~~arbitrator selected jointly by the other two arbitrators. Each~~  
27 ~~arbitrator must be certified by the American Arbitration~~  
28 ~~Association. A decision is valid only upon the affirmative~~  
29 ~~vote of at least two of the arbitrators. No arbitrator may be~~  
30 ~~an employee of any insurance regulator or regulatory body or~~  
31 ~~of any insurer, regardless of whether or not the employing~~

1 ~~insurer does business in this state. The office and the~~  
2 ~~insurer must treat the decision of the arbitrators as the~~  
3 ~~final approval of a rate filing. Costs of arbitration shall be~~  
4 ~~paid by the insurer.~~

5 ~~(b) Arbitration under this subsection shall be~~  
6 ~~conducted pursuant to the procedures specified in ss.~~  
7 ~~682.06-682.10. Either party may apply to the circuit court to~~  
8 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~  
9 ~~682.14. The commission shall adopt rules for arbitration under~~  
10 ~~this subsection, which rules may not be inconsistent with the~~  
11 ~~arbitration rules of the American Arbitration Association as~~  
12 ~~of January 1, 1996.~~

13 ~~(c) Upon initiation of the arbitration process, the~~  
14 ~~insurer waives all rights to challenge the action of the~~  
15 ~~office under the Administrative Procedure Act or any other~~  
16 ~~provision of law; however, such rights are restored to the~~  
17 ~~insurer if the arbitrators fail to render a decision within 90~~  
18 ~~days after initiation of the arbitration process.~~

19 Section 13. Section 627.0629, Florida Statutes, is  
20 amended to read:

21 627.0629 Residential property insurance; rate filings;  
22 underwriting rules.--

23 (1) Effective June 1, 2002, a rate filing for  
24 residential property insurance must include actuarially  
25 reasonable discounts, credits, or other rate differentials, or  
26 appropriate reductions in deductibles, for properties on which  
27 fixtures or construction techniques demonstrated to reduce the  
28 amount of loss in a windstorm have been installed or  
29 implemented. The fixtures or construction techniques shall  
30 include, but not be limited to, fixtures or construction  
31 techniques which enhance roof strength, roof covering

1 performance, roof-to-wall strength,  
2 wall-to-floor-to-foundation strength, opening protection, and  
3 window, door, and skylight strength. Credits, discounts, or  
4 other rate differentials for fixtures and construction  
5 techniques which meet the minimum requirements of the Florida  
6 Building Code must be included in the rate filing. All  
7 insurance companies must make a rate filing which includes the  
8 credits, discounts, or other rate differentials by February  
9 28, 2003.

10 (2)(a) A rate filing for residential property  
11 insurance made on or before the implementation of paragraph  
12 (b) may include rate factors that reflect the manner in which  
13 building code enforcement in a particular jurisdiction  
14 addresses the risk of wind damage; however, such a rate filing  
15 must also provide for variations from such rate factors on an  
16 individual basis based on an inspection of a particular  
17 structure by a licensed home inspector, which inspection may  
18 be at the cost of the insured.

19 (b) A rate filing for residential property insurance  
20 made more than 150 days after approval by the office of a  
21 building code rating factor plan submitted by a statewide  
22 rating organization shall include positive and negative rate  
23 factors that reflect the manner in which building code  
24 enforcement in a particular jurisdiction addresses risk of  
25 wind damage. The rate filing shall include variations from  
26 standard rate factors on an individual basis based on  
27 inspection of a particular structure by a licensed home  
28 inspector. If an inspection is requested by the insured, the  
29 insurer may require the insured to pay the reasonable cost of  
30 the inspection. This paragraph applies to structures  
31

1 | constructed or renovated after the implementation of this  
2 | paragraph.

3 |         (c) The premium notice shall specify the amount by  
4 | which the rate has been adjusted as a result of this  
5 | subsection and shall also specify the maximum possible  
6 | positive and negative adjustments that are approved for use by  
7 | the insurer under this subsection.

8 |         (3) A rate filing made on or after July 1, 1995, for  
9 | mobile home owner's insurance must include appropriate  
10 | discounts, credits, or other rate differentials for mobile  
11 | homes constructed to comply with American Society of Civil  
12 | Engineers Standard ANSI/ASCE 7-88, adopted by the United  
13 | States Department of Housing and Urban Development on July 13,  
14 | 1994, and that also comply with all applicable tie-down  
15 | requirements provided by state law.

16 |         (4) The Legislature finds that separate consideration  
17 | and notice of hurricane insurance premiums will assist  
18 | consumers by providing greater assurance that hurricane  
19 | premiums are lawful and by providing more complete information  
20 | regarding the components of property insurance premiums.  
21 | Effective January 1, 1997, a rate filing for residential  
22 | property insurance shall be separated into two components,  
23 | rates for hurricane coverage and rates for all other  
24 | coverages. A premium notice reflecting a rate implemented on  
25 | the basis of such a filing shall separately indicate the  
26 | premium for hurricane coverage and the premium for all other  
27 | coverages.

28 |         (5) In order to provide an appropriate transition  
29 | period, an insurer may, in its sole discretion, implement an  
30 | approved rate filing for residential property insurance over a  
31 | period of years. An insurer electing to phase in its rate



1 filing must provide an informational notice to the office  
2 setting out its schedule for implementation of the phased-in  
3 rate filing.

4 (6) An insurer may not write a residential property  
5 insurance policy without providing windstorm coverage or  
6 hurricane coverage as defined in s. 627.4025. This subsection  
7 does not apply with respect to risks located in an area  
8 eligible for coverage under the high-risk account of the  
9 Citizens Property Insurance Corporation pursuant to s.  
10 627.351(6).

11 (7) Any rate filing that is based in whole or part on  
12 data from a computer model may not exceed 15 percent unless  
13 there is a public hearing.

14 (8) An insurer may implement appropriate discounts or  
15 other rate differentials of up to 10 percent of the annual  
16 premium to mobile home owners who provide to the insurer  
17 evidence of a current inspection of tie-downs for the mobile  
18 home, certifying that the tie-downs have been properly  
19 installed and are in good condition.

20 (9) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL  
21 SOUNDNESS.--

22 (a) It is the intent of the Legislature to provide a  
23 program whereby homeowners may obtain an evaluation of the  
24 wind resistance of their homes with respect to preventing  
25 damage from hurricanes, together with a recommendation of  
26 reasonable steps that may be taken to upgrade their homes to  
27 better withstand hurricane force winds.

28 (b) To the extent that funds are provided for this  
29 purpose in the General Appropriations Act, the Legislature  
30 hereby authorizes the establishment of a program to be  
31

1 administered by the Citizens Property Insurance Corporation  
2 for homeowners insured in the high-risk account.

3 (c) The program shall provide grants to homeowners,  
4 for the purpose of providing homeowner applicants with funds  
5 to conduct an evaluation of the integrity of their homes with  
6 respect to withstanding hurricane force winds, recommendations  
7 to retrofit the homes to better withstand damage from such  
8 winds, and the estimated cost to make the recommended  
9 retrofits.

10 (d) The Department of Community Affairs shall  
11 establish by rule standards to govern the quality of the  
12 evaluation, the quality of the recommendations for  
13 retrofitting, the eligibility of the persons conducting the  
14 evaluation, and the selection of applicants under the program.  
15 In establishing the rule, the Department of Community Affairs  
16 shall consult with the advisory committee to minimize the  
17 possibility of fraud or abuse in the evaluation and  
18 retrofitting process, and to ensure that funds spent by  
19 homeowners acting on the recommendations achieve positive  
20 results.

21 (e) The Citizens Property Insurance Corporation shall  
22 identify areas of this state with the greatest wind risk to  
23 residential properties and recommend annually to the  
24 Department of Community Affairs priority target areas for such  
25 evaluations and inclusion with the associated residential  
26 construction mitigation program.

27 (10) A property insurance rate filing that includes  
28 any adjustments related to premiums paid to the Florida  
29 Hurricane Catastrophe Fund must include a complete calculation  
30 of the insurer's catastrophe load, and the information in the  
31

1 filing may not be limited solely to recovery of moneys paid to  
2 the fund.

3 (11) The underwriting rules for homeowners' insurance  
4 not contained in rating manuals shall be filed with the  
5 office. All underwriting rules for homeowners' insurance must  
6 be approved by the office and be reasonable and comply with  
7 applicable provisions of law. The filing and form-approval  
8 provisions under s. 627.410 apply to the filing and approval  
9 of underwriting rules for homeowners' insurance.

10 Section 14. Subsections (1), (11), and (13) of section  
11 627.0651, Florida Statutes, are amended to read:

12 627.0651 Making and use of rates for motor vehicle  
13 insurance.--

14 (1) Insurers shall establish and use rates, rating  
15 schedules, or rating manuals to allow the insurer a reasonable  
16 rate of return on motor vehicle insurance written in this  
17 state. A copy of rates, rating schedules, and rating manuals,  
18 and changes therein, shall be filed with the office ~~under one~~  
19 ~~of the following procedures:~~

20 ~~(a) If the filing is made~~ at least 60 days before the  
21 proposed effective date. ~~and~~ The filing may is not be  
22 implemented during the office's review of the filing and any  
23 proceeding and judicial review. ~~7~~ Such filing is ~~shall be~~  
24 considered a "file and use" filing. In such case, the office  
25 shall initiate proceedings to disapprove the rate and so  
26 notify the insurer or shall finalize its review within 60 days  
27 after receipt of the filing. Notification to the insurer by  
28 the office of its preliminary findings shall toll the 60-day  
29 period during any such proceedings and subsequent judicial  
30 review. The rate shall be deemed approved if the office does  
31

1 not issue notice to the insurer of its preliminary findings  
2 within 60 days after the filing.

3 ~~(b) If the filing is not made in accordance with the~~  
4 ~~provisions of paragraph (a), such filing shall be made as soon~~  
5 ~~as practicable, but no later than 30 days after the effective~~  
6 ~~date, and shall be considered a "use and file" filing. An~~  
7 ~~insurer making a "use and file" filing is potentially subject~~  
8 ~~to an order by the office to return to policyholders portions~~  
9 ~~of rates found to be excessive, as provided in subsection~~  
10 ~~(11).~~

11 (11) If ~~In the event~~ the office finds that a rate or  
12 rate change is excessive, inadequate, or unfairly  
13 discriminatory, the office shall issue an order of disapproval  
14 specifying that a new rate or rate schedule which responds to  
15 the findings of the office be filed by the insurer. ~~The office~~  
16 ~~shall further order for any "use and file" filing made in~~  
17 ~~accordance with paragraph (1)(b), that premiums charged each~~  
18 ~~policyholder constituting the portion of the rate above that~~  
19 ~~which was actuarially justified be returned to such~~  
20 ~~policyholder in the form of a credit or refund.~~ If the office  
21 finds that an insurer's rate or rate change is inadequate, the  
22 new rate or rate schedule filed with the office in response to  
23 such a finding shall be applicable only to new or renewal  
24 business of the insurer written on or after the effective date  
25 of the responsive filing.

26 (13)(a) Underwriting rules not contained in rating  
27 manuals shall be filed for private passenger automobile  
28 insurance ~~and homeowners' insurance.~~

29 (b) The submission of rates, rating schedules, and  
30 rating manuals to the office by a licensed rating organization  
31 of which an insurer is a member or subscriber will be

1 sufficient compliance with this subsection for any insurer  
2 maintaining membership or subscribership in such organization,  
3 to the extent that the insurer uses the rates, rating  
4 schedules, and rating manuals of such organization. All such  
5 information shall be available for public inspection, upon  
6 receipt by the office, during usual business hours.

7 Section 15. Paragraph (e) of subsection (5) of section  
8 627.311, Florida Statutes, is amended to read:

9 627.311 Joint underwriters and joint reinsurers;  
10 public records and public meetings exemptions.--

11 (5)

12 (e) The plan shall establish and use its rates and  
13 rating plans, and the plan may establish and use changes in  
14 rating plans at any time, but no more frequently than two  
15 times per any rating class for any calendar year. By December  
16 1, 1993, and December 1 of each year thereafter, except as  
17 provided in subparagraph (c)22., the board shall establish and  
18 use actuarially sound rates for use by the plan to assure that  
19 the plan is self-funding while those rates are in effect. Such  
20 rates and rating plans must be filed with the office as  
21 provided in s. 627.062(2)(a) within 30 calendar days after  
22 ~~their effective dates, and shall be considered a "use and~~  
23 ~~file" filing. Any disapproval by the office must have an~~  
24 ~~effective date that is at least 60 days from the date of~~  
25 ~~disapproval of the rates and rating plan and must have~~  
26 ~~prospective effect only. The plan may not be subject to any~~  
27 ~~order by the office to return to policyholders any portion of~~  
28 ~~the rates disapproved by the office.~~ The office may not  
29 disapprove any rates or rating plans unless it demonstrates  
30 that such rates and rating plans are excessive, inadequate, or  
31 unfairly discriminatory.

1           Section 16. Paragraph (a) of subsection (2) of section  
2 627.4025, Florida Statutes, is amended to read:

3           627.4025 Residential coverage and hurricane coverage  
4 defined.--

5           (2) As used in policies providing residential  
6 coverage:

7           (a) "Hurricane coverage" is coverage for loss or  
8 damage caused by the peril of windstorm during a hurricane.  
9 The term includes ensuing damage to the interior of a  
10 building, or to property inside a building, caused by rain,  
11 snow, sleet, hail, sand, or dust if the direct force of the  
12 windstorm first damages the building, causing an opening  
13 through which rain, snow, sleet, hail, sand, or dust enters  
14 and causes damage. The term also includes coverage for damage  
15 to the interior of a building, or to property inside a  
16 building, which is caused by wind-driven water entering the  
17 building during a hurricane.

18           Section 17. Effective upon this act becoming a law,  
19 subsection (7) is added to section 627.4133, Florida Statutes,  
20 to read:

21           627.4133 Notice of cancellation, nonrenewal, or  
22 renewal premium.--

23           (7) An insurer may not cancel or nonrenew a  
24 residential property insurance policy for any reason other  
25 than a fraudulent act by the policyholder with respect to that  
26 or any other policy, for a policyholder who has been  
27 continuously insured with that insurer or with an insurer  
28 within the same insurance group for 3 years or longer.

29           Section 18. Subsection (1) of section 627.4145,  
30 Florida Statutes, is amended to read:

31           627.4145 Readable language in insurance policies.--

1 (1) Every policy shall be readable as required by this  
2 section. For the purposes of this section, the term "policy"  
3 means a policy form or endorsement. A policy is deemed  
4 readable if:

5 (a) The text achieves a minimum score of 50 ~~45~~ on the  
6 Flesch reading ease test as computed in subsection (5) or an  
7 equivalent score on any other test comparable in result and  
8 approved by the office;

9 (b) It uses layout and spacing which separate the  
10 paragraphs from each other and from the border of the paper;

11 (c) It has section titles that are captioned in  
12 boldfaced type or that otherwise stand out significantly from  
13 the text;

14 (d) It avoids the use of unnecessarily long,  
15 complicated, or obscure words, sentences, paragraphs, or  
16 constructions;

17 (e) The style, arrangement, and overall appearance of  
18 the policy give no undue prominence to any portion of the text  
19 of the policy or to any endorsements or riders; and

20 (f) It contains a table of contents or an index of the  
21 principal sections of the policy, if the policy has more than  
22 3,000 words or more than three pages.

23 Section 19. Section 627.41494, Florida Statutes, is  
24 created to read:

25 627.41494 Consumer participation in rate review.--

26 (1) Upon the filing of a proposed rate change for  
27 residential property insurance by an insurer under s. 627.062,  
28 which filing would, pursuant to standards determined by the  
29 office, result in an average statewide increase of 10 percent  
30 or more as compared to the rates in effect at that time or the  
31 rates in effect 12 months prior to the proposed effective

1 date, the insurer shall mail notice of such filing to each of  
2 its policyholders or members.

3 (2) The rate filing shall be available for public  
4 inspection. If any policyholder or member requests the office  
5 within 30 days after the mailing of such notification pursuant  
6 to subsection (1) to hold a hearing, the office shall hold a  
7 hearing within 30 days after such request. Any consumer  
8 advocacy group or the Public Counsel under chapter 11 may  
9 participate in such hearing, and the commission may adopt  
10 rules governing such participation.

11 (3) For purposes of this section, the term "consumer  
12 advocacy group" means an organization with a membership of at  
13 least 1,000 individuals, the purpose of which is to represent  
14 the best interests of the public in matters relating, but not  
15 limited, to insurance rate filings before the office. The  
16 consumer advocacy group may:

17 (a) Appear in any proceeding or action before the  
18 department or office or appear in any proceeding before the  
19 Division of Administrative Hearings relating to rate filings  
20 subject to subsection (1).

21 (b) Have access to and use of all files, records, and  
22 data of the office relating to such rate filings.

23 (c) Examine such rate and form filings submitted to  
24 the office.

25 (d) Recommend to the office any position deemed by the  
26 group to be in the best interest of the public in matters  
27 relating to such rate filings.

28  
29 This subsection does not limit the rights of a consumer  
30 advocacy group to have access to records of the office as  
31 otherwise available pursuant to law.



1           (4) The office shall order the insurer to pay the  
2 reasonable costs of the consumer advocacy group if the office  
3 determines that the consumer advocacy group made a relevant  
4 and substantial contribution to the final order on the rate  
5 filing. In determining the reasonable costs the insurer shall  
6 pay the consumer advocacy group, the office shall consider,  
7 among other things, the time, labor, fees, and expenses  
8 incurred by the advocacy group.

9           Section 20. Effective upon this act becoming a law,  
10 subsection (3) of section 627.701, Florida Statutes, is  
11 amended to read:

12           627.701 Liability of insureds; coinsurance;  
13 deductibles.--

14           (3)(a) A policy of residential property insurance  
15 shall include a deductible amount applicable to hurricane  
16 losses no lower than \$500 and no higher than 5 ~~2~~ percent of  
17 the policy dwelling limits with respect to personal lines  
18 residential risks, and no higher than 3 percent of the policy  
19 limits with respect to commercial lines residential risks;  
20 however, if a risk was covered on August 24, 1992, under a  
21 policy having a higher deductible than the deductibles allowed  
22 by this paragraph, a policy covering such risk may include a  
23 deductible no higher than the deductible in effect on August  
24 24, 1992. Notwithstanding the other provisions of this  
25 paragraph, a personal lines residential policy covering a risk  
26 valued at \$50,000 or less may include a deductible amount  
27 attributable to hurricane losses no lower than \$250, and a  
28 personal lines residential policy covering a risk valued at  
29 \$100,000 or more may include a deductible amount attributable  
30 to hurricane losses no higher than 10 percent of the policy  
31 limits unless subject to a higher deductible on August 24,

1 1992; however, no maximum deductible is required with respect  
2 to a personal lines residential policy covering a risk valued  
3 at more than \$500,000. An insurer may require a higher  
4 deductible, provided such deductible is the same as or similar  
5 to a deductible program lawfully in effect on June 14, 1995.  
6 In addition to the deductible amounts authorized by this  
7 paragraph, an insurer may also offer policies with a copayment  
8 provision under which, after exhaustion of the deductible, the  
9 policyholder is responsible for 10 percent of the next \$10,000  
10 of insured hurricane losses.

11 (b)1. Except as otherwise provided in this paragraph,  
12 prior to issuing a personal lines residential property  
13 insurance policy on or after March ~~January~~ 1, 2006, or prior  
14 to the first renewal of a residential property insurance  
15 policy on or after March ~~January~~ 1, 2006, the insurer must  
16 offer alternative deductible amounts applicable to hurricane  
17 losses equal to \$500, 1 percent, 2 percent, 5 percent, and 10  
18 percent of the policy dwelling limits, but it need not offer a  
19 deductible expressed as a percentage when that ~~unless the~~  
20 ~~specific percentage deductible~~ is less than \$500. The written  
21 notice of the offer shall specify the hurricane or wind  
22 deductible to be applied in the event that the applicant or  
23 policyholder fails to affirmatively choose a hurricane  
24 deductible. The insurer must provide such policyholder with  
25 notice of the availability of the deductible amounts specified  
26 in this paragraph in a form approved by the office in  
27 conjunction with each renewal of the policy. The failure to  
28 provide such notice constitutes a violation of this code but  
29 does not affect the coverage provided under the policy.

30 2. This paragraph does not apply with respect to a  
31 deductible program lawfully in effect on June 14, 1995, or to

1 any similar deductible program, if the deductible program  
2 requires a minimum deductible amount of no less than 1 ~~2~~  
3 percent of the policy limits.

4 ~~3. With respect to a policy covering a risk with~~  
5 ~~dwelling limits of at least \$100,000, but less than \$250,000,~~  
6 ~~the insurer may, in lieu of offering a policy with a \$500~~  
7 ~~hurricane or wind deductible as required by subparagraph 1.,~~  
8 ~~offer a policy that the insurer guarantees it will not~~  
9 ~~nonrenew for reasons of reducing hurricane loss for one~~  
10 ~~renewal period and that contains up to a 2 percent hurricane~~  
11 ~~or wind deductible as required by subparagraph 1.~~

12 ~~3. 4.~~ With respect to a policy covering a risk with  
13 dwelling limits of \$250,000 or more, the insurer need not  
14 offer the \$500 hurricane deductible as required by  
15 subparagraph 1., but must, except as otherwise provided in  
16 this subsection, offer the other hurricane deductibles as  
17 required by subparagraph 1.

18 Section 21. Section 627.70105, Florida Statutes, is  
19 created to read:

20 627.70105 Hurricane coverage; additional  
21 requirement.--Each insurance contract providing hurricane  
22 coverage must include a provision that, if insured residential  
23 property becomes uninhabitable due to damage from a hurricane  
24 and the insurer is liable for living expenses of the insured  
25 while the covered property remains uninhabitable, initial  
26 living expense payments must be delivered to the insured no  
27 later than 48 hours after a claim therefor is made with the  
28 insurer.

29 Section 22. The sum of \$50 million is appropriated for  
30 fiscal year 2006-2007 on a nonrecurring basis from the General  
31 Revenue Fund to the Department of Community Affairs in the

1 special appropriation category "Residential Hurricane  
2 Mitigation Low-Interest Loan Program" for low-interest loans  
3 to qualified owners of residences and qualified owners of  
4 mobile homes to finance efforts to improve the wind resistance  
5 of residences to prevent or reduce losses or reduce the cost  
6 of rebuilding after a disaster with a requirement of repayment  
7 by the owner, as provided in section 7. These funds shall be  
8 subject to the release provisions of chapter 216, Florida  
9 Statutes. Up to 0.5 percent of this appropriation may be used  
10 by the department for administration of the loan program.

11 Section 23. Except as otherwise expressly provided in  
12 this act, this act shall take effect July 1, 2006.

14 \*\*\*\*\*

15 SENATE SUMMARY

16 Authorizes the Public Counsel to represent the general  
17 public before the Office of Insurance Regulation and  
18 prescribes the Public Counsel's access to certain  
19 records. Provides an additional breakdown for the  
20 distribution of Hurricane Loss Mitigation Fund moneys  
21 between programs relating to mobile homes and programs  
22 relating to residences and creates a program of  
23 low-interest loans to further the purposes of the fund.  
24 Deletes provisions relating to arbitration of rate  
25 filings. Includes coverage for damage from wind-driven  
26 water in the definition of "hurricane coverage."  
27 Prohibits cancellation or nonrenewal of residential  
28 property insurance by an insurer who has insured the  
29 property for 3 years or longer for any reason except a  
30 fraudulent act by the policyholder. Providing for notice  
31 to policyholders of rate increases that exceed a  
threshold amount. Provides for participation by consumer  
advocacy groups, as defined, in the ratemaking process.  
Revises guidelines relating to deductibles. Requires the  
Office of Insurance Regulation to approve underwriting  
rules for homeowners' insurance not contained in rating  
manuals. Requires timely payment of living expenses  
necessitated by uninhabitability of damaged residential  
property. Provides an appropriation to the Department of  
Community Affairs for a residential hurricane mitigation  
low-interest loan program and deletes a low-interest loan  
program for retrofitting homes and mobile homes for  
hurricane damage mitigation. Abolishes "use and file"  
rate filings.