

By the Committee on Banking and Insurance; and Senator Posey

597-2343-07

1 A bill to be entitled
2 An act relating to hurricane preparedness and
3 insurance; amending s. 163.01, F.S.; correcting
4 a cross-reference; amending s. 215.555, F.S.,
5 relating to the Florida Hurricane Catastrophe
6 Fund; revising certain requirements for
7 reimbursement contracts; authorizing limited
8 apportionment companies to purchase additional
9 coverage from the fund; continuing procedures
10 for Citizens Property Insurance Corporation to
11 obtain coverage for policies of an insurer
12 placed in liquidation; revising criteria,
13 requirements, and limitations on temporary
14 emergency options for additional coverage under
15 the Florida Hurricane Catastrophe Fund;
16 amending s. 215.5595, F.S.; providing
17 eligibility of certain insurers for a surplus
18 note from the Insurance Capital Build-Up
19 Incentive Program; providing an aggregate
20 requirement; amending s. 624.407, F.S.;
21 revising an insurer criterion for capital funds
22 requirements for new insurers; amending s.
23 627.0613, F.S.; limiting application of certain
24 annual report card preparation powers of the
25 consumer advocate to personal residential
26 property insurers; amending s. 627.062, F.S.;
27 specifying an effective date of application of
28 certain "file and use" requirements for rate
29 filing for certain insurers; amending s.
30 627.0655, F.S.; revising criteria for the
31 inclusion of discounts in certain premiums;

1 amending s. 627.351, F.S.; specifying the
2 purpose of Citizens Property Insurance
3 Corporation; making legislative findings that
4 the lack of affordable property insurance
5 coverage threatens the public health, safety,
6 and welfare of the state and that there is a
7 compelling public interest in ensuring that
8 property is insured at affordable rates;
9 specifying legislative intent that the
10 corporation is an integral part of the state;
11 specifying the conditions under which a
12 policyholder removed from the corporation
13 through an assumption agreement is eligible for
14 coverage from the corporation; specifying
15 criteria for determining comparable coverage
16 offered by an authorized insurer for purposes
17 of determining eligibility for coverage from
18 the corporation; deleting the 10-day waiting
19 period for coverage to be effective for a new
20 policy; expanding the authority of the board of
21 the corporation to approve exemptions from the
22 requirement for non-wind insurers to contract
23 to provide claims-adjusting services for the
24 wind coverage from the corporation; specifying
25 the sections of ch. 112, F.S., relating to the
26 code of ethics for political subdivisions of
27 the state, which apply to employees, senior
28 managers, and members of the board of the
29 corporation; specifying that a member of the
30 board may be an employee, officer, or director
31 of an insurance agency or insurance company if

1 certain requirements are met; revising the
2 requirements for an employee of the corporation
3 to provide notice of suspected fraud by an
4 employee; revising the time period for the
5 current rates of the corporation coverage to
6 remain in effect; providing that notice
7 requirements for cancellation or nonrenewal of
8 a policy do not apply under certain situations;
9 revising provisions of a premium payment plan
10 option of the operating plan requirements of
11 Citizens Property Insurance Corporation;
12 amending s. 627.3511, F.S.; correcting a
13 cross-reference; amending s. 627.3515, F.S.;
14 revising criteria for an electronic database
15 for a business plan for determining eligibility
16 for coverage in Citizens Property Insurance
17 Corporation; amending s. 627.3517, F.S.;
18 deleting a provision specifying that the
19 "consumer choice" statute does not apply during
20 the first 10 days after a new application for
21 coverage has been submitted to the corporation;
22 amending s. 627.4035, F.S.; revising provisions
23 of a premium payment plan option for certain
24 insurers; amending s. 627.4133, F.S.;
25 specifying requirements for notices of
26 nonrenewal and renewal of property insurance
27 policies; authorizing the Financial Services
28 Commission to adopt rules; amending s. 627.701,
29 F.S.; revising requirements for deductibles for
30 certain personal lines residential property
31 insurance policies; amending s. 627.70131,

1 F.S.; specifying that certain requirements for
2 the payment or denial of a claim apply to
3 residential property insurance claims only;
4 authorizing an insurer to pay or deny a portion
5 of a claim; providing that an overdue payment
6 accrues interest; amending s. 627.712, F.S.;
7 requiring residential property insurers to
8 provide windstorm coverage, with certain
9 exceptions; specifying personal lines
10 residential property insurers must make
11 available an exclusion of windstorm coverage;
12 specifying a period of application of such
13 exclusion; providing for implementation of
14 changes to such exclusion; amending s. 627.713,
15 F.S.; limiting the period when the Office of
16 Insurance Regulation may require insurers to
17 report certain hurricane loss data; amending s.
18 627.7277, F.S.; deleting certain notice of
19 renewal premium requirements; deleting
20 authority of the commission to adopt rules;
21 amending s. 631.52, F.S., specifying that
22 self-insurance funds are not covered by the
23 association; amending s. 631.57, F.S.;
24 specifying that the emergency assessments for
25 funding obligations of the Florida Insurance
26 Guaranty Association are for claims of insurers
27 rendered insolvent by the effects of a
28 hurricane; amending s. 631.695, F.S.;
29 authorizing any municipality or county to issue
30 bonds to assist the association in paying for
31 covered claims of insurers rendered insolvent

1 as a result of a hurricane; providing an
2 effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Paragraph (h) of subsection (7) of section
7 163.01, Florida Statutes, as amended by chapter 2007-1, Laws
8 of Florida, is amended to read:

9 163.01 Florida Interlocal Cooperation Act of 1969.--

10 (7)

11 (h)1. Notwithstanding the provisions of paragraph (c),
12 any separate legal entity consisting of an alliance, as
13 defined in s. 395.106(2)(a), created pursuant to this
14 paragraph and controlled by and whose members consist of
15 eligible entities comprised of special districts created
16 pursuant to a special act and having the authority to own or
17 operate one or more hospitals licensed in this state or
18 hospitals licensed in this state that are owned, operated, or
19 funded by a county or municipality, for the purpose of
20 providing property insurance coverage as defined in s.
21 395.106(2)(b) ~~s. 395.106(2)(c)~~, for such eligible entities,
22 may exercise all powers under this subsection in connection
23 with borrowing funds for such purposes, including, without
24 limitation, the authorization, issuance, and sale of bonds,
25 notes, or other obligations of indebtedness. Borrowed funds,
26 including, but not limited to, bonds issued by such alliance
27 shall be deemed issued on behalf of such eligible entities
28 that enter into loan agreements with such separate legal
29 entity as provided in this paragraph.

30 2. Any such separate legal entity shall have all the
31 powers that are provided by the interlocal agreement under

1 | which the entity is created or that are necessary to finance,
2 | operate, or manage the alliance's property insurance coverage
3 | program. Proceeds of bonds, notes, or other obligations issued
4 | by such an entity may be loaned to any one or more eligible
5 | entities. Such eligible entities are authorized to enter into
6 | loan agreements with any separate legal entity created
7 | pursuant to this paragraph for the purpose of obtaining moneys
8 | with which to finance property insurance coverage or claims.
9 | Obligations of any eligible entity pursuant to a loan
10 | agreement as described in this paragraph may be validated as
11 | provided in chapter 75.

12 | 3. Any bonds, notes, or other obligations to be issued
13 | or incurred by a separate legal entity created pursuant to
14 | this paragraph shall be authorized by resolution of the
15 | governing body of such entity and bear the date or dates;
16 | mature at the time or times, not exceeding 30 years from their
17 | respective dates; bear interest at the rate or rates, which
18 | may be fixed or vary at such time or times and in accordance
19 | with a specified formula or method of determination; be
20 | payable at the time or times; be in the denomination; be in
21 | the form; carry the registration privileges; be executed in
22 | the manner; be payable from the sources and in the medium of
23 | payment and at the place; and be subject to redemption,
24 | including redemption prior to maturity, as the resolution may
25 | provide. The bonds, notes, or other obligations may be sold at
26 | public or private sale for such price as the governing body of
27 | the separate legal entity shall determine. The bonds may be
28 | secured by such credit enhancement, if any, as the governing
29 | body of the separate legal entity deems appropriate. The bonds
30 | may be secured by an indenture of trust or trust agreement. In
31 | addition, the governing body of the separate legal entity may

1 | delegate, to such officer or official of such entity as the
2 | governing body may select, the power to determine the time;
3 | manner of sale, public or private; maturities; rate or rates
4 | of interest, which may be fixed or may vary at such time or
5 | times and in accordance with a specified formula or method of
6 | determination; and other terms and conditions as may be deemed
7 | appropriate by the officer or official so designated by the
8 | governing body of such separate legal entity. However, the
9 | amounts and maturities of such bonds, the interest rate or
10 | rates, and the purchase price of such bonds shall be within
11 | the limits prescribed by the governing body of such separate
12 | legal entity in its resolution delegating to such officer or
13 | official the power to authorize the issuance and sale of such
14 | bonds.

15 | 4. Bonds issued pursuant to this paragraph may be
16 | validated as provided in chapter 75. The complaint in any
17 | action to validate such bonds shall be filed only in the
18 | Circuit Court for Leon County. The notice required to be
19 | published by s. 75.06 shall be published in Leon County and in
20 | each county in which an eligible entity that is a member of an
21 | alliance is located. The complaint and order of the circuit
22 | court shall be served only on the State Attorney of the Second
23 | Judicial Circuit and on the state attorney of each circuit in
24 | each county in which an eligible entity receiving bond
25 | proceeds is located.

26 | 5. The accomplishment of the authorized purposes of a
27 | separate legal entity created under this paragraph is deemed
28 | in all respects for the benefit, increase of the commerce and
29 | prosperity, and improvement of the health and living
30 | conditions of the people of this state. Inasmuch as the
31 | separate legal entity performs essential public functions in

1 | accomplishing its purposes, the separate legal entity is not
2 | required to pay any taxes or assessments of any kind upon any
3 | property acquired or used by the entity for such purposes or
4 | upon any revenues at any time received by the entity. The
5 | bonds, notes, and other obligations of such separate legal
6 | entity, the transfer of and income from such bonds, notes, and
7 | other obligations, including any profits made on the sale of
8 | such bonds, notes, and other obligations, are at all times
9 | free from taxation of any kind of the state or by any
10 | political subdivision or other agency or instrumentality of
11 | the state. The exemption granted in this paragraph does not
12 | apply to any tax imposed by chapter 220 on interest, income,
13 | or profits on debt obligations owned by corporations.

14 | 6. The participation by any eligible entity in an
15 | alliance or a separate legal entity created pursuant to this
16 | paragraph may not be deemed a waiver of immunity to the extent
17 | of liability or any other coverage, and a contract entered
18 | regarding such alliance is not required to contain any
19 | provision for waiver.

20 | Section 2. Paragraph (b) of subsection (4), paragraph
21 | (e) of subsection (5), and subsection (16) of section 215.555,
22 | Florida Statutes, as amended by chapter 2007-1, Laws of
23 | Florida, are amended to read:

24 | 215.555 Florida Hurricane Catastrophe Fund.--

25 | (4) REIMBURSEMENT CONTRACTS.--

26 | (b)1. The contract shall contain a promise by the
27 | board to reimburse the insurer for 45 percent, 75 percent, or
28 | 90 percent of its losses from each covered event in excess of
29 | the insurer's retention, plus 5 percent of the reimbursed
30 | losses to cover loss adjustment expenses.

31 |

1 2. The insurer must elect one of the percentage
2 coverage levels specified in this paragraph and may, upon
3 renewal of a reimbursement contract, elect a lower percentage
4 coverage level if no revenue bonds issued under subsection (6)
5 after a covered event are outstanding, or elect a higher
6 percentage coverage level, regardless of whether or not
7 revenue bonds are outstanding. All members of an insurer group
8 must elect the same percentage coverage level. Any joint
9 underwriting association, risk apportionment plan, or other
10 entity created under s. 627.351 must elect the 90-percent
11 coverage level.

12 3. The contract shall provide that reimbursement
13 amounts shall not be reduced by reinsurance paid or payable to
14 the insurer from other sources.

15 4. Notwithstanding any other provision contained in
16 this section, the board shall make available to insurers that
17 purchased coverage provided by this subparagraph ~~participated~~
18 in 2006, insurers qualifying as limited apportionment
19 companies under s. 627.351(6)(c) ~~which began writing property~~
20 ~~insurance in 2007~~, and insurers that were approved to
21 participate in 2006 or that are approved in 2007 for the
22 Insurance Capital Build-Up Incentive Program pursuant to s.
23 215.5595, a contract or contract addendum that provides an
24 additional amount of reimbursement coverage of up to \$10
25 million. The premium to be charged for this additional
26 reimbursement coverage shall be 50 percent of the additional
27 reimbursement coverage provided, which shall include one
28 prepaid reinstatement. The minimum retention level that an
29 eligible participating insurer must retain associated with
30 this additional coverage layer is 30 percent of the insurer's
31 surplus as of December 31, 2006. This coverage shall be in

1 addition to all other coverage that may be provided under this
2 section. The coverage provided by the fund under this
3 subparagraph ~~subsection~~ shall be in addition to the
4 claims-paying capacity as defined in subparagraph (c)1., but
5 only with respect to those insurers that select the additional
6 coverage option and meet the requirements of this subparagraph
7 ~~subsection~~. The claims-paying capacity with respect to all
8 other participating insurers and limited apportionment
9 companies that do not select the additional coverage option
10 shall be limited to their reimbursement premium's
11 proportionate share of the actual claims-paying capacity
12 otherwise defined in subparagraph (c)1. and as provided for
13 under the terms of the reimbursement contract. Coverage
14 provided in the reimbursement contract will not be affected by
15 the additional premiums paid by participating insurers
16 exercising the additional coverage option allowed in this
17 subparagraph. This subparagraph expires on May 31, 2008.

18 (5) REIMBURSEMENT PREMIUMS.--

19 (e) If Citizens Property Insurance Corporation assumes
20 or otherwise provides coverage for policies of an insurer
21 placed in liquidation under chapter 631 pursuant to s.
22 627.351(6), the corporation may, pursuant to conditions
23 mutually agreed to between the corporation and the State Board
24 of Administration, obtain coverage for such policies under its
25 contract with the fund or accept an assignment of the
26 liquidated insurer's contract with the fund. If Citizens
27 Property Insurance Corporation elects to cover these policies
28 under the corporation's contract with the fund, it shall
29 notify the board of its insured values with respect to such
30 policies within a specified time mutually agreed to between
31 the corporation and the board, after such assumption or other

1 coverage transaction, and the fund shall treat such policies
2 as having been in effect as of June 30 of that year. In the
3 event of an assignment, the fund shall apply that contract to
4 such policies and treat Citizens Property Insurance
5 Corporation as if the corporation were the liquidated insurer
6 for the remaining term of the contract, and the corporation
7 shall have all rights and duties of the liquidated insurer
8 beginning on the date it provides coverage for such policies,
9 but the corporation is not subject to any preexisting rights,
10 liabilities, or duties of the liquidated insurer. The
11 assignment, including any unresolved issues between the
12 liquidated insurer and Citizens Property Insurance Corporation
13 under the contract, shall be provided for in the liquidation
14 order or otherwise determined by the court. However, if a
15 covered event occurs before the effective date of the
16 assignment, the corporation may not obtain coverage for such
17 policies under its contract with the fund and shall accept an
18 assignment of the liquidated insurer's contract as provided in
19 this paragraph. ~~This paragraph expires on June 1, 2007.~~

20 (16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL
21 COVERAGE.--

22 (a) Findings and intent.--

23 1. The Legislature finds that:

24 a. Because of temporary disruptions in the market for
25 catastrophic reinsurance, many property insurers were unable
26 to procure reinsurance for the 2006 hurricane season with an
27 attachment point below the insurers' respective Florida
28 Hurricane Catastrophe Fund attachment points, were unable to
29 procure sufficient amounts of such reinsurance, or were able
30 to procure such reinsurance only by incurring substantially
31 higher costs than in prior years.

1 b. The reinsurance market problems were responsible,
2 at least in part, for substantial premium increases to many
3 consumers and increases in the number of policies issued by
4 the Citizens Property Insurance Corporation.

5 c. It is likely that the reinsurance market
6 disruptions will not significantly abate prior to the 2007
7 hurricane season.

8 2. It is the intent of the Legislature to create a
9 temporary emergency program, applicable to the 2007, 2008, and
10 2009 hurricane seasons, to address these market disruptions
11 and enable insurers, at their option, to procure additional
12 coverage from the Florida Hurricane Catastrophe Fund.

13 (b) Applicability of other provisions of this
14 section.--All provisions of this section and the rules adopted
15 under this section apply to the program created by this
16 subsection unless specifically superseded by this subsection.

17 (c) Optional coverage.--For the contract year
18 commencing June 1, 2007, and ending May 31, 2008, the contract
19 year commencing June 1, 2008, and ending May 31, 2009, and the
20 contract year commencing June 1, 2009, and ending May 31,
21 2010, the board shall offer for each of such years the
22 optional coverage as provided in this subsection.

23 (d) Additional definitions.--As used in this
24 subsection, the term:

25 1. "TEACO options" means the temporary emergency
26 additional coverage options created under this subsection.

27 2. "TEACO insurer" means an insurer that has opted to
28 obtain coverage under the TEACO options in addition to the
29 coverage provided to the insurer under its reimbursement
30 contract.

31

1 3. "TEACO reimbursement premium" means the premium
2 charged by the fund for coverage provided under the TEACO
3 options.

4 4. "TEACO retention" means the amount of losses below
5 which a TEACO insurer is not entitled to reimbursement from
6 the fund under the TEACO option selected. A TEACO insurer's
7 retention options shall be calculated as follows:

8 a. The board shall calculate and report to each TEACO
9 insurer the TEACO retention multiples. There shall be three
10 TEACO retention multiples for defining coverage. Each multiple
11 shall be calculated by dividing \$3 billion, \$4 billion, or \$5
12 billion by the total estimated mandatory FHCF TEACO
13 reimbursement premium assuming all insurers ~~selected that~~
14 ~~option. Total estimated TEACO reimbursement premium for~~
15 ~~purposes of the calculation under this sub-subparagraph shall~~
16 ~~be calculated using the assumption that all insurers have~~
17 ~~selected a specific TEACO retention multiple option and have~~
18 selected the 90-percent coverage level.

19 b. The TEACO retention multiples as determined under
20 sub-subparagraph a. shall be adjusted to reflect the coverage
21 level elected by the insurer. For insurers electing the
22 90-percent coverage level, the adjusted retention multiple is
23 100 percent of the amount determined under sub-subparagraph a.
24 For insurers electing the 75-percent coverage level, the
25 retention multiple is 120 percent of the amount determined
26 under sub-subparagraph a. For insurers electing the 45-percent
27 coverage level, the adjusted retention multiple is 200 percent
28 of the amount determined under sub-subparagraph a.

29 c. An insurer shall determine its provisional TEACO
30 retention by multiplying its estimated mandatory FHCF
31 ~~provisional TEACO~~ reimbursement premium by the applicable

1 adjusted TEACO retention multiple and shall determine its
2 actual TEACO retention by multiplying its actual mandatory
3 ~~FHCF TEACO~~ reimbursement premium by the applicable adjusted
4 TEACO retention multiple.

5 d. For TEACO insurers who experience multiple covered
6 events causing loss during the contract year, the insurer's
7 full TEACO retention shall be applied to each of the covered
8 events causing the two largest losses for that insurer. For
9 other covered events resulting in losses, the TEACO option
10 does not apply and the insurer's retention shall be one-third
11 of the full retention as calculated under paragraph (2)(e).

12 5. "TEACO addendum" means an addendum to the
13 reimbursement contract reflecting the obligations of the fund
14 and TEACO insurers under the program created by this
15 subsection.

16 6. "FHCF" means the Florida Hurricane Catastrophe
17 Fund.

18 (e) TEACO addendum.--

19 1. The TEACO addendum shall provide for reimbursement
20 of TEACO insurers for covered events occurring during the
21 contract year, in exchange for the TEACO reimbursement premium
22 paid into the fund under paragraph (f). Any insurer writing
23 covered policies has the option of choosing to accept the
24 TEACO addendum for any of the 3 contract years that the
25 coverage is offered.

26 2. The TEACO addendum shall contain a promise by the
27 board to reimburse the TEACO insurer for 45 percent, 75
28 percent, or 90 percent of its losses from each covered event
29 in excess of the insurer's TEACO retention, plus 5 percent of
30 the reimbursed losses to cover loss adjustment expenses. The
31

1 percentage shall be the same as the coverage level selected by
2 the insurer under paragraph (4)(b).

3 3. The TEACO addendum shall provide that reimbursement
4 amounts shall not be reduced by reinsurance paid or payable to
5 the insurer from other sources.

6 4. The TEACO addendum shall also provide that the
7 obligation of the board with respect to all TEACO addenda
8 shall not exceed an amount equal to two times the difference
9 between the industry retention level calculated under
10 paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5 billion
11 industry TEACO retention level options actually selected, but
12 in no event may the board's obligation exceed the actual
13 claims-paying capacity of the fund plus the additional
14 capacity created in paragraph (g). If the actual claims-paying
15 capacity and the additional capacity created under paragraph
16 (g) fall short of the board's obligations under the
17 reimbursement contract, each insurer's share of the fund's
18 capacity shall be prorated based on the premium an insurer
19 pays for its mandatory ~~normal~~ reimbursement coverage and the
20 premium paid for its optional TEACO coverage as each such
21 premium bears to the total premiums paid to the fund times the
22 available capacity.

23 5. The priorities, schedule, and method of
24 reimbursements under the TEACO addendum shall be the same as
25 provided under subsection (4).

26 6. A TEACO insurer's maximum reimbursement for a
27 single event shall be equal to the product of multiplying its
28 mandatory FHCF premium by the difference between its FHCF
29 retention multiple and its TEACO retention multiple under the
30 TEACO option selected and by the coverage selected under
31 paragraph (4)(b), plus an additional 5 percent for loss

1 adjustment expenses. A TEACO insurer's maximum reimbursement
2 under the TEACO option selected for a TEACO insurer's two
3 largest events addendum shall be twice its maximum
4 reimbursement for a single event calculated by multiplying the
5 insurer's share of the estimated total TEACO reimbursement
6 premium as calculated under sub subparagraph (d)4.a. by an
7 amount equal to two times the difference between the industry
8 retention level calculated under paragraph (2)(c) and the \$3
9 billion, \$4 billion, or \$5 billion industry TEACO retention
10 level specified in sub subparagraph (d)4.a. as selected by the
11 TEACO insurer.

12 (f) TEACO reimbursement premiums.--

13 1. Each TEACO insurer shall pay to the fund, in the
14 manner and at the time provided in the reimbursement contract
15 for payment of reimbursement premiums, a TEACO reimbursement
16 premium calculated as specified in this paragraph.

17 2. ~~The TEACO reimbursement premiums shall be~~
18 ~~calculated based on the assumption that, if all insurers~~
19 ~~entering into reimbursement contracts under subsection (4)~~
20 ~~also accepted the TEACO option:~~

21 a. The insurer's industry TEACO reimbursement premium
22 associated with the \$3 billion retention option shall ~~would~~ be
23 equal to 85 percent of a TEACO insurer's maximum reimbursement
24 for a single event as calculated under subparagraph (e)6. the
25 difference between the industry retention level calculated
26 under paragraph (2)(c) and the \$3 billion industry TEACO
27 retention level.

28 b. The TEACO reimbursement premium associated with the
29 \$4 billion retention option shall ~~would~~ be equal to 80 percent
30 of a TEACO insurer's maximum reimbursement for a single event
31 as calculated under subparagraph (e)6. the difference between

1 ~~the industry retention level calculated under paragraph (2)(e)~~
2 ~~and the \$4 billion industry TEACO retention level.~~

3 ~~e.~~ The TEACO premium associated with the \$5 billion
4 retention option shall ~~would~~ be equal to 75 percent of a TEACO
5 insurer's maximum reimbursement for a single event as
6 calculated under subparagraph (e)6. ~~the difference between the~~
7 ~~industry retention level calculated under paragraph (2)(e) and~~
8 ~~the \$5 billion industry TEACO retention level.~~

9 ~~3.~~ ~~Each insurer's TEACO premium shall be calculated~~
10 ~~based on its share of the total TEACO reimbursement premiums~~
11 ~~based on its coverage selection under the TEACO addendum.~~

12 (g) Effect on claims-paying capacity of the fund.--For
13 the contract term commencing June 1, 2007, the contract year
14 commencing June 1, 2008, and the contract term beginning June
15 1, 2009, the program created by this subsection shall increase
16 the claims-paying capacity of the fund as provided in
17 subparagraph (4)(c)1. by an amount equal to two times the
18 difference between the industry retention level calculated
19 under paragraph (2)(e) and the \$3 billion industry TEACO
20 retention level specified in sub-subparagraph (d)4.a. The
21 additional capacity shall apply only to the additional
22 coverage provided by the TEACO option and shall not otherwise
23 affect any insurer's reimbursement from the fund.

24 Section 3. Paragraphs (b), (c), and (g) of subsection
25 (2) of section 215.5595, Florida Statutes, as amended by
26 chapter 2007-1, Laws of Florida, are amended to read:

27 215.5595 Insurance Capital Build-Up Incentive
28 Program.--

29 (2) The purpose of this section is to provide surplus
30 notes to new or existing authorized residential property
31 insurers under the Insurance Capital Build-Up Incentive

1 Program administered by the State Board of Administration,
2 under the following conditions:

3 (b) The insurer must contribute an amount of new
4 capital to its surplus which is at least equal to the amount
5 of the surplus note and must apply to the board by July 1,
6 2006. If an insurer applies after July 1, 2006, but before
7 June 1, 2007, the amount of the surplus note is limited to
8 one-half of the new capital that the insurer contributes to
9 its surplus, except for an insurer writing only manufactured
10 housing policies or a domestic mutual insurer, for which the
11 amount of the surplus note is equal to the amount of the new
12 capital that the insurer contributes to its surplus. For
13 purposes of this section, new capital must be in the form of
14 cash or cash equivalents as specified in s. 625.012(1).

15 (c) The insurer's surplus, new capital, and the
16 surplus note must total at least \$50 million, except for
17 insurers writing residential property insurance covering only
18 manufactured housing or a domestic mutual insurer. The
19 insurer's surplus, new capital, and the surplus note must
20 total at least \$14 million for insurers writing only
21 residential property insurance covering manufactured housing
22 policies as provided in paragraph (a). The surplus, new
23 capital, and the surplus note for a domestic mutual insurer
24 must total at least \$25 million.

25 (g) The total amount of funds available for the
26 program is limited to the amount appropriated by the
27 Legislature for this purpose. If the amount of surplus notes
28 requested by insurers exceeds the amount of funds available,
29 the board may prioritize insurers that are eligible and
30 approved, with priority for funding given to insurers writing
31 only manufactured housing policies and to domestic mutual

1 insurers, regardless of the date of application, based on the
2 financial strength of the insurer, the viability of its
3 proposed business plan for writing additional residential
4 property insurance in the state, and the effect on competition
5 in the residential property insurance market.

6 Section 4. Subsection (1) of section 624.407, Florida
7 Statutes, as amended by chapter 2007-1, Laws of Florida, is
8 amended to read:

9 624.407 Capital funds required; new insurers.--

10 (1) To receive authority to transact any one kind or
11 combinations of kinds of insurance, as defined in part V of
12 this chapter, an insurer applying for its original certificate
13 of authority in this state after the effective date of this
14 section shall possess surplus as to policyholders not less
15 than the greater of:

16 (a) Five million dollars for a property and casualty
17 insurer, or \$2.5 million for any other insurer;

18 (b) For life insurers, 4 percent of the insurer's
19 total liabilities;

20 (c) For life and health insurers, 4 percent of the
21 insurer's total liabilities, plus 6 percent of the insurer's
22 liabilities relative to health insurance; or

23 (d) For all insurers other than life insurers and life
24 and health insurers, 10 percent of the insurer's total
25 liabilities;

26
27 however, a domestic insurer that transacts residential
28 property insurance and is a wholly owned subsidiary of an
29 insurer domiciled ~~authorized to do business~~ in any other state
30 shall possess surplus as to policyholders of at least \$50
31 million, but no insurer shall be required under this

1 subsection to have surplus as to policyholders greater than
2 \$100 million.

3 Section 5. Subsection (4) of section 627.0613, Florida
4 Statutes, as amended by chapter 2007-1, Laws of Florida, is
5 amended to read:

6 627.0613 Consumer advocate.--The Chief Financial
7 Officer must appoint a consumer advocate who must represent
8 the general public of the state before the department and the
9 office. The consumer advocate must report directly to the
10 Chief Financial Officer, but is not otherwise under the
11 authority of the department or of any employee of the
12 department. The consumer advocate has such powers as are
13 necessary to carry out the duties of the office of consumer
14 advocate, including, but not limited to, the powers to:

15 (4) Prepare an annual report card for each authorized
16 personal residential property insurer, on a form and using a
17 letter-grade scale developed by the commission by rule, which
18 grades each insurer based on the following factors:

19 (a) The number and nature of consumer complaints
20 received by the department against the insurer.

21 (b) The disposition of all complaints received by the
22 department.

23 (c) The average length of time for payment of claims
24 by the insurer.

25 (d) Any other factors the commission identifies as
26 assisting policyholders in making informed choices about
27 homeowner's insurance.

28 Section 6. Paragraph (a) of subsection (2) of section
29 627.062, Florida Statutes, as amended by chapter 2007-1, Laws
30 of Florida, is amended to read:

31 627.062 Rate standards.--

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

2 (a) Insurers or rating organizations shall establish
3 and use rates, rating schedules, or rating manuals to allow
4 the insurer a reasonable rate of return on such classes of
5 insurance written in this state. A copy of rates, rating
6 schedules, rating manuals, premium credits or discount
7 schedules, and surcharge schedules, and changes thereto, shall
8 be filed with the office under one of the following procedures
9 except as provided in subparagraph 3.:

10 1. If the filing is made at least 90 days before the
11 proposed effective date and the filing is not implemented
12 during the office's review of the filing and any proceeding
13 and judicial review, then such filing shall be considered a
14 "file and use" filing. In such case, the office shall finalize
15 its review by issuance of a notice of intent to approve or a
16 notice of intent to disapprove within 90 days after receipt of
17 the filing. The notice of intent to approve and the notice of
18 intent to disapprove constitute agency action for purposes of
19 the Administrative Procedure Act. Requests for supporting
20 information, requests for mathematical or mechanical
21 corrections, or notification to the insurer by the office of
22 its preliminary findings shall not toll the 90-day period
23 during any such proceedings and subsequent judicial review.
24 The rate shall be deemed approved if the office does not issue
25 a notice of intent to approve or a notice of intent to
26 disapprove within 90 days after receipt of the filing.

27 2. If the filing is not made in accordance with the
28 provisions of subparagraph 1., such filing shall be made as
29 soon as practicable, but no later than 30 days after the
30 effective date, and shall be considered a "use and file"
31 filing. An insurer making a "use and file" filing is

1 | potentially subject to an order by the office to return to
2 | policyholders portions of rates found to be excessive, as
3 | provided in paragraph (h).

4 | 3. For all filings made or submitted on or after
5 | January 25, 2007, but on or before December 31, 2008, an
6 | insurer seeking a rate that is greater than the rate most
7 | recently approved by the office shall make a "file and use"
8 | filing. This subparagraph applies to property insurance only.
9 | For purposes of this subparagraph, automobile collision and
10 | comprehensive coverages are not considered to be property
11 | coverages.

12 |
13 | The provisions of this subsection shall not apply to workers'
14 | compensation and employer's liability insurance and to motor
15 | vehicle insurance.

16 | Section 7. Section 627.0655, Florida Statutes, as
17 | created by chapter 2007-1, Laws of Florida, is amended, to
18 | read:

19 | 627.0655 Policyholder loss or expense-related premium
20 | discounts.--An insurer or person authorized to engage in the
21 | business of insurance in this state may include, in the
22 | premium charged an insured for any policy, contract, or
23 | certificate of insurance, a discount based on the fact that
24 | another policy, contract, or certificate of any type has been
25 | purchased by the insured from the same insurer or insurer
26 | group.

27 | Section 8. Paragraphs (a), (b), (c), (d), (j), (m),
28 | (n), and (v) of subsection (6) of section 627.351, Florida
29 | Statutes, as amended by chapter 2007-1, Laws of Florida, are
30 | amended to read:

31 | 627.351 Insurance risk apportionment plans.--

1 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--
2 (a)1. It is the public purpose of this subsection to
3 ensure the existence of an orderly market for property
4 insurance for Florida's residents and businesses. The
5 Legislature finds that ~~actual and threatened catastrophic~~
6 ~~losses to property in this state from hurricanes have caused~~
7 insurers ~~are to be~~ unwilling or unable to provide affordable
8 property insurance coverage in this state to the extent sought
9 and needed. The absence of affordable property insurance
10 threatens the public health, safety, and welfare and likewise
11 threatens the economic health of this state. The state
12 therefore has a compelling ~~It is in the~~ public interest and a
13 public purpose to assist in assuring that property in the
14 state is insured so as to facilitate the remediation,
15 reconstruction, and replacement of damaged or destroyed
16 property in order to reduce or avoid the negative effects
17 otherwise resulting to the public health, safety, and welfare;
18 to the economy of the state; and to the revenues of the state
19 and local governments needed to provide for the public
20 welfare. It is necessary, therefore, to provide property
21 insurance to applicants who are in good faith entitled to
22 procure insurance through the voluntary market but are unable
23 to do so. The Legislature intends by this subsection that
24 property insurance be provided and that it continues to be
25 provided, as long as necessary, through Citizens Property
26 Insurance Corporation, a government entity that is an integral
27 part of the state and that is not a private insurance company.
28 To that end, the corporation shall strive ~~an entity organized~~
29 to achieve efficiencies and economies, while providing service
30 to policyholders, applicants, and agents which ~~that~~ is no less
31 than the quality generally provided in the voluntary market,

1 ~~for all toward~~ the achievement of the foregoing public
2 purposes. Because it is essential for this government entity
3 ~~the corporation~~ to have the maximum financial resources to pay
4 claims following a catastrophic hurricane, it is the intent of
5 the Legislature that Citizens Property Insurance Corporation
6 continues to be an integral part of the state and that the
7 income of the corporation be exempt from federal income
8 taxation and that interest on the debt obligations issued by
9 the corporation be exempt from federal income taxation.

10 2. The Residential Property and Casualty Joint
11 Underwriting Association originally created by this statute
12 shall be known, as of July 1, 2002, as the Citizens Property
13 Insurance Corporation. The corporation shall provide insurance
14 for residential and commercial property, for applicants who
15 are in good faith entitled, but are unable, to procure
16 insurance through the voluntary market. The corporation shall
17 operate pursuant to a plan of operation approved by order of
18 the Financial Services Commission. The plan is subject to
19 continuous review by the commission. The commission may, by
20 order, withdraw approval of all or part of a plan if the
21 commission determines that conditions have changed since
22 approval was granted and that the purposes of the plan require
23 changes in the plan. The corporation shall continue to operate
24 pursuant to the plan of operation approved by the Office of
25 Insurance Regulation until October 1, 2006. For the purposes
26 of this subsection, residential coverage includes both
27 personal lines residential coverage, which consists of the
28 type of coverage provided by homeowner's, mobile home owner's,
29 dwelling, tenant's, condominium unit owner's, and similar
30 policies, and commercial lines residential coverage, which

31

1 consists of the type of coverage provided by condominium
2 association, apartment building, and similar policies.

3 3. For the purposes of this subsection, the term
4 "homestead property" means:

5 a. Property that has been granted a homestead
6 exemption under chapter 196;

7 b. Property for which the owner has a current, written
8 lease with a renter for a term of at least 7 months and for
9 which the dwelling is insured by the corporation for \$200,000
10 or less;

11 c. An owner-occupied mobile home or manufactured home,
12 as defined in s. 320.01, which is permanently affixed to real
13 property, is owned by a Florida resident, and has been granted
14 a homestead exemption under chapter 196 or, if the owner does
15 not own the real property, the owner certifies that the mobile
16 home or manufactured home is his or her principal place of
17 residence;

18 d. Tenant's coverage;

19 e. Commercial lines residential property; or

20 f. Any county, district, or municipal hospital; a
21 hospital licensed by any not-for-profit corporation qualified
22 under s. 501(c)(3) of the United States Internal Revenue Code;
23 or a continuing care retirement community that is certified
24 under chapter 651 and that receives an exemption from ad
25 valorem taxes under chapter 196.

26 4. For the purposes of this subsection, the term
27 "nonhomestead property" means property that is not homestead
28 property.

29 5. Effective July 1, 2008, a personal lines
30 residential structure that has a dwelling replacement cost of
31 \$1 million or more, or a single condominium unit that has a

1 combined dwelling and content replacement cost of \$1 million
2 or more is not eligible for coverage by the corporation. Such
3 dwellings insured by the corporation on June 30, 2008, may
4 continue to be covered by the corporation until the end of the
5 policy term. However, such dwellings that are insured by the
6 corporation and become ineligible for coverage due to the
7 provisions of this subparagraph may reapply and obtain
8 coverage in the high-risk account and be considered
9 "nonhomestead property" if the property owner provides the
10 corporation with a sworn affidavit from one or more insurance
11 agents, on a form provided by the corporation, stating that
12 the agents have made their best efforts to obtain coverage and
13 that the property has been rejected for coverage by at least
14 one authorized insurer and at least three surplus lines
15 insurers. If such conditions are met, the dwelling may be
16 insured by the corporation for up to 3 years, after which time
17 the dwelling is ineligible for coverage. The office shall
18 approve the method used by the corporation for valuing the
19 dwelling replacement cost for the purposes of this
20 subparagraph. If a policyholder is insured by the corporation
21 prior to being determined to be ineligible pursuant to this
22 subparagraph and such policyholder files a lawsuit challenging
23 the determination, the policyholder may remain insured by the
24 corporation until the conclusion of the litigation.

25 6. For properties constructed on or after January 1,
26 2009, the corporation may not insure any property located
27 within 2,500 feet landward of the coastal construction control
28 line created pursuant to s. 161.053 unless the property meets
29 the requirements of the code-plus building standards developed
30 by the Florida Building Commission.

31

1 7. It is the intent of the Legislature that
2 policyholders, applicants, and agents of the corporation
3 receive service and treatment of the highest possible level
4 but never less than that generally provided in the voluntary
5 market. It also is intended that the corporation be held to
6 service standards no less than those applied to insurers in
7 the voluntary market by the office with respect to
8 responsiveness, timeliness, customer courtesy, and overall
9 dealings with policyholders, applicants, or agents of the
10 corporation.

11 (b)1. All insurers authorized to write one or more
12 subject lines of business in this state are subject to
13 assessment by the corporation and, for the purposes of this
14 subsection, are referred to collectively as "assessable
15 insurers." Insurers writing one or more subject lines of
16 business in this state pursuant to part VIII of chapter 626
17 are not assessable insurers, but insureds who procure one or
18 more subject lines of business in this state pursuant to part
19 VIII of chapter 626 are subject to assessment by the
20 corporation and are referred to collectively as "assessable
21 insureds." An authorized insurer's assessment liability shall
22 begin on the first day of the calendar year following the year
23 in which the insurer was issued a certificate of authority to
24 transact insurance for subject lines of business in this state
25 and shall terminate 1 year after the end of the first calendar
26 year during which the insurer no longer holds a certificate of
27 authority to transact insurance for subject lines of business
28 in this state.

29 2.a. All revenues, assets, liabilities, losses, and
30 expenses of the corporation shall be divided into three
31 separate accounts as follows:

1 (I) A personal lines account for personal residential
2 policies issued by the corporation or issued by the
3 Residential Property and Casualty Joint Underwriting
4 Association and renewed by the corporation that provide
5 comprehensive, multiperil coverage on risks that are not
6 located in areas eligible for coverage in the Florida
7 Windstorm Underwriting Association as those areas were defined
8 on January 1, 2002, and for such policies that do not provide
9 coverage for the peril of wind on risks that are located in
10 such areas;

11 (II) A commercial lines account for commercial
12 residential and commercial nonresidential policies issued by
13 the corporation or issued by the Residential Property and
14 Casualty Joint Underwriting Association and renewed by the
15 corporation that provide coverage for basic property perils on
16 risks that are not located in areas eligible for coverage in
17 the Florida Windstorm Underwriting Association as those areas
18 were defined on January 1, 2002, and for such policies that do
19 not provide coverage for the peril of wind on risks that are
20 located in such areas; and

21 (III) A high-risk account for personal residential
22 policies and commercial residential and commercial
23 nonresidential property policies issued by the corporation or
24 transferred to the corporation that provide coverage for the
25 peril of wind on risks that are located in areas eligible for
26 coverage in the Florida Windstorm Underwriting Association as
27 those areas were defined on January 1, 2002. Subject to the
28 approval of a business plan by the Financial Services
29 Commission and Legislative Budget Commission as provided in
30 this sub-sub-subparagraph, but no earlier than March 31, 2007,
31 the corporation may offer policies that provide multiperil

1 coverage and the corporation shall continue to offer policies
2 that provide coverage only for the peril of wind for risks
3 located in areas eligible for coverage in the high-risk
4 account. In issuing multiperil coverage, the corporation may
5 use its approved policy forms and rates for the personal lines
6 account. An applicant or insured who is eligible to purchase a
7 multiperil policy from the corporation may purchase a
8 multiperil policy from an authorized insurer without prejudice
9 to the applicant's or insured's eligibility to prospectively
10 purchase a policy that provides coverage only for the peril of
11 wind from the corporation. An applicant or insured who is
12 eligible for a corporation policy that provides coverage only
13 for the peril of wind may elect to purchase or retain such
14 policy and also purchase or retain coverage excluding wind
15 from an authorized insurer without prejudice to the
16 applicant's or insured's eligibility to prospectively purchase
17 a policy that provides multiperil coverage from the
18 corporation. It is the goal of the Legislature that there
19 would be an overall average savings of 10 percent or more for
20 a policyholder who currently has a wind-only policy with the
21 corporation, and an ex-wind policy with a voluntary insurer or
22 the corporation, and who then obtains a multiperil policy from
23 the corporation. It is the intent of the Legislature that the
24 offer of multiperil coverage in the high-risk account be made
25 and implemented in a manner that does not adversely affect the
26 tax-exempt status of the corporation or creditworthiness of or
27 security for currently outstanding financing obligations or
28 credit facilities of the high-risk account, the personal lines
29 account, or the commercial lines account. By March 1, 2007,
30 the corporation shall prepare and submit for approval by the
31 Financial Services Commission and Legislative Budget

1 Commission a report detailing the corporation's business plan
2 for issuing multiperil coverage in the high-risk account. The
3 business plan shall be approved or disapproved within 30 days
4 after receipt, as submitted or modified and resubmitted by the
5 corporation. The business plan must include: the impact of
6 such multiperil coverage on the corporation's financial
7 resources, the impact of such multiperil coverage on the
8 corporation's tax-exempt status, the manner in which the
9 corporation plans to implement the processing of applications
10 and policy forms for new and existing policyholders, the
11 impact of such multiperil coverage on the corporation's
12 ability to deliver customer service at the high level required
13 by this subsection, the ability of the corporation to process
14 claims, the ability of the corporation to quote and issue
15 policies, the impact of such multiperil coverage on the
16 corporation's agents, the impact of such multiperil coverage
17 on the corporation's existing policyholders, and the impact of
18 such multiperil coverage on rates and premium. The high-risk
19 account must also include quota share primary insurance under
20 subparagraph (c)2. The area eligible for coverage under the
21 high-risk account also includes the area within Port
22 Canaveral, which is bordered on the south by the City of Cape
23 Canaveral, bordered on the west by the Banana River, and
24 bordered on the north by Federal Government property.

25 b. The three separate accounts must be maintained as
26 long as financing obligations entered into by the Florida
27 Windstorm Underwriting Association or Residential Property and
28 Casualty Joint Underwriting Association are outstanding, in
29 accordance with the terms of the corresponding financing
30 documents. When the financing obligations are no longer
31 outstanding, in accordance with the terms of the corresponding

1 financing documents, the corporation may use a single account
2 for all revenues, assets, liabilities, losses, and expenses of
3 the corporation. Consistent with the requirement of this
4 subparagraph and prudent investment policies that minimize the
5 cost of carrying debt, the board shall exercise its best
6 efforts to retire existing debt or to obtain approval of
7 necessary parties to amend the terms of existing debt, so as
8 to structure the most efficient plan to consolidate the three
9 separate accounts into a single account. By February 1, 2007,
10 the board shall submit a report to the Financial Services
11 Commission, the President of the Senate, and the Speaker of
12 the House of Representatives which includes an analysis of
13 consolidating the accounts, the actions the board has taken to
14 minimize the cost of carrying debt, and its recommendations
15 for executing the most efficient plan.

16 c. Creditors of the Residential Property and Casualty
17 Joint Underwriting Association shall have a claim against, and
18 recourse to, the accounts referred to in sub-sub-subparagraphs
19 a.(I) and (II) and shall have no claim against, or recourse
20 to, the account referred to in sub-sub-subparagraph a.(III).
21 Creditors of the Florida Windstorm Underwriting Association
22 shall have a claim against, and recourse to, the account
23 referred to in sub-sub-subparagraph a.(III) and shall have no
24 claim against, or recourse to, the accounts referred to in
25 sub-sub-subparagraphs a.(I) and (II).

26 d. Revenues, assets, liabilities, losses, and expenses
27 not attributable to particular accounts shall be prorated
28 among the accounts.

29 e. The Legislature finds that the revenues of the
30 corporation are revenues that are necessary to meet the
31

1 requirements set forth in documents authorizing the issuance
2 of bonds under this subsection.

3 f. No part of the income of the corporation may inure
4 to the benefit of any private person.

5 3. With respect to a deficit in an account:

6 a. When the deficit incurred in a particular calendar
7 year is not greater than 10 percent of the aggregate statewide
8 direct written premium for the subject lines of business for
9 the prior calendar year, the entire deficit shall be recovered
10 through regular assessments of assessable insurers under
11 paragraph (p) and assessable insureds.

12 b. When the deficit incurred in a particular calendar
13 year exceeds 10 percent of the aggregate statewide direct
14 written premium for the subject lines of business for the
15 prior calendar year, the corporation shall levy regular
16 assessments on assessable insurers under paragraph (p) and on
17 assessable insureds in an amount equal to the greater of 10
18 percent of the deficit or 10 percent of the aggregate
19 statewide direct written premium for the subject lines of
20 business for the prior calendar year. Any remaining deficit
21 shall be recovered through emergency assessments under
22 sub-subparagraph d.

23 c. Each assessable insurer's share of the amount being
24 assessed under sub-subparagraph a. or sub-subparagraph b.
25 shall be in the proportion that the assessable insurer's
26 direct written premium for the subject lines of business for
27 the year preceding the assessment bears to the aggregate
28 statewide direct written premium for the subject lines of
29 business for that year. The assessment percentage applicable
30 to each assessable insured is the ratio of the amount being
31 assessed under sub-subparagraph a. or sub-subparagraph b. to

1 | the aggregate statewide direct written premium for the subject
2 | lines of business for the prior year. Assessments levied by
3 | the corporation on assessable insurers under sub-subparagraphs
4 | a. and b. shall be paid as required by the corporation's plan
5 | of operation and paragraph (p). Notwithstanding any other
6 | provision of this subsection, the aggregate amount of a
7 | regular assessment for a deficit incurred in a particular
8 | calendar year shall be reduced by the estimated amount to be
9 | received by the corporation from the Citizens policyholder
10 | surcharge under subparagraph (c)11. and the amount collected
11 | or estimated to be collected from the assessment on Citizens
12 | policyholders pursuant to sub-subparagraph i. Assessments
13 | levied by the corporation on assessable insureds under
14 | sub-subparagraphs a. and b. shall be collected by the surplus
15 | lines agent at the time the surplus lines agent collects the
16 | surplus lines tax required by s. 626.932 and shall be paid to
17 | the Florida Surplus Lines Service Office at the time the
18 | surplus lines agent pays the surplus lines tax to the Florida
19 | Surplus Lines Service Office. Upon receipt of regular
20 | assessments from surplus lines agents, the Florida Surplus
21 | Lines Service Office shall transfer the assessments directly
22 | to the corporation as determined by the corporation.

23 | d. Upon a determination by the board of governors that
24 | a deficit in an account exceeds the amount that will be
25 | recovered through regular assessments under sub-subparagraph
26 | a. or sub-subparagraph b., the board shall levy, after
27 | verification by the office, emergency assessments, for as many
28 | years as necessary to cover the deficits, to be collected by
29 | assessable insurers and the corporation and collected from
30 | assessable insureds upon issuance or renewal of policies for
31 | subject lines of business, excluding National Flood Insurance

1 | policies. The amount of the emergency assessment collected in
2 | a particular year shall be a uniform percentage of that year's
3 | direct written premium for subject lines of business and all
4 | accounts of the corporation, excluding National Flood
5 | Insurance Program policy premiums, as annually determined by
6 | the board and verified by the office. The office shall verify
7 | the arithmetic calculations involved in the board's
8 | determination within 30 days after receipt of the information
9 | on which the determination was based. Notwithstanding any
10 | other provision of law, the corporation and each assessable
11 | insurer that writes subject lines of business shall collect
12 | emergency assessments from its policyholders without such
13 | obligation being affected by any credit, limitation,
14 | exemption, or deferment. Emergency assessments levied by the
15 | corporation on assessable insureds shall be collected by the
16 | surplus lines agent at the time the surplus lines agent
17 | collects the surplus lines tax required by s. 626.932 and
18 | shall be paid to the Florida Surplus Lines Service Office at
19 | the time the surplus lines agent pays the surplus lines tax to
20 | the Florida Surplus Lines Service Office. The emergency
21 | assessments so collected shall be transferred directly to the
22 | corporation on a periodic basis as determined by the
23 | corporation and shall be held by the corporation solely in the
24 | applicable account. The aggregate amount of emergency
25 | assessments levied for an account under this sub-subparagraph
26 | in any calendar year may not exceed the greater of 10 percent
27 | of the amount needed to cover the original deficit, plus
28 | interest, fees, commissions, required reserves, and other
29 | costs associated with financing of the original deficit, or 10
30 | percent of the aggregate statewide direct written premium for
31 | subject lines of business and for all accounts of the

1 corporation for the prior year, plus interest, fees,
2 commissions, required reserves, and other costs associated
3 with financing the original deficit.

4 e. The corporation may pledge the proceeds of
5 assessments, projected recoveries from the Florida Hurricane
6 Catastrophe Fund, other insurance and reinsurance
7 recoverables, policyholder surcharges and other surcharges,
8 and other funds available to the corporation as the source of
9 revenue for and to secure bonds issued under paragraph (p),
10 bonds or other indebtedness issued under subparagraph (c)3.,
11 or lines of credit or other financing mechanisms issued or
12 created under this subsection, or to retire any other debt
13 incurred as a result of deficits or events giving rise to
14 deficits, or in any other way that the board determines will
15 efficiently recover such deficits. The purpose of the lines of
16 credit or other financing mechanisms is to provide additional
17 resources to assist the corporation in covering claims and
18 expenses attributable to a catastrophe. As used in this
19 subsection, the term "assessments" includes regular
20 assessments under sub-subparagraph a., sub-subparagraph b., or
21 subparagraph (p)1. and emergency assessments under
22 sub-subparagraph d. Emergency assessments collected under
23 sub-subparagraph d. are not part of an insurer's rates, are
24 not premium, and are not subject to premium tax, fees, or
25 commissions; however, failure to pay the emergency assessment
26 shall be treated as failure to pay premium. The emergency
27 assessments under sub-subparagraph d. shall continue as long
28 as any bonds issued or other indebtedness incurred with
29 respect to a deficit for which the assessment was imposed
30 remain outstanding, unless adequate provision has been made
31

1 for the payment of such bonds or other indebtedness pursuant
2 to the documents governing such bonds or other indebtedness.

3 f. As used in this subsection for purposes of any
4 deficit incurred on or after January 25, 2007, the term
5 "subject lines of business" means insurance written by
6 assessable insurers or procured by assessable insureds for all
7 property and casualty lines of business in this state, but not
8 including workers' compensation or medical malpractice. As
9 used in the sub-subparagraph, the term "property and casualty
10 lines of business" includes all lines of business identified
11 on Form 2, Exhibit of Premiums and Losses, in the annual
12 statement required of authorized insurers by s. 624.424 and
13 any rule adopted under this section, except for those lines
14 identified as accident and health insurance and except for
15 policies written under the National Flood Insurance Program or
16 the Federal Crop Insurance Program. For purposes of this
17 sub-subparagraph, the term "workers' compensation" includes
18 both workers' compensation insurance and excess workers'
19 compensation insurance.

20 g. The Florida Surplus Lines Service Office shall
21 determine annually the aggregate statewide written premium in
22 subject lines of business procured by assessable insureds and
23 shall report that information to the corporation in a form and
24 at a time the corporation specifies to ensure that the
25 corporation can meet the requirements of this subsection and
26 the corporation's financing obligations.

27 h. The Florida Surplus Lines Service Office shall
28 verify the proper application by surplus lines agents of
29 assessment percentages for regular assessments and emergency
30 assessments levied under this subparagraph on assessable
31 insureds and shall assist the corporation in ensuring the

1 accurate, timely collection and payment of assessments by
2 surplus lines agents as required by the corporation.

3 i. If a deficit is incurred in any account in 2008 or
4 thereafter, the board of governors shall levy an immediate
5 assessment against the premium of each nonhomestead property
6 policyholder in all accounts of the corporation, as a uniform
7 percentage of the premium of the policy of up to 10 percent of
8 such premium, which funds shall be used to offset the deficit.

9 If this assessment is insufficient to eliminate the deficit,
10 the board of governors shall levy an additional assessment
11 against all policyholders of the corporation, which shall be
12 collected at the time of issuance or renewal of a policy, as a
13 uniform percentage of the premium for the policy of up to 10
14 percent of such premium, which funds shall be used to further
15 offset the deficit.

16 j. The board of governors shall maintain separate
17 accounting records that consolidate data for nonhomestead
18 properties, including, but not limited to, number of policies,
19 insured values, premiums written, and losses. The board of
20 governors shall annually report to the office and the
21 Legislature a summary of such data.

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

23 1. Must provide for adoption of residential property
24 and casualty insurance policy forms and commercial residential
25 and nonresidential property insurance forms, which forms must
26 be approved by the office prior to use. The corporation shall
27 adopt the following policy forms:

28 a. Standard personal lines policy forms that are
29 comprehensive multiperil policies providing full coverage of a
30 residential property equivalent to the coverage provided in
31

1 | the private insurance market under an HO-3, HO-4, or HO-6
2 | policy.

3 | b. Basic personal lines policy forms that are policies
4 | similar to an HO-8 policy or a dwelling fire policy that
5 | provide coverage meeting the requirements of the secondary
6 | mortgage market, but which coverage is more limited than the
7 | coverage under a standard policy.

8 | c. Commercial lines residential and nonresidential
9 | policy forms that are generally similar to the basic perils of
10 | full coverage obtainable for commercial residential structures
11 | and commercial nonresidential structures in the admitted
12 | voluntary market.

13 | d. Personal lines and commercial lines residential
14 | property insurance forms that cover the peril of wind only.
15 | The forms are applicable only to residential properties
16 | located in areas eligible for coverage under the high-risk
17 | account referred to in sub-subparagraph (b)2.a.

18 | e. Commercial lines nonresidential property insurance
19 | forms that cover the peril of wind only. The forms are
20 | applicable only to nonresidential properties located in areas
21 | eligible for coverage under the high-risk account referred to
22 | in sub-subparagraph (b)2.a.

23 | f. The corporation may adopt variations of the policy
24 | forms listed in sub-subparagraphs a.-e. that contain more
25 | restrictive coverage.

26 | 2.a. Must provide that the corporation adopt a program
27 | in which the corporation and authorized insurers enter into
28 | quota share primary insurance agreements for hurricane
29 | coverage, as defined in s. 627.4025(2)(a), for eligible risks,
30 | and adopt property insurance forms for eligible risks which
31 |

1 cover the peril of wind only. As used in this subsection, the
2 term:

3 (I) "Quota share primary insurance" means an
4 arrangement in which the primary hurricane coverage of an
5 eligible risk is provided in specified percentages by the
6 corporation and an authorized insurer. The corporation and
7 authorized insurer are each solely responsible for a specified
8 percentage of hurricane coverage of an eligible risk as set
9 forth in a quota share primary insurance agreement between the
10 corporation and an authorized insurer and the insurance
11 contract. The responsibility of the corporation or authorized
12 insurer to pay its specified percentage of hurricane losses of
13 an eligible risk, as set forth in the quota share primary
14 insurance agreement, may not be altered by the inability of
15 the other party to the agreement to pay its specified
16 percentage of hurricane losses. Eligible risks that are
17 provided hurricane coverage through a quota share primary
18 insurance arrangement must be provided policy forms that set
19 forth the obligations of the corporation and authorized
20 insurer under the arrangement, clearly specify the percentages
21 of quota share primary insurance provided by the corporation
22 and authorized insurer, and conspicuously and clearly state
23 that neither the authorized insurer nor the corporation may be
24 held responsible beyond its specified percentage of coverage
25 of hurricane losses.

26 (II) "Eligible risks" means personal lines residential
27 and commercial lines residential risks that meet the
28 underwriting criteria of the corporation and are located in
29 areas that were eligible for coverage by the Florida Windstorm
30 Underwriting Association on January 1, 2002.

31

1 b. The corporation may enter into quota share primary
2 insurance agreements with authorized insurers at corporation
3 coverage levels of 90 percent and 50 percent.

4 c. If the corporation determines that additional
5 coverage levels are necessary to maximize participation in
6 quota share primary insurance agreements by authorized
7 insurers, the corporation may establish additional coverage
8 levels. However, the corporation's quota share primary
9 insurance coverage level may not exceed 90 percent.

10 d. Any quota share primary insurance agreement entered
11 into between an authorized insurer and the corporation must
12 provide for a uniform specified percentage of coverage of
13 hurricane losses, by county or territory as set forth by the
14 corporation board, for all eligible risks of the authorized
15 insurer covered under the quota share primary insurance
16 agreement.

17 e. Any quota share primary insurance agreement entered
18 into between an authorized insurer and the corporation is
19 subject to review and approval by the office. However, such
20 agreement shall be authorized only as to insurance contracts
21 entered into between an authorized insurer and an insured who
22 is already insured by the corporation for wind coverage.

23 f. For all eligible risks covered under quota share
24 primary insurance agreements, the exposure and coverage levels
25 for both the corporation and authorized insurers shall be
26 reported by the corporation to the Florida Hurricane
27 Catastrophe Fund. For all policies of eligible risks covered
28 under quota share primary insurance agreements, the
29 corporation and the authorized insurer shall maintain complete
30 and accurate records for the purpose of exposure and loss
31 reimbursement audits as required by Florida Hurricane

1 Catastrophe Fund rules. The corporation and the authorized
2 insurer shall each maintain duplicate copies of policy
3 declaration pages and supporting claims documents.

4 g. The corporation board shall establish in its plan
5 of operation standards for quota share agreements which ensure
6 that there is no discriminatory application among insurers as
7 to the terms of quota share agreements, pricing of quota share
8 agreements, incentive provisions if any, and consideration
9 paid for servicing policies or adjusting claims.

10 h. The quota share primary insurance agreement between
11 the corporation and an authorized insurer must set forth the
12 specific terms under which coverage is provided, including,
13 but not limited to, the sale and servicing of policies issued
14 under the agreement by the insurance agent of the authorized
15 insurer producing the business, the reporting of information
16 concerning eligible risks, the payment of premium to the
17 corporation, and arrangements for the adjustment and payment
18 of hurricane claims incurred on eligible risks by the claims
19 adjuster and personnel of the authorized insurer. Entering
20 into a quota sharing insurance agreement between the
21 corporation and an authorized insurer shall be voluntary and
22 at the discretion of the authorized insurer.

23 3. May provide that the corporation may employ or
24 otherwise contract with individuals or other entities to
25 provide administrative or professional services that may be
26 appropriate to effectuate the plan. The corporation shall have
27 the power to borrow funds, by issuing bonds or by incurring
28 other indebtedness, and shall have other powers reasonably
29 necessary to effectuate the requirements of this subsection,
30 including, without limitation, the power to issue bonds and
31 incur other indebtedness in order to refinance outstanding

1 | bonds or other indebtedness. The corporation may, but is not
2 | required to, seek judicial validation of its bonds or other
3 | indebtedness under chapter 75. The corporation may issue bonds
4 | or incur other indebtedness, or have bonds issued on its
5 | behalf by a unit of local government pursuant to subparagraph
6 | (g)2., in the absence of a hurricane or other weather-related
7 | event, upon a determination by the corporation, subject to
8 | approval by the office, that such action would enable it to
9 | efficiently meet the financial obligations of the corporation
10 | and that such financings are reasonably necessary to
11 | effectuate the requirements of this subsection. The
12 | corporation is authorized to take all actions needed to
13 | facilitate tax-free status for any such bonds or indebtedness,
14 | including formation of trusts or other affiliated entities.
15 | The corporation shall have the authority to pledge
16 | assessments, projected recoveries from the Florida Hurricane
17 | Catastrophe Fund, other reinsurance recoverables, market
18 | equalization and other surcharges, and other funds available
19 | to the corporation as security for bonds or other
20 | indebtedness. In recognition of s. 10, Art. I of the State
21 | Constitution, prohibiting the impairment of obligations of
22 | contracts, it is the intent of the Legislature that no action
23 | be taken whose purpose is to impair any bond indenture or
24 | financing agreement or any revenue source committed by
25 | contract to such bond or other indebtedness.

26 | 4.a. Must require that the corporation operate subject
27 | to the supervision and approval of a board of governors
28 | consisting of eight individuals who are residents of this
29 | state, from different geographical areas of this state. The
30 | Governor, the Chief Financial Officer, the President of the
31 | Senate, and the Speaker of the House of Representatives shall

1 each appoint two members of the board. At least one of the two
2 members appointed by each appointing officer must have
3 demonstrated expertise in insurance. The Chief Financial
4 Officer shall designate one of the appointees as chair. All
5 board members serve at the pleasure of the appointing officer.
6 All members of the board of governors are subject to removal
7 at will by the officers who appointed them. All board members,
8 including the chair, must be appointed to serve for 3-year
9 terms beginning annually on a date designated by the plan. Any
10 board vacancy shall be filled for the unexpired term by the
11 appointing officer. The Chief Financial Officer shall appoint
12 a technical advisory group to provide information and advice
13 to the board of governors in connection with the board's
14 duties under this subsection. The executive director and
15 senior managers of the corporation shall be engaged by the
16 board and serve at the pleasure of the board. Any executive
17 director appointed on or after July 1, 2006, is subject to
18 confirmation by the Senate. The executive director is
19 responsible for employing other staff as the corporation may
20 require, subject to review and concurrence by the board.

21 b. The board shall create a Market Accountability
22 Advisory Committee to assist the corporation in developing
23 awareness of its rates and its customer and agent service
24 levels in relationship to the voluntary market insurers
25 writing similar coverage. The members of the advisory
26 committee shall consist of the following 11 persons, one of
27 whom must be elected chair by the members of the committee:
28 four representatives, one appointed by the Florida Association
29 of Insurance Agents, one by the Florida Association of
30 Insurance and Financial Advisors, one by the Professional
31 Insurance Agents of Florida, and one by the Latin American

1 Association of Insurance Agencies; three representatives
2 appointed by the insurers with the three highest voluntary
3 market share of residential property insurance business in the
4 state; one representative from the Office of Insurance
5 Regulation; one consumer appointed by the board who is insured
6 by the corporation at the time of appointment to the
7 committee; one representative appointed by the Florida
8 Association of Realtors; and one representative appointed by
9 the Florida Bankers Association. All members must serve for
10 3-year terms and may serve for consecutive terms. The
11 committee shall report to the corporation at each board
12 meeting on insurance market issues which may include rates and
13 rate competition with the voluntary market; service, including
14 policy issuance, claims processing, and general responsiveness
15 to policyholders, applicants, and agents; and matters relating
16 to depopulation.

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

19 a. Subject to the provisions of s. 627.3517, with
20 respect to personal lines residential risks, if the risk is
21 offered coverage from an authorized insurer at the insurer's
22 approved rate under either a standard policy including wind
23 coverage or, if consistent with the insurer's underwriting
24 rules as filed with the office, a basic policy including wind
25 coverage, for a new application to the corporation for
26 coverage, the risk is not eligible for any policy issued by
27 the corporation unless the premium for coverage from the
28 authorized insurer is more than 25 percent greater than the
29 premium for comparable coverage from the corporation. If the
30 risk is not able to obtain any such offer, the risk is
31 eligible for either a standard policy including wind coverage

1 or a basic policy including wind coverage issued by the
2 corporation; however, if the risk could not be insured under a
3 standard policy including wind coverage regardless of market
4 conditions, the risk shall be eligible for a basic policy
5 including wind coverage unless rejected under subparagraph 8.
6 However, with regard to a policyholder of the corporation or a
7 policyholder removed from the corporation through an
8 assumption agreement until the end of the assumption period,
9 the policyholder remains eligible for coverage from the
10 corporation regardless of any offer of coverage from an
11 authorized insurer or surplus lines insurer. The corporation
12 shall determine the type of policy to be provided on the basis
13 of objective standards specified in the underwriting manual
14 and based on generally accepted underwriting practices.

15 (I) If the risk accepts an offer of coverage through
16 the market assistance plan or an offer of coverage through a
17 mechanism established by the corporation before a policy is
18 issued to the risk by the corporation or during the first 30
19 days of coverage by the corporation, and the producing agent
20 who submitted the application to the plan or to the
21 corporation is not currently appointed by the insurer, the
22 insurer shall:

23 (A) Pay to the producing agent of record of the
24 policy, for the first year, an amount that is the greater of
25 the insurer's usual and customary commission for the type of
26 policy written or a fee equal to the usual and customary
27 commission of the corporation; or

28 (B) Offer to allow the producing agent of record of
29 the policy to continue servicing the policy for a period of
30 not less than 1 year and offer to pay the agent the greater of
31

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

3
4 If the producing agent is unwilling or unable to accept
5 appointment, the new insurer shall pay the agent in accordance
6 with sub-sub-sub-subparagraph (A).

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

11 (A) Pay to the producing agent of record of the
12 corporation policy, for the first year, an amount that is the
13 greater of the insurer's usual and customary commission for
14 the type of policy written or a fee equal to the usual and
15 customary commission of the corporation; or

16 (B) Offer to allow the producing agent of record of
17 the corporation policy to continue servicing the policy for a
18 period of not less than 1 year and offer to pay the agent the
19 greater of the insurer's or the corporation's usual and
20 customary commission for the type of policy written.

21
22 If the producing agent is unwilling or unable to accept
23 appointment, the new insurer shall pay the agent in accordance
24 with sub-sub-sub-subparagraph (A).

25 b. With respect to commercial lines residential risks,
26 for a new application to the corporation for coverage, if the
27 risk is offered coverage under a policy including wind
28 coverage from an authorized insurer at its approved rate, the
29 risk is not eligible for any policy issued by the corporation
30 unless the premium for coverage from the authorized insurer is
31 more than 25 percent greater than the premium for comparable

1 coverage from the corporation. If the risk is not able to
2 obtain any such offer, the risk is eligible for a policy
3 including wind coverage issued by the corporation. However,
4 with regard to a policyholder of the corporation or a
5 policyholder removed from the corporation through an
6 assumption agreement until the end of the assumption period,
7 the policyholder remains eligible for coverage from the
8 corporation regardless of any offer of coverage from an
9 authorized insurer or surplus lines insurer.

10 (I) If the risk accepts an offer of coverage through
11 the market assistance plan or an offer of coverage through a
12 mechanism established by the corporation before a policy is
13 issued to the risk by the corporation or during the first 30
14 days of coverage by the corporation, and the producing agent
15 who submitted the application to the plan or the corporation
16 is not currently appointed by the insurer, the insurer shall:

17 (A) Pay to the producing agent of record of the
18 policy, for the first year, an amount that is the greater of
19 the insurer's usual and customary commission for the type of
20 policy written or a fee equal to the usual and customary
21 commission of the corporation; or

22 (B) Offer to allow the producing agent of record of
23 the policy to continue servicing the policy for a period of
24 not less than 1 year and offer to pay the agent the greater of
25 the insurer's or the corporation's usual and customary
26 commission for the type of policy written.

27
28 If the producing agent is unwilling or unable to accept
29 appointment, the new insurer shall pay the agent in accordance
30 with sub-sub-sub-subparagraph (A).

31

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

5 (A) Pay to the producing agent of record of the
6 corporation policy, for the first year, an amount that is the
7 greater of the insurer's usual and customary commission for
8 the type of policy written or a fee equal to the usual and
9 customary commission of the corporation; or

10 (B) Offer to allow the producing agent of record of
11 the corporation policy to continue servicing the policy for a
12 period of not less than 1 year and offer to pay the agent the
13 greater of the insurer's or the corporation's usual and
14 customary commission for the type of policy written.

15
16 If the producing agent is unwilling or unable to accept
17 appointment, the new insurer shall pay the agent in accordance
18 with sub-sub-sub-subparagraph (A).

19 c. For purposes of determining comparable coverage
20 under sub-subparagraphs a. and b., the comparison shall be
21 based on those forms and coverages that are reasonably
22 comparable. The corporation may rely on a determination of
23 comparable coverage and premium made by the producing agent
24 who submits the application to the corporation, which
25 determination shall be presumed correct and deemed to be made
26 in its capacity as the corporation's agent. It is acceptable
27 to make a comparison solely of the premium with respect to the
28 main building or structure only, on the following basis: the
29 same coverage A or other building limits; the same percentage
30 hurricane deductible that applies on an annual basis or that
31 applies to each hurricane for commercial residential property;

1 the same percentage of ordinance and law coverage, if the same
2 limit is offered by both the corporation and the authorized
3 insurer; the same mitigation credits, to the extent the same
4 types of credits are offered both by the corporation and the
5 authorized insurer; the same method for loss payment, such as
6 replacement cost or actual cash value, if the same method is
7 offered both by the corporation and the authorized insurer in
8 accordance with underwriting rules; and any other form or
9 coverage that is reasonably comparable as determined by the
10 board. Any other differences in coverage may be ignored. If an
11 application is submitted to the corporation for wind-only
12 coverage in the high-risk account, the premium for the
13 corporation's wind-only policy plus the premium for the
14 ex-wind policy that is offered by an authorized insurer to the
15 applicant shall be compared to the premium for multi-peril
16 coverage offered by an authorized insurer, subject to the
17 standards for comparison specified in this subparagraph. If
18 the corporation or the applicant requests from the authorized
19 insurer a breakdown of the premium of the offer by types of
20 coverage so that a comparison may be made by the corporation
21 or its agent and the authorized insurer refuses or is unable
22 to provide such information, the corporation may treat the
23 offer as not being an offer of coverage from an authorized
24 insurer at the insurer's approved rate.

25 ~~6. Must provide by July 1, 2007, that an application~~
26 ~~for coverage for a new policy is subject to a waiting period~~
27 ~~of 10 days before coverage is effective, during which time the~~
28 ~~corporation shall make such application available for review~~
29 ~~by general lines agents and authorized property and casualty~~
30 ~~insurers. The board shall approve an exception that allows for~~
31 ~~coverage to be effective before the end of the 10 day waiting~~

1 ~~period, for coverage issued in conjunction with a real estate~~
2 ~~closing. The board may approve such other exceptions as the~~
3 ~~board determines are necessary to prevent lapses in coverage.~~

4 ~~6.7.~~ Must include rules for classifications of risks
5 and rates therefor.

6 ~~7.8.~~ Must provide that if premium and investment
7 income for an account attributable to a particular calendar
8 year are in excess of projected losses and expenses for the
9 account attributable to that year, such excess shall be held
10 in surplus in the account. Such surplus shall be available to
11 defray deficits in that account as to future years and shall
12 be used for that purpose prior to assessing assessable
13 insurers and assessable insureds as to any calendar year.

14 ~~8.9.~~ Must provide objective criteria and procedures to
15 be uniformly applied for all applicants in determining whether
16 an individual risk is so hazardous as to be uninsurable. In
17 making this determination and in establishing the criteria and
18 procedures, the following shall be considered:

19 a. Whether the likelihood of a loss for the individual
20 risk is substantially higher than for other risks of the same
21 class; and

22 b. Whether the uncertainty associated with the
23 individual risk is such that an appropriate premium cannot be
24 determined.

25
26 The acceptance or rejection of a risk by the corporation shall
27 be construed as the private placement of insurance, and the
28 provisions of chapter 120 shall not apply.

29 ~~9.10.~~ Must provide that the corporation shall make its
30 best efforts to procure catastrophe reinsurance at reasonable
31

1 rates, to cover its projected 100-year probable maximum loss
2 as determined by the board of governors.

3 ~~10.11.~~ Must provide that in the event of regular
4 deficit assessments under sub-subparagraph (b)3.a. or
5 sub-subparagraph (b)3.b., in the personal lines account, the
6 commercial lines residential account, or the high-risk
7 account, the corporation shall levy upon corporation
8 policyholders in its next rate filing, or by a separate rate
9 filing solely for this purpose, a Citizens policyholder
10 surcharge arising from a regular assessment in such account in
11 a percentage equal to the total amount of such regular
12 assessments divided by the aggregate statewide direct written
13 premium for subject lines of business for the prior calendar
14 year. For purposes of calculating the Citizens policyholder
15 surcharge to be levied under this subparagraph, the total
16 amount of the regular assessment to which this surcharge is
17 related shall be determined as set forth in subparagraph
18 (b)3., without deducting the estimated Citizens policyholder
19 surcharge. Citizens policyholder surcharges under this
20 subparagraph are not considered premium and are not subject to
21 commissions, fees, or premium taxes; however, failure to pay a
22 market equalization surcharge shall be treated as failure to
23 pay premium.

24 ~~11.12.~~ The policies issued by the corporation must
25 provide that, if the corporation or the market assistance plan
26 obtains an offer from an authorized insurer to cover the risk
27 at its approved rates, the risk is no longer eligible for
28 renewal through the corporation, except as otherwise provided
29 in this subsection.

30 ~~12.13.~~ Corporation policies and applications must
31 include a notice that the corporation policy could, under this

1 section, be replaced with a policy issued by an authorized
2 insurer that does not provide coverage identical to the
3 coverage provided by the corporation. The notice shall also
4 specify that acceptance of corporation coverage creates a
5 conclusive presumption that the applicant or policyholder is
6 aware of this potential.

7 ~~13.14.~~ May establish, subject to approval by the
8 office, different eligibility requirements and operational
9 procedures for any line or type of coverage for any specified
10 county or area if the board determines that such changes to
11 the eligibility requirements and operational procedures are
12 justified due to the voluntary market being sufficiently
13 stable and competitive in such area or for such line or type
14 of coverage and that consumers who, in good faith, are unable
15 to obtain insurance through the voluntary market through
16 ordinary methods would continue to have access to coverage
17 from the corporation. When coverage is sought in connection
18 with a real property transfer, such requirements and
19 procedures shall not provide for an effective date of coverage
20 later than the date of the closing of the transfer as
21 established by the transferor, the transferee, and, if
22 applicable, the lender.

23 ~~14.15.~~ Must provide that, with respect to the
24 high-risk account, any assessable insurer with a surplus as to
25 policyholders of \$25 million or less writing 25 percent or
26 more of its total countrywide property insurance premiums in
27 this state may petition the office, within the first 90 days
28 of each calendar year, to qualify as a limited apportionment
29 company. A regular assessment levied by the corporation on a
30 limited apportionment company for a deficit incurred by the
31 corporation for the high-risk account in 2006 or thereafter

1 | may be paid to the corporation on a monthly basis as the
2 | assessments are collected by the limited apportionment company
3 | from its insureds pursuant to s. 627.3512, but the regular
4 | assessment must be paid in full within 12 months after being
5 | levied by the corporation. A limited apportionment company
6 | shall collect from its policyholders any emergency assessment
7 | imposed under sub-subparagraph (b)3.d. The plan shall provide
8 | that, if the office determines that any regular assessment
9 | will result in an impairment of the surplus of a limited
10 | apportionment company, the office may direct that all or part
11 | of such assessment be deferred as provided in subparagraph
12 | (g)4. However, there shall be no limitation or deferment of an
13 | emergency assessment to be collected from policyholders under
14 | sub-subparagraph (b)3.d.

15 | ~~15.16.~~ Must provide that the corporation appoint as
16 | its licensed agents only those agents who also hold an
17 | appointment as defined in s. 626.015(3) with an insurer who at
18 | the time of the agent's initial appointment by the corporation
19 | is authorized to write and is actually writing personal lines
20 | residential property coverage, commercial residential property
21 | coverage, or commercial nonresidential property coverage
22 | within the state.

23 | ~~16.17.~~ Must provide, by July 1, 2007, a premium
24 | payment plan option to its policyholders which allows at a
25 | minimum for quarterly and semiannual payment of premiums. A
26 | monthly payment plan may, but is not required to, be offered.

27 | ~~17.18.~~ Must provide, effective June 1, 2007, that the
28 | corporation contract with each insurer providing the non-wind
29 | coverage for risks insured by the corporation in the high-risk
30 | account, requiring that the insurer provide claims adjusting
31 | services for the wind coverage provided by the corporation for

1 such risks. An insurer is required to enter into this contract
2 as a condition of providing non-wind coverage for a risk that
3 is insured by the corporation in the high-risk account unless
4 the board approves an exemption for good cause finds, ~~after a~~
5 ~~hearing, that the insurer is not capable of providing~~
6 ~~adjusting services at an acceptable level of quality to~~
7 ~~corporation policyholders~~. The terms and conditions of such
8 contracts must be substantially the same as the contracts that
9 the corporation executed with insurers under the
10 "adjust-your-own" program in 2006, except as may be mutually
11 agreed to by the parties and except for such changes that the
12 board determines are necessary to ensure that claims are
13 adjusted appropriately. The corporation shall provide a
14 process for neutral arbitration of any dispute between the
15 corporation and the insurer regarding the terms of the
16 contract. The corporation shall review and monitor the
17 performance of insurers under these contracts.

18 ~~18.19.~~ Must limit coverage on mobile homes or
19 manufactured homes built prior to 1994 to actual cash value of
20 the dwelling rather than replacement costs of the dwelling.

21 ~~19.20.~~ May provide such limits of coverage as the
22 board determines, consistent with the requirements of this
23 subsection.

24 ~~20.21.~~ May require commercial property to meet
25 specified hurricane mitigation construction features as a
26 condition of eligibility for coverage.

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

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

7 3. Senior managers and members of the board of
8 governors are subject to the provisions of ss. 112.313,
9 112.3135, 112.3143, 112.3145, 112.316, and 112.317 which apply
10 to political subdivisions of the state ~~part III of chapter~~
11 ~~112, including, but not limited to, the code of ethics and~~
12 ~~public disclosure and reporting of financial interests,~~
13 ~~pursuant to s. 112.3145. For purposes of the filing~~
14 requirements in s. 112.3145, senior managers and board members
15 are ~~also~~ required to file such disclosures with the Commission
16 on Ethics and the Office of Insurance Regulation. The
17 executive director of the corporation or his or her designee
18 shall notify each newly appointed and existing appointed
19 member of the board of governors and senior managers of their
20 duty to comply with the reporting requirements of s. 112.3145
21 ~~part III of chapter 112.~~ At least quarterly, the executive
22 director or his or her designee shall submit to the Commission
23 on Ethics a list of names of the senior managers and members
24 of the board of governors who are subject to the public
25 disclosure requirements under s. 112.3145. Notwithstanding s.
26 112.313, if a member of the board of governors has been
27 appointed by his or her appointing officer because of
28 demonstrated expertise in insurance, such member may be an
29 employee, officer, owner, or director of an insurance agency
30 or insurance company or other insurance entity that has a
31 contractual relationship with the corporation. Such board

1 member may participate in and vote on a matter if the
2 applicable provisions of s. 112.3143 are met and if the
3 insurance entity would not obtain a special or unique benefit
4 that would not apply to other similar insurance entities that
5 have a contractual relationship with the corporation. For
6 purposes of the applicable sections of chapter 112 cited in
7 this subparagraph, senior managers of the corporation are
8 subject to those provisions applicable to employees of
9 political subdivisions of the state and board members are
10 subject to those provisions applicable to appointed public
11 officers or public officials of political subdivisions of the
12 state and, for purposes of s. 112.3143(2), board members are
13 considered state public officers.

14 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
15 other provision of law, an employee or board member may not
16 knowingly accept, directly or indirectly, any gift or
17 expenditure from a person or entity, or an employee or
18 representative of such person or entity, that has a
19 contractual relationship with the corporation or who is under
20 consideration for a contract. An employee or board member who
21 fails to comply with subparagraph 3. or this subparagraph is
22 subject to penalties provided under s. ~~ss.~~ 112.317 and
23 112.3173.

24 5. Any senior manager of the corporation who is
25 employed on or after January 1, 2007, regardless of the date
26 of hire, who subsequently retires or terminates employment is
27 prohibited from representing another person or entity before
28 the corporation for 2 years after retirement or termination of
29 employment from the corporation.

30 6. Any senior manager ~~employee~~ of the corporation who
31 is employed on or after January 1, 2007, regardless of the

1 date of hire, who subsequently retires or terminates
2 employment is prohibited from having any employment or
3 contractual relationship for 2 years with an insurer that has
4 ~~received~~ a take-out bonus agreement with ~~from~~ the corporation.

5 (j)1. The corporation shall establish and maintain a
6 unit or division to investigate possible fraudulent claims by
7 insureds or by persons making claims for services or repairs
8 against policies held by insureds; or it may contract with
9 others to investigate possible fraudulent claims for services
10 or repairs against policies held by the corporation pursuant
11 to s. 626.9891. The corporation must comply with reporting
12 requirements of s. 626.9891. An employee of the corporation
13 shall notify the Corporation's Office of the Internal Auditor
14 ~~Division of Insurance Fraud~~ within 48 hours after having
15 information that would lead a reasonable person to suspect
16 that fraud may have been committed by any employee of the
17 corporation.

18 2. The corporation shall establish a unit or division
19 responsible for receiving and responding to consumer
20 complaints, which unit or division is the sole responsibility
21 of a senior manager of the corporation.

22 (m)1. Rates for coverage provided by the corporation
23 shall be actuarially sound and subject to the requirements of
24 s. 627.062, except as otherwise provided in this paragraph.
25 The corporation shall file its recommended rates with the
26 office at least annually. The corporation shall provide any
27 additional information regarding the rates which the office
28 requires. The office shall consider the recommendations of the
29 board and issue a final order establishing the rates for the
30 corporation within 45 days after the recommended rates are
31

1 filed. The corporation may not pursue an administrative
2 challenge or judicial review of the final order of the office.

3 2. In addition to the rates otherwise determined
4 pursuant to this paragraph, the corporation shall impose and
5 collect an amount equal to the premium tax provided for in s.
6 624.509 to augment the financial resources of the corporation.

7 3. After the public hurricane loss-projection model
8 under s. 627.06281 has been found to be accurate and reliable
9 by the Florida Commission on Hurricane Loss Projection
10 Methodology, that model shall serve as the minimum benchmark
11 for determining the windstorm portion of the corporation's
12 rates. This subparagraph does not require or allow the
13 corporation to adopt rates lower than the rates otherwise
14 required or allowed by this paragraph.

15 4. The rate filings for the corporation which were
16 approved by the office and which took effect January 1, 2007,
17 are rescinded, except for those rates that were lowered. As
18 soon as possible, the corporation shall begin using the lower
19 rates that were in effect on December 31, 2006, and shall
20 provide refunds to policyholders who have paid higher rates as
21 a result of that rate filing. The rates in effect on December
22 31, 2006, shall remain in effect through at least December 31,
23 2007, for the 2007 calendar year except for any rate change
24 that results in a lower rate. The next rate change that may
25 increase rates shall be filed with the office by take effect
26 January 1, 2008, ~~pursuant to a new rate filing recommended by~~
27 ~~the corporation and established by the office,~~ subject to the
28 requirements of this paragraph.

29 (n) If coverage in an account is deactivated pursuant
30 to paragraph (f), coverage through the corporation shall be
31

1 reactivated by order of the office only under one of the
2 following circumstances:

3 1. If the market assistance plan receives a minimum of
4 100 applications for coverage within a 3-month period, or 200
5 applications for coverage within a 1-year period or less for
6 residential coverage, unless the market assistance plan
7 provides a quotation from admitted carriers at their filed
8 rates for at least 90 percent of such applicants. Any market
9 assistance plan application that is rejected because an
10 individual risk is so hazardous as to be uninsurable using the
11 criteria specified in subparagraph (c)8. shall not be included
12 in the minimum percentage calculation provided herein. In the
13 event that there is a legal or administrative challenge to a
14 determination by the office that the conditions of this
15 subparagraph have been met for eligibility for coverage in the
16 corporation, any eligible risk may obtain coverage during the
17 pendency of such challenge.

18 2. In response to a state of emergency declared by the
19 Governor under s. 252.36, the office may activate coverage by
20 order for the period of the emergency upon a finding by the
21 office that the emergency significantly affects the
22 availability of residential property insurance.

23 (v) Notwithstanding any other provision of law:

24 1. The pledge or sale of, the lien upon, and the
25 security interest in any rights, revenues, or other assets of
26 the corporation created or purported to be created pursuant to
27 any financing documents to secure any bonds or other
28 indebtedness of the corporation shall be and remain valid and
29 enforceable, notwithstanding the commencement of and during
30 the continuation of, and after, any rehabilitation,
31 insolvency, liquidation, bankruptcy, receivership,

1 conservatorship, reorganization, or similar proceeding against
2 the corporation under the laws of this state.

3 2. No such proceeding shall relieve the corporation of
4 its obligation, or otherwise affect its ability to perform its
5 obligation, to continue to collect, or levy and collect,
6 assessments, market equalization or other surcharges under
7 subparagraph (c)10., or any other rights, revenues, or other
8 assets of the corporation pledged pursuant to any financing
9 documents.

10 3. Each such pledge or sale of, lien upon, and
11 security interest in, including the priority of such pledge,
12 lien, or security interest, any such assessments, market
13 equalization or other surcharges, or other rights, revenues,
14 or other assets which are collected, or levied and collected,
15 after the commencement of and during the pendency of, or
16 after, any such proceeding shall continue unaffected by such
17 proceeding. As used in this subsection, the term "financing
18 documents" means any agreement or agreements, instrument or
19 instruments, or other document or documents now existing or
20 hereafter created evidencing any bonds or other indebtedness
21 of the corporation or pursuant to which any such bonds or
22 other indebtedness has been or may be issued and pursuant to
23 which any rights, revenues, or other assets of the corporation
24 are pledged or sold to secure the repayment of such bonds or
25 indebtedness, together with the payment of interest on such
26 bonds or such indebtedness, or the payment of any other
27 obligation or financial product, as defined in the plan of
28 operation of the corporation related to such bonds or
29 indebtedness.

30 4. Any such pledge or sale of assessments, revenues,
31 contract rights, or other rights or assets of the corporation

1 shall constitute a lien and security interest, or sale, as the
2 case may be, that is immediately effective and attaches to
3 such assessments, revenues, or contract rights or other rights
4 or assets, whether or not imposed or collected at the time the
5 pledge or sale is made. Any such pledge or sale is effective,
6 valid, binding, and enforceable against the corporation or
7 other entity making such pledge or sale, and valid and binding
8 against and superior to any competing claims or obligations
9 owed to any other person or entity, including policyholders in
10 this state, asserting rights in any such assessments,
11 revenues, or contract rights or other rights or assets to the
12 extent set forth in and in accordance with the terms of the
13 pledge or sale contained in the applicable financing
14 documents, whether or not any such person or entity has notice
15 of such pledge or sale and without the need for any physical
16 delivery, recordation, filing, or other action.

17 5. As long as the corporation has any bonds
18 outstanding, the corporation may not file a voluntary petition
19 under chapter 9 of the federal Bankruptcy Code or such
20 corresponding chapter or sections as may be in effect, from
21 time to time, and a public officer or any organization,
22 entity, or other person may not authorize the corporation to
23 be or become a debtor under chapter 9 of the federal
24 Bankruptcy Code or such corresponding chapter or sections as
25 may be in effect, from time to time, during any such period.

26 6. If ordered by a court of competent jurisdiction,
27 the corporation may assume policies or otherwise provide
28 coverage for policyholders of an insurer placed in liquidation
29 under chapter 631, under such forms, rates, terms, and
30 conditions as the corporation deems appropriate, subject to
31 approval by the office.

1 Section 9. Subsection (4) of section 627.3511, Florida
2 Statutes, is amended to read:

3 627.3511 Depopulation of Citizens Property Insurance
4 Corporation.--

5 (4) AGENT BONUS.--When the corporation enters into a
6 contractual agreement for a take-out plan that provides a
7 bonus to the insurer, the producing agent of record of the
8 corporation policy is entitled to retain any unearned
9 commission on such policy, and the insurer shall either:

10 (a) Pay to the producing agent of record of the
11 association policy, for the first year, an amount that is the
12 greater of the insurer's usual and customary commission for
13 the type of policy written or a fee equal to the usual and
14 customary commission of the corporation; or

15 (b) Offer to allow the producing agent of record of
16 the corporation policy to continue servicing the policy for a
17 period of not less than 1 year and offer to pay the agent the
18 greater of the insurer's or the corporation's usual and
19 customary commission for the type of policy written.

20
21 If the producing agent is unwilling or unable to accept
22 appointment, the new insurer shall pay the agent in accordance
23 with paragraph (a). The requirement of this subsection that
24 the producing agent of record is entitled to retain the
25 unearned commission on an association policy does not apply to
26 a policy for which coverage has been provided in the
27 association for 30 days or less or for which a cancellation
28 notice has been issued pursuant to s. 627.351(6)(c)12. ~~s.~~
29 ~~627.351(6)(c)11.~~ during the first 30 days of coverage.

1 Section 10. Paragraph (a) of subsection (3) of section
2 627.3515, Florida Statutes, as amended by chapter 2007-1, Laws
3 of Florida, is amended to read:

4 627.3515 Market assistance plan; property and casualty
5 risks.--

6 (3)(a) The plan and the corporation shall develop a
7 business plan and present it to the Financial Services
8 Commission for approval by September 1, 2007, to provide for
9 the implementation of an electronic database for the purpose
10 of confirming eligibility pursuant to s. 627.351(6). The
11 business plan may provide that authorized insurers or agents
12 of authorized insurers may submit to the plan or the
13 corporation in electronic form, as determined by the plan or
14 the corporation, information determined necessary by the plan
15 or the corporation to deny coverage to risks ineligible for
16 coverage by the corporation. Any authorized insurer submitting
17 such information that results in a risk being denied coverage
18 by the corporation is required to offer coverage to the risk
19 at its approved rates, for the coverage and premium quoted,
20 for at least 1 year.

21 Section 11. Section 627.3517, Florida Statutes, is
22 amended to read:

23 627.3517 Consumer choice.--

24 ~~(1) Except as provided in subsection (2),~~ No provision
25 of s. 627.351, s. 627.3511, or s. 627.3515 shall be construed
26 to impair the right of any insurance risk apportionment plan
27 policyholder, upon receipt of any keepout or take-out offer,
28 to retain his or her current agent, so long as that agent is
29 duly licensed and appointed by the insurance risk
30 apportionment plan or otherwise authorized to place business
31 with the insurance risk apportionment plan. This right shall

1 not be canceled, suspended, impeded, abridged, or otherwise
2 compromised by any rule, plan of operation, or depopulation
3 plan, whether through keepout, take-out, midterm assumption,
4 or any other means, of any insurance risk apportionment plan
5 or depopulation plan, including, but not limited to, those
6 described in s. 627.351, s. 627.3511, or s. 627.3515. The
7 commission shall adopt any rules necessary to cause any
8 insurance risk apportionment plan or market assistance plan
9 under such sections to demonstrate that the operations of the
10 plan do not interfere with, promote, or allow interference
11 with the rights created under this section. If the
12 policyholder's current agent is unable or unwilling to be
13 appointed with the insurer making the take-out or keepout
14 offer, the policyholder shall not be disqualified from
15 participation in the appropriate insurance risk apportionment
16 plan because of an offer of coverage in the voluntary market.
17 An offer of full property insurance coverage by the insurer
18 currently insuring either the ex-wind or wind-only coverage on
19 the policy to which the offer applies shall not be considered
20 a take-out or keepout offer. Any rule, plan of operation, or
21 plan of depopulation, through keepout, take-out, midterm
22 assumption, or any other means, of any property insurance risk
23 apportionment plan under s. 627.351(2) or (6) is subject to
24 ss. 627.351(2)(b) and (6)(c) and 627.3511(4).

25 ~~(2) This section does not apply during the first 10~~
26 ~~days after a new application for coverage has been submitted~~
27 ~~to Citizens Property Insurance Corporation under s.~~
28 ~~627.351(6), whether or not coverage is bound during this~~
29 ~~period.~~

30
31

1 Section 12. Subsection (1) of section 627.4035,
2 Florida Statutes, as amended by chapter 2007-1, Laws of
3 Florida, is amended to read:

4 627.4035 Cash payment of premiums; claims.--

5 (1) The premiums for insurance contracts issued in
6 this state or covering risk located in this state shall be
7 paid in cash consisting of coins, currency, checks, or money
8 orders or by using a debit card, credit card, automatic
9 electronic funds transfer, or payroll deduction plan. By July
10 1, 2007, insurers issuing personal lines residential and
11 commercial property policies shall provide a premium payment
12 plan option to their policyholders which allows for a minimum
13 of quarterly and semiannual payment of premiums. Insurers may,
14 but are not required to, offer monthly payment plans. Insurers
15 issuing such policies must submit their premium payment plan
16 option to the office for approval before use.

17 Section 13. Paragraph (b) of subsection (2) of section
18 627.4133, Florida Statutes, is amended, and subsection (7) is
19 added to that section to read:

20 627.4133 Notice of cancellation, nonrenewal, or
21 renewal premium.--

22 (2) With respect to any personal lines or commercial
23 residential property insurance policy, including, but not
24 limited to, any homeowner's, mobile home owner's, farmowner's,
25 condominium association, condominium unit owner's, apartment
26 building, or other policy covering a residential structure or
27 its contents:

28 (b) The insurer shall give the named insured written
29 notice of nonrenewal, cancellation, or termination at least
30 100 days prior to the effective date of the nonrenewal,
31 cancellation, or termination. However, the insurer shall give

1 at least 100 days' written notice, or written notice by June
2 1, whichever is earlier, for any nonrenewal, cancellation, or
3 termination that would be effective between June 1 and
4 November 30. The notice must include the reason or reasons for
5 the nonrenewal, cancellation, or termination, except that:

6 1. When cancellation is for nonpayment of premium, at
7 least 10 days' written notice of cancellation accompanied by
8 the reason therefor shall be given. As used in this
9 subparagraph, the term "nonpayment of premium" means failure
10 of the named insured to discharge when due any of her or his
11 obligations in connection with the payment of premiums on a
12 policy or any installment of such premium, whether the premium
13 is payable directly to the insurer or its agent or indirectly
14 under any premium finance plan or extension of credit, or
15 failure to maintain membership in an organization if such
16 membership is a condition precedent to insurance coverage.

17 "Nonpayment of premium" also means the failure of a financial
18 institution to honor an insurance applicant's check after
19 delivery to a licensed agent for payment of a premium, even if
20 the agent has previously delivered or transferred the premium
21 to the insurer. If a dishonored check represents the initial
22 premium payment, the contract and all contractual obligations
23 shall be void ab initio unless the nonpayment is cured within
24 the earlier of 5 days after actual notice by certified mail is
25 received by the applicant or 15 days after notice is sent to
26 the applicant by certified mail or registered mail, and if the
27 contract is void, any premium received by the insurer from a
28 third party shall be refunded to that party in full.

29 2. When such cancellation or termination occurs during
30 the first 90 days during which the insurance is in force and
31 the insurance is canceled or terminated for reasons other than

1 nonpayment of premium, at least 20 days' written notice of
2 cancellation or termination accompanied by the reason therefor
3 shall be given except where there has been a material
4 misstatement or misrepresentation or failure to comply with
5 the underwriting requirements established by the insurer.

6 3. The requirement for providing written notice of
7 nonrenewal by June 1 of any nonrenewal that would be effective
8 between June 1 and November 30 does not apply to the following
9 situations, but the insurer remains subject to the requirement
10 to provide such notice at least 100 days prior to the
11 effective date of nonrenewal:

12 a. A policy that is nonrenewed due to a revision in
13 the coverage for sinkhole losses and catastrophic ground cover
14 collapse pursuant to s. 627.730, as amended by s. 30 of
15 chapter 2007-1, Laws of Florida.

16 b. A policy that is nonrenewed by Citizens Property
17 Insurance Corporation, pursuant to s. 627.351(6), for a policy
18 that has been assumed by an authorized insurer offering
19 replacement or renewal coverage to the policyholder.

20
21 After the policy has been in effect for 90 days, the policy
22 shall not be canceled by the insurer except when there has
23 been a material misstatement, a nonpayment of premium, a
24 failure to comply with underwriting requirements established
25 by the insurer within 90 days of the date of effectuation of
26 coverage, or a substantial change in the risk covered by the
27 policy or when the cancellation is for all insureds under such
28 policies for a given class of insureds. This paragraph does
29 not apply to individually rated risks having a policy term of
30 less than 90 days.

31

1 (7)(a) Effective August 1, 2007, with respect to any
2 residential property insurance policy, every notice of renewal
3 premium must specify:

4 1. The dollar amounts recouped for assessments by the
5 Florida Hurricane Catastrophe Fund, the Citizens Property
6 Insurance Corporation, and the Florida Insurance Guaranty
7 Association. The actual names of the entities must appear next
8 to the dollar amounts.

9 2. The dollar amount of any premium increase that is
10 due to a rate increase and the total dollar amount that is due
11 to coverage changes.

12 (b) The Financial Services Commission may adopt rules
13 pursuant to ss. 120.536(1) and 120.54 to implement this
14 subsection.

15 Section 14. Paragraphs (a) and (c) of subsection (3)
16 and paragraph (d) of subsection (4) of section 627.701,
17 Florida Statutes, as amended by chapter 2007-1, Laws of
18 Florida, are amended, to read:

19 627.701 Liability of insureds; coinsurance;
20 deductibles.--

21 (3)(a) Except as otherwise provided in this
22 subsection, prior to issuing a personal lines residential
23 property insurance policy, the insurer must offer alternative
24 deductible amounts applicable to hurricane losses equal to
25 \$500, 2 percent, 5 percent, and 10 percent of the policy
26 dwelling limits, unless the specific percentage deductible is
27 less than \$500. The written notice of the offer shall specify
28 the hurricane ~~or wind~~ deductible to be applied in the event
29 that the applicant or policyholder fails to affirmatively
30 choose a hurricane deductible. The insurer must provide such
31 policyholder with notice of the availability of the deductible

1 amounts specified in this paragraph in a form approved by the
2 office in conjunction with each renewal of the policy. The
3 failure to provide such notice constitutes a violation of this
4 code but does not affect the coverage provided under the
5 policy.

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

14 (4)

15 (d)1. A personal lines residential property insurance
16 policy covering a risk valued at less than \$500,000 may not
17 have a hurricane deductible in excess of 10 percent of the
18 policy dwelling limits, unless the following conditions are
19 met:

20 a. The policyholder must personally write and provide
21 to the insurer the following statement in his or her own
22 handwriting and sign his or her name, which must also be
23 signed by every other named insured on the policy, and dated:
24 "I do not want the insurance on my home to pay for the first
25 (specify dollar value) of damage from hurricanes. I will pay
26 those costs. My insurance will not."

27 b. If the structure insured by the policy is subject
28 to a mortgage or lien, the policyholder must provide the
29 insurer with a written statement from the mortgageholder or
30 lienholder indicating that the mortgageholder or lienholder
31

1 approves the policyholder electing to have the specified
2 deductible.

3 2. A deductible subject to the requirements of this
4 paragraph applies for the term of the policy and for each
5 renewal ~~thereafter unless the policyholder elects otherwise.~~
6 Changes to the deductible percentage may be implemented only
7 as of the date of renewal.

8 3. An insurer shall keep the original copy of the
9 signed statement required by this paragraph, electronically or
10 otherwise, and provide a copy to the policyholder providing
11 the signed statement. A signed statement meeting the
12 requirements of this paragraph creates a presumption that
13 there was an informed, knowing election of coverage.

14 4. The commission shall adopt rules providing
15 appropriate alternative methods for providing the statements
16 required by this section for policyholders who have a
17 handicapping or disabling condition that prevents them from
18 providing a handwritten statement.

19 Section 15. Subsection (5) of section 627.70131,
20 Florida Statutes, as amended by chapter 2007-1, Laws of
21 Florida, is amended to read:

22 627.70131 Insurer's duty to acknowledge communications
23 regarding claims; investigation.--

24 (5) Within 90 days after an insurer receives notice of
25 a ~~property insurance~~ claim from a policyholder under a policy
26 providing residential coverage as defined in s. 627.4025, the
27 insurer shall pay or deny such claim or a portion of the claim
28 unless the failure to pay such claim or a portion of the claim
29 is caused by factors beyond the control of the insurer which
30 reasonably prevent such payment. Any overdue payment of a
31 claim or portion of a claim shall bear interest at the rate as

1 set forth in s. 55.03. Interest on an overdue payment for a
2 claim or for any portion of a claim begins to accrue interest
3 from the date the insurer receives notice of the claim. The
4 interest is payable with the payment of the claim. The
5 provisions of this subsection may not be waived, voided, or
6 nullified by contract. Failure to comply with this subsection
7 constitutes a violation of this code.

8 Section 16. Subsections (2), (3), (4), and (5) of
9 section 627.712, Florida Statutes, as created by chapter
10 2007-1, Laws of Florida, are amended to read:

11 627.712 Residential hurricane coverage required;
12 availability of exclusions for windstorm or contents.--

13 (1) An insurer issuing a residential property
14 insurance policy must provide ~~hurricane or~~ windstorm coverage
15 as defined in s. 627.4025. This subsection does not apply with
16 respect to risks that are eligible for wind-only coverage from
17 Citizens Property Insurance Corporation under s. 627.351(6).

18 (2) A personal lines residential property ~~An~~ insurer
19 that is subject to subsection (1) must make available, at the
20 option of the policyholder, an exclusion of ~~hurricane coverage~~
21 ~~or~~ windstorm coverage. The coverage may be excluded only if:

22 (a) The policyholder personally writes and provides to
23 the insurer the following statement in his or her own
24 handwriting and signs his or her name, which must also be
25 signed by every other named insured on the policy, and dated:
26 "I do not want the insurance on my (home/mobile
27 home/condominium unit) to pay for damage from windstorms or
28 hurricanes. I will pay those costs. My insurance will not."

29 (b) If the structure insured by the policy is subject
30 to a mortgage or lien, the policyholder must provide the
31 insurer with a written statement from the mortgageholder or

1 | lienholder indicating that the mortgageholder or lienholder
2 | approves the policyholder electing to exclude windstorm
3 | coverage ~~or hurricane~~ coverage from his or her residential
4 | property insurance policy.

5 | (3) An insurer issuing a residential property
6 | insurance policy, except for a condominium unit owner's policy
7 | or a tenant's policy, must make available, at the option of
8 | the policyholder, an exclusion of coverage for the contents.
9 | The coverage may be excluded only if the policyholder
10 | personally writes and provides to the insurer the following
11 | statement in his or her own handwriting and signs his or her
12 | signature, which must also be signed by every other named
13 | insured on the policy, and dated: "I do not want the insurance
14 | on my (home/mobile home) to pay for the costs to repair or
15 | replace any contents that are damaged. I will pay those costs.
16 | My insurance will not."

17 | (4) An insurer shall keep the original copy of a
18 | signed statement required by this section, electronically or
19 | otherwise, and provide a copy to the policyholder providing
20 | the signed statement. A signed statement meeting the
21 | requirements of this section creates a presumption that there
22 | was an informed, knowing rejection of coverage.

23 | (5) The exclusions authorized by this section apply
24 | for the term of the policy and for each renewal thereafter.
25 | Changes to the exclusions authorized by this section may be
26 | implemented only as of the date of renewal. ~~The exclusions~~
27 | ~~authorized by this section are valid for the term of the~~
28 | ~~contract and for each renewal unless the policyholder elects~~
29 | ~~otherwise.~~

30 |
31 |

1 Section 17. Section 627.713, Florida Statutes, as
2 created by chapter 2007-1, Laws of Florida, is amended to
3 read:

4 627.713 Report of hurricane loss data.--

5 (1) The office may require property insurers to report
6 data regarding hurricane claims and underwriting costs,
7 including, but not limited to:

8 ~~(a)(1)~~ Number of claims.

9 ~~(b)(2)~~ Amount of claim payments made.

10 ~~(c)(3)~~ Number and amount of total-loss claims.

11 ~~(d)(4)~~ Amount and percentage of losses covered by
12 reinsurance or other loss-transfer agreements.

13 ~~(e)(5)~~ Amount of losses covered under specified
14 deductibles.

15 ~~(f)(6)~~ Claims and payments for specified insured
16 values.

17 ~~(g)(7)~~ Claims and payments for specified dollar
18 values.

19 ~~(h)(8)~~ Claims and payments for specified types of
20 construction or mitigation features.

21 ~~(i)(9)~~ Claims and payments for policies under
22 specified underwriting criteria.

23 ~~(j)(10)~~ Claims and payments for contents, additional
24 living expense, and other specified coverages.

25 ~~(k)(11)~~ Claims and payments by county for the
26 information specified in this section.

27 ~~(l)(12)~~ Any other data that the office requires.

28 (2) The office may not require a property insurer to
29 report the data specified in paragraphs (1)(f), (g), (h), (i),
30 or (j) for a particular year until January of the following
31 year or later.

1 Section 18. Subsections (4) and (5) of section
2 627.7277, Florida Statutes, as amended by chapter 2007-1, Laws
3 of Florida, are amended to read:

4 627.7277 Notice of renewal premium.--

5 ~~(4) Every notice of renewal premium must specify:~~

6 ~~(a) The dollar amounts recouped for assessments by the~~
7 ~~Florida Hurricane Catastrophe Fund, the Citizens Property~~
8 ~~Insurance Corporation, and the Florida Insurance Guaranty~~
9 ~~Association. The actual names of the entities must appear next~~
10 ~~to the dollar amounts.~~

11 ~~(b) The dollar amount of any premium increase that is~~
12 ~~due to a rate increase and the dollar amounts that are due to~~
13 ~~coverage changes.~~

14 ~~(5) The Financial Services Commission may adopt rules~~
15 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~
16 ~~section.~~

17 Section 19. Section 631.52, Florida Statutes, is
18 amended to read:

19 631.52 Scope.--This part shall apply to all kinds of
20 direct insurance, except:

21 (1) Life, annuity, health, or disability insurance;

22 (2) Mortgage guaranty, financial guaranty, or other
23 forms of insurance offering protection against investment
24 risks;

25 (3) Fidelity or surety bonds, or any other bonding
26 obligations;

27 (4) Credit insurance, vendors' single interest
28 insurance, or collateral protection insurance or any similar
29 insurance protecting the interests of a creditor arising out
30 of a creditor-debtor transaction;

31

- 1 (5) Warranty, including motor vehicle service, home
2 warranty, or service warranty;
- 3 (6) Ambulance service, health care service, or preneed
4 funeral merchandise or service;
- 5 (7) Optometric service plan, pharmaceutical service
6 plan, or dental service plan;
- 7 (8) Legal expense;
- 8 (9) Health maintenance, prepaid health clinic, or
9 continuing care;
- 10 (10) Ocean marine or wet marine insurance;
- 11 (11) Self-insurance and any kind of self-insurance
12 fund, liability pool, or risk management fund;
- 13 (12) Title insurance;
- 14 (13) Surplus lines;
- 15 (14) Workers' compensation;
- 16 (15) Any transaction or combination of transactions
17 between a person, including affiliates of such person, and an
18 insurer, including affiliates of such insurer, which involves
19 the transfer of investment or credit risk unaccompanied by the
20 transfer of insurance risk; or
- 21 (16) Any insurance provided by or guaranteed by
22 government.

23 Section 20. Paragraph (e) of subsection (3) of section
24 631.57, Florida Statutes, as amended by chapter 2007-1, Laws
25 of Florida, is amended to read:

26 631.57 Powers and duties of the association.--

27 (3)

28 (e)1.a. In addition to assessments otherwise
29 authorized in paragraph (a) and to the extent necessary to
30 secure the funds for the account specified in s. 631.55(2)(c)
31 for the direct payment of covered claims of insurers rendered

1 insolvent by the effects of a hurricane ~~homeowners' insurers~~
2 and to pay the reasonable costs to administer such claims, or
3 to retire indebtedness, including, without limitation, the
4 principal, redemption premium, if any, and interest on, and
5 related costs of issuance of, bonds issued under s. 631.695
6 and the funding of any reserves and other payments required
7 under the bond resolution or trust indenture pursuant to which
8 such bonds have been issued, the office, upon certification of
9 the board of directors, shall levy emergency assessments upon
10 insurers holding a certificate of authority. The emergency
11 assessments payable under this paragraph by any insurer shall
12 not exceed in any single year more than 2 percent of that
13 insurer's direct written premiums, net of refunds, in this
14 state during the preceding calendar year for the kinds of
15 insurance within the account specified in s. 631.55(2)(c).

16 b. Any emergency assessments authorized under this
17 paragraph shall be levied by the office upon insurers referred
18 to in sub-subparagraph a., upon certification as to the need
19 for such assessments by the board of directors. In the event
20 the board of directors participates in the issuance of bonds
21 in accordance with s. 631.695, emergency assessments shall be
22 levied in each year that bonds issued under s. 631.695 and
23 secured by such emergency assessments are outstanding, in such
24 amounts up to such 2-percent limit as required in order to
25 provide for the full and timely payment of the principal of,
26 redemption premium, if any, and interest on, and related costs
27 of issuance of, such bonds. The emergency assessments provided
28 for in this paragraph are assigned and pledged to the
29 municipality, county, or legal entity issuing bonds under s.
30 631.695 for the benefit of the holders of such bonds, in order
31 to enable such municipality, county, or legal entity to

1 provide for the payment of the principal of, redemption
2 premium, if any, and interest on such bonds, the cost of
3 issuance of such bonds, and the funding of any reserves and
4 other payments required under the bond resolution or trust
5 indenture pursuant to which such bonds have been issued,
6 without the necessity of any further action by the
7 association, the office, or any other party. To the extent
8 bonds are issued under s. 631.695 and the association
9 determines to secure such bonds by a pledge of revenues
10 received from the emergency assessments, such bonds, upon such
11 pledge of revenues, shall be secured by and payable from the
12 proceeds of such emergency assessments, and the proceeds of
13 emergency assessments levied under this paragraph shall be
14 remitted directly to and administered by the trustee or
15 custodian appointed for such bonds.

16 c. Emergency assessments under this paragraph may be
17 payable in a single payment or, at the option of the
18 association, may be payable in 12 monthly installments with
19 the first installment being due and payable at the end of the
20 month after an emergency assessment is levied and subsequent
21 installments being due not later than the end of each
22 succeeding month.

23 d. If emergency assessments are imposed, the report
24 required by s. 631.695(7) shall include an analysis of the
25 revenues generated from the emergency assessments imposed
26 under this paragraph.

27 e. If emergency assessments are imposed, the
28 references in sub-subparagraph (1)(a)3.b. and s. 631.695(2)
29 and (7) to assessments levied under paragraph (a) shall
30 include emergency assessments imposed under this paragraph.
31

1 2. In order to ensure that insurers paying emergency
2 assessments levied under this paragraph continue to charge
3 rates that are neither inadequate nor excessive, within 90
4 days after being notified of such assessments, each insurer
5 that is to be assessed pursuant to this paragraph shall submit
6 a rate filing for coverage included within the account
7 specified in s. 631.55(2)(c) and for which rates are required
8 to be filed under s. 627.062. If the filing reflects a rate
9 change that, as a percentage, is equal to the difference
10 between the rate of such assessment and the rate of the
11 previous year's assessment under this paragraph, the filing
12 shall consist of a certification so stating and shall be
13 deemed approved when made. Any rate change of a different
14 percentage shall be subject to the standards and procedures of
15 s. 627.062.

16 3. In the event the board of directors participates in
17 the issuance of bonds in accordance with s. 631.695, an annual
18 assessment under this paragraph shall continue while the bonds
19 issued with respect to which the assessment was imposed are
20 outstanding, including any bonds the proceeds of which were
21 used to refund bonds issued pursuant to s. 631.695, unless
22 adequate provision has been made for the payment of the bonds
23 in the documents authorizing the issuance of such bonds.

24 4. Emergency assessments under this paragraph are not
25 premium and are not subject to the premium tax, to any fees,
26 or to any commissions. An insurer is liable for all emergency
27 assessments that the insurer collects and shall treat the
28 failure of an insured to pay an emergency assessment as a
29 failure to pay the premium. An insurer is not liable for
30 uncollectible emergency assessments.

31

1 Section 21. Paragraphs (g), (h), and (i) of subsection
2 (1), and subsections (2) and (6) of section 631.695, Florida
3 Statutes, are amended to read:

4 631.695 Revenue bond issuance through counties or
5 municipalities.--

6 (1) The Legislature finds:

7 (g) To achieve the foregoing purposes, it is proper to
8 authorize municipalities and counties of this state
9 ~~substantially affected by the landfall of a hurricane~~ to issue
10 bonds to assist the Florida Insurance Guaranty Association in
11 expediting the handling and payment of covered claims of
12 insolvent insurers.

13 (h) In order to avoid the needless and indiscriminate
14 proliferation, duplication, and fragmentation of such
15 assistance programs, it is in the best interests of the
16 residents of this state to authorize municipalities and
17 counties ~~severely affected by a hurricane~~ to provide for the
18 payment of covered claims beyond their territorial limits in
19 the implementation of such programs.

20 (i) It is a paramount public purpose for
21 municipalities and counties ~~substantially affected by the~~
22 ~~landfall of a hurricane~~ to be able to issue bonds for the
23 purposes described in this section. Such issuance shall
24 provide assistance to residents of those municipalities and
25 counties as well as to other residents of this state.

26 (2) The governing body of any municipality or county~~7~~
27 ~~the residents of which have been substantially affected by a~~
28 ~~hurricane~~, may issue bonds to fund an assistance program in
29 conjunction with, and with the consent of, the Florida
30 Insurance Guaranty Association for the purpose of paying
31 claimants' or policyholders' covered claims, as defined in s.

1 631.54, arising through the insolvency of an insurer, which
2 insolvency is determined by the Florida Insurance Guaranty
3 Association to have been a result of a hurricane, regardless
4 of whether the claimants or policyholders are residents of
5 such municipality or county or the property to which the claim
6 relates is located within or outside the territorial
7 jurisdiction of the municipality or county. The power of a
8 municipality or county to issue bonds, as described in this
9 section, is in addition to any powers granted by law and may
10 not be abrogated or restricted by any provisions in such
11 municipality's or county's charter. A municipality or county
12 issuing bonds for this purpose shall enter into such contracts
13 with the Florida Insurance Guaranty Association or any entity
14 acting on behalf of the Florida Insurance Guaranty Association
15 as are necessary to implement the assistance program. Any
16 bonds issued by a municipality or county or a combination
17 thereof under this subsection shall be payable from and
18 secured by moneys received by or on behalf of the municipality
19 or county from assessments levied under s. 631.57(3)(a) and
20 assigned and pledged to or on behalf of the municipality or
21 county for the benefit of the holders of the bonds in
22 connection with the assistance program. The funds, credit,
23 property, and taxing power of the state or any municipality or
24 county shall not be pledged for the payment of such bonds.

25 (6) Two or more municipalities or counties, ~~the~~
26 ~~residents of which have been substantially affected by a~~
27 ~~hurricane~~, may create a legal entity pursuant to s.
28 163.01(7)(g) to exercise the powers described in this section
29 as well as those powers granted in s. 163.01(7)(g). References
30 in this section to a municipality or county includes such
31 legal entity.

1 Section 22. This act shall take effect upon becoming a
2 law.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1866

4 The committee substitute provides the following changes:

- 5 1. Revises the legislative findings for establishing
6 Citizens Property Insurance Corporation (Citizens), in
order to support its tax-exempt status.
- 7 2. Requires the timing for the next rate change for Citizens
8 that may increase rates.
- 9 3. Revises criteria for determining if an applicant or
policyholder is eligible for coverage in Citizens.
- 10 4. Deletes the requirement that an application for coverage
with Citizens is subject to a 10-day waiting period.
- 11 5. Revises the ethics requirements that apply to members of
12 Citizens board of governors and senior management.
- 13 6. Revises requirements for a Citizens employee to report
14 suspected fraud by a Citizens employee.
- 15 7. Revises the requirement for a property insurer to pay or
16 deny a claim within 90 days of receiving notice of a
claim.
- 17 8. Allows any insurer that qualifies as a limited
18 apportionment company to purchase certain coverage from
the Florida Hurricane Catastrophe Fund (FHCF).
- 19 9. Revises provisions related to policy deductibles and
exclusions.
- 20 10. Revises the prohibition against making a "use and file"
21 rate filing.
- 22 11. Revises the conditions for certain insurers to obtain a
surplus note under the Capital Build-Up Incentive
23 Program.
- 24 12. Applies the \$50 million surplus requirement to a domestic
residential property insurer if it is a subsidiary of an
25 insurer domiciled in another state.
- 26 13. Provides that the annual report card for insurers
prepared by the consumer advocate applies to personal
27 residential property insurers.
- 28 14. Provides that 100 days' notice of non-renewal is required
in certain circumstances.
- 29 15. Prohibits the OIR from requiring a property insurer to
report certain hurricane data until the following year.
- 30 16. Clarifies that any kind of self-insurance fund is not
31 covered by Florida Insurance Guaranty Association (FIGA).

1 17. Permits all municipalities and counties in the state to
2 issue bonds to assist FIGA in certain circumstances.
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