

Amendment No.

CHAMBER ACTION

Senate

House

1 Representative(s) Ross and Gardiner offered the following:

2
3 **Amendment to Amendment (900607) (with title amendment)**

4 Remove lines 905-1939

5 and insert:

6 (b)1. ~~All insurers authorized to write one or more subject~~
7 ~~lines of business in this state are subject to assessment by the~~
8 ~~corporation and, for the purposes of this subsection, are~~
9 ~~referred to collectively as "assessable insurers." Insurers~~
10 ~~writing one or more subject lines of business in this state~~
11 ~~pursuant to part VIII of chapter 626 are not assessable~~
12 ~~insurers, but insureds who procure one or more subject lines of~~
13 ~~business in this state pursuant to part VIII of chapter 626 are~~
14 ~~subject to assessment by the corporation and are referred to~~
15 ~~collectively as "assessable insureds." An authorized insurer's~~
16 ~~assessment liability shall begin on the first day of the~~

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17 ~~calendar year following the year in which the insurer was issued~~
18 ~~a certificate of authority to transact insurance for subject~~
19 ~~lines of business in this state and shall terminate 1 year after~~
20 ~~the end of the first calendar year during which the insurer no~~
21 ~~longer holds a certificate of authority to transact insurance~~
22 ~~for subject lines of business in this state.~~

23 1.2-a. All revenues, assets, liabilities, losses, and
24 expenses of the corporation shall be divided into three separate
25 accounts as follows:

26 (I) A personal lines account for personal residential
27 policies issued by the corporation or issued by the Residential
28 Property and Casualty Joint Underwriting Association and renewed
29 by the corporation that provide comprehensive, multiperil
30 coverage on risks that are not located in areas eligible for
31 coverage in the Florida Windstorm Underwriting Association as
32 those areas were defined on January 1, 2002, and for such
33 policies that do not provide coverage for the peril of wind on
34 risks that are located in such areas;

35 (II) A commercial lines account for commercial residential
36 and commercial nonresidential policies issued by the corporation
37 or issued by the Residential Property and Casualty Joint
38 Underwriting Association and renewed by the corporation that
39 provide coverage for basic property perils on risks that are not
40 located in areas eligible for coverage in the Florida Windstorm
41 Underwriting Association as those areas were defined on January
42 1, 2002, and for such policies that do not provide coverage for
43 the peril of wind on risks that are located in such areas; and

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44 (III) A high-risk account for personal residential
45 policies and commercial residential and commercial
46 nonresidential property policies issued by the corporation or
47 transferred to the corporation that provide coverage for the
48 peril of wind on risks that are located in areas eligible for
49 coverage in the Florida Windstorm Underwriting Association as
50 those areas were defined on January 1, 2002. Subject to the
51 approval of a business plan by the Financial Services Commission
52 and Legislative Budget Commission as provided in this sub-sub-
53 subparagraph, but no earlier than March 31, 2007, the
54 corporation may offer policies that provide multiperil coverage
55 and the corporation shall continue to offer policies that
56 provide coverage only for the peril of wind for risks located in
57 areas eligible for coverage in the high-risk account. In issuing
58 multiperil coverage, the corporation may use its approved policy
59 forms and rates for the personal lines account. An applicant or
60 insured who is eligible to purchase a multiperil policy from the
61 corporation may purchase a multiperil policy from an authorized
62 insurer without prejudice to the applicant's or insured's
63 eligibility to prospectively purchase a policy that provides
64 coverage only for the peril of wind from the corporation. An
65 applicant or insured who is eligible for a corporation policy
66 that provides coverage only for the peril of wind may elect to
67 purchase or retain such policy and also purchase or retain
68 coverage excluding wind from an authorized insurer without
69 prejudice to the applicant's or insured's eligibility to
70 prospectively purchase a policy that provides multiperil
71 coverage from the corporation. It is the goal of the Legislature
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72 | that there would be an overall average savings of 10 percent or
73 | more for a policyholder who currently has a wind-only policy
74 | with the corporation, and an ex-wind policy with a voluntary
75 | insurer or the corporation, and who then obtains a multiperil
76 | policy from the corporation. It is the intent of the Legislature
77 | that the offer of multiperil coverage in the high-risk account
78 | be made and implemented in a manner that does not adversely
79 | affect the tax-exempt status of the corporation or
80 | creditworthiness of or security for currently outstanding
81 | financing obligations or credit facilities of the high-risk
82 | account, the personal lines account, or the commercial lines
83 | account. By March 1, 2007, the corporation shall prepare and
84 | submit for approval by the Financial Services Commission and
85 | Legislative Budget Commission a report detailing the
86 | corporation's business plan for issuing multiperil coverage in
87 | the high-risk account. The business plan shall be approved or
88 | disapproved within 30 days after receipt, as submitted or
89 | modified and resubmitted by the corporation. The business plan
90 | must include: the impact of such multiperil coverage on the
91 | corporation's financial resources, the impact of such multiperil
92 | coverage on the corporation's tax-exempt status, the manner in
93 | which the corporation plans to implement the processing of
94 | applications and policy forms for new and existing
95 | policyholders, the impact of such multiperil coverage on the
96 | corporation's ability to deliver customer service at the high
97 | level required by this subsection, the ability of the
98 | corporation to process claims, the ability of the corporation to
99 | quote and issue policies, the impact of such multiperil coverage
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100 on the corporation's agents, the impact of such multiperil
101 coverage on the corporation's existing policyholders, and the
102 impact of such multiperil coverage on rates and premium. The
103 high-risk account must also include quota share primary
104 insurance under subparagraph (c)2. The area eligible for
105 coverage under the high-risk account also includes the area
106 within Port Canaveral, which is bordered on the south by the
107 City of Cape Canaveral, bordered on the west by the Banana
108 River, and bordered on the north by Federal Government property.

109 b. The three separate accounts must be maintained as long
110 as financing obligations entered into by the Florida Windstorm
111 Underwriting Association or Residential Property and Casualty
112 Joint Underwriting Association are outstanding, in accordance
113 with the terms of the corresponding financing documents. When
114 the financing obligations are no longer outstanding, in
115 accordance with the terms of the corresponding financing
116 documents, the corporation may use a single account for all
117 revenues, assets, liabilities, losses, and expenses of the
118 corporation. Consistent with the requirement of this
119 subparagraph and prudent investment policies that minimize the
120 cost of carrying debt, the board shall exercise its best efforts
121 to retire existing debt or to obtain approval of necessary
122 parties to amend the terms of existing debt, so as to structure
123 the most efficient plan to consolidate the three separate
124 accounts into a single account. By February 1, 2007, the board
125 shall submit a report to the Financial Services Commission, the
126 President of the Senate, and the Speaker of the House of
127 Representatives which includes an analysis of consolidating the
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128 accounts, the actions the board has taken to minimize the cost
129 of carrying debt, and its recommendations for executing the most
130 efficient plan.

131 c. Creditors of the Residential Property and Casualty
132 Joint Underwriting Association shall have a claim against, and
133 recourse to, the accounts referred to in sub-sub-subparagraphs
134 a.(I) and (II) and shall have no claim against, or recourse to,
135 the account referred to in sub-sub-subparagraph a.(III).

136 Creditors of the Florida Windstorm Underwriting Association
137 shall have a claim against, and recourse to, the account
138 referred to in sub-sub-subparagraph a.(III) and shall have no
139 claim against, or recourse to, the accounts referred to in sub-
140 sub-subparagraphs a.(I) and (II).

141 d. Revenues, assets, liabilities, losses, and expenses not
142 attributable to particular accounts shall be prorated among the
143 accounts.

144 e. The Legislature finds that the revenues of the
145 corporation are revenues that are necessary to meet the
146 requirements set forth in documents authorizing the issuance of
147 bonds under this subsection.

148 f. No part of the income of the corporation may inure to
149 the benefit of any private person.

150 ~~2.3-~~ With respect to a deficit in an account:

151 a. ~~When the deficit incurred in a particular calendar year~~
152 ~~is not greater than 10 percent of the aggregate statewide direct~~
153 ~~written premium for the subject lines of business for the prior~~
154 ~~calendar year, the entire deficit shall be recovered through~~

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155 ~~regular assessments of assessable insurers under paragraph (p)~~
156 ~~and assessable insureds.~~

157 ~~b. When the deficit incurred in a particular calendar year~~
158 ~~exceeds 10 percent of the aggregate statewide direct written~~
159 ~~premium for the subject lines of business for the prior calendar~~
160 ~~year, the corporation shall levy regular assessments on~~
161 ~~assessable insurers under paragraph (p) and on assessable~~
162 ~~insureds in an amount equal to the greater of 10 percent of the~~
163 ~~deficit or 10 percent of the aggregate statewide direct written~~
164 ~~premium for the subject lines of business for the prior calendar~~
165 ~~year. Any remaining deficit shall be recovered through emergency~~
166 ~~assessments under sub-subparagraph d.~~

167 ~~c. Each assessable insurer's share of the amount being~~
168 ~~assessed under sub-subparagraph a. or sub-subparagraph b. shall~~
169 ~~be in the proportion that the assessable insurer's direct~~
170 ~~written premium for the subject lines of business for the year~~
171 ~~preceding the assessment bears to the aggregate statewide direct~~
172 ~~written premium for the subject lines of business for that year.~~
173 ~~The assessment percentage applicable to each assessable insured~~
174 ~~is the ratio of the amount being assessed under sub-subparagraph~~
175 ~~a. or sub-subparagraph b. to the aggregate statewide direct~~
176 ~~written premium for the subject lines of business for the prior~~
177 ~~year. Assessments levied by the corporation on assessable~~
178 ~~insurers under sub-subparagraphs a. and b. shall be paid as~~
179 ~~required by the corporation's plan of operation and paragraph~~
180 ~~(p). Notwithstanding any other provision of this subsection, the~~
181 ~~aggregate amount of a regular assessment for a deficit incurred~~
182 ~~in a particular calendar year shall be reduced by the estimated~~

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183 ~~amount to be received by the corporation from the Citizens~~
184 ~~policyholder surcharge under subparagraph (c)11. and the amount~~
185 ~~collected or estimated to be collected from the assessment on~~
186 ~~Citizens policyholders pursuant to sub-subparagraph i.~~
187 ~~Assessments levied by the corporation on assessable insureds~~
188 ~~under sub-subparagraphs a. and b. shall be collected by the~~
189 ~~surplus lines agent at the time the surplus lines agent collects~~
190 ~~the surplus lines tax required by s. 626.932 and shall be paid~~
191 ~~to the Florida Surplus Lines Service Office at the time the~~
192 ~~surplus lines agent pays the surplus lines tax to the Florida~~
193 ~~Surplus Lines Service Office. Upon receipt of regular~~
194 ~~assessments from surplus lines agents, the Florida Surplus Lines~~
195 ~~Service Office shall transfer the assessments directly to the~~
196 ~~corporation as determined by the corporation.~~

197 ~~d. Upon a determination by the board of governors that a~~
198 ~~deficit in an account exceeds the amount that will be recovered~~
199 ~~through regular assessments under sub-subparagraph a. or sub-~~
200 ~~subparagraph b., the board shall levy, after verification by the~~
201 ~~office, emergency assessments, for as many years as necessary to~~
202 ~~cover the deficits, to be collected by assessable insurers and~~
203 ~~the corporation and collected from assessable insureds upon~~
204 ~~issuance or renewal of policies for subject lines of business,~~
205 ~~excluding National Flood Insurance policies. The amount of the~~
206 ~~emergency assessment collected in a particular year shall be a~~
207 ~~uniform percentage of that year's direct written premium for~~
208 ~~subject lines of business and all accounts of the corporation,~~
209 ~~excluding National Flood Insurance Program policy premiums, as~~
210 ~~annually determined by the board and verified by the office. The~~

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211 ~~office shall verify the arithmetic calculations involved in the~~
212 ~~board's determination within 30 days after receipt of the~~
213 ~~information on which the determination was based.~~
214 ~~Notwithstanding any other provision of law, the corporation and~~
215 ~~each assessable insurer that writes subject lines of business~~
216 ~~shall collect emergency assessments from its policyholders~~
217 ~~without such obligation being affected by any credit,~~
218 ~~limitation, exemption, or deferment. Emergency assessments~~
219 ~~levied by the corporation on assessable insureds shall be~~
220 ~~collected by the surplus lines agent at the time the surplus~~
221 ~~lines agent collects the surplus lines tax required by s.~~
222 ~~626.932 and shall be paid to the Florida Surplus Lines Service~~
223 ~~Office at the time the surplus lines agent pays the surplus~~
224 ~~lines tax to the Florida Surplus Lines Service Office. The~~
225 ~~emergency assessments so collected shall be transferred directly~~
226 ~~to the corporation on a periodic basis as determined by the~~
227 ~~corporation and shall be held by the corporation solely in the~~
228 ~~applicable account. The aggregate amount of emergency~~
229 ~~assessments levied for an account under this sub subparagraph in~~
230 ~~any calendar year may not exceed the greater of 10 percent of~~
231 ~~the amount needed to cover the original deficit, plus interest,~~
232 ~~fees, commissions, required reserves, and other costs associated~~
233 ~~with financing of the original deficit, or 10 percent of the~~
234 ~~aggregate statewide direct written premium for subject lines of~~
235 ~~business and for all accounts of the corporation for the prior~~
236 ~~year, plus interest, fees, commissions, required reserves, and~~
237 ~~other costs associated with financing the original deficit.~~

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238 e. The corporation may pledge the proceeds of assessments,
239 projected recoveries from the Florida Hurricane Catastrophe
240 Fund, other insurance and reinsurance recoverables, policyholder
241 surcharges and other surcharges, and other funds available to
242 the corporation as the source of revenue for and to secure bonds
243 issued under paragraph (p), bonds or other indebtedness issued
244 under subparagraph (c)3., or lines of credit or other financing
245 mechanisms issued or created under this subsection, or to retire
246 any other debt incurred as a result of deficits or events giving
247 rise to deficits, or in any other way that the board determines
248 will efficiently recover such deficits. The purpose of the lines
249 of credit or other financing mechanisms is to provide additional
250 resources to assist the corporation in covering claims and
251 expenses attributable to a catastrophe. As used in this
252 subsection, the term "assessments" includes ~~regular~~ assessments
253 ~~under sub-subparagraph a., sub-subparagraph b., or subparagraph~~
254 ~~(p)1. and emergency assessments under sub-subparagraph d.~~
255 ~~Emergency assessments collected under sub-subparagraph d. are~~
256 ~~not part of an insurer's rates, are not premium, and are not~~
257 ~~subject to premium tax, fees, or commissions; however, failure~~
258 ~~to pay the emergency assessment shall be treated as failure to~~
259 ~~pay premium. The emergency assessments under sub-subparagraph d.~~
260 ~~shall continue as long as any bonds issued or other indebtedness~~
261 ~~incurred with respect to a deficit for which the assessment was~~
262 ~~imposed remain outstanding, unless adequate provision has been~~
263 ~~made for the payment of such bonds or other indebtedness~~
264 ~~pursuant to the documents governing such bonds or other~~
265 ~~indebtedness.~~

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266 ~~f. As used in this subsection, the term "subject lines of~~
267 ~~business" means insurance written by assessable insurers or~~
268 ~~procured by assessable insureds for all property and casualty~~
269 ~~lines of business in this state, but not including workers'~~
270 ~~compensation or medical malpractice. As used in the sub-~~
271 ~~subparagraph, the term "property and casualty lines of business"~~
272 ~~includes all lines of business identified on Form 2, Exhibit of~~
273 ~~Premiums and Losses, in the annual statement required of~~
274 ~~authorized insurers by s. 624.424 and any rule adopted under~~
275 ~~this section, except for those lines identified as accident and~~
276 ~~health insurance and except for policies written under the~~
277 ~~National Flood Insurance Program or the Federal Crop Insurance~~
278 ~~Program. For purposes of this sub-subparagraph, the term~~
279 ~~"workers' compensation" includes both workers' compensation~~
280 ~~insurance and excess workers' compensation insurance.~~

281 ~~g. The Florida Surplus Lines Service Office shall~~
282 ~~determine annually the aggregate statewide written premium in~~
283 ~~subject lines of business procured by assessable insureds and~~
284 ~~shall report that information to the corporation in a form and~~
285 ~~at a time the corporation specifies to ensure that the~~
286 ~~corporation can meet the requirements of this subsection and the~~
287 ~~corporation's financing obligations.~~

288 ~~h. The Florida Surplus Lines Service Office shall verify~~
289 ~~the proper application by surplus lines agents of assessment~~
290 ~~percentages for regular assessments and emergency assessments~~
291 ~~levied under this subparagraph on assessable insureds and shall~~
292 ~~assist the corporation in ensuring the accurate, timely~~

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293 ~~collection and payment of assessments by surplus lines agents as~~
294 ~~required by the corporation.~~

295 ~~b.i.~~ If a deficit is incurred in any account in 2008 or
296 thereafter, the board of governors shall levy an immediate
297 assessment against the premium of each nonhomestead property
298 policyholder in all accounts of the corporation, as a uniform
299 percentage of the premium of the policy of up to 10 percent of
300 such premium, which funds shall be used to offset the deficit.
301 If this assessment is insufficient to eliminate the deficit, the
302 board of governors shall levy an additional assessment against
303 all policyholders of the corporation, which shall be collected
304 at the time of issuance or renewal of a policy, as a uniform
305 percentage of the premium for the policy ~~of up to 10 percent of~~
306 ~~such premium~~, which funds shall be used to further offset the
307 deficit.

308 ~~c.j.~~ The board of governors shall maintain separate
309 accounting records that consolidate data for nonhomestead
310 properties, including, but not limited to, number of policies,
311 insured values, premiums written, and losses. The board of
312 governors shall annually report to the office and the
313 Legislature a summary of such data.

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

315 1. Must provide for adoption of residential property and
316 casualty insurance policy forms and commercial residential and
317 nonresidential property insurance forms, which forms must be
318 approved by the office prior to use. The corporation shall adopt
319 the following policy forms:

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

324 b. Basic personal lines policy forms that are policies
325 similar to an HO-8 policy or a dwelling fire policy that provide
326 coverage meeting the requirements of the secondary mortgage
327 market, but which coverage is more limited than the coverage
328 under a standard policy.

329 c. Commercial lines residential and nonresidential policy
330 forms that are generally similar to the basic perils of full
331 coverage obtainable for commercial residential structures and
332 commercial nonresidential structures in the admitted voluntary
333 market.

334 d. Personal lines and commercial lines residential
335 property insurance forms that cover the peril of wind only. The
336 forms are applicable only to residential properties located in
337 areas eligible for coverage under the high-risk account referred
338 to in sub-subparagraph (b)~~1.2~~-a.

339 e. Commercial lines nonresidential property insurance
340 forms that cover the peril of wind only. The forms are
341 applicable only to nonresidential properties located in areas
342 eligible for coverage under the high-risk account referred to in
343 sub-subparagraph (b)~~1.2~~-a.

344 f. The corporation may adopt variations of the policy
345 forms listed in sub-subparagraphs a.-e. that contain more
346 restrictive coverage.

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347 2.a. Must provide that the corporation adopt a program in
348 which the corporation and authorized insurers enter into quota
349 share primary insurance agreements for hurricane coverage, as
350 defined in s. 627.4025(2)(a), for eligible risks, and adopt
351 property insurance forms for eligible risks which cover the
352 peril of wind only. As used in this subsection, the term:

353 (I) "Quota share primary insurance" means an arrangement
354 in which the primary hurricane coverage of an eligible risk is
355 provided in specified percentages by the corporation and an
356 authorized insurer. The corporation and authorized insurer are
357 each solely responsible for a specified percentage of hurricane
358 coverage of an eligible risk as set forth in a quota share
359 primary insurance agreement between the corporation and an
360 authorized insurer and the insurance contract. The
361 responsibility of the corporation or authorized insurer to pay
362 its specified percentage of hurricane losses of an eligible
363 risk, as set forth in the quota share primary insurance
364 agreement, may not be altered by the inability of the other
365 party to the agreement to pay its specified percentage of
366 hurricane losses. Eligible risks that are provided hurricane
367 coverage through a quota share primary insurance arrangement
368 must be provided policy forms that set forth the obligations of
369 the corporation and authorized insurer under the arrangement,
370 clearly specify the percentages of quota share primary insurance
371 provided by the corporation and authorized insurer, and
372 conspicuously and clearly state that neither the authorized
373 insurer nor the corporation may be held responsible beyond its
374 specified percentage of coverage of hurricane losses.

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375 (II) "Eligible risks" means personal lines residential and
376 commercial lines residential risks that meet the underwriting
377 criteria of the corporation and are located in areas that were
378 eligible for coverage by the Florida Windstorm Underwriting
379 Association on January 1, 2002.

380 b. The corporation may enter into quota share primary
381 insurance agreements with authorized insurers at corporation
382 coverage levels of 90 percent and 50 percent.

383 c. If the corporation determines that additional coverage
384 levels are necessary to maximize participation in quota share
385 primary insurance agreements by authorized insurers, the
386 corporation may establish additional coverage levels. However,
387 the corporation's quota share primary insurance coverage level
388 may not exceed 90 percent.

389 d. Any quota share primary insurance agreement entered
390 into between an authorized insurer and the corporation must
391 provide for a uniform specified percentage of coverage of
392 hurricane losses, by county or territory as set forth by the
393 corporation board, for all eligible risks of the authorized
394 insurer covered under the quota share primary insurance
395 agreement.

396 e. Any quota share primary insurance agreement entered
397 into between an authorized insurer and the corporation is
398 subject to review and approval by the office. However, such
399 agreement shall be authorized only as to insurance contracts
400 entered into between an authorized insurer and an insured who is
401 already insured by the corporation for wind coverage.

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402 f. For all eligible risks covered under quota share
403 primary insurance agreements, the exposure and coverage levels
404 for both the corporation and authorized insurers shall be
405 reported by the corporation to the Florida Hurricane Catastrophe
406 Fund. For all policies of eligible risks covered under quota
407 share primary insurance agreements, the corporation and the
408 authorized insurer shall maintain complete and accurate records
409 for the purpose of exposure and loss reimbursement audits as
410 required by Florida Hurricane Catastrophe Fund rules. The
411 corporation and the authorized insurer shall each maintain
412 duplicate copies of policy declaration pages and supporting
413 claims documents.

414 g. The corporation board shall establish in its plan of
415 operation standards for quota share agreements which ensure that
416 there is no discriminatory application among insurers as to the
417 terms of quota share agreements, pricing of quota share
418 agreements, incentive provisions if any, and consideration paid
419 for servicing policies or adjusting claims.

420 h. The quota share primary insurance agreement between the
421 corporation and an authorized insurer must set forth the
422 specific terms under which coverage is provided, including, but
423 not limited to, the sale and servicing of policies issued under
424 the agreement by the insurance agent of the authorized insurer
425 producing the business, the reporting of information concerning
426 eligible risks, the payment of premium to the corporation, and
427 arrangements for the adjustment and payment of hurricane claims
428 incurred on eligible risks by the claims adjuster and personnel
429 of the authorized insurer. Entering into a quota sharing

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430 insurance agreement between the corporation and an authorized
431 insurer shall be voluntary and at the discretion of the
432 authorized insurer.

433 3. May provide that the corporation may employ or
434 otherwise contract with individuals or other entities to provide
435 administrative or professional services that may be appropriate
436 to effectuate the plan. The corporation shall have the power to
437 borrow funds, by issuing bonds or by incurring other
438 indebtedness, and shall have other powers reasonably necessary
439 to effectuate the requirements of this subsection, including,
440 without limitation, the power to issue bonds and incur other
441 indebtedness in order to refinance outstanding bonds or other
442 indebtedness. The corporation may, but is not required to, seek
443 judicial validation of its bonds or other indebtedness under
444 chapter 75. The corporation may issue bonds or incur other
445 indebtedness, or have bonds issued on its behalf by a unit of
446 local government pursuant to subparagraph (p) ~~(g)~~2., in the
447 absence of a hurricane or other weather-related event, upon a
448 determination by the corporation, subject to approval by the
449 office, that such action would enable it to efficiently meet the
450 financial obligations of the corporation and that such
451 financings are reasonably necessary to effectuate the
452 requirements of this subsection. The corporation is authorized
453 to take all actions needed to facilitate tax-free status for any
454 such bonds or indebtedness, including formation of trusts or
455 other affiliated entities. The corporation shall have the
456 authority to pledge assessments, projected recoveries from the
457 Florida Hurricane Catastrophe Fund, other reinsurance

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458 recoverables, market equalization and other surcharges, and
459 other funds available to the corporation as security for bonds
460 or other indebtedness. In recognition of s. 10, Art. I of the
461 State Constitution, prohibiting the impairment of obligations of
462 contracts, it is the intent of the Legislature that no action be
463 taken whose purpose is to impair any bond indenture or financing
464 agreement or any revenue source committed by contract to such
465 bond or other indebtedness.

466 4.a. Must require that the corporation operate subject to
467 the supervision and approval of a board of governors consisting
468 of eight individuals who are residents of this state, from
469 different geographical areas of this state. The Governor, the
470 Chief Financial Officer, the President of the Senate, and the
471 Speaker of the House of Representatives shall each appoint two
472 members of the board. At least one of the two members appointed
473 by each appointing officer must have demonstrated expertise in
474 insurance. The Chief Financial Officer shall designate one of
475 the appointees as chair. All board members serve at the pleasure
476 of the appointing officer. All members of the board of governors
477 are subject to removal at will by the officers who appointed
478 them. All board members, including the chair, must be appointed
479 to serve for 3-year terms beginning annually on a date
480 designated by the plan. Any board vacancy shall be filled for
481 the unexpired term by the appointing officer. The Chief
482 Financial Officer shall appoint a technical advisory group to
483 provide information and advice to the board of governors in
484 connection with the board's duties under this subsection. The
485 executive director and senior managers of the corporation shall

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486 be engaged by the board and serve at the pleasure of the board.
487 Any executive director appointed on or after July 1, 2006, is
488 subject to confirmation by the Senate. The executive director is
489 responsible for employing other staff as the corporation may
490 require, subject to review and concurrence by the board.

491 b. The board shall create a Market Accountability Advisory
492 Committee to assist the corporation in developing awareness of
493 its rates and its customer and agent service levels in
494 relationship to the voluntary market insurers writing similar
495 coverage. The members of the advisory committee shall consist of
496 the following 11 persons, one of whom must be elected chair by
497 the members of the committee: four representatives, one
498 appointed by the Florida Association of Insurance Agents, one by
499 the Florida Association of Insurance and Financial Advisors, one
500 by the Professional Insurance Agents of Florida, and one by the
501 Latin American Association of Insurance Agencies; three
502 representatives appointed by the insurers with the three highest
503 voluntary market share of residential property insurance
504 business in the state; one representative from the Office of
505 Insurance Regulation; one consumer appointed by the board who is
506 insured by the corporation at the time of appointment to the
507 committee; one representative appointed by the Florida
508 Association of Realtors; and one representative appointed by the
509 Florida Bankers Association. All members must serve for 3-year
510 terms and may serve for consecutive terms. The committee shall
511 report to the corporation at each board meeting on insurance
512 market issues which may include rates and rate competition with
513 the voluntary market; service, including policy issuance, claims
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514 processing, and general responsiveness to policyholders,
515 applicants, and agents; and matters relating to depopulation.

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

518 a. Subject to the provisions of s. 627.3517, with respect
519 to personal lines residential risks, if the risk is offered
520 coverage from an authorized insurer at the insurer's approved
521 rate under either a standard policy including wind coverage or,
522 if consistent with the insurer's underwriting rules as filed
523 with the office, a basic policy including wind coverage, for a
524 new application to the corporation for coverage, the risk is not
525 eligible for any policy issued by the corporation unless the
526 premium for coverage from the authorized insurer is more than 25
527 percent greater than the premium for comparable coverage from
528 the corporation. If the risk is not able to obtain any such
529 offer, the risk is eligible for either a standard policy
530 including wind coverage or a basic policy including wind
531 coverage issued by the corporation; however, if the risk could
532 not be insured under a standard policy including wind coverage
533 regardless of market conditions, the risk shall be eligible for
534 a basic policy including wind coverage unless rejected under
535 subparagraph 9.8. However, with regard to a policyholder of the
536 corporation, the policyholder remains eligible for coverage from
537 the corporation regardless of any offer of coverage from an
538 authorized insurer or surplus lines insurer. The corporation
539 shall determine the type of policy to be provided on the basis
540 of objective standards specified in the underwriting manual and
541 based on generally accepted underwriting practices.

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542 (I) If the risk accepts an offer of coverage through the
543 market assistance plan or an offer of coverage through a
544 mechanism established by the corporation before a policy is
545 issued to the risk by the corporation or during the first 30
546 days of coverage by the corporation, and the producing agent who
547 submitted the application to the plan or to the corporation is
548 not currently appointed by the insurer, the insurer shall:

549 (A) Pay to the producing agent of record of the policy,
550 for the first year, an amount that is the greater of the
551 insurer's usual and customary commission for the type of policy
552 written or a fee equal to the usual and customary commission of
553 the corporation; or

554 (B) Offer to allow the producing agent of record of the
555 policy to continue servicing the policy for a period of not less
556 than 1 year and offer to pay the agent the greater of the
557 insurer's or the corporation's usual and customary commission
558 for the type of policy written.

559
560 If the producing agent is unwilling or unable to accept
561 appointment, the new insurer shall pay the agent in accordance
562 with sub-sub-sub-subparagraph (A).

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

567 (A) Pay to the producing agent of record of the
568 corporation policy, for the first year, an amount that is the
569 greater of the insurer's usual and customary commission for the
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570 type of policy written or a fee equal to the usual and customary
571 commission of the corporation; or

572 (B) Offer to allow the producing agent of record of the
573 corporation policy to continue servicing the policy for a period
574 of not less than 1 year and offer to pay the agent the greater
575 of the insurer's or the corporation's usual and customary
576 commission for the type of policy written.

577

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

581 b. With respect to commercial lines residential risks, for
582 a new application to the corporation for coverage, if the risk
583 is offered coverage under a policy including wind coverage from
584 an authorized insurer at its approved rate, the risk is not
585 eligible for any policy issued by the corporation unless the
586 premium for coverage from the authorized insurer is more than 25
587 percent greater than the premium for comparable coverage from
588 the corporation. If the risk is not able to obtain any such
589 offer, the risk is eligible for a policy including wind coverage
590 issued by the corporation. However, with regard to a
591 policyholder of the corporation, the policyholder remains
592 eligible for coverage from the corporation regardless of any
593 offer of coverage from an authorized insurer or surplus lines
594 insurer.

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

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598 issued to the risk by the corporation or during the first 30
599 days of coverage by the corporation, and the producing agent who
600 submitted the application to the plan or the corporation is not
601 currently appointed by the insurer, the insurer shall:

602 (A) Pay to the producing agent of record of the policy,
603 for the first year, an amount that is the greater of the
604 insurer's usual and customary commission for the type of policy
605 written or a fee equal to the usual and customary commission of
606 the corporation; or

607 (B) Offer to allow the producing agent of record of the
608 policy to continue servicing the policy for a period of not less
609 than 1 year and offer to pay the agent the greater of the
610 insurer's or the corporation's usual and customary commission
611 for the type of policy written.

612

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

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

620 (A) Pay to the producing agent of record of the
621 corporation policy, for the first year, an amount that is the
622 greater of the insurer's usual and customary commission for the
623 type of policy written or a fee equal to the usual and customary
624 commission of the corporation; or

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625 (B) Offer to allow the producing agent of record of the
626 corporation policy to continue servicing the policy for a period
627 of not less than 1 year and offer to pay the agent the greater
628 of the insurer's or the corporation's usual and customary
629 commission for the type of policy written.

630

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

634 6. Must provide by July 1, 2007, that an application for
635 coverage for a new policy is subject to a waiting period of 10
636 days before coverage is effective, during which time the
637 corporation shall make such application available for review by
638 general lines agents and authorized property and casualty
639 insurers. The board shall approve an exception that allows for
640 coverage to be effective before the end of the 10-day waiting
641 period, for coverage issued in conjunction with a real estate
642 closing. The board may approve such other exceptions as the
643 board determines are necessary to prevent lapses in coverage.

644 7. Must include rules for classifications of risks and
645 rates therefor.

646 8. Must provide that if premium and investment income for
647 an account attributable to a particular calendar year are in
648 excess of projected losses and expenses for the account
649 attributable to that year, such excess shall be held in surplus
650 in the account. Such surplus shall be available to defray
651 deficits in that account as to future years and shall be used

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652 for that purpose prior to assessing ~~assessable insurers and~~
653 assessable insureds as to any calendar year.

654 9. Must provide objective criteria and procedures to be
655 uniformly applied for all applicants in determining whether an
656 individual risk is so hazardous as to be uninsurable. In making
657 this determination and in establishing the criteria and
658 procedures, the following shall be considered:

659 a. Whether the likelihood of a loss for the individual
660 risk is substantially higher than for other risks of the same
661 class; and

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

664

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

668 10. Must provide that the corporation shall make its best
669 efforts to procure catastrophe reinsurance at reasonable rates,
670 to cover its projected 100-year probable maximum loss as
671 determined by the board of governors.

672 ~~11. Must provide that in the event of regular deficit~~
673 ~~assessments under sub-subparagraph (b)3.a. or sub-subparagraph~~
674 ~~(b)3.b., in the personal lines account, the commercial lines~~
675 ~~residential account, or the high risk account, the corporation~~
676 ~~shall levy upon corporation policyholders in its next rate~~
677 ~~filing, or by a separate rate filing solely for this purpose, a~~
678 ~~Citizens policyholder surcharge arising from a regular~~
679 ~~assessment in such account in a percentage equal to the total~~

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680 ~~amount of such regular assessments divided by the aggregate~~
681 ~~statewide direct written premium for subject lines of business~~
682 ~~for the prior calendar year. For purposes of calculating the~~
683 ~~Citizens policyholder surcharge to be levied under this~~
684 ~~subparagraph, the total amount of the regular assessment to~~
685 ~~which this surcharge is related shall be determined as set forth~~
686 ~~in subparagraph (b)3., without deducting the estimated Citizens~~
687 ~~policyholder surcharge. Citizens policyholder surcharges under~~
688 ~~this subparagraph are not considered premium and are not subject~~
689 ~~to commissions, fees, or premium taxes; however, failure to pay~~
690 ~~a market equalization surcharge shall be treated as failure to~~
691 ~~pay premium.~~

692 11.12. The policies issued by the corporation must provide
693 that, if the corporation or the market assistance plan obtains
694 an offer from an authorized insurer to cover the risk at its
695 approved rates, the risk is no longer eligible for renewal
696 through the corporation, except as otherwise provided in this
697 subsection.

698 12.13. Corporation policies and applications must include
699 a notice that the corporation policy could, under this section,
700 be replaced with a policy issued by an authorized insurer that
701 does not provide coverage identical to the coverage provided by
702 the corporation. The notice shall also specify that acceptance
703 of corporation coverage creates a conclusive presumption that
704 the applicant or policyholder is aware of this potential.

705 13.14. May establish, subject to approval by the office,
706 different eligibility requirements and operational procedures
707 for any line or type of coverage for any specified county or
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708 area if the board determines that such changes to the
709 eligibility requirements and operational procedures are
710 justified due to the voluntary market being sufficiently stable
711 and competitive in such area or for such line or type of
712 coverage and that consumers who, in good faith, are unable to
713 obtain insurance through the voluntary market through ordinary
714 methods would continue to have access to coverage from the
715 corporation. When coverage is sought in connection with a real
716 property transfer, such requirements and procedures shall not
717 provide for an effective date of coverage later than the date of
718 the closing of the transfer as established by the transferor,
719 the transferee, and, if applicable, the lender.

720 ~~15. Must provide that, with respect to the high risk~~
721 ~~account, any assessable insurer with a surplus as to~~
722 ~~policyholders of \$25 million or less writing 25 percent or more~~
723 ~~of its total countrywide property insurance premiums in this~~
724 ~~state may petition the office, within the first 90 days of each~~
725 ~~calendar year, to qualify as a limited apportionment company. A~~
726 ~~regular assessment levied by the corporation on a limited~~
727 ~~apportionment company for a deficit incurred by the corporation~~
728 ~~for the high risk account in 2006 or thereafter may be paid to~~
729 ~~the corporation on a monthly basis as the assessments are~~
730 ~~collected by the limited apportionment company from its insureds~~
731 ~~pursuant to s. 627.3512, but the regular assessment must be paid~~
732 ~~in full within 12 months after being levied by the corporation.~~
733 ~~A limited apportionment company shall collect from its~~
734 ~~policyholders any emergency assessment imposed under sub-~~
735 ~~paragraph (b)3.d. The plan shall provide that, if the office~~
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736 ~~determines that any regular assessment will result in an~~
737 ~~impairment of the surplus of a limited apportionment company,~~
738 ~~the office may direct that all or part of such assessment be~~
739 ~~deferred as provided in subparagraph (g)4. However, there shall~~
740 ~~be no limitation or deferment of an emergency assessment to be~~
741 ~~collected from policyholders under sub subparagraph (b)3.d.~~

742 14.16. Must provide that the corporation appoint as its
743 licensed agents only those agents who also hold an appointment
744 as defined in s. 626.015(3) with an insurer who at the time of
745 the agent's initial appointment by the corporation is authorized
746 to write and is actually writing personal lines residential
747 property coverage, commercial residential property coverage, or
748 commercial nonresidential property coverage within the state.

749 15.17. Must provide, by July 1, 2007, a premium payment
750 plan option to its policyholders which allows for quarterly and
751 semiannual payment of premiums.

752 16.18. Must provide, effective June 1, 2007, that the
753 corporation contract with each insurer providing the non-wind
754 coverage for risks insured by the corporation in the high-risk
755 account, requiring that the insurer provide claims adjusting
756 services for the wind coverage provided by the corporation for
757 such risks. An insurer is required to enter into this contract
758 as a condition of providing non-wind coverage for a risk that is
759 insured by the corporation in the high-risk account unless the
760 board finds, after a hearing, that the insurer is not capable of
761 providing adjusting services at an acceptable level of quality
762 to corporation policyholders. The terms and conditions of such
763 contracts must be substantially the same as the contracts that
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764 the corporation executed with insurers under the "adjust-your-
765 own" program in 2006, except as may be mutually agreed to by the
766 parties and except for such changes that the board determines
767 are necessary to ensure that claims are adjusted appropriately.
768 The corporation shall provide a process for neutral arbitration
769 of any dispute between the corporation and the insurer regarding
770 the terms of the contract. The corporation shall review and
771 monitor the performance of insurers under these contracts.

772 ~~17.19.~~ Must limit coverage on mobile homes or manufactured
773 homes built prior to 1994 to actual cash value of the dwelling
774 rather than replacement costs of the dwelling.

775 ~~18.20.~~ May provide such limits of coverage as the board
776 determines, consistent with the requirements of this subsection.

777 ~~19.21.~~ May require commercial property to meet specified
778 hurricane mitigation construction features as a condition of
779 eligibility for coverage.

780 (n) If coverage in an account is deactivated pursuant to
781 paragraph ~~(o)~~(f), coverage through the corporation shall be
782 reactivated by order of the office only under one of the
783 following circumstances:

784 1. If the market assistance plan receives a minimum of 100
785 applications for coverage within a 3-month period, or 200
786 applications for coverage within a 1-year period or less for
787 residential coverage, unless the market assistance plan provides
788 a quotation from admitted carriers at their filed rates for at
789 least 90 percent of such applicants. Any market assistance plan
790 application that is rejected because an individual risk is so
791 hazardous as to be uninsurable using the criteria specified in
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792 subparagraph (c) ~~9.8~~ shall not be included in the minimum
793 percentage calculation provided herein. In the event that there
794 is a legal or administrative challenge to a determination by the
795 office that the conditions of this subparagraph have been met
796 for eligibility for coverage in the corporation, any eligible
797 risk may obtain coverage during the pendency of such challenge.

798 2. In response to a state of emergency declared by the
799 Governor under s. 252.36, the office may activate coverage by
800 order for the period of the emergency upon a finding by the
801 office that the emergency significantly affects the availability
802 of residential property insurance.

803 (p)1. The corporation shall certify to the office its
804 needs for annual assessments as to a particular calendar year,
805 and for any interim assessments that it deems to be necessary to
806 sustain operations as to a particular year pending the receipt
807 of annual assessments. Upon verification, the office shall
808 approve such certification, and the corporation shall levy such
809 annual or interim assessments. Such assessments shall be
810 prorated as provided in paragraph (b). The corporation shall
811 take all reasonable and prudent steps necessary to collect the
812 amount of assessment due from each assessable insured insurer,
813 including, if prudent, filing suit to collect such assessment.
814 ~~If the corporation is unable to collect an assessment from any~~
815 ~~assessable insurer, the uncollected assessments shall be levied~~
816 ~~as an additional assessment against the assessable insurers and~~
817 ~~any assessable insurer required to pay an additional assessment~~
818 ~~as a result of such failure to pay shall have a cause of action~~
819 ~~against such nonpaying assessable insurer. Assessments shall be~~

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820 ~~included as an appropriate factor in the making of rates. The~~
821 ~~failure of a surplus lines agent to collect and remit any~~
822 ~~regular or emergency assessment levied by the corporation is~~
823 ~~considered to be a violation of s. 626.936 and subjects the~~
824 ~~surplus lines agent to the penalties provided in that section.~~

825 2. The governing body of any unit of local government, any
826 residents of which are insured by the corporation, may issue
827 bonds as defined in s. 125.013 or s. 166.101 from time to time
828 to fund an assistance program, in conjunction with the
829 corporation, for the purpose of defraying deficits of the
830 corporation. In order to avoid needless and indiscriminate
831 proliferation, duplication, and fragmentation of such assistance
832 programs, any unit of local government, any residents of which
833 are insured by the corporation, may provide for the payment of
834 losses, regardless of whether or not the losses occurred within
835 or outside of the territorial jurisdiction of the local
836 government. Revenue bonds under this subparagraph may not be
837 issued until validated pursuant to chapter 75, unless a state of
838 emergency is declared by executive order or proclamation of the
839 Governor pursuant to s. 252.36 making such findings as are
840 necessary to determine that it is in the best interests of, and
841 necessary for, the protection of the public health, safety, and
842 general welfare of residents of this state and declaring it an
843 essential public purpose to permit certain municipalities or
844 counties to issue such bonds as will permit relief to claimants
845 and policyholders of the corporation. Any such unit of local
846 government may enter into such contracts with the corporation
847 and with any other entity created pursuant to this subsection as
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848 are necessary to carry out this paragraph. Any bonds issued
849 under this subparagraph shall be payable from and secured by
850 moneys received by the corporation from ~~emergency~~ assessments
851 under sub-subparagraph (b)~~2.3.d.~~, and assigned and pledged to or
852 on behalf of the unit of local government for the benefit of the
853 holders of such bonds. The funds, credit, property, and taxing
854 power of the state or of the unit of local government shall not
855 be pledged for the payment of such bonds. ~~If any of the bonds~~
856 ~~remain unsold 60 days after issuance, the office shall require~~
857 ~~all insurers subject to assessment to purchase the bonds, which~~
858 ~~shall be treated as admitted assets; each insurer shall be~~
859 ~~required to purchase that percentage of the unsold portion of~~
860 ~~the bond issue that equals the insurer's relative share of~~
861 ~~assessment liability under this subsection. An insurer shall not~~
862 ~~be required to purchase the bonds to the extent that the office~~
863 ~~determines that the purchase would endanger or impair the~~
864 ~~solvency of the insurer.~~

865 3.a. The corporation shall adopt one or more programs
866 subject to approval by the office for the reduction of both new
867 and renewal writings in the corporation. Beginning January 1,
868 2008, any program the corporation adopts for the payment of
869 bonuses to an insurer for each risk the insurer removes from the
870 corporation shall comply with s. 627.3511(2) and may not exceed
871 the amount referenced in s. 627.3511(2) for each risk removed.
872 ~~The corporation may consider any prudent and not unfairly~~
873 ~~discriminatory approach to reducing corporation writings, and~~
874 ~~may adopt a credit against assessment liability or other~~
875 ~~liability that provides an incentive for insurers to take risks~~

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876 ~~out of the corporation and to keep risks out of the corporation~~
877 ~~by maintaining or increasing voluntary writings in counties or~~
878 ~~areas in which corporation risks are highly concentrated and a~~
879 ~~program to provide a formula under which an insurer voluntarily~~
880 ~~taking risks out of the corporation by maintaining or increasing~~
881 ~~voluntary writings will be relieved wholly or partially from~~
882 ~~assessments under sub-subparagraphs (b)3.a. and b.~~ However, any
883 "take-out bonus" or payment to an insurer must be conditioned on
884 the property being insured for at least 5 years by the insurer,
885 unless canceled or nonrenewed by the policyholder. If the policy
886 is canceled or nonrenewed by the policyholder before the end of
887 the 5-year period, the amount of the take-out bonus must be
888 prorated for the time period the policy was insured. When the
889 corporation enters into a contractual agreement for a take-out
890 plan, the producing agent of record of the corporation policy is
891 entitled to retain any unearned commission on such policy, and
892 the insurer shall either:

893 a.(I) Pay to the producing agent of record of the policy,
894 for the first year, an amount which is the greater of the
895 insurer's usual and customary commission for the type of policy
896 written or a policy fee equal to the usual and customary
897 commission of the corporation; or

898 b.(II) Offer to allow the producing agent of record of the
899 policy to continue servicing the policy for a period of not less
900 than 1 year and offer to pay the agent the insurer's usual and
901 customary commission for the type of policy written. If the
902 producing agent is unwilling or unable to accept appointment by

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

905 ~~b. Any credit or exemption from regular assessments~~
906 ~~adopted under this subparagraph shall last no longer than the 3~~
907 ~~years following the cancellation or expiration of the policy by~~
908 ~~the corporation. With the approval of the office, the board may~~
909 ~~extend such credits for an additional year if the insurer~~
910 ~~guarantees an additional year of renewability for all policies~~
911 ~~removed from the corporation, or for 2 additional years if the~~
912 ~~insurer guarantees 2 additional years of renewability for all~~
913 ~~policies so removed.~~

914 ~~e. There shall be no credit, limitation, exemption, or~~
915 ~~deferment from emergency assessments to be collected from~~
916 ~~policyholders pursuant to sub-subparagraph (b)3.d.~~

917 ~~4. The plan shall provide for the deferment, in whole or~~
918 ~~in part, of the assessment of an assessable insurer, other than~~
919 ~~an emergency assessment collected from policyholders pursuant to~~
920 ~~sub-subparagraph (b)3.d., if the office finds that payment of~~
921 ~~the assessment would endanger or impair the solvency of the~~
922 ~~insurer. In the event an assessment against an assessable~~
923 ~~insurer is deferred in whole or in part, the amount by which~~
924 ~~such assessment is deferred may be assessed against the other~~
925 ~~assessable insurers in a manner consistent with the basis for~~
926 ~~assessments set forth in paragraph (b).~~

927 ~~4.5.~~ Effective July 1, 2007, in order to evaluate the
928 costs and benefits of approved take-out plans, if the
929 corporation pays a bonus or other payment to an insurer for an
930 approved take-out plan, it shall maintain a record of the

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931 address or such other identifying information on the property or
932 risk removed in order to track if and when the property or risk
933 is later insured by the corporation.

934 ~~5.6-~~ Any policy taken out, assumed, or removed from the
935 corporation is, as of the effective date of the take-out,
936 assumption, or removal, direct insurance issued by the insurer
937 and not by the corporation, even if the corporation continues to
938 service the policies. This subparagraph applies to policies of
939 the corporation and not policies taken out, assumed, or removed
940 from any other entity.

941 ~~(r) There shall be no liability on the part of, and no~~
942 ~~cause of action of any nature shall arise against, any~~
943 ~~assessable insurer or its agents or employees, the corporation~~
944 ~~or its agents or employees, members of the board of governors or~~
945 ~~their respective designees at a board meeting, corporation~~
946 ~~committee members, or the office or its representatives, for any~~
947 ~~action taken by them in the performance of their duties or~~
948 ~~responsibilities under this subsection. Such immunity does not~~
949 ~~apply to:~~

950 ~~1. Any of the foregoing persons or entities for any~~
951 ~~willful tort;~~

952 ~~2. The corporation or its producing agents for breach of~~
953 ~~any contract or agreement pertaining to insurance coverage;~~

954 ~~3. The corporation with respect to issuance or payment of~~
955 ~~debt; or~~

956 ~~4. Any assessable insurer with respect to any action to~~
957 ~~enforce an assessable insurer's obligations to the corporation~~
958 ~~under this subsection.~~

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959 (r)~~(s)~~ For the purposes of s. 199.183(1), the corporation
960 shall be considered a political subdivision of the state and
961 shall be exempt from the corporate income tax. The premiums,
962 assessments, investment income, and other revenue of the
963 corporation are funds received for providing property insurance
964 coverage as required by this subsection, paying claims for
965 Florida citizens insured by the corporation, securing and
966 repaying debt obligations issued by the corporation, and
967 conducting all other activities of the corporation, and shall
968 not be considered taxes, fees, licenses, or charges for services
969 imposed by the Legislature on individuals, businesses, or
970 agencies outside state government. Bonds and other debt
971 obligations issued by or on behalf of the corporation are not to
972 be considered "state bonds" within the meaning of s. 215.58(8).
973 The corporation is not subject to the procurement provisions of
974 chapter 287, and policies and decisions of the corporation
975 relating to incurring debt, levying of assessments and the sale,
976 issuance, continuation, terms and claims under corporation
977 policies, and all services relating thereto, are not subject to
978 the provisions of chapter 120. The corporation is not required
979 to obtain or to hold a certificate of authority issued by the
980 office, nor is it required to participate as a member insurer of
981 the Florida Insurance Guaranty Association. However, the
982 corporation is required to pay, in the same manner as an
983 authorized insurer, assessments levied by the Florida Insurance
984 Guaranty Association. It is the intent of the Legislature that
985 the tax exemptions provided in this paragraph will augment the
986 financial resources of the corporation to better enable the

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987 corporation to fulfill its public purposes. Any debt obligations
988 issued by the corporation, their transfer, and the income
989 therefrom, including any profit made on the sale thereof, shall
990 at all times be free from taxation of every kind by the state
991 and any political subdivision or local unit or other
992 instrumentality thereof; however, this exemption does not apply
993 to any tax imposed by chapter 220 on interest, income, or
994 profits on debt obligations owned by corporations other than the
995 corporation.

996 ~~(t)~~ Upon a determination by the office that the
997 conditions giving rise to the establishment and activation of
998 the corporation no longer exist, the corporation is dissolved.
999 Upon dissolution, the assets of the corporation shall be applied
1000 first to pay all debts, liabilities, and obligations of the
1001 corporation, including the establishment of reasonable reserves
1002 for any contingent liabilities or obligations, and all remaining
1003 assets of the corporation shall become property of the state and
1004 shall be deposited in the Florida Hurricane Catastrophe Fund.
1005 However, no dissolution shall take effect as long as the
1006 corporation has bonds or other financial obligations outstanding
1007 unless adequate provision has been made for the payment of the
1008 bonds or other financial obligations pursuant to the documents
1009 authorizing the issuance of the bonds or other financial
1010 obligations.

1011 ~~(u)~~1. Effective July 1, 2002, policies of the
1012 Residential Property and Casualty Joint Underwriting Association
1013 shall become policies of the corporation. All obligations,
1014 rights, assets and liabilities of the Residential Property and
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1015 Casualty Joint Underwriting Association, including bonds, note
1016 and debt obligations, and the financing documents pertaining to
1017 them become those of the corporation as of July 1, 2002. The
1018 corporation is not required to issue endorsements or
1019 certificates of assumption to insureds during the remaining term
1020 of in-force transferred policies.

1021 2. Effective July 1, 2002, policies of the Florida
1022 Windstorm Underwriting Association are transferred to the
1023 corporation and shall become policies of the corporation. All
1024 obligations, rights, assets, and liabilities of the Florida
1025 Windstorm Underwriting Association, including bonds, note and
1026 debt obligations, and the financing documents pertaining to them
1027 are transferred to and assumed by the corporation on July 1,
1028 2002. The corporation is not required to issue endorsements or
1029 certificates of assumption to insureds during the remaining term
1030 of in-force transferred policies.

1031 3. The Florida Windstorm Underwriting Association and the
1032 Residential Property and Casualty Joint Underwriting Association
1033 shall take all actions as may be proper to further evidence the
1034 transfers and shall provide the documents and instruments of
1035 further assurance as may reasonably be requested by the
1036 corporation for that purpose. The corporation shall execute
1037 assumptions and instruments as the trustees or other parties to
1038 the financing documents of the Florida Windstorm Underwriting
1039 Association or the Residential Property and Casualty Joint
1040 Underwriting Association may reasonably request to further
1041 evidence the transfers and assumptions, which transfers and
1042 assumptions, however, are effective on the date provided under
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1043 | this paragraph whether or not, and regardless of the date on
1044 | which, the assumptions or instruments are executed by the
1045 | corporation. Subject to the relevant financing documents
1046 | pertaining to their outstanding bonds, notes, indebtedness, or
1047 | other financing obligations, the moneys, investments,
1048 | receivables, choses in action, and other intangibles of the
1049 | Florida Windstorm Underwriting Association shall be credited to
1050 | the high-risk account of the corporation, and those of the
1051 | personal lines residential coverage account and the commercial
1052 | lines residential coverage account of the Residential Property
1053 | and Casualty Joint Underwriting Association shall be credited to
1054 | the personal lines account and the commercial lines account,
1055 | respectively, of the corporation.

1056 | 4. Effective July 1, 2002, a new applicant for property
1057 | insurance coverage who would otherwise have been eligible for
1058 | coverage in the Florida Windstorm Underwriting Association is
1059 | eligible for coverage from the corporation as provided in this
1060 | subsection.

1061 | 5. The transfer of all policies, obligations, rights,
1062 | assets, and liabilities from the Florida Windstorm Underwriting
1063 | Association to the corporation and the renaming of the
1064 | Residential Property and Casualty Joint Underwriting Association
1065 | as the corporation shall in no way affect the coverage with
1066 | respect to covered policies as defined in s. 215.555(2)(c)
1067 | provided to these entities by the Florida Hurricane Catastrophe
1068 | Fund. The coverage provided by the Florida Hurricane Catastrophe
1069 | Fund to the Florida Windstorm Underwriting Association based on
1070 | its exposures as of June 30, 2002, and each June 30 thereafter
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1071 shall be redesignated as coverage for the high-risk account of
1072 the corporation. Notwithstanding any other provision of law, the
1073 coverage provided by the Florida Hurricane Catastrophe Fund to
1074 the Residential Property and Casualty Joint Underwriting
1075 Association based on its exposures as of June 30, 2002, and each
1076 June 30 thereafter shall be transferred to the personal lines
1077 account and the commercial lines account of the corporation.
1078 Notwithstanding any other provision of law, the high-risk
1079 account shall be treated, for all Florida Hurricane Catastrophe
1080 Fund purposes, as if it were a separate participating insurer
1081 with its own exposures, reimbursement premium, and loss
1082 reimbursement. Likewise, the personal lines and commercial lines
1083 accounts shall be viewed together, for all Florida Hurricane
1084 Catastrophe Fund purposes, as if the two accounts were one and
1085 represent a single, separate participating insurer with its own
1086 exposures, reimbursement premium, and loss reimbursement. The
1087 coverage provided by the Florida Hurricane Catastrophe Fund to
1088 the corporation shall constitute and operate as a full transfer
1089 of coverage from the Florida Windstorm Underwriting Association
1090 and Residential Property and Casualty Joint Underwriting to the
1091 corporation.

1092 (u)~~(v)~~ Notwithstanding any other provision of law:

1093 1. The pledge or sale of, the lien upon, and the security
1094 interest in any rights, revenues, or other assets of the
1095 corporation created or purported to be created pursuant to any
1096 financing documents to secure any bonds or other indebtedness of
1097 the corporation shall be and remain valid and enforceable,
1098 notwithstanding the commencement of and during the continuation

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1099 of, and after, any rehabilitation, insolvency, liquidation,
1100 bankruptcy, receivership, conservatorship, reorganization, or
1101 similar proceeding against the corporation under the laws of
1102 this state.

1103 2. No such proceeding shall relieve the corporation of its
1104 obligation, or otherwise affect its ability to perform its
1105 obligation, to continue to collect, or levy and collect,
1106 assessments, market equalization or other surcharges ~~under~~
1107 ~~subparagraph (c)10-~~, or any other rights, revenues, or other
1108 assets of the corporation pledged pursuant to any financing
1109 documents.

1110 3. Each such pledge or sale of, lien upon, and security
1111 interest in, including the priority of such pledge, lien, or
1112 security interest, any such assessments, market equalization or
1113 other surcharges, or other rights, revenues, or other assets
1114 which are collected, or levied and collected, after the
1115 commencement of and during the pendency of, or after, any such
1116 proceeding shall continue unaffected by such proceeding. As used
1117 in this subsection, the term "financing documents" means any
1118 agreement or agreements, instrument or instruments, or other
1119 document or documents now existing or hereafter created
1120 evidencing any bonds or other indebtedness of the corporation or
1121 pursuant to which any such bonds or other indebtedness has been
1122 or may be issued and pursuant to which any rights, revenues, or
1123 other assets of the corporation are pledged or sold to secure
1124 the repayment of such bonds or indebtedness, together with the
1125 payment of interest on such bonds or such indebtedness, or the
1126 payment of any other obligation or financial product, as defined
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1127 in the plan of operation of the corporation related to such
1128 bonds or indebtedness.

1129 4. Any such pledge or sale of assessments, revenues,
1130 contract rights, or other rights or assets of the corporation
1131 shall constitute a lien and security interest, or sale, as the
1132 case may be, that is immediately effective and attaches to such
1133 assessments, revenues, or contract rights or other rights or
1134 assets, whether or not imposed or collected at the time the
1135 pledge or sale is made. Any such pledge or sale is effective,
1136 valid, binding, and enforceable against the corporation or other
1137 entity making such pledge or sale, and valid and binding against
1138 and superior to any competing claims or obligations owed to any
1139 other person or entity, including policyholders in this state,
1140 asserting rights in any such assessments, revenues, or contract
1141 rights or other rights or assets to the extent set forth in and
1142 in accordance with the terms of the pledge or sale contained in
1143 the applicable financing documents, whether or not any such
1144 person or entity has notice of such pledge or sale and without
1145 the need for any physical delivery, recordation, filing, or
1146 other action.

1147 5. As long as the corporation has any bonds outstanding,
1148 the corporation may not file a voluntary petition under chapter
1149 9 of the federal Bankruptcy Code or such corresponding chapter
1150 or sections as may be in effect, from time to time, and a public
1151 officer or any organization, entity, or other person may not
1152 authorize the corporation to be or become a debtor under chapter
1153 9 of the federal Bankruptcy Code or such corresponding chapter

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1154 or sections as may be in effect, from time to time, during any
1155 such period.

1156 6. If ordered by a court of competent jurisdiction, the
1157 corporation may assume policies or otherwise provide coverage
1158 for policyholders of an insurer placed in liquidation under
1159 chapter 631, under such forms, rates, terms, and conditions as
1160 the corporation deems appropriate, subject to approval by the
1161 office.

1162 (v)~~(w)~~1. The following records of the corporation are
1163 confidential and exempt from the provisions of s. 119.07(1) and
1164 s. 24(a), Art. I of the State Constitution:

1165 a. Underwriting files, except that a policyholder or an
1166 applicant shall have access to his or her own underwriting
1167 files.

1168 b. Claims files, until termination of all litigation and
1169 settlement of all claims arising out of the same incident,
1170 although portions of the claims files may remain exempt, as
1171 otherwise provided by law. Confidential and exempt claims file
1172 records may be released to other governmental agencies upon
1173 written request and demonstration of need; such records held by
1174 the receiving agency remain confidential and exempt as provided
1175 for herein.

1176 c. Records obtained or generated by an internal auditor
1177 pursuant to a routine audit, until the audit is completed, or if
1178 the audit is conducted as part of an investigation, until the
1179 investigation is closed or ceases to be active. An investigation
1180 is considered "active" while the investigation is being
1181 conducted with a reasonable, good faith belief that it could

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1182 | lead to the filing of administrative, civil, or criminal
1183 | proceedings.

1184 | d. Matters reasonably encompassed in privileged attorney-
1185 | client communications.

1186 | e. Proprietary information licensed to the corporation
1187 | under contract and the contract provides for the confidentiality
1188 | of such proprietary information.

1189 | f. All information relating to the medical condition or
1190 | medical status of a corporation employee which is not relevant
1191 | to the employee's capacity to perform his or her duties, except
1192 | as otherwise provided in this paragraph. Information which is
1193 | exempt shall include, but is not limited to, information
1194 | relating to workers' compensation, insurance benefits, and
1195 | retirement or disability benefits.

1196 | g. Upon an employee's entrance into the employee
1197 | assistance program, a program to assist any employee who has a
1198 | behavioral or medical disorder, substance abuse problem, or
1199 | emotional difficulty which affects the employee's job
1200 | performance, all records relative to that participation shall be
1201 | confidential and exempt from the provisions of s. 119.07(1) and
1202 | s. 24(a), Art. I of the State Constitution, except as otherwise
1203 | provided in s. 112.0455(11).

1204 | h. Information relating to negotiations for financing,
1205 | reinsurance, depopulation, or contractual services, until the
1206 | conclusion of the negotiations.

1207 | i. Minutes of closed meetings regarding underwriting
1208 | files, and minutes of closed meetings regarding an open claims
1209 | file until termination of all litigation and settlement of all
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1210 claims with regard to that claim, except that information
1211 otherwise confidential or exempt by law will be redacted.
1212
1213 When an authorized insurer is considering underwriting a risk
1214 insured by the corporation, relevant underwriting files and
1215 confidential claims files may be released to the insurer
1216 provided the insurer agrees in writing, notarized and under
1217 oath, to maintain the confidentiality of such files. When a file
1218 is transferred to an insurer that file is no longer a public
1219 record because it is not held by an agency subject to the
1220 provisions of the public records law. Underwriting files and
1221 confidential claims files may also be released to staff of and
1222 the board of governors of the market assistance plan established
1223 pursuant to s. 627.3515, who must retain the confidentiality of
1224 such files, except such files may be released to authorized
1225 insurers that are considering assuming the risks to which the
1226 files apply, provided the insurer agrees in writing, notarized
1227 and under oath, to maintain the confidentiality of such files.
1228 Finally, the corporation or the board or staff of the market
1229 assistance plan may make the following information obtained from
1230 underwriting files and confidential claims files available to
1231 licensed general lines insurance agents: name, address, and
1232 telephone number of the residential property owner or insured;
1233 location of the risk; rating information; loss history; and
1234 policy type. The receiving licensed general lines insurance
1235 agent must retain the confidentiality of the information
1236 received.

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1237 2. Portions of meetings of the corporation are exempt from
1238 the provisions of s. 286.011 and s. 24(b), Art. I of the State
1239 Constitution wherein confidential underwriting files or
1240 confidential open claims files are discussed. All portions of
1241 corporation meetings which are closed to the public shall be
1242 recorded by a court reporter. The court reporter shall record
1243 the times of commencement and termination of the meeting, all
1244 discussion and proceedings, the names of all persons present at
1245 any time, and the names of all persons speaking. No portion of
1246 any closed meeting shall be off the record. Subject to the
1247 provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
1248 notes of any closed meeting shall be retained by the corporation
1249 for a minimum of 5 years. A copy of the transcript, less any
1250 exempt matters, of any closed meeting wherein claims are
1251 discussed shall become public as to individual claims after
1252 settlement of the claim.

1253 (w)~~(x)~~ It is the intent of the Legislature that the
1254 amendments to this subsection enacted in 2002 should, over time,
1255 reduce the probable maximum windstorm losses in the residual
1256 markets and should reduce the potential assessments to be levied
1257 on property insurers and policyholders statewide. In furtherance
1258 of this intent:

1259 1. The board shall, on or before February 1 of each year,
1260 provide a report to the President of the Senate and the Speaker
1261 of the House of Representatives showing the reduction or
1262 increase in the 100-year probable maximum loss attributable to
1263 wind-only coverages and the quota share program under this
1264 subsection combined, as compared to the benchmark 100-year
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1265 | probable maximum loss of the Florida Windstorm Underwriting
1266 | Association. For purposes of this paragraph, the benchmark 100-
1267 | year probable maximum loss of the Florida Windstorm Underwriting
1268 | Association shall be the calculation dated February 2001 and
1269 | based on November 30, 2000, exposures. In order to ensure
1270 | comparability of data, the board shall use the same methods for
1271 | calculating its probable maximum loss as were used to calculate
1272 | the benchmark probable maximum loss.

1273 | 2. Beginning February 1, 2010, if the report under
1274 | subparagraph 1. for any year indicates that the 100-year
1275 | probable maximum loss attributable to wind-only coverages and
1276 | the quota share program combined does not reflect a reduction of
1277 | at least 25 percent from the benchmark, the board shall reduce
1278 | the boundaries of the high-risk area eligible for wind-only
1279 | coverages under this subsection in a manner calculated to reduce
1280 | such probable maximum loss to an amount at least 25 percent
1281 | below the benchmark.

1282 | 3. Beginning February 1, 2015, if the report under
1283 | subparagraph 1. for any year indicates that the 100-year
1284 | probable maximum loss attributable to wind-only coverages and
1285 | the quota share program combined does not reflect a reduction of
1286 | at least 50 percent from the benchmark, the boundaries of the
1287 | high-risk area eligible for wind-only coverages under this
1288 | subsection shall be reduced by the elimination of any area that
1289 | is not seaward of a line 1,000 feet inland from the Intracoastal
1290 | Waterway.

1291 | ~~(x)~~~~(y)~~ In enacting the provisions of this section, the
1292 | Legislature recognizes that both the Florida Windstorm

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1293 Underwriting Association and the Residential Property and
1294 Casualty Joint Underwriting Association have entered into
1295 financing arrangements that obligate each entity to service its
1296 debts and maintain the capacity to repay funds secured under
1297 these financing arrangements. It is the intent of the
1298 Legislature that nothing in this section be construed to
1299 compromise, diminish, or interfere with the rights of creditors
1300 under such financing arrangements. It is further the intent of
1301 the Legislature to preserve the obligations of the Florida
1302 Windstorm Underwriting Association and Residential Property and
1303 Casualty Joint Underwriting Association with regard to
1304 outstanding financing arrangements, with such obligations
1305 passing entirely and unchanged to the corporation and,
1306 specifically, to the applicable account of the corporation. So
1307 long as any bonds, notes, indebtedness, or other financing
1308 obligations of the Florida Windstorm Underwriting Association or
1309 the Residential Property and Casualty Joint Underwriting
1310 Association are outstanding, under the terms of the financing
1311 documents pertaining to them, the governing board of the
1312 corporation shall have and shall exercise the authority to levy,
1313 charge, collect, and receive all premiums, assessments,
1314 surcharges, charges, revenues, and receipts that the
1315 associations had authority to levy, charge, collect, or receive
1316 under the provisions of subsection (2) and this subsection,
1317 respectively, as they existed on January 1, 2002, to provide
1318 moneys, without exercise of the authority provided by this
1319 subsection, in at least the amounts, and by the times, as would
1320 be provided under those former provisions of subsection (2) or
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1321 this subsection, respectively, so that the value, amount, and
1322 collectability of any assets, revenues, or revenue source
1323 pledged or committed to, or any lien thereon securing such
1324 outstanding bonds, notes, indebtedness, or other financing
1325 obligations will not be diminished, impaired, or adversely
1326 affected by the amendments made by this act and to permit
1327 compliance with all provisions of financing documents pertaining
1328 to such bonds, notes, indebtedness, or other financing
1329 obligations, or the security or credit enhancement for them, and
1330 any reference in this subsection to bonds, notes, indebtedness,
1331 financing obligations, or similar obligations, of the
1332 corporation shall include like instruments or contracts of the
1333 Florida Windstorm Underwriting Association and the Residential
1334 Property and Casualty Joint Underwriting Association to the
1335 extent not inconsistent with the provisions of the financing
1336 documents pertaining to them.

1337 (y)~~(z)~~ The corporation shall not require the securing of
1338 flood insurance as a condition of coverage if the insured or
1339 applicant executes a form approved by the office affirming that
1340 flood insurance is not provided by the corporation and that if
1341 flood insurance is not secured by the applicant or insured in
1342 addition to coverage by the corporation, the risk will not be
1343 covered for flood damage. A corporation policyholder electing
1344 not to secure flood insurance and executing a form as provided
1345 herein making a claim for water damage against the corporation
1346 shall have the burden of proving the damage was not caused by
1347 flooding. Notwithstanding other provisions of this subsection,

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1348 the corporation may deny coverage to an applicant or insured who
1349 refuses to execute the form described herein.

1350 ~~(z)(aa)~~ A salaried employee of the corporation who
1351 performs policy administration services subsequent to the
1352 effectuation of a corporation policy is not required to be
1353 licensed as an agent under the provisions of s. 626.112.

1354 ~~(aa)(bb)~~ By February 1, 2007, the corporation shall submit
1355 a report to the President of the Senate, the Speaker of the
1356 House of Representatives, the minority party leaders of the
1357 Senate and the House of Representatives, and the chairs of the
1358 standing committees of the Senate and the House of
1359 Representatives having jurisdiction over matters relating to
1360 property and casualty insurance. In preparing the report, the
1361 corporation shall consult with the Office of Insurance
1362 Regulation, the Department of Financial Services, and any other
1363 party the corporation determines appropriate. The report must
1364 include all findings and recommendations on the feasibility of
1365 requiring authorized insurers that issue and service personal
1366 and commercial residential policies and commercial
1367 nonresidential policies that provide coverage for basic property
1368 perils except for the peril of wind to issue and service for a
1369 fee personal and commercial residential policies and commercial
1370 nonresidential policies providing coverage for the peril of wind
1371 issued by the corporation. The report must include:

1372 1. The expense savings to the corporation of issuing and
1373 servicing such policies as determined by a cost-benefit
1374 analysis.

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1375 2. The expenses and liability to authorized insurers
1376 associated with issuing and servicing such policies.

1377 3. The effect on service to policyholders of the
1378 corporation relating to issuing and servicing such policies.

1379 4. The effect on the producing agent of the corporation of
1380 issuing and servicing such policies.

1381 5. Recommendations as to the amount of the fee which
1382 should be paid to authorized insurers for issuing and servicing
1383 such policies.

1384 6. The effect that issuing and servicing such policies
1385 will have on the corporation's number of policies, total insured
1386 value, and probable maximum loss.

1387 ~~(bb)-(ee)~~ There shall be no liability on the part of, and
1388 no cause of action of any nature shall arise against, producing
1389 agents of record of the corporation or employees of such agents
1390 for insolvency of any take-out insurer.

1391 ~~(cc)-(dd)~~1. For policies subject to nonrenewal as a result
1392 of the risk being no longer eligible for coverage due to being
1393 valued at \$1 million or more, the corporation shall, directly or
1394 through the market assistance plan, make information from
1395 confidential underwriting and claims files of policyholders
1396 available only to licensed general lines agents who register
1397 with the corporation to receive such information according to
1398 the following procedures:

1399 2. By August 1, 2006, the corporation shall provide such
1400 policyholders who are not eligible for renewal the opportunity
1401 to request in writing, within 30 days after the notification is
1402 sent, that information from their confidential underwriting and

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1403 claims files not be released to licensed general lines agents
1404 registered pursuant to this paragraph.

1405 3. By August 1, 2006, the corporation shall make available
1406 to licensed general lines agents the registration procedures to
1407 be used to obtain confidential information from underwriting and
1408 claims files for such policies not eligible for renewal. As a
1409 condition of registration, the corporation shall require the
1410 licensed general lines agent to attest that the agent has the
1411 experience and relationships with authorized or surplus lines
1412 carriers to attempt to offer replacement coverage for such
1413 policies.

1414 4. By September 1, 2006, the corporation shall make
1415 available through a secured website to licensed general lines
1416 agents registered pursuant to this paragraph application,
1417 rating, loss history, mitigation, and policy type information
1418 relating to such policies not eligible for renewal and for which
1419 the policyholder has not requested the corporation withhold such
1420 information. The registered licensed general lines agent may use
1421 such information to contact and assist the policyholder in
1422 securing replacement policies, and the agent may disclose to the
1423 policyholder that such information was obtained from the
1424 corporation.

1425 ~~(dd)(ee)~~ The assets of the corporation may be invested and
1426 managed by the State Board of Administration.

1427 Section 13. Subsection (1) of section 624.4072, Florida
1428 Statutes, is amended to read:

1429 624.4072 Minority-owned property and casualty insurers;
1430 limited exemption for taxation and assessments.--

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1431 (1) A minority business that is at least 51 percent owned
1432 by minority persons, as defined in s. 288.703(3), initially
1433 issued a certificate of authority in this state as an authorized
1434 insurer after May 1, 1998, and before January 1, 2002, to write
1435 property and casualty insurance shall be exempt, for a period
1436 not to exceed 10 years from the date of receiving its
1437 certificate of authority, from ~~the following taxes and~~
1438 ~~assessments:~~

1439 ~~(a) taxes imposed under ss. 175.101, 185.08, and 624.509;~~

1440 ~~(b) Assessments by the Citizens Property Insurance~~
1441 ~~Corporation, except for emergency assessments collected from~~
1442 ~~policyholders pursuant to s. 627.351(6)(b)3.d. Any such insurer~~
1443 ~~shall be a member insurer of the Citizens Property Insurance~~
1444 ~~Corporation. The premiums of such insurer shall be included in~~
1445 ~~determining, for the Citizens Property Insurance Corporation,~~
1446 ~~the aggregate statewide direct written premium for the subject~~
1447 ~~lines of business for all member insurers.~~

1448 Section 14. Subsections (3), (4), (5), (6), and (7) of
1449 section 627.3511, Florida Statutes, are amended to read:

1450 627.3511 Depopulation of Citizens Property Insurance
1451 Corporation.--

1452 ~~(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—~~

1453 ~~(a) The calculation of an insurer's assessment liability~~
1454 ~~under s. 627.351(6)(b)3.a. or b. shall, for an insurer that in~~
1455 ~~any calendar year removes 50,000 or more risks from the Citizens~~
1456 ~~Property Insurance Corporation, either by issuance of a policy~~
1457 ~~upon expiration or cancellation of the corporation policy or by~~
1458 ~~assumption of the corporation's obligations with respect to in-~~
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1459 ~~force policies, exclude such removed policies for the succeeding~~
1460 ~~3 years, as follows:~~

1461 ~~1. In the first year following removal of the risks, the~~
1462 ~~risks are excluded from the calculation to the extent of 100~~
1463 ~~percent.~~

1464 ~~2. In the second year following removal of the risks, the~~
1465 ~~risks are excluded from the calculation to the extent of 75~~
1466 ~~percent.~~

1467 ~~3. In the third year following removal of the risks, the~~
1468 ~~risks are excluded from the calculation to the extent of 50~~
1469 ~~percent.~~

1470
1471 ~~If the removal of risks is accomplished through assumption of~~
1472 ~~obligations with respect to in force policies, the corporation~~
1473 ~~shall pay to the assuming insurer all unearned premium with~~
1474 ~~respect to such policies less any policy acquisition costs~~
1475 ~~agreed to by the corporation and assuming insurer. The term~~
1476 ~~"policy acquisition costs" is defined as costs of issuance of~~
1477 ~~the policy by the corporation which includes agent commissions,~~
1478 ~~servicing company fees, and premium tax. This paragraph does not~~
1479 ~~apply to an insurer that, at any time within 5 years before~~
1480 ~~removing the risks, had a market share in excess of 0.1 percent~~
1481 ~~of the statewide aggregate gross direct written premium for any~~
1482 ~~line of property insurance, or to an affiliate of such an~~
1483 ~~insurer. This paragraph does not apply unless either at least 40~~
1484 ~~percent of the risks removed from the corporation are located in~~
1485 ~~Dade, Broward, and Palm Beach Counties, or at least 30 percent~~
1486 ~~of the risks removed from the corporation are located in such~~
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1487 ~~counties and an additional 50 percent of the risks removed from~~
1488 ~~the corporation are located in other coastal counties.~~

1489 ~~(b) An insurer that first wrote personal lines residential~~
1490 ~~property coverage in this state on or after July 1, 1994, is~~
1491 ~~exempt from regular deficit assessments imposed pursuant to s.~~
1492 ~~627.351(6) (b)3.a. and b., but not emergency assessments~~
1493 ~~collected from policyholders pursuant to s. 627.351(6) (b)3.d.,~~
1494 ~~of the Citizens Property Insurance Corporation until the earlier~~
1495 ~~of the following:~~

1496 ~~1. The end of the calendar year in which it first wrote~~
1497 ~~0.5 percent or more of the statewide aggregate direct written~~
1498 ~~premium for any line of residential property coverage; or~~

1499 ~~2. December 31, 1997, or December 31 of the third year in~~
1500 ~~which it wrote such coverage in this state, whichever is later.~~

1501 ~~(c) Other than an insurer that is exempt under paragraph~~
1502 ~~(b), an insurer that in any calendar year increases its total~~
1503 ~~structure exposure subject to wind coverage by 25 percent or~~
1504 ~~more over its exposure for the preceding calendar year is, with~~
1505 ~~respect to that year, exempt from deficit assessments imposed~~
1506 ~~pursuant to s. 627.351(6) (b)3.a. and b., but not emergency~~
1507 ~~assessments collected from policyholders pursuant to s.~~
1508 ~~627.351(6) (b)3.d., of the Citizens Property Insurance~~
1509 ~~Corporation attributable to such increase in exposure.~~

1510 ~~(d) Any exemption or credit from regular assessments~~
1511 ~~authorized by this section shall last no longer than 3 years~~
1512 ~~following the cancellation or expiration of the policy by the~~
1513 ~~corporation. With the approval of the office, the board may~~
1514 ~~extend such credits for an additional year if the insurer~~

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1515 ~~guarantees an additional year of renewability for all policies~~
1516 ~~removed from the corporation, or for 2 additional years if the~~
1517 ~~insurer guarantees 2 additional years of renewability for all~~
1518 ~~policies so removed.~~

1519 (3)~~(4)~~ AGENT BONUS.--When the corporation enters into a
1520 contractual agreement for a take-out plan that provides a bonus
1521 to the insurer, the producing agent of record of the corporation
1522 policy is entitled to retain any unearned commission on such
1523 policy, and the insurer shall either:

1524 (a) Pay to the producing agent of record of the
1525 association policy, for the first year, an amount that is the
1526 greater of the insurer's usual and customary commission for the
1527 type of policy written or a fee equal to the usual and customary
1528 commission of the corporation; or

1529 (b) Offer to allow the producing agent of record of the
1530 corporation policy to continue servicing the policy for a period
1531 of not less than 1 year and offer to pay the agent the greater
1532 of the insurer's or the corporation's usual and customary
1533 commission for the type of policy written.

1534
1535 If the producing agent is unwilling or unable to accept
1536 appointment, the new insurer shall pay the agent in accordance
1537 with paragraph (a). The requirement of this subsection that the
1538 producing agent of record is entitled to retain the unearned
1539 commission on an association policy does not apply to a policy
1540 for which coverage has been provided in the association for 30
1541 days or less or for which a cancellation notice has been issued

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1542 pursuant to s. 627.351(6)(c) ~~10.11~~ during the first 30 days of
1543 coverage.

1544 ~~(4)(5)~~ APPLICABILITY.--

1545 ~~(a)~~ The take-out bonus provided by subsection (2) applies
1546 ~~and the exemption from assessment provided by paragraph (3)(a)~~
1547 ~~apply~~ only if the corporation policy is replaced by either a
1548 standard policy including wind coverage or, if consistent with
1549 the insurer's underwriting rules as filed with the office, a
1550 basic policy including wind coverage; however, with respect to
1551 risks located in areas where coverage through the high-risk
1552 account of the corporation is available, the replacement policy
1553 need not provide wind coverage. The insurer must renew the
1554 replacement policy at approved rates on substantially similar
1555 terms for four additional 1-year terms, unless canceled or not
1556 renewed by the policyholder. If an insurer assumes the
1557 corporation's obligations for a policy, it must issue a
1558 replacement policy for a 1-year term upon expiration of the
1559 corporation policy and must renew the replacement policy at
1560 approved rates on substantially similar terms for four
1561 additional 1-year terms, unless canceled or not renewed by the
1562 policyholder. For each replacement policy canceled or nonrenewed
1563 by the insurer for any reason during the 5-year coverage period
1564 required by this paragraph, the insurer must remove from the
1565 corporation one additional policy covering a risk similar to the
1566 risk covered by the canceled or nonrenewed policy. In addition
1567 to these requirements, the corporation must place the bonus
1568 moneys in escrow for a period of 5 years; such moneys may be
1569 released from escrow only to pay claims. If the policy is

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1570 canceled or nonrenewed before the end of the 5-year period, the
1571 amount of the take-out bonus must be prorated for the time
1572 period the policy was insured. A take-out bonus provided by
1573 subsection (2) or subsection (5)~~(6)~~ shall not be considered
1574 premium income for purposes of taxes and assessments under the
1575 Florida Insurance Code and shall remain the property of the
1576 corporation, subject to the prior security interest of the
1577 insurer under the escrow agreement until it is released from
1578 escrow, and after it is released from escrow it shall be
1579 considered an asset of the insurer and credited to the insurer's
1580 capital and surplus.

1581 ~~(b) It is the intent of the Legislature that an insurer~~
1582 ~~eligible for the exemption under paragraph (3) (a) establish a~~
1583 ~~preference in appointment of agents for those agents who lose a~~
1584 ~~substantial amount of business as a result of risks being~~
1585 ~~removed from the corporation.~~

1586 (5)~~(6)~~ COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.--

1587 (a) The corporation shall pay a bonus to an insurer for
1588 each commercial residential policy that the insurer removes from
1589 the corporation pursuant to an approved take-out plan, either by
1590 issuance of a new policy upon expiration of the corporation
1591 policy or by assumption of the corporation's obligations with
1592 respect to an in-force policy. The corporation board shall
1593 determine the amount of the bonus based on such factors as the
1594 coverage provided, relative hurricane risk, the length of time
1595 that the property has been covered by the corporation, and the
1596 criteria specified in paragraphs (b) and (c). The amount of the
1597 bonus with respect to a particular policy may not exceed 25

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1598 percent of the corporation's 1-year premium for the policy. Such
1599 payment is subject to approval of the corporation board. In
1600 order to qualify for the bonus under this subsection, the take-
1601 out plan must include policies reflecting at least \$100 million
1602 in structure exposure.

1603 (b) In order for a plan to qualify for approval:

1604 1. At least 40 percent of the policies removed from the
1605 corporation under the plan must be located in Dade, Broward, and
1606 Palm Beach Counties, or at least 30 percent of the policies
1607 removed from the corporation under the plan must be located in
1608 such counties and an additional 50 percent of the policies
1609 removed from the corporation must be located in other coastal
1610 counties.

1611 2. The insurer must renew the replacement policy at
1612 approved rates on substantially similar terms for two additional
1613 1-year terms, unless canceled or nonrenewed by the insurer for a
1614 lawful reason other than reduction of hurricane exposure. If an
1615 insurer assumes the corporation's obligations for a policy, it
1616 must issue a replacement policy for a 1-year term upon
1617 expiration of the corporation policy and must renew the
1618 replacement policy at approved rates on substantially similar
1619 terms for two additional 1-year terms, unless canceled by the
1620 insurer for a lawful reason other than reduction of hurricane
1621 exposure. For each replacement policy canceled or nonrenewed by
1622 the insurer for any reason during the 3-year coverage period
1623 required by this subparagraph, the insurer must remove from the
1624 corporation one additional policy covering a risk similar to the
1625 risk covered by the canceled or nonrenewed policy.

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1626 (c) A take-out plan is deemed approved unless the office,
1627 within 120 days after the board votes to recommend the plan,
1628 disapproves the plan based on:

1629 1. The capacity of the insurer to absorb the policies
1630 proposed to be taken out of the corporation and the
1631 concentration of risks of those policies.

1632 2. Whether the geographic and risk characteristics of
1633 policies in the proposed take-out plan serve to reduce the
1634 exposure of the corporation sufficiently to justify the bonus.

1635 3. Whether coverage for risks to be taken out otherwise
1636 exists in the admitted voluntary market.

1637 4. The degree to which the take-out bonus is promoting new
1638 capital being allocated by the insurer to residential property
1639 coverage in this state.

1640 ~~(d) The calculation of an insurer's regular assessment~~
1641 ~~liability under s. 627.351(6)(b)3.a. and b., but not emergency~~
1642 ~~assessments collected from policyholders pursuant to s.~~
1643 ~~627.351(6)(b)3.d., shall, with respect to commercial residential~~
1644 ~~policies removed from the corporation under an approved take-out~~
1645 ~~plan, exclude such removed policies for the succeeding 3 years,~~
1646 ~~as follows:~~

1647 ~~1. In the first year following removal of the policies,~~
1648 ~~the policies are excluded from the calculation to the extent of~~
1649 ~~100 percent.~~

1650 ~~2. In the second year following removal of the policies,~~
1651 ~~the policies are excluded from the calculation to the extent of~~
1652 ~~75 percent.~~

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1653 ~~3. In the third year following removal of the policies,~~
1654 ~~the policies are excluded from the calculation to the extent of~~
1655 ~~50 percent.~~

1656 ~~(c) An insurer that first wrote commercial residential~~
1657 ~~property coverage in this state on or after June 1, 1996, is~~
1658 ~~exempt from regular assessments under s. 627.351(6)(b)3.a. and~~
1659 ~~b., but not emergency assessments collected from policyholders~~
1660 ~~pursuant to s. 627.351(6)(b)3.d., with respect to commercial~~
1661 ~~residential policies until the earlier of:~~

1662 ~~1. The end of the calendar year in which such insurer~~
1663 ~~first wrote 0.5 percent or more of the statewide aggregate~~
1664 ~~direct written premium for commercial residential property~~
1665 ~~coverage; or~~

1666 ~~2. December 31 of the third year in which such insurer~~
1667 ~~wrote commercial residential property coverage in this state.~~

1668 ~~(f) An insurer that is not otherwise exempt from regular~~
1669 ~~assessments under s. 627.351(6)(b)3.a. and b. with respect to~~
1670 ~~commercial residential policies is, for any calendar year in~~
1671 ~~which such insurer increased its total commercial residential~~
1672 ~~hurricane exposure by 25 percent or more over its exposure for~~
1673 ~~the preceding calendar year, exempt from regular assessments~~
1674 ~~under s. 627.351(6)(b)3.a. and b., but not emergency assessments~~
1675 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.d.,~~
1676 ~~attributable to such increased exposure.~~

1677 ~~(6)(7)~~ A minority business, which is at least 51 percent
1678 owned by minority persons as described in s. 288.703(3),
1679 desiring to operate or become licensed as a property and
1680 casualty insurer may exempt up to \$50 of the escrow requirements

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1681 of the take-out bonus, as described in this section. Such
1682 minority business, which has applied for a certificate of
1683 authority to engage in business as a property and casualty
1684 insurer, may simultaneously file the business' proposed take-out
1685 plan, as described in this section, with the corporation.

1686 Section 15. Paragraph (a) of subsection (3) of section
1687 627.3515, Florida Statutes, as amended by chapter 2007-1, Laws
1688 of Florida, is amended to read:

1689 627.3515 Market assistance plan; property and casualty
1690 risks.--

1691 (3) (a) The plan and the corporation shall develop a
1692 business plan and present it to the Financial Services
1693 Commission for approval by September 1, 2007, to provide for the
1694 implementation of an electronic database for the purpose of
1695 confirming eligibility pursuant to s. 627.351(6). The business
1696 plan may provide that authorized insurers or agents of
1697 authorized insurers may submit to the plan or the corporation in
1698 electronic form, as determined by the plan or the corporation,
1699 information determined necessary by the plan or the corporation
1700 to deny coverage to risks ineligible for coverage by the
1701 corporation. Any authorized insurer submitting such information
1702 that results in a risk being denied coverage by the corporation
1703 is required to offer coverage to the risk at its approved rates,
1704 for the coverage and premium quoted, for at least 1 year.

1705 Section 16. Section 627.3517, Florida Statutes, is amended
1706 to read:

1707 627.3517 Consumer choice.--

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1708 (1) ~~Except as provided in subsection (2),~~ No provision of
1709 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to
1710 impair the right of any insurance risk apportionment plan
1711 policyholder, upon receipt of any keepout or take-out offer, to
1712 retain his or her current agent, so long as that agent is duly
1713 licensed and appointed by the insurance risk apportionment plan
1714 or otherwise authorized to place business with the insurance
1715 risk apportionment plan. This right shall not be canceled,
1716 suspended, impeded, abridged, or otherwise compromised by any
1717 rule, plan of operation, or depopulation plan, whether through
1718 keepout, take-out, midterm assumption, or any other means, of
1719 any insurance risk apportionment plan or depopulation plan,
1720 including, but not limited to, those described in s. 627.351, s.
1721 627.3511, or s. 627.3515. The commission shall adopt any rules
1722 necessary to cause any insurance risk apportionment plan or
1723 market assistance plan under such sections to demonstrate that
1724 the operations of the plan do not interfere with, promote, or
1725 allow interference with the rights created under this section.
1726 If the policyholder's current agent is unable or unwilling to be
1727 appointed with the insurer making the take-out or keepout offer,
1728 the policyholder shall not be disqualified from participation in
1729 the appropriate insurance risk apportionment plan because of an
1730 offer of coverage in the voluntary market. An offer of full
1731 property insurance coverage by the insurer currently insuring
1732 either the ex-wind or wind-only coverage on the policy to which
1733 the offer applies shall not be considered a take-out or keepout
1734 offer. Any rule, plan of operation, or plan of depopulation,
1735 through keepout, take-out, midterm assumption, or any other
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1736 means, of any property insurance risk apportionment plan under
1737 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
1738 and 627.3511(3)~~(4)~~.

1739

1740 ===== D I R E C T O R Y A M E N D M E N T =====

1741 Remove lines 744-747, and insert:

1742 Section 5. Paragraphs (a), (b), (c), (n), (p), (r), (s),
1743 (t), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), and
1744 (ee) of subsection (6) of section 627.351, Florida Statutes, as
1745 amended by chapter 2007-1, Laws of Florida, are amended to read:

1746

1747 ===== T I T L E A M E N D M E N T =====

1748 Remove lines 2612-2626,

1749 and insert:

1750 the economic health of the state; deleting provisions relating
1751 to assessing assessable insurers; deleting provisions relating
1752 to what constitutes an assessable insurer; deleting provisions
1753 relating to deficit in an account; revising the definition of
1754 the term "assessments"; deleting provisions relating to subject
1755 lines of business; revising powers of the corporation to levy
1756 certain assessments; deleting provisions relating to unsold
1757 bonds; revising powers of the corporation; deleting provisions
1758 relating to credits and exemptions from assessments; revising
1759 provisions for determining eligibility for coverage under the
1760 corporation; reinstating certain rate filings by the
1761 corporation; deleting provisions relating to the uncollected
1762 assessments; deleting provisions relieving assessable insurers
1763 of liability under certain circumstances; amending s. 627.3515,
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HOUSE AMENDMENT

Bill No. CS/SB 2498

Amendment No.

1764 F.S.; revising criteria for an electronic database for a
1765 business plan; amending ss. 624.4072, 627.3511, and 627.3517,
1766 F.S.; conforming provisions to changes made by this act;
1767 deleting a provision specifying nonapplication for a certain
1768 period; correcting cross-references; amending s.

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