

Bill No. HB 7077, 2nd Eng.

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| | CHAMBER ACTION | |
| <u>Senate</u> | | <u>House</u> |

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Senator Posey moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

163.01 Florida Interlocal Cooperation Act of 1969.--

(7)

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.106(2)(a), created pursuant to this paragraph and controlled by and whose members consist of eligible entities comprised of special districts created pursuant to a special act and having the authority to own or operate one or more hospitals licensed in this state or hospitals licensed in this state that are owned, operated, or funded by a county or municipality, for the purpose of providing property insurance coverage as defined in s.

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1 395.106(2)(b) ~~s. 395.106(2)(c)~~, for such eligible entities,
 2 may exercise all powers under this subsection in connection
 3 with borrowing funds for such purposes, including, without
 4 limitation, the authorization, issuance, and sale of bonds,
 5 notes, or other obligations of indebtedness. Borrowed funds,
 6 including, but not limited to, bonds issued by such alliance
 7 shall be deemed issued on behalf of such eligible entities
 8 that enter into loan agreements with such separate legal
 9 entity as provided in this paragraph.

10 2. Any such separate legal entity shall have all the
 11 powers that are provided by the interlocal agreement under
 12 which the entity is created or that are necessary to finance,
 13 operate, or manage the alliance's property insurance coverage
 14 program. Proceeds of bonds, notes, or other obligations issued
 15 by such an entity may be loaned to any one or more eligible
 16 entities. Such eligible entities are authorized to enter into
 17 loan agreements with any separate legal entity created
 18 pursuant to this paragraph for the purpose of obtaining moneys
 19 with which to finance property insurance coverage or claims.
 20 Obligations of any eligible entity pursuant to a loan
 21 agreement as described in this paragraph may be validated as
 22 provided in chapter 75.

23 3. Any bonds, notes, or other obligations to be issued
 24 or incurred by a separate legal entity created pursuant to
 25 this paragraph shall be authorized by resolution of the
 26 governing body of such entity and bear the date or dates;
 27 mature at the time or times, not exceeding 30 years from their
 28 respective dates; bear interest at the rate or rates, which
 29 may be fixed or vary at such time or times and in accordance
 30 with a specified formula or method of determination; be
 31 payable at the time or times; be in the denomination; be in

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1 the form; carry the registration privileges; be executed in
2 the manner; be payable from the sources and in the medium of
3 payment and at the place; and be subject to redemption,
4 including redemption prior to maturity, as the resolution may
5 provide. The bonds, notes, or other obligations may be sold at
6 public or private sale for such price as the governing body of
7 the separate legal entity shall determine. The bonds may be
8 secured by such credit enhancement, if any, as the governing
9 body of the separate legal entity deems appropriate. The bonds
10 may be secured by an indenture of trust or trust agreement. In
11 addition, the governing body of the separate legal entity may
12 delegate, to such officer or official of such entity as the
13 governing body may select, the power to determine the time;
14 manner of sale, public or private; maturities; rate or rates
15 of interest, which may be fixed or may vary at such time or
16 times and in accordance with a specified formula or method of
17 determination; and other terms and conditions as may be deemed
18 appropriate by the officer or official so designated by the
19 governing body of such separate legal entity. However, the
20 amounts and maturities of such bonds, the interest rate or
21 rates, and the purchase price of such bonds shall be within
22 the limits prescribed by the governing body of such separate
23 legal entity in its resolution delegating to such officer or
24 official the power to authorize the issuance and sale of such
25 bonds.

26 4. Bonds issued pursuant to this paragraph may be
27 validated as provided in chapter 75. The complaint in any
28 action to validate such bonds shall be filed only in the
29 Circuit Court for Leon County. The notice required to be
30 published by s. 75.06 shall be published in Leon County and in
31 each county in which an eligible entity that is a member of an

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1 alliance is located. The complaint and order of the circuit
 2 court shall be served only on the State Attorney of the Second
 3 Judicial Circuit and on the state attorney of each circuit in
 4 each county in which an eligible entity receiving bond
 5 proceeds is located.

6 5. The accomplishment of the authorized purposes of a
 7 separate legal entity created under this paragraph is deemed
 8 in all respects for the benefit, increase of the commerce and
 9 prosperity, and improvement of the health and living
 10 conditions of the people of this state. Inasmuch as the
 11 separate legal entity performs essential public functions in
 12 accomplishing its purposes, the separate legal entity is not
 13 required to pay any taxes or assessments of any kind upon any
 14 property acquired or used by the entity for such purposes or
 15 upon any revenues at any time received by the entity. The
 16 bonds, notes, and other obligations of such separate legal
 17 entity, the transfer of and income from such bonds, notes, and
 18 other obligations, including any profits made on the sale of
 19 such bonds, notes, and other obligations, are at all times
 20 free from taxation of any kind of the state or by any
 21 political subdivision or other agency or instrumentality of
 22 the state. The exemption granted in this paragraph does not
 23 apply to any tax imposed by chapter 220 on interest, income,
 24 or profits on debt obligations owned by corporations.

25 6. The participation by any eligible entity in an
 26 alliance or a separate legal entity created pursuant to this
 27 paragraph may not be deemed a waiver of immunity to the extent
 28 of liability or any other coverage, and a contract entered
 29 regarding such alliance is not required to contain any
 30 provision for waiver.

31 Section 2. Paragraph (b) of subsection (4), paragraph

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1 (e) of subsection (5), paragraph (b) of subsection (6), and
2 subsection (16) of section 215.555, Florida Statutes, as
3 amended by chapter 2007-1, Laws of Florida, are amended to
4 read:

5 215.555 Florida Hurricane Catastrophe Fund.--

6 (4) REIMBURSEMENT CONTRACTS.--

7 (b)1. The contract shall contain a promise by the
8 board to reimburse the insurer for 45 percent, 75 percent, or
9 90 percent of its losses from each covered event in excess of
10 the insurer's retention, plus 5 percent of the reimbursed
11 losses to cover loss adjustment expenses.

12 2. The insurer must elect one of the percentage
13 coverage levels specified in this paragraph and may, upon
14 renewal of a reimbursement contract, elect a lower percentage
15 coverage level if no revenue bonds issued under subsection (6)
16 after a covered event are outstanding, or elect a higher
17 percentage coverage level, regardless of whether or not
18 revenue bonds are outstanding. All members of an insurer group
19 must elect the same percentage coverage level. Any joint
20 underwriting association, risk apportionment plan, or other
21 entity created under s. 627.351 must elect the 90-percent
22 coverage level.

23 3. The contract shall provide that reimbursement
24 amounts shall not be reduced by reinsurance paid or payable to
25 the insurer from other sources.

26 4. Notwithstanding any other provision contained in
27 this section, the board shall make available to insurers that
28 purchased coverage provided by this subparagraph ~~participated~~
29 in 2006, insurers qualifying as limited apportionment
30 companies under s. 627.351(6)(c) ~~which began writing property~~
31 ~~insurance in 2007~~, and insurers that were approved to

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1 participate in 2006 or that are approved in 2007 for the
 2 Insurance Capital Build-Up Incentive Program pursuant to s.
 3 215.5595, a contract or contract addendum that provides an
 4 additional amount of reimbursement coverage of up to \$10
 5 million. The premium to be charged for this additional
 6 reimbursement coverage shall be 50 percent of the additional
 7 reimbursement coverage provided, which shall include one
 8 prepaid reinstatement. The minimum retention level that an
 9 eligible participating insurer must retain associated with
 10 this additional coverage layer is 30 percent of the insurer's
 11 surplus as of December 31, 2006. This coverage shall be in
 12 addition to all other coverage that may be provided under this
 13 section. The coverage provided by the fund under this
 14 subparagraph ~~subsection~~ shall be in addition to the
 15 claims-paying capacity as defined in subparagraph (c)1., but
 16 only with respect to those insurers that select the additional
 17 coverage option and meet the requirements of this subparagraph
 18 ~~subsection~~. The claims-paying capacity with respect to all
 19 other participating insurers and limited apportionment
 20 companies that do not select the additional coverage option
 21 shall be limited to their reimbursement premium's
 22 proportionate share of the actual claims-paying capacity
 23 otherwise defined in subparagraph (c)1. and as provided for
 24 under the terms of the reimbursement contract. Coverage
 25 provided in the reimbursement contract will not be affected by
 26 the additional premiums paid by participating insurers
 27 exercising the additional coverage option allowed in this
 28 subparagraph. This subparagraph expires on May 31, 2008.

29 (5) REIMBURSEMENT PREMIUMS.--

30 (e) If Citizens Property Insurance Corporation assumes
 31 or otherwise provides coverage for policies of an insurer

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1 placed in liquidation under chapter 631 pursuant to s.
 2 627.351(6), the corporation may, pursuant to conditions
 3 mutually agreed to between the corporation and the State Board
 4 of Administration, obtain coverage for such policies under its
 5 contract with the fund or accept an assignment of the
 6 liquidated insurer's contract with the fund. If Citizens
 7 Property Insurance Corporation elects to cover these policies
 8 under the corporation's contract with the fund, it shall
 9 notify the board of its insured values with respect to such
 10 policies within a specified time mutually agreed to between
 11 the corporation and the board, after such assumption or other
 12 coverage transaction, and the fund shall treat such policies
 13 as having been in effect as of June 30 of that year. In the
 14 event of an assignment, the fund shall apply that contract to
 15 such policies and treat Citizens Property Insurance
 16 Corporation as if the corporation were the liquidated insurer
 17 for the remaining term of the contract, and the corporation
 18 shall have all rights and duties of the liquidated insurer
 19 beginning on the date it provides coverage for such policies,
 20 but the corporation is not subject to any preexisting rights,
 21 liabilities, or duties of the liquidated insurer. The
 22 assignment, including any unresolved issues between the
 23 liquidated insurer and Citizens Property Insurance Corporation
 24 under the contract, shall be provided for in the liquidation
 25 order or otherwise determined by the court. However, if a
 26 covered event occurs before the effective date of the
 27 assignment, the corporation may not obtain coverage for such
 28 policies under its contract with the fund and shall accept an
 29 assignment of the liquidated insurer's contract as provided in
 30 this paragraph. ~~This paragraph expires on June 1, 2007.~~

31 (6) REVENUE BONDS.--

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1 (b) Emergency assessments.--

2 1. If the board determines that the amount of revenue
3 produced under subsection (5) is insufficient to fund the
4 obligations, costs, and expenses of the fund and the
5 corporation, including repayment of revenue bonds and that
6 portion of the debt service coverage not met by reimbursement
7 premiums, the board shall direct the Office of Insurance
8 Regulation to levy, by order, an emergency assessment on
9 direct premiums for all property and casualty lines of
10 business in this state, including property and casualty
11 business of surplus lines insurers regulated under part VIII
12 of chapter 626, but not including any workers' compensation
13 premiums or medical malpractice premiums. As used in this
14 subsection, the term "property and casualty business" includes
15 all lines of business identified on Form 2, Exhibit of
16 Premiums and Losses, in the annual statement required of
17 authorized insurers by s. 624.424 and any rule adopted under
18 this section, except for those lines identified as accident
19 and health insurance and except for policies written under the
20 National Flood Insurance Program. The assessment shall be
21 specified as a percentage of direct written premium and is
22 subject to annual adjustments by the board in order to meet
23 debt obligations. The same percentage shall apply to all
24 policies in lines of business subject to the assessment issued
25 or renewed during the 12-month period beginning on the
26 effective date of the assessment.

27 2. A premium is not subject to an annual assessment
28 under this paragraph in excess of 6 percent of premium with
29 respect to obligations arising out of losses attributable to
30 any one contract year, and a premium is not subject to an
31 aggregate annual assessment under this paragraph in excess of

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1 | 10 percent of premium. An annual assessment under this
 2 | paragraph shall continue as long as the revenue bonds issued
 3 | with respect to which the assessment was imposed are
 4 | outstanding, including any bonds the proceeds of which were
 5 | used to refund the revenue bonds, unless adequate provision
 6 | has been made for the payment of the bonds under the documents
 7 | authorizing issuance of the bonds.

8 | 3. Emergency assessments shall be collected from
 9 | policyholders. Emergency assessments shall be remitted by
 10 | insurers as a percentage of direct written premium for the
 11 | preceding calendar quarter as specified in the order from the
 12 | Office of Insurance Regulation. The office shall verify the
 13 | accurate and timely collection and remittance of emergency
 14 | assessments and shall report the information to the board in a
 15 | form and at a time specified by the board. Each insurer
 16 | collecting assessments shall provide the information with
 17 | respect to premiums and collections as may be required by the
 18 | office to enable the office to monitor and verify compliance
 19 | with this paragraph.

20 | 4. With respect to assessments of surplus lines
 21 | premiums, each surplus lines agent shall collect the
 22 | assessment at the same time as the agent collects the surplus
 23 | lines tax required by s. 626.932, and the surplus lines agent
 24 | shall remit the assessment to the Florida Surplus Lines
 25 | Service Office created by s. 626.921 at the same time as the
 26 | agent remits the surplus lines tax to the Florida Surplus
 27 | Lines Service Office. The emergency assessment on each insured
 28 | procuring coverage and filing under s. 626.938 shall be
 29 | remitted by the insured to the Florida Surplus Lines Service
 30 | Office at the time the insured pays the surplus lines tax to
 31 | the Florida Surplus Lines Service Office. The Florida Surplus

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1 Lines Service Office shall remit the collected assessments to
 2 the fund or corporation as provided in the order levied by the
 3 Office of Insurance Regulation. The Florida Surplus Lines
 4 Service Office shall verify the proper application of such
 5 emergency assessments and shall assist the board in ensuring
 6 the accurate and timely collection and remittance of
 7 assessments as required by the board. The Florida Surplus
 8 Lines Service Office shall annually calculate the aggregate
 9 written premium on property and casualty business, other than
 10 workers' compensation and medical malpractice, procured
 11 through surplus lines agents and insureds procuring coverage
 12 and filing under s. 626.938 and shall report the information
 13 to the board in a form and at a time specified by the board.

14 5. Any assessment authority not used for a particular
 15 contract year may be used for a subsequent contract year. If,
 16 for a subsequent contract year, the board determines that the
 17 amount of revenue produced under subsection (5) is
 18 insufficient to fund the obligations, costs, and expenses of
 19 the fund and the corporation, including repayment of revenue
 20 bonds and that portion of the debt service coverage not met by
 21 reimbursement premiums, the board shall direct the Office of
 22 Insurance Regulation to levy an emergency assessment up to an
 23 amount not exceeding the amount of unused assessment authority
 24 from a previous contract year or years, plus an additional 4
 25 percent provided that the assessments in the aggregate do not
 26 exceed the limits specified in subparagraph 2.

27 6. The assessments otherwise payable to the
 28 corporation under this paragraph shall be paid to the fund
 29 unless and until the Office of Insurance Regulation and the
 30 Florida Surplus Lines Service Office have received from the
 31 corporation and the fund a notice, which shall be conclusive

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1 and upon which they may rely without further inquiry, that the
 2 corporation has issued bonds and the fund has no agreements in
 3 effect with local governments under paragraph (c). On or after
 4 the date of the notice and until the date the corporation has
 5 no bonds outstanding, the fund shall have no right, title, or
 6 interest in or to the assessments, except as provided in the
 7 fund's agreement with the corporation.

8 7. Emergency assessments are not premium and are not
 9 subject to the premium tax, to the surplus lines tax, to any
 10 fees, or to any commissions. An insurer is liable for all
 11 assessments that it collects and must treat the failure of an
 12 insured to pay an assessment as a failure to pay the premium.
 13 An insurer is not liable for uncollectible assessments.

14 8. When an insurer is required to return an unearned
 15 premium, it shall also return any collected assessment
 16 attributable to the unearned premium. A credit adjustment to
 17 the collected assessment may be made by the insurer with
 18 regard to future remittances that are payable to the fund or
 19 corporation, but the insurer is not entitled to a refund.

20 9. When a surplus lines insured or an insured who has
 21 procured coverage and filed under s. 626.938 is entitled to
 22 the return of an unearned premium, the Florida Surplus Lines
 23 Service Office shall provide a credit or refund to the agent
 24 or such insured for the collected assessment attributable to
 25 the unearned premium prior to remitting the emergency
 26 assessment collected to the fund or corporation.

27 10. The exemption of medical malpractice insurance
 28 premiums from emergency assessments under this paragraph is
 29 repealed May 31, 2010 ~~2007~~, and medical malpractice insurance
 30 premiums shall be subject to emergency assessments
 31 attributable to loss events occurring in the contract years

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1 commencing on June 1, 2010 ~~2007~~.

2 (16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL
3 COVERAGE.--

4 (a) Findings and intent.--

5 1. The Legislature finds that:

6 a. Because of temporary disruptions in the market for
7 catastrophic reinsurance, many property insurers were unable
8 to procure reinsurance for the 2006 hurricane season with an
9 attachment point below the insurers' respective Florida
10 Hurricane Catastrophe Fund attachment points, were unable to
11 procure sufficient amounts of such reinsurance, or were able
12 to procure such reinsurance only by incurring substantially
13 higher costs than in prior years.

14 b. The reinsurance market problems were responsible,
15 at least in part, for substantial premium increases to many
16 consumers and increases in the number of policies issued by
17 the Citizens Property Insurance Corporation.

18 c. It is likely that the reinsurance market
19 disruptions will not significantly abate prior to the 2007
20 hurricane season.

21 2. It is the intent of the Legislature to create a
22 temporary emergency program, applicable to the 2007, 2008, and
23 2009 hurricane seasons, to address these market disruptions
24 and enable insurers, at their option, to procure additional
25 coverage from the Florida Hurricane Catastrophe Fund.

26 (b) Applicability of other provisions of this
27 section.--All provisions of this section and the rules adopted
28 under this section apply to the program created by this
29 subsection unless specifically superseded by this subsection.

30 (c) Optional coverage.--For the contract year
31 commencing June 1, 2007, and ending May 31, 2008, the contract

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1 year commencing June 1, 2008, and ending May 31, 2009, and the
 2 contract year commencing June 1, 2009, and ending May 31,
 3 2010, the board shall offer for each of such years the
 4 optional coverage as provided in this subsection.

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

7 1. "TEACO options" means the temporary emergency
 8 additional coverage options created under this subsection.

9 2. "TEACO insurer" means an insurer that has opted to
 10 obtain coverage under the TEACO options in addition to the
 11 coverage provided to the insurer under its reimbursement
 12 contract.

13 3. "TEACO reimbursement premium" means the premium
 14 charged by the fund for coverage provided under the TEACO
 15 options.

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

20 a. The board shall calculate and report to each TEACO
 21 insurer the TEACO retention multiples. There shall be three
 22 TEACO retention multiples for defining coverage. Each multiple
 23 shall be calculated by dividing \$3 billion, \$4 billion, or \$5
 24 billion by the total estimated mandatory FHCF ~~TEACO~~
 25 reimbursement premium assuming all insurers ~~selected that~~
 26 ~~option. Total estimated TEACO reimbursement premium for~~
 27 ~~purposes of the calculation under this sub-subparagraph shall~~
 28 ~~be calculated using the assumption that all insurers have~~
 29 ~~selected a specific TEACO retention multiple option and have~~
 30 selected the 90-percent coverage level.

31 b. The TEACO retention multiples as determined under

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1 sub-subparagraph a. shall be adjusted to reflect the coverage
 2 level elected by the insurer. For insurers electing the
 3 90-percent coverage level, the adjusted retention multiple is
 4 100 percent of the amount determined under sub-subparagraph a.
 5 For insurers electing the 75-percent coverage level, the
 6 retention multiple is 120 percent of the amount determined
 7 under sub-subparagraph a. For insurers electing the 45-percent
 8 coverage level, the adjusted retention multiple is 200 percent
 9 of the amount determined under sub-subparagraph a.

10 c. An insurer shall determine its provisional TEACO
 11 retention by multiplying its estimated mandatory FHCF
 12 ~~provisional TEACO~~ reimbursement premium by the applicable
 13 adjusted TEACO retention multiple and shall determine its
 14 actual TEACO retention by multiplying its actual mandatory
 15 FHCF ~~TEACO~~ reimbursement premium by the applicable adjusted
 16 TEACO retention multiple.

17 d. For TEACO insurers who experience multiple covered
 18 events causing loss during the contract year, the insurer's
 19 full TEACO retention shall be applied to each of the covered
 20 events causing the two largest losses for that insurer. For
 21 other covered events resulting in losses, the TEACO option
 22 does not apply and the insurer's retention shall be one-third
 23 of the full retention as calculated under paragraph (2)(e).

24 5. "TEACO addendum" means an addendum to the
 25 reimbursement contract reflecting the obligations of the fund
 26 and TEACO insurers under the program created by this
 27 subsection.

28 6. "FHCF" means the Florida Hurricane Catastrophe
 29 Fund.

30 (e) TEACO addendum.--

31 1. The TEACO addendum shall provide for reimbursement

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1 of TEACO insurers for covered events occurring during the
 2 contract year, in exchange for the TEACO reimbursement premium
 3 paid into the fund under paragraph (f). Any insurer writing
 4 covered policies has the option of choosing to accept the
 5 TEACO addendum for any of the 3 contract years that the
 6 coverage is offered.

7 2. The TEACO addendum shall contain a promise by the
 8 board to reimburse the TEACO insurer for 45 percent, 75
 9 percent, or 90 percent of its losses from each covered event
 10 in excess of the insurer's TEACO retention, plus 5 percent of
 11 the reimbursed losses to cover loss adjustment expenses. The
 12 percentage shall be the same as the coverage level selected by
 13 the insurer under paragraph (4)(b).

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

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

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1 premium bears to the total premiums paid to the fund times the
2 available capacity.

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

6 6. A TEACO insurer's maximum reimbursement for a
7 single event shall be equal to the product of multiplying its
8 mandatory FHCF premium by the difference between its FHCF
9 retention multiple and its TEACO retention multiple under the
10 TEACO option selected and by the coverage selected under
11 paragraph (4)(b), plus an additional 5 percent for loss
12 adjustment expenses. A TEACO insurer's maximum reimbursement
13 under the TEACO option selected for a TEACO insurer's two
14 largest events addendum shall be twice its maximum
15 reimbursement for a single event calculated by multiplying the
16 insurer's share of the estimated total TEACO reimbursement
17 premium as calculated under sub-subparagraph (d)4.a. by an
18 amount equal to two times the difference between the industry
19 retention level calculated under paragraph (2)(e) and the \$3
20 billion, \$4 billion, or \$5 billion industry TEACO retention
21 level specified in sub-subparagraph (d)4.a. as selected by the
22 TEACO insurer.

23 (f) TEACO reimbursement premiums.--

24 1. Each TEACO insurer shall pay to the fund, in the
25 manner and at the time provided in the reimbursement contract
26 for payment of reimbursement premiums, a TEACO reimbursement
27 premium calculated as specified in this paragraph.

28 2. ~~The TEACO reimbursement premiums shall be~~
29 ~~calculated based on the assumption that, if all insurers~~
30 ~~entering into reimbursement contracts under subsection (4)~~
31 ~~also accepted the TEACO option:~~

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1 ~~a.~~ The insurer's industry TEACO reimbursement premium
 2 associated with the \$3 billion retention option shall ~~would~~ be
 3 equal to 85 percent of a TEACO insurer's maximum reimbursement
 4 for a single event as calculated under subparagraph (e)6. ~~the~~
 5 ~~difference between the industry retention level calculated~~
 6 ~~under paragraph (2)(e) and the \$3 billion industry TEACO~~
 7 ~~retention level.~~

8 ~~b.~~ The TEACO reimbursement premium associated with the
 9 \$4 billion retention option shall ~~would~~ be equal to 80 percent
 10 of a TEACO insurer's maximum reimbursement for a single event
 11 as calculated under subparagraph (e)6. ~~the difference between~~
 12 ~~the industry retention level calculated under paragraph (2)(e)~~
 13 ~~and the \$4 billion industry TEACO retention level.~~

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

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

23 (g) Effect on claims-paying capacity of the fund.--For
 24 the contract term commencing June 1, 2007, the contract year
 25 commencing June 1, 2008, and the contract term beginning June
 26 1, 2009, the program created by this subsection shall increase
 27 the claims-paying capacity of the fund as provided in
 28 subparagraph (4)(c)1. by an amount equal to two times the
 29 difference between the industry retention level calculated
 30 under paragraph (2)(e) and the \$3 billion industry TEACO
 31 retention level specified in sub-subparagraph (d)4.a. The

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1 additional capacity shall apply only to the additional
2 coverage provided by the TEACO option and shall not otherwise
3 affect any insurer's reimbursement from the fund.

4 Section 3. Paragraphs (b), (c), and (g) of subsection
5 (2) of section 215.5595, Florida Statutes, as amended by
6 chapter 2007-1, Laws of Florida, are amended, and paragraph
7 (j) of that subsection is added, to read:

8 215.5595 Insurance Capital Build-Up Incentive
9 Program.--

10 (2) The purpose of this section is to provide surplus
11 notes to new or existing authorized residential property
12 insurers under the Insurance Capital Build-Up Incentive
13 Program administered by the State Board of Administration,
14 under the following conditions:

15 (b) The insurer must contribute an amount of new
16 capital to its surplus which is at least equal to the amount
17 of the surplus note and must apply to the board by July 1,
18 2006. If an insurer applies after July 1, 2006, but before
19 June 1, 2007, the amount of the surplus note is limited to
20 one-half of the new capital that the insurer contributes to
21 its surplus, except for an insurer writing only manufactured
22 housing policies or a domestic mutual insurer, for which the
23 amount of the surplus note is equal to the amount of the new
24 capital that the insurer contributes to its surplus. For
25 purposes of this section, new capital must be in the form of
26 cash or cash equivalents as specified in s. 625.012(1).

27 (c) The insurer's surplus, new capital, and the
28 surplus note must total at least \$50 million, except for
29 insurers writing residential property insurance covering only
30 manufactured housing or a domestic mutual insurer. The
31 insurer's surplus, new capital, and the surplus note must

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1 total at least \$14 million for insurers writing only
 2 residential property insurance covering manufactured housing
 3 policies as provided in paragraph (a). The surplus, new
 4 capital, and the surplus note for a domestic mutual insurer
 5 must total at least \$25 million.

6 (g) The total amount of funds available for the
 7 program is limited to the amount appropriated by the
 8 Legislature for this purpose. If the amount of surplus notes
 9 requested by insurers exceeds the amount of funds available,
 10 the board may prioritize insurers that are eligible and
 11 approved, with priority for funding given to insurers writing
 12 only manufactured housing policies, regardless of the date of
 13 application, based on the financial strength of the insurer,
 14 the viability of its proposed business plan for writing
 15 additional residential property insurance in the state, and
 16 the effect on competition in the residential property
 17 insurance market. Between insurers writing residential
 18 property insurance covering manufactured housing, priority
 19 shall be given to the insurer writing the highest percentage
 20 of its policies covering manufactured housing.

21 (j) As used in this section, "an insurer writing only
 22 manufactured housing policies" also includes:

- 23 1. A Florida domiciled insurer that begins writing
 24 personal lines residential manufactured housing policies in
 25 Florida after March 1, 2007, and which removes a minimum of
 26 50,000 policies from Citizens Property Insurance Corporation
 27 without accepting a bonus, and if at least 25 percent of its
 28 policies cover manufactured housing. Such an insurer may count
 29 any funds above the minimum capital and surplus requirement
 30 that were contributed into the insurer after March 1, 2007, as
 31 new capital under this section.

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1 2. A Florida domiciled insurer that writes at least 40
2 percent of its policies covering manufactured housing in
3 Florida.

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

7 624.407 Capital funds required; new insurers.--

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

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

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

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

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

24
25 however, a domestic insurer that transacts residential
26 property insurance and is a wholly owned subsidiary of an
27 insurer domiciled ~~authorized to do business~~ in any other state
28 shall possess surplus as to policyholders of at least \$50
29 million, but no insurer shall be required under this
30 subsection to have surplus as to policyholders greater than
31 \$100 million.

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1 Section 5. Paragraph (f) of subsection (3) of section
2 626.2815, Florida Statutes, as amended by chapter 2007-1, Laws
3 of Florida, is amended to read:

4 626.2815 Continuing education required; application;
5 exceptions; requirements; penalties.--

6 (3)

7 (f) Compliance with continuing education requirements
8 is a condition precedent to the issuance, continuation,
9 reinstatement, or renewal of any appointment subject to this
10 section. An insurance licensee taking a continuing education
11 course, regardless of whether it is a classroom, online, or
12 home study course, may take the required final examination in
13 a proctored location, via the online provider, or by open book
14 if the course offered meets all requirements for continuing
15 education.

16 Section 6. Subsection (4) of section 626.914, Florida
17 Statutes, is amended to read:

18 626.914 Definitions.--As used in this Surplus Lines
19 Law, the term:

20 (4) "Diligent effort" means seeking coverage from and
21 having been rejected by at least three authorized insurers
22 currently writing this type of coverage and documenting these
23 rejections. However, in the event that the residential
24 structure has a dwelling replacement cost of \$1 million or
25 more, "diligent effort" means seeking coverage from and having
26 been rejected by at least one authorized insurer currently
27 writing this type of coverage and documenting this rejection.

28 Section 7. Paragraph (e) is added to subsection (1) of
29 section 626.916, Florida Statutes, to read:

30 626.916 Eligibility for export.--

31 (1) No insurance coverage shall be eligible for export

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1 unless it meets all of the following conditions:

2 (e) For personal residential property risks, the
3 retail or producing agent must advise the insured in writing
4 that coverage may be available and may be less expensive from
5 Citizens Property Insurance Corporation. The notice must
6 include other information that states that Citizens'
7 assessments are higher and the coverage provided by Citizens
8 may be less than the property's existing coverage. If the
9 notice is signed by the insured, it is presumed that the
10 insured has been informed and knows that policies from
11 Citizens Property Insurance Corporation may be less expensive,
12 may provide less coverage, and will be accompanied by higher
13 assessments.

14 Section 8. Subsection (2) of section 626.9201, Florida
15 Statutes, is amended to read:

16 626.9201 Notice of cancellation or nonrenewal.--

17 (2) An insurer issuing a policy providing coverage for
18 property, casualty, surety, or marine insurance shall give the
19 named insured written notice of cancellation or termination
20 other than nonrenewal at least 45 days prior to the effective
21 date of the cancellation or termination, including in the
22 written notice the reason or reasons for the cancellation or
23 termination, except that:

24 (a) When cancellation is for nonpayment of premium, at
25 least 10 days' written notice of cancellation accompanied by
26 the reason therefor shall be given. As used in this paragraph,
27 the term "nonpayment of premium" means failure of the named
28 insured to discharge when due any of his or her obligations in
29 connection with the payment of premiums on a policy or any
30 installment of such premium, whether the premium is payable
31 directly to the insurer or its agent or indirectly under any

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1 premium finance plan or extension of credit, or failure to
2 maintain membership in an organization if such membership is a
3 condition precedent to insurance coverage. The term
4 "nonpayment of premium" also means the failure of a financial
5 institution to honor an insurance applicant's check after
6 delivery to a licensed agent for payment of a premium, even if
7 the agent has previously delivered or transferred the premium
8 to the insurer. If a correctly dishonored check represents the
9 initial premium payment, the contract and all contractual
10 obligations shall be void ab initio unless the nonpayment is
11 cured within the earlier of 5 days after actual notice by
12 certified mail is received by the applicant or 15 days after
13 notice is sent to the applicant by certified mail or
14 registered mail, and, if the contract is void, any premium
15 received by the insurer from a third party shall be refunded
16 to that party in full; and

17 (b) When such cancellation or termination occurs
18 during the first 90 days during which the insurance is in
19 force and the insurance is canceled or terminated for reasons
20 other than nonpayment, at least 20 days' written notice of
21 cancellation or termination accompanied by the reason therefor
22 shall be given except where there has been a material
23 misstatement or misrepresentation or failure to comply with
24 the underwriting requirements established by the insurer.

25 Section 9. Paragraph (i) of subsection (1) of section
26 626.9541, Florida Statutes, is amended to read:

27 626.9541 Unfair methods of competition and unfair or
28 deceptive acts or practices defined.--

29 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
30 DECEPTIVE ACTS.--The following are defined as unfair methods
31 of competition and unfair or deceptive acts or practices:

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1 (i) Unfair claim settlement practices.--

2 1. Attempting to settle claims on the basis of an
3 application, when serving as a binder or intended to become a
4 part of the policy, or any other material document which was
5 altered without notice to, or knowledge or consent of, the
6 insured;

7 2. A material misrepresentation made to an insured or
8 any other person having an interest in the proceeds payable
9 under such contract or policy, for the purpose and with the
10 intent of effecting settlement of such claims, loss, or damage
11 under such contract or policy on less favorable terms than
12 those provided in, and contemplated by, such contract or
13 policy; ~~or~~

14 3. A violation of s. 627.70131(5), if the insurer's
15 handling of the claim is found to be dishonest or in reckless
16 disregard for the rights of any insured;

17 4. Failing to pay undisputed amounts of partial or
18 full benefits under first-party property insurance policies
19 within 30 days after determining the amounts of partial or
20 full benefits and agreeing to coverage; or

21 ~~5.3-~~ Committing or performing with such frequency as
22 to indicate a general business practice any of the following:

23 a. Failing to adopt and implement standards for the
24 proper investigation of claims;

25 b. Misrepresenting pertinent facts or insurance policy
26 provisions relating to coverages at issue;

27 c. Failing to acknowledge and act promptly upon
28 communications with respect to claims;

29 d. Denying claims without conducting reasonable
30 investigations based upon available information;

31 e. Failing to affirm or deny full or partial coverage

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1 of claims, and, as to partial coverage, the dollar amount or
2 extent of coverage, or failing to provide a written statement
3 that the claim is being investigated, upon the written request
4 of the insured within 30 days after proof-of-loss statements
5 have been completed;

6 f. Failing to promptly provide a reasonable
7 explanation in writing to the insured of the basis in the
8 insurance policy, in relation to the facts or applicable law,
9 for denial of a claim or for the offer of a compromise
10 settlement;

11 g. Failing to promptly notify the insured of any
12 additional information necessary for the processing of a
13 claim; or

14 h. Failing to clearly explain the nature of the
15 requested information and the reasons why such information is
16 necessary.

17 Section 10. Subsection (4) of section 627.0613,
18 Florida Statutes, as amended by chapter 2007-1, Laws of
19 Florida, is amended to read:

20 627.0613 Consumer advocate.--The Chief Financial
21 Officer must appoint a consumer advocate who must represent
22 the general public of the state before the department and the
23 office. The consumer advocate must report directly to the
24 Chief Financial Officer, but is not otherwise under the
25 authority of the department or of any employee of the
26 department. The consumer advocate has such powers as are
27 necessary to carry out the duties of the office of consumer
28 advocate, including, but not limited to, the powers to:

29 (4) Prepare an annual report card for each authorized
30 personal residential property insurer, on a form and using a
31 letter-grade scale developed by the commission by rule, which

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1 grades each insurer based on the following factors:

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

4 (b) The disposition of all complaints received by the
5 department.

6 (c) The average length of time for payment of claims
7 by the insurer.

8 (d) Any other factors the commission identifies as
9 assisting policyholders in making informed choices about
10 homeowner's insurance.

11 Section 11. Paragraph (a) of subsection (2) of section
12 627.062, Florida Statutes, as amended by chapter 2007-1, Laws
13 of Florida, is amended, and subsection (10) is added to that
14 section, to read:

15 627.062 Rate standards.--

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

17 (a) Insurers or rating organizations shall establish
18 and use rates, rating schedules, or rating manuals to allow
19 the insurer a reasonable rate of return on such classes of
20 insurance written in this state. A copy of rates, rating
21 schedules, rating manuals, premium credits or discount
22 schedules, and surcharge schedules, and changes thereto, shall
23 be filed with the office under one of the following procedures
24 except as provided in subparagraph 3.:

25 1. If the filing is made at least 90 days before the
26 proposed effective date and the filing is not implemented
27 during the office's review of the filing and any proceeding
28 and judicial review, then such filing shall be considered a
29 "file and use" filing. In such case, the office shall finalize
30 its review by issuance of a notice of intent to approve or a
31 notice of intent to disapprove within 90 days after receipt of

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1 the filing. The notice of intent to approve and the notice of
 2 intent to disapprove constitute agency action for purposes of
 3 the Administrative Procedure Act. Requests for supporting
 4 information, requests for mathematical or mechanical
 5 corrections, or notification to the insurer by the office of
 6 its preliminary findings shall not toll the 90-day period
 7 during any such proceedings and subsequent judicial review.
 8 The rate shall be deemed approved if the office does not issue
 9 a notice of intent to approve or a notice of intent to
 10 disapprove within 90 days after receipt of the filing.

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

19 3. For all filings made or submitted on or after
 20 January 25, 2007, but on or before December 31, 2008, an
 21 insurer seeking a rate that is greater than the rate most
 22 recently approved by the office shall make a "file and use"
 23 filing. This subparagraph applies to property insurance only.
 24 For purposes of this subparagraph, automobile collision and
 25 comprehensive coverages are not considered to be property
 26 coverages.

27
 28 The provisions of this subsection shall not apply to workers'
 29 compensation and employer's liability insurance and to motor
 30 vehicle insurance.

31 (10) Any interest paid pursuant to s. 627.70131(5) may

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1 not be included in the insurer's rate base and may not be used
2 to justify a rate or rate change.

3 Section 12. Section 627.0655, Florida Statutes, as
4 created by chapter 2007-1, Laws of Florida, is amended, to
5 read:

6 627.0655 Policyholder loss or expense-related premium
7 discounts.--An insurer or person authorized to engage in the
8 business of insurance in this state may include, in the
9 premium charged an insured for any policy, contract, or
10 certificate of insurance, a discount based on the fact that
11 another policy, contract, or certificate of any type has been
12 purchased by the insured from the same insurer or insurer
13 group.

14 Section 13. Paragraphs (a), (b), (c), (d), (j), (m),
15 (n), (r), and (v) of subsection (6) of section 627.351,
16 Florida Statutes, as amended by chapter 2007-1, Laws of
17 Florida, are amended, and paragraph (ff) is added to that
18 subsection, to read:

19 627.351 Insurance risk apportionment plans.--

20 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

21 (a)1. It is the public purpose of this subsection to
22 ensure the existence of an orderly market for property
23 insurance for Florida's residents and businesses. The
24 Legislature finds that ~~actual and threatened catastrophic~~
25 losses to property in this state from hurricanes have caused
26 insurers ~~are to be~~ unwilling or unable to provide affordable
27 property insurance coverage in this state to the extent sought
28 and needed. The absence of affordable property insurance
29 threatens the public health, safety, and welfare and likewise
30 threatens the economic health of this state. The state
31 therefore has a compelling ~~It is in the~~ public interest and a

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1 public purpose to assist in assuring that property in the
2 state is insured so as to facilitate the remediation,
3 reconstruction, and replacement of damaged or destroyed
4 property in order to reduce or avoid the negative effects
5 otherwise resulting to the public health, safety, and welfare;
6 to the economy of the state; and to the revenues of the state
7 and local governments needed to provide for the public
8 welfare. It is necessary, therefore, to provide affordable
9 property insurance to applicants who are in good faith
10 entitled to procure insurance through the voluntary market but
11 are unable to do so. The Legislature intends by this
12 subsection that property insurance be provided and that it
13 continues to be provided, as long as necessary, through
14 Citizens Property Insurance Corporation, a government entity
15 that is an integral part of the state and that is not a
16 private insurance company. To that end, the corporation shall
17 strive to increase the availability and affordability of
18 property insurance in this state while achieving an entity
19 ~~organized to achieve~~ efficiencies and economies, and while
20 providing service to policyholders, applicants, and agents
21 which that is no less than the quality generally provided in
22 the voluntary market, for ~~all toward~~ the achievement of the
23 foregoing public purposes. Because it is essential for this
24 government entity ~~the corporation~~ to have the maximum
25 financial resources to pay claims following a catastrophic
26 hurricane, it is the intent of the Legislature that Citizens
27 Property Insurance Corporation continues to be an integral
28 part of the state and that the income of the corporation be
29 exempt from federal income taxation and that interest on the
30 debt obligations issued by the corporation be exempt from
31 federal income taxation.

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

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

- 26 a. Property that has been granted a homestead
27 exemption under chapter 196;
- 28 b. Property for which the owner has a current, written
29 lease with a renter for a term of at least 7 months and for
30 which the dwelling is insured by the corporation for \$200,000
31 or less;

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1 c. An owner-occupied mobile home or manufactured home,
 2 as defined in s. 320.01, which is permanently affixed to real
 3 property, is owned by a Florida resident, and has been granted
 4 a homestead exemption under chapter 196 or, if the owner does
 5 not own the real property, the owner certifies that the mobile
 6 home or manufactured home is his or her principal place of
 7 residence;

8 d. Tenant's coverage;

9 e. Commercial lines residential property; or

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

16 4. For the purposes of this subsection, the term
 17 "nonhomestead property" means property that is not homestead
 18 property.

19 5. Effective July 1, 2008, a personal lines
 20 residential structure that has a dwelling replacement cost of
 21 \$1 million or more, or a single condominium unit that has a
 22 combined dwelling and content replacement cost of \$1 million
 23 or more is not eligible for coverage by the corporation. Such
 24 dwellings insured by the corporation on June 30, 2008, may
 25 continue to be covered by the corporation until the end of the
 26 policy term. However, such dwellings that are insured by the
 27 corporation and become ineligible for coverage due to the
 28 provisions of this subparagraph may reapply and obtain
 29 coverage in the high-risk account and be considered
 30 "nonhomestead property" if the property owner provides the
 31 corporation with a sworn affidavit from one or more insurance

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1 agents, on a form provided by the corporation, stating that
 2 the agents have made their best efforts to obtain coverage and
 3 that the property has been rejected for coverage by at least
 4 one authorized insurer and at least three surplus lines
 5 insurers. If such conditions are met, the dwelling may be
 6 insured by the corporation for up to 3 years, after which time
 7 the dwelling is ineligible for coverage. The office shall
 8 approve the method used by the corporation for valuing the
 9 dwelling replacement cost for the purposes of this
 10 subparagraph. If a policyholder is insured by the corporation
 11 prior to being determined to be ineligible pursuant to this
 12 subparagraph and such policyholder files a lawsuit challenging
 13 the determination, the policyholder may remain insured by the
 14 corporation until the conclusion of the litigation.

15 6. For properties constructed on or after January 1,
 16 2009, the corporation may not insure any property located
 17 within 2,500 feet landward of the coastal construction control
 18 line created pursuant to s. 161.053 unless the property meets
 19 the requirements of the code-plus building standards developed
 20 by the Florida Building Commission.

21 7. It is the intent of the Legislature that
 22 policyholders, applicants, and agents of the corporation
 23 receive service and treatment of the highest possible level
 24 but never less than that generally provided in the voluntary
 25 market. It also is intended that the corporation be held to
 26 service standards no less than those applied to insurers in
 27 the voluntary market by the office with respect to
 28 responsiveness, timeliness, customer courtesy, and overall
 29 dealings with policyholders, applicants, or agents of the
 30 corporation.

31 (b)1. All insurers authorized to write one or more

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1 subject lines of business in this state are subject to
 2 assessment by the corporation and, for the purposes of this
 3 subsection, are referred to collectively as "assessable
 4 insurers." Insurers writing one or more subject lines of
 5 business in this state pursuant to part VIII of chapter 626
 6 are not assessable insurers, but insureds who procure one or
 7 more subject lines of business in this state pursuant to part
 8 VIII of chapter 626 are subject to assessment by the
 9 corporation and are referred to collectively as "assessable
 10 insureds." An authorized insurer's assessment liability shall
 11 begin on the first day of the calendar year following the year
 12 in which the insurer was issued a certificate of authority to
 13 transact insurance for subject lines of business in this state
 14 and shall terminate 1 year after the end of the first calendar
 15 year during which the insurer no longer holds a certificate of
 16 authority to transact insurance for subject lines of business
 17 in this state.

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

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

31 (II) A commercial lines account for commercial

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1 residential and commercial nonresidential policies issued by
 2 the corporation or issued by the Residential Property and
 3 Casualty Joint Underwriting Association and renewed by the
 4 corporation that provide coverage for basic property perils on
 5 risks that are not located in areas eligible for coverage in
 6 the Florida Windstorm Underwriting Association as those areas
 7 were defined on January 1, 2002, and for such policies that do
 8 not provide coverage for the peril of wind on risks that are
 9 located in such areas; and

10 (III) A high-risk account for personal residential
 11 policies and commercial residential and commercial
 12 nonresidential property policies issued by the corporation or
 13 transferred to the corporation that provide coverage for the
 14 peril of wind on risks that are located in areas eligible for
 15 coverage in the Florida Windstorm Underwriting Association as
 16 those areas were defined on January 1, 2002. Subject to the
 17 approval of a business plan by the Financial Services
 18 Commission and Legislative Budget Commission as provided in
 19 this sub-sub-subparagraph, but no earlier than March 31, 2007,
 20 the corporation may offer policies that provide multiperil
 21 coverage and the corporation shall continue to offer policies
 22 that provide coverage only for the peril of wind for risks
 23 located in areas eligible for coverage in the high-risk
 24 account. In issuing multiperil coverage, the corporation may
 25 use its approved policy forms and rates for the personal lines
 26 account. An applicant or insured who is eligible to purchase a
 27 multiperil policy from the corporation may purchase a
 28 multiperil policy from an authorized insurer without prejudice
 29 to the applicant's or insured's eligibility to prospectively
 30 purchase a policy that provides coverage only for the peril of
 31 wind from the corporation. An applicant or insured who is

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1 eligible for a corporation policy that provides coverage only
2 for the peril of wind may elect to purchase or retain such
3 policy and also purchase or retain coverage excluding wind
4 from an authorized insurer without prejudice to the
5 applicant's or insured's eligibility to prospectively purchase
6 a policy that provides multiperil coverage from the
7 corporation. It is the goal of the Legislature that there
8 would be an overall average savings of 10 percent or more for
9 a policyholder who currently has a wind-only policy with the
10 corporation, and an ex-wind policy with a voluntary insurer or
11 the corporation, and who then obtains a multiperil policy from
12 the corporation. It is the intent of the Legislature that the
13 offer of multiperil coverage in the high-risk account be made
14 and implemented in a manner that does not adversely affect the
15 tax-exempt status of the corporation or creditworthiness of or
16 security for currently outstanding financing obligations or
17 credit facilities of the high-risk account, the personal lines
18 account, or the commercial lines account. By March 1, 2007,
19 the corporation shall prepare and submit for approval by the
20 Financial Services Commission and Legislative Budget
21 Commission a report detailing the corporation's business plan
22 for issuing multiperil coverage in the high-risk account. The
23 business plan shall be approved or disapproved within 30 days
24 after receipt, as submitted or modified and resubmitted by the
25 corporation. The business plan must include: the impact of
26 such multiperil coverage on the corporation's financial
27 resources, the impact of such multiperil coverage on the
28 corporation's tax-exempt status, the manner in which the
29 corporation plans to implement the processing of applications
30 and policy forms for new and existing policyholders, the
31 impact of such multiperil coverage on the corporation's

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1 ability to deliver customer service at the high level required
 2 by this subsection, the ability of the corporation to process
 3 claims, the ability of the corporation to quote and issue
 4 policies, the impact of such multiperil coverage on the
 5 corporation's agents, the impact of such multiperil coverage
 6 on the corporation's existing policyholders, and the impact of
 7 such multiperil coverage on rates and premium. The high-risk
 8 account must also include quota share primary insurance under
 9 subparagraph (c)2. The area eligible for coverage under the
 10 high-risk account also includes the area within Port
 11 Canaveral, which is bordered on the south by the City of Cape
 12 Canaveral, bordered on the west by the Banana River, and
 13 bordered on the north by Federal Government property.

14 b. The three separate accounts must be maintained as
 15 long as financing obligations entered into by the Florida
 16 Windstorm Underwriting Association or Residential Property and
 17 Casualty Joint Underwriting Association are outstanding, in
 18 accordance with the terms of the corresponding financing
 19 documents. When the financing obligations are no longer
 20 outstanding, in accordance with the terms of the corresponding
 21 financing documents, the corporation may use a single account
 22 for all revenues, assets, liabilities, losses, and expenses of
 23 the corporation. Consistent with the requirement of this
 24 subparagraph and prudent investment policies that minimize the
 25 cost of carrying debt, the board shall exercise its best
 26 efforts to retire existing debt or to obtain approval of
 27 necessary parties to amend the terms of existing debt, so as
 28 to structure the most efficient plan to consolidate the three
 29 separate accounts into a single account. By February 1, 2007,
 30 the board shall submit a report to the Financial Services
 31 Commission, the President of the Senate, and the Speaker of

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1 the House of Representatives which includes an analysis of
2 consolidating the accounts, the actions the board has taken to
3 minimize the cost of carrying debt, and its recommendations
4 for executing the most efficient plan.

5 c. Creditors of the Residential Property and Casualty
6 Joint Underwriting Association and of the accounts referenced
7 in sub-sub-subparagraph a.(I) and (II) may ~~shall~~ have a claim
8 against, and recourse to, the accounts referred to in
9 sub-sub-subparagraphs a.(I) and (II) and shall have no claim
10 against, or recourse to, the account referred to in
11 sub-sub-subparagraph a.(III). Creditors of the Florida
12 Windstorm Underwriting Association shall have a claim against,
13 and recourse to, the account referred to in
14 sub-sub-subparagraph a.(III) and shall have no claim against,
15 or recourse to, the accounts referred to in
16 sub-sub-subparagraphs a.(I) and (II).

17 d. Revenues, assets, liabilities, losses, and expenses
18 not attributable to particular accounts shall be prorated
19 among the accounts.

20 e. The Legislature finds that the revenues of the
21 corporation are revenues that are necessary to meet the
22 requirements set forth in documents authorizing the issuance
23 of bonds under this subsection.

24 f. No part of the income of the corporation may inure
25 to the benefit of any private person.

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

27 a. When the deficit incurred in a particular calendar
28 year is not greater than 10 percent of the aggregate statewide
29 direct written premium for the subject lines of business for
30 the prior calendar year, the entire deficit shall be recovered
31 through regular assessments of assessable insurers under

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1 paragraph (p) and assessable insureds.

2 b. When the deficit incurred in a particular calendar
3 year exceeds 10 percent of the aggregate statewide direct
4 written premium for the subject lines of business for the
5 prior calendar year, the corporation shall levy regular
6 assessments on assessable insurers under paragraph (p) and on
7 assessable insureds in an amount equal to the greater of 10
8 percent of the deficit or 10 percent of the aggregate
9 statewide direct written premium for the subject lines of
10 business for the prior calendar year. Any remaining deficit
11 shall be recovered through emergency assessments under
12 sub-subparagraph d.

13 c. Each assessable insurer's share of the amount being
14 assessed under sub-subparagraph a. or sub-subparagraph b.
15 shall be in the proportion that the assessable insurer's
16 direct written premium for the subject lines of business for
17 the year preceding the assessment bears to the aggregate
18 statewide direct written premium for the subject lines of
19 business for that year. The assessment percentage applicable
20 to each assessable insured is the ratio of the amount being
21 assessed under sub-subparagraph a. or sub-subparagraph b. to
22 the aggregate statewide direct written premium for the subject
23 lines of business for the prior year. Assessments levied by
24 the corporation on assessable insurers under sub-subparagraphs
25 a. and b. shall be paid as required by the corporation's plan
26 of operation and paragraph (p). Notwithstanding any other
27 provision of this subsection, the aggregate amount of a
28 regular assessment for a deficit incurred in a particular
29 calendar year shall be reduced by the estimated amount to be
30 received by the corporation from the Citizens policyholder
31 surcharge under subparagraph (c)11. and the amount collected

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1 or estimated to be collected from the assessment on Citizens
 2 policyholders pursuant to sub-subparagraph i. Assessments
 3 levied by the corporation on assessable insureds under
 4 sub-subparagraphs a. and b. shall be collected by the surplus
 5 lines agent at the time the surplus lines agent collects the
 6 surplus lines tax required by s. 626.932 and shall be paid to
 7 the Florida Surplus Lines Service Office at the time the
 8 surplus lines agent pays the surplus lines tax to the Florida
 9 Surplus Lines Service Office. Upon receipt of regular
 10 assessments from surplus lines agents, the Florida Surplus
 11 Lines Service Office shall transfer the assessments directly
 12 to the corporation as determined by the corporation.

13 d. Upon a determination by the board of governors that
 14 a deficit in an account exceeds the amount that will be
 15 recovered through regular assessments under sub-subparagraph
 16 a. or sub-subparagraph b., the board shall levy, after
 17 verification by the office, emergency assessments, for as many
 18 years as necessary to cover the deficits, to be collected by
 19 assessable insurers and the corporation and collected from
 20 assessable insureds upon issuance or renewal of policies for
 21 subject lines of business, excluding National Flood Insurance
 22 policies. The amount of the emergency assessment collected in
 23 a particular year shall be a uniform percentage of that year's
 24 direct written premium for subject lines of business and all
 25 accounts of the corporation, excluding National Flood
 26 Insurance Program policy premiums, as annually determined by
 27 the board and verified by the office. The office shall verify
 28 the arithmetic calculations involved in the board's
 29 determination within 30 days after receipt of the information
 30 on which the determination was based. Notwithstanding any
 31 other provision of law, the corporation and each assessable

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1 insurer that writes subject lines of business shall collect
2 emergency assessments from its policyholders without such
3 obligation being affected by any credit, limitation,
4 exemption, or deferment. Emergency assessments levied by the
5 corporation on assessable insureds shall be collected by the
6 surplus lines agent at the time the surplus lines agent
7 collects the surplus lines tax required by s. 626.932 and
8 shall be paid to the Florida Surplus Lines Service Office at
9 the time the surplus lines agent pays the surplus lines tax to
10 the Florida Surplus Lines Service Office. The emergency
11 assessments so collected shall be transferred directly to the
12 corporation on a periodic basis as determined by the
13 corporation and shall be held by the corporation solely in the
14 applicable account. The aggregate amount of emergency
15 assessments levied for an account under this sub-subparagraph
16 in any calendar year may not exceed the greater of 10 percent
17 of the amount needed to cover the original deficit, plus
18 interest, fees, commissions, required reserves, and other
19 costs associated with financing of the original deficit, or 10
20 percent of the aggregate statewide direct written premium for
21 subject lines of business and for all accounts of the
22 corporation for the prior year, plus interest, fees,
23 commissions, required reserves, and other costs associated
24 with financing the original deficit.

25 e. The corporation may pledge the proceeds of
26 assessments, projected recoveries from the Florida Hurricane
27 Catastrophe Fund, other insurance and reinsurance
28 recoverables, policyholder surcharges and other surcharges,
29 and other funds available to the corporation as the source of
30 revenue for and to secure bonds issued under paragraph (p),
31 bonds or other indebtedness issued under subparagraph (c)3.,

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1 or lines of credit or other financing mechanisms issued or
2 created under this subsection, or to retire any other debt
3 incurred as a result of deficits or events giving rise to
4 deficits, or in any other way that the board determines will
5 efficiently recover such deficits. The purpose of the lines of
6 credit or other financing mechanisms is to provide additional
7 resources to assist the corporation in covering claims and
8 expenses attributable to a catastrophe. As used in this
9 subsection, the term "assessments" includes regular
10 assessments under sub-subparagraph a., sub-subparagraph b., or
11 subparagraph (p)1. and emergency assessments under
12 sub-subparagraph d. Emergency assessments collected under
13 sub-subparagraph d. are not part of an insurer's rates, are
14 not premium, and are not subject to premium tax, fees, or
15 commissions; however, failure to pay the emergency assessment
16 shall be treated as failure to pay premium. The emergency
17 assessments under sub-subparagraph d. shall continue as long
18 as any bonds issued or other indebtedness incurred with
19 respect to a deficit for which the assessment was imposed
20 remain outstanding, unless adequate provision has been made
21 for the payment of such bonds or other indebtedness pursuant
22 to the documents governing such bonds or other indebtedness.

23 f. As used in this subsection for purposes of any
24 deficit incurred on or after January 25, 2007, the term
25 "subject lines of business" means insurance written by
26 assessable insurers or procured by assessable insureds for all
27 property and casualty lines of business in this state, but not
28 including workers' compensation or medical malpractice. As
29 used in the sub-subparagraph, the term "property and casualty
30 lines of business" includes all lines of business identified
31 on Form 2, Exhibit of Premiums and Losses, in the annual

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1 statement required of authorized insurers by s. 624.424 and
 2 any rule adopted under this section, except for those lines
 3 identified as accident and health insurance and except for
 4 policies written under the National Flood Insurance Program or
 5 the Federal Crop Insurance Program. For purposes of this
 6 sub-subparagraph, the term "workers' compensation" includes
 7 both workers' compensation insurance and excess workers'
 8 compensation insurance.

9 g. The Florida Surplus Lines Service Office shall
 10 determine annually the aggregate statewide written premium in
 11 subject lines of business procured by assessable insureds and
 12 shall report that information to the corporation in a form and
 13 at a time the corporation specifies to ensure that the
 14 corporation can meet the requirements of this subsection and
 15 the corporation's financing obligations.

16 h. The Florida Surplus Lines Service Office shall
 17 verify the proper application by surplus lines agents of
 18 assessment percentages for regular assessments and emergency
 19 assessments levied under this subparagraph on assessable
 20 insureds and shall assist the corporation in ensuring the
 21 accurate, timely collection and payment of assessments by
 22 surplus lines agents as required by the corporation.

23 i. If a deficit is incurred in any account in 2008 or
 24 thereafter, the board of governors shall levy an immediate
 25 assessment against the premium of each nonhomestead property
 26 policyholder in all accounts of the corporation, as a uniform
 27 percentage of the premium of the policy of up to 10 percent of
 28 such premium, which funds shall be used to offset the deficit.
 29 If this assessment is insufficient to eliminate the deficit,
 30 the board of governors shall levy an additional assessment
 31 against all policyholders of the corporation, which shall be

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1 collected at the time of issuance or renewal of a policy, as a
2 uniform percentage of the premium for the policy of up to 10
3 percent of such premium, which funds shall be used to further
4 offset the deficit.

5 j. The board of governors shall maintain separate
6 accounting records that consolidate data for nonhomestead
7 properties, including, but not limited to, number of policies,
8 insured values, premiums written, and losses. The board of
9 governors shall annually report to the office and the
10 Legislature a summary of such data.

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

12 1. Must provide for adoption of residential property
13 and casualty insurance policy forms and commercial residential
14 and nonresidential property insurance forms, which forms must
15 be approved by the office prior to use. The corporation shall
16 adopt the following policy forms:

17 a. Standard personal lines policy forms that are
18 comprehensive multiperil policies providing full coverage of a
19 residential property equivalent to the coverage provided in
20 the private insurance market under an HO-3, HO-4, or HO-6
21 policy.

22 b. Basic personal lines policy forms that are policies
23 similar to an HO-8 policy or a dwelling fire policy that
24 provide coverage meeting the requirements of the secondary
25 mortgage market, but which coverage is more limited than the
26 coverage under a standard policy.

27 c. Commercial lines residential and nonresidential
28 policy forms that are generally similar to the basic perils of
29 full coverage obtainable for commercial residential structures
30 and commercial nonresidential structures in the admitted
31 voluntary market.

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

6 e. Commercial lines nonresidential property insurance
 7 forms that cover the peril of wind only. The forms are
 8 applicable only to nonresidential properties located in areas
 9 eligible for coverage under the high-risk account referred to
 10 in sub-subparagraph (b)2.a.

11 f. The corporation may adopt variations of the policy
 12 forms listed in sub-subparagraphs a.-e. that contain more
 13 restrictive coverage.

14 2.a. Must provide that the corporation adopt a program
 15 in which the corporation and authorized insurers enter into
 16 quota share primary insurance agreements for hurricane
 17 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
 18 and adopt property insurance forms for eligible risks which
 19 cover the peril of wind only. As used in this subsection, the
 20 term:

21 (I) "Quota share primary insurance" means an
 22 arrangement in which the primary hurricane coverage of an
 23 eligible risk is provided in specified percentages by the
 24 corporation and an authorized insurer. The corporation and
 25 authorized insurer are each solely responsible for a specified
 26 percentage of hurricane coverage of an eligible risk as set
 27 forth in a quota share primary insurance agreement between the
 28 corporation and an authorized insurer and the insurance
 29 contract. The responsibility of the corporation or authorized
 30 insurer to pay its specified percentage of hurricane losses of
 31 an eligible risk, as set forth in the quota share primary

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1 insurance agreement, may not be altered by the inability of
 2 the other party to the agreement to pay its specified
 3 percentage of hurricane losses. Eligible risks that are
 4 provided hurricane coverage through a quota share primary
 5 insurance arrangement must be provided policy forms that set
 6 forth the obligations of the corporation and authorized
 7 insurer under the arrangement, clearly specify the percentages
 8 of quota share primary insurance provided by the corporation
 9 and authorized insurer, and conspicuously and clearly state
 10 that neither the authorized insurer nor the corporation may be
 11 held responsible beyond its specified percentage of coverage
 12 of hurricane losses.

13 (II) "Eligible risks" means personal lines residential
 14 and commercial lines residential risks that meet the
 15 underwriting criteria of the corporation and are located in
 16 areas that were eligible for coverage by the Florida Windstorm
 17 Underwriting Association on January 1, 2002.

18 b. The corporation may enter into quota share primary
 19 insurance agreements with authorized insurers at corporation
 20 coverage levels of 90 percent and 50 percent.

21 c. If the corporation determines that additional
 22 coverage levels are necessary to maximize participation in
 23 quota share primary insurance agreements by authorized
 24 insurers, the corporation may establish additional coverage
 25 levels. However, the corporation's quota share primary
 26 insurance coverage level may not exceed 90 percent.

27 d. Any quota share primary insurance agreement entered
 28 into between an authorized insurer and the corporation must
 29 provide for a uniform specified percentage of coverage of
 30 hurricane losses, by county or territory as set forth by the
 31 corporation board, for all eligible risks of the authorized

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1 insurer covered under the quota share primary insurance
2 agreement.

3 e. Any quota share primary insurance agreement entered
4 into between an authorized insurer and the corporation is
5 subject to review and approval by the office. However, such
6 agreement shall be authorized only as to insurance contracts
7 entered into between an authorized insurer and an insured who
8 is already insured by the corporation for wind coverage.

9 f. For all eligible risks covered under quota share
10 primary insurance agreements, the exposure and coverage levels
11 for both the corporation and authorized insurers shall be
12 reported by the corporation to the Florida Hurricane
13 Catastrophe Fund. For all policies of eligible risks covered
14 under quota share primary insurance agreements, the
15 corporation and the authorized insurer shall maintain complete
16 and accurate records for the purpose of exposure and loss
17 reimbursement audits as required by Florida Hurricane
18 Catastrophe Fund rules. The corporation and the authorized
19 insurer shall each maintain duplicate copies of policy
20 declaration pages and supporting claims documents.

21 g. The corporation board shall establish in its plan
22 of operation standards for quota share agreements which ensure
23 that there is no discriminatory application among insurers as
24 to the terms of quota share agreements, pricing of quota share
25 agreements, incentive provisions if any, and consideration
26 paid for servicing policies or adjusting claims.

27 h. The quota share primary insurance agreement between
28 the corporation and an authorized insurer must set forth the
29 specific terms under which coverage is provided, including,
30 but not limited to, the sale and servicing of policies issued
31 under the agreement by the insurance agent of the authorized

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1 insurer producing the business, the reporting of information
 2 concerning eligible risks, the payment of premium to the
 3 corporation, and arrangements for the adjustment and payment
 4 of hurricane claims incurred on eligible risks by the claims
 5 adjuster and personnel of the authorized insurer. Entering
 6 into a quota sharing insurance agreement between the
 7 corporation and an authorized insurer shall be voluntary and
 8 at the discretion of the authorized insurer.

9 3. May provide that the corporation may employ or
 10 otherwise contract with individuals or other entities to
 11 provide administrative or professional services that may be
 12 appropriate to effectuate the plan. The corporation shall have
 13 the power to borrow funds, by issuing bonds or by incurring
 14 other indebtedness, and shall have other powers reasonably
 15 necessary to effectuate the requirements of this subsection,
 16 including, without limitation, the power to issue bonds and
 17 incur other indebtedness in order to refinance outstanding
 18 bonds or other indebtedness. The corporation may, but is not
 19 required to, seek judicial validation of its bonds or other
 20 indebtedness under chapter 75. The corporation may issue bonds
 21 or incur other indebtedness, or have bonds issued on its
 22 behalf by a unit of local government pursuant to subparagraph
 23 (g)2., in the absence of a hurricane or other weather-related
 24 event, upon a determination by the corporation, subject to
 25 approval by the office, that such action would enable it to
 26 efficiently meet the financial obligations of the corporation
 27 and that such financings are reasonably necessary to
 28 effectuate the requirements of this subsection. The
 29 corporation is authorized to take all actions needed to
 30 facilitate tax-free status for any such bonds or indebtedness,
 31 including formation of trusts or other affiliated entities.

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1 The corporation shall have the authority to pledge
2 assessments, projected recoveries from the Florida Hurricane
3 Catastrophe Fund, other reinsurance recoverables, market
4 equalization and other surcharges, and other funds available
5 to the corporation as security for bonds or other
6 indebtedness. In recognition of s. 10, Art. I of the State
7 Constitution, prohibiting the impairment of obligations of
8 contracts, it is the intent of the Legislature that no action
9 be taken whose purpose is to impair any bond indenture or
10 financing agreement or any revenue source committed by
11 contract to such bond or other indebtedness.

12 4.a. Must require that the corporation operate subject
13 to the supervision and approval of a board of governors
14 consisting of eight individuals who are residents of this
15 state, from different geographical areas of this state. The
16 Governor, the Chief Financial Officer, the President of the
17 Senate, and the Speaker of the House of Representatives shall
18 each appoint two members of the board. At least one of the two
19 members appointed by each appointing officer must have
20 demonstrated expertise in insurance. The Chief Financial
21 Officer shall designate one of the appointees as chair. All
22 board members serve at the pleasure of the appointing officer.
23 All members of the board of governors are subject to removal
24 at will by the officers who appointed them. All board members,
25 including the chair, must be appointed to serve for 3-year
26 terms beginning annually on a date designated by the plan. Any
27 board vacancy shall be filled for the unexpired term by the
28 appointing officer. The Chief Financial Officer shall appoint
29 a technical advisory group to provide information and advice
30 to the board of governors in connection with the board's
31 duties under this subsection. The executive director and

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1 senior managers of the corporation shall be engaged by the
2 board and serve at the pleasure of the board. Any executive
3 director appointed on or after July 1, 2006, is subject to
4 confirmation by the Senate. The executive director is
5 responsible for employing other staff as the corporation may
6 require, subject to review and concurrence by the board.

7 b. The board shall create a Market Accountability
8 Advisory Committee to assist the corporation in developing
9 awareness of its rates and its customer and agent service
10 levels in relationship to the voluntary market insurers
11 writing similar coverage. The members of the advisory
12 committee shall consist of the following 11 persons, one of
13 whom must be elected chair by the members of the committee:
14 four representatives, one appointed by the Florida Association
15 of Insurance Agents, one by the Florida Association of
16 Insurance and Financial Advisors, one by the Professional
17 Insurance Agents of Florida, and one by the Latin American
18 Association of Insurance Agencies; three representatives
19 appointed by the insurers with the three highest voluntary
20 market share of residential property insurance business in the
21 state; one representative from the Office of Insurance
22 Regulation; one consumer appointed by the board who is insured
23 by the corporation at the time of appointment to the
24 committee; one representative appointed by the Florida
25 Association of Realtors; and one representative appointed by
26 the Florida Bankers Association. All members must serve for
27 3-year terms and may serve for consecutive terms. The
28 committee shall report to the corporation at each board
29 meeting on insurance market issues which may include rates and
30 rate competition with the voluntary market; service, including
31 policy issuance, claims processing, and general responsiveness

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1 to policyholders, applicants, and agents; and matters relating
2 to depopulation.

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

5 a. Subject to the provisions of s. 627.3517, with
6 respect to personal lines residential risks, if the risk is
7 offered coverage from an authorized insurer at the insurer's
8 approved rate under either a standard policy including wind
9 coverage or, if consistent with the insurer's underwriting
10 rules as filed with the office, a basic policy including wind
11 coverage, for a new application to the corporation for
12 coverage, the risk is not eligible for any policy issued by
13 the corporation unless the premium for coverage from the
14 authorized insurer is more than 25 percent greater than the
15 premium for comparable coverage from the corporation. If the
16 risk is not able to obtain any such offer, the risk is
17 eligible for either a standard policy including wind coverage
18 or a basic policy including wind coverage issued by the
19 corporation; however, if the risk could not be insured under a
20 standard policy including wind coverage regardless of market
21 conditions, the risk shall be eligible for a basic policy
22 including wind coverage unless rejected under subparagraph 8.
23 However, with regard to a policyholder of the corporation or a
24 policyholder removed from the corporation through an
25 assumption agreement until the end of the assumption period,
26 the policyholder remains eligible for coverage from the
27 corporation regardless of any offer of coverage from an
28 authorized insurer or surplus lines insurer. The corporation
29 shall determine the type of policy to be provided on the basis
30 of objective standards specified in the underwriting manual
31 and based on generally accepted underwriting practices.

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1 (I) If the risk accepts an offer of coverage through
 2 the market assistance plan or an offer of coverage through a
 3 mechanism established by the corporation before a policy is
 4 issued to the risk by the corporation or during the first 30
 5 days of coverage by the corporation, and the producing agent
 6 who submitted the application to the plan or to the
 7 corporation is not currently appointed by the insurer, the
 8 insurer shall:

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

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

19
 20 If the producing agent is unwilling or unable to accept
 21 appointment, the new insurer shall pay the agent in accordance
 22 with sub-sub-sub-subparagraph (A).

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

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

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

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

10 b. With respect to commercial lines residential risks,
 11 for a new application to the corporation for coverage, if the
 12 risk is offered coverage under a policy including wind
 13 coverage from an authorized insurer at its approved rate, the
 14 risk is not eligible for any policy issued by the corporation
 15 unless the premium for coverage from the authorized insurer is
 16 more than 25 percent greater than the premium for comparable
 17 coverage from the corporation. If the risk is not able to
 18 obtain any such offer, the risk is eligible for a policy
 19 including wind coverage issued by the corporation. However,
 20 with regard to a policyholder of the corporation or a
 21 policyholder removed from the corporation through an
 22 assumption agreement until the end of the assumption period,
 23 the policyholder remains eligible for coverage from the
 24 corporation regardless of any offer of coverage from an
 25 authorized insurer or surplus lines insurer.

26 (I) If the risk accepts an offer of coverage through
 27 the market assistance plan or an offer of coverage through a
 28 mechanism established by the corporation before a policy is
 29 issued to the risk by the corporation or during the first 30
 30 days of coverage by the corporation, and the producing agent
 31 who submitted the application to the plan or the corporation

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1 is not currently appointed by the insurer, the insurer shall:

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

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

12

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

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

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

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

30

31 If the producing agent is unwilling or unable to accept

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1 appointment, the new insurer shall pay the agent in accordance
2 with sub-sub-sub-subparagraph (A).

3 c. For purposes of determining comparable coverage
4 under sub-subparagraphs a. and b., the comparison shall be
5 based on those forms and coverages that are reasonably
6 comparable. The corporation may rely on a determination of
7 comparable coverage and premium made by the producing agent
8 who submits the application to the corporation made in its
9 capacity as the corporation's agent. It is acceptable to make
10 a comparison solely of the premium with respect to the main
11 building or structure only, on the following basis: the same
12 coverage A or other building limits; the same percentage
13 hurricane deductible that applies on an annual basis or that
14 applies to each hurricane for commercial residential property;
15 the same percentage of ordinance and law coverage, if the same
16 limit is offered by both the corporation and the authorized
17 insurer; the same mitigation credits, to the extent the same
18 types of credits are offered both by the corporation and the
19 authorized insurer; the same method for loss payment, such as
20 replacement cost or actual cash value, if the same method is
21 offered both by the corporation and the authorized insurer in
22 accordance with underwriting rules; and any other form or
23 coverage that is reasonably comparable as determined by the
24 board. If an application is submitted to the corporation for
25 wind-only coverage in the high-risk account, the premium for
26 the corporation's wind-only policy plus the premium for the
27 ex-wind policy that is offered by an authorized insurer to the
28 applicant shall be compared to the premium for multi-peril
29 coverage offered by an authorized insurer, subject to the
30 standards for comparison specified in this subparagraph. If
31 the corporation or the applicant requests from the authorized

1 insurer a breakdown of the premium of the offer by types of
 2 coverage so that a comparison may be made by the corporation
 3 or its agent and the authorized insurer refuses or is unable
 4 to provide such information, the corporation may treat the
 5 offer as not being an offer of coverage from an authorized
 6 insurer at the insurer's approved rate.

7 ~~6. Must provide by July 1, 2007, that an application~~
 8 ~~for coverage for a new policy is subject to a waiting period~~
 9 ~~of 10 days before coverage is effective, during which time the~~
 10 ~~corporation shall make such application available for review~~
 11 ~~by general lines agents and authorized property and casualty~~
 12 ~~insurers. The board shall approve an exception that allows for~~
 13 ~~coverage to be effective before the end of the 10-day waiting~~
 14 ~~period, for coverage issued in conjunction with a real estate~~
 15 ~~closing. The board may approve such other exceptions as the~~
 16 ~~board determines are necessary to prevent lapses in coverage.~~

17 ~~6.7. Must include rules for classifications of risks~~
 18 ~~and rates therefor.~~

19 ~~7.8. Must provide that if premium and investment~~
 20 ~~income for an account attributable to a particular calendar~~
 21 ~~year are in excess of projected losses and expenses for the~~
 22 ~~account attributable to that year, such excess shall be held~~
 23 ~~in surplus in the account. Such surplus shall be available to~~
 24 ~~defray deficits in that account as to future years and shall~~
 25 ~~be used for that purpose prior to assessing assessable~~
 26 ~~insurers and assessable insureds as to any calendar year.~~

27 ~~8.9. Must provide objective criteria and procedures to~~
 28 ~~be uniformly applied for all applicants in determining whether~~
 29 ~~an individual risk is so hazardous as to be uninsurable. In~~
 30 ~~making this determination and in establishing the criteria and~~
 31 ~~procedures, the following shall be considered:~~

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1 a. Whether the likelihood of a loss for the individual
2 risk is substantially higher than for other risks of the same
3 class; and

4 b. Whether the uncertainty associated with the
5 individual risk is such that an appropriate premium cannot be
6 determined.

7
8 The acceptance or rejection of a risk by the corporation shall
9 be construed as the private placement of insurance, and the
10 provisions of chapter 120 shall not apply.

11 ~~9.10.~~ Must provide that the corporation shall make its
12 best efforts to procure catastrophe reinsurance at reasonable
13 rates, to cover its projected 100-year probable maximum loss
14 as determined by the board of governors.

15 ~~10.11.~~ Must provide that in the event of regular
16 deficit assessments under sub-subparagraph (b)3.a. or
17 sub-subparagraph (b)3.b., in the personal lines account, the
18 commercial lines residential account, or the high-risk
19 account, the corporation shall levy upon corporation
20 policyholders in its next rate filing, or by a separate rate
21 filing solely for this purpose, a Citizens policyholder
22 surcharge arising from a regular assessment in such account in
23 a percentage equal to the total amount of such regular
24 assessments divided by the aggregate statewide direct written
25 premium for subject lines of business for the prior calendar
26 year. For purposes of calculating the Citizens policyholder
27 surcharge to be levied under this subparagraph, the total
28 amount of the regular assessment to which this surcharge is
29 related shall be determined as set forth in subparagraph
30 (b)3., without deducting the estimated Citizens policyholder
31 surcharge. Citizens policyholder surcharges under this

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1 subparagraph are not considered premium and are not subject to
2 commissions, fees, or premium taxes; however, failure to pay a
3 market equalization surcharge shall be treated as failure to
4 pay premium.

5 ~~11.12.~~ The policies issued by the corporation must
6 provide that, if the corporation or the market assistance plan
7 obtains an offer from an authorized insurer to cover the risk
8 at its approved rates, the risk is no longer eligible for
9 renewal through the corporation, except as otherwise provided
10 in this subsection.

11 ~~12.13.~~ Corporation policies and applications must
12 include a notice that the corporation policy could, under this
13 section, be replaced with a policy issued by an authorized
14 insurer that does not provide coverage identical to the
15 coverage provided by the corporation. The notice shall also
16 specify that acceptance of corporation coverage creates a
17 conclusive presumption that the applicant or policyholder is
18 aware of this potential.

19 ~~13.14.~~ May establish, subject to approval by the
20 office, different eligibility requirements and operational
21 procedures for any line or type of coverage for any specified
22 county or area if the board determines that such changes to
23 the eligibility requirements and operational procedures are
24 justified due to the voluntary market being sufficiently
25 stable and competitive in such area or for such line or type
26 of coverage and that consumers who, in good faith, are unable
27 to obtain insurance through the voluntary market through
28 ordinary methods would continue to have access to coverage
29 from the corporation. When coverage is sought in connection
30 with a real property transfer, such requirements and
31 procedures shall not provide for an effective date of coverage

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1 later than the date of the closing of the transfer as
2 established by the transferor, the transferee, and, if
3 applicable, the lender.

4 ~~14.15.~~ Must provide that, with respect to the
5 high-risk account, any assessable insurer with a surplus as to
6 policyholders of \$25 million or less writing 25 percent or
7 more of its total countrywide property insurance premiums in
8 this state may petition the office, within the first 90 days
9 of each calendar year, to qualify as a limited apportionment
10 company. A regular assessment levied by the corporation on a
11 limited apportionment company for a deficit incurred by the
12 corporation for the high-risk account in 2006 or thereafter
13 may be paid to the corporation on a monthly basis as the
14 assessments are collected by the limited apportionment company
15 from its insureds pursuant to s. 627.3512, but the regular
16 assessment must be paid in full within 12 months after being
17 levied by the corporation. A limited apportionment company
18 shall collect from its policyholders any emergency assessment
19 imposed under sub-subparagraph (b)3.d. The plan shall provide
20 that, if the office determines that any regular assessment
21 will result in an impairment of the surplus of a limited
22 apportionment company, the office may direct that all or part
23 of such assessment be deferred as provided in subparagraph
24 (g)4. However, there shall be no limitation or deferment of an
25 emergency assessment to be collected from policyholders under
26 sub-subparagraph (b)3.d.

27 ~~15.16.~~ Must provide that the corporation appoint as
28 its licensed agents only those agents who also hold an
29 appointment as defined in s. 626.015(3) with an insurer who at
30 the time of the agent's initial appointment by the corporation
31 is authorized to write and is actually writing personal lines

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1 residential property coverage, commercial residential property
2 coverage, or commercial nonresidential property coverage
3 within the state.

4 ~~16.17.~~ Must provide, by July 1, 2007, a premium
5 payment plan option to its policyholders which allows at a
6 minimum for quarterly and semiannual payment of premiums. A
7 monthly payment plan may, but is not required to, be offered.

8 ~~17.18.~~ Must provide, effective June 1, 2007, that the
9 corporation contract with each insurer providing the non-wind
10 coverage for risks insured by the corporation in the high-risk
11 account, requiring that the insurer provide claims adjusting
12 services for the wind coverage provided by the corporation for
13 such risks. An insurer is required to enter into this contract
14 as a condition of providing non-wind coverage for a risk that
15 is insured by the corporation in the high-risk account unless
16 the board approves an exemption for good cause ~~finds, after a~~
17 ~~hearing, that the insurer is not capable of providing~~
18 ~~adjusting services at an acceptable level of quality to~~
19 ~~corporation policyholders.~~ The terms and conditions of such
20 contracts must be substantially the same as the contracts that
21 the corporation executed with insurers under the
22 "adjust-your-own" program in 2006, except as may be mutually
23 agreed to by the parties and except for such changes that the
24 board determines are necessary to ensure that claims are
25 adjusted appropriately. The corporation shall provide a
26 process for neutral arbitration of any dispute between the
27 corporation and the insurer regarding the terms of the
28 contract. The corporation shall review and monitor the
29 performance of insurers under these contracts.

30 ~~18.19.~~ Must limit coverage on mobile homes or
31 manufactured homes built prior to 1994 to actual cash value of

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1 the dwelling rather than replacement costs of the dwelling.

2 ~~19.20.~~ May provide such limits of coverage as the
3 board determines, consistent with the requirements of this
4 subsection.

5 ~~20.21.~~ May require commercial property to meet
6 specified hurricane mitigation construction features as a
7 condition of eligibility for coverage.

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

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

19 3. Senior managers and members of the board of
20 governors are subject to the provisions of ss. 112.313,
21 112.3135, 112,3143, 112.3145, 112.316, and 112.317 which apply
22 to political subdivisions of the state ~~part III of chapter~~
23 ~~112, including, but not limited to, the code of ethics and~~
24 ~~public disclosure and reporting of financial interests,~~
25 ~~pursuant to s. 112.3145. For purposes of the filing~~
26 requirements in s. 112.3145, senior managers and board members
27 are ~~also~~ required to file such disclosures with the Commission
28 on Ethics and the Office of Insurance Regulation. The
29 executive director of the corporation or his or her designee
30 shall notify each newly appointed and existing appointed
31 member of the board of governors and senior managers of their

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1 duty to comply with the reporting requirements of s. 112.3145
2 ~~part III of chapter 112~~. At least quarterly, the executive
3 director or his or her designee shall submit to the Commission
4 on Ethics a list of names of the senior managers and members
5 of the board of governors who are subject to the public
6 disclosure requirements under s. 112.3145. Notwithstanding s.
7 112.313, if a member of the board of governors has been
8 appointed by his or her appointing officer because of
9 demonstrated expertise in insurance, such member may be an
10 employee, officer, owner, or director of an insurance agency
11 or insurance company or other insurance entity that has a
12 contractual relationship with the corporation. Such board
13 member may participate in and vote on a matter if the
14 applicable provisions of s. 112.3143 are met and if the
15 insurance entity would not obtain a special or unique benefit
16 that would not apply to other similar insurance entities that
17 have a contractual relationship with the corporation. For
18 purposes of the applicable sections of chapter 112 cited in
19 this subparagraph, senior managers of the corporation are
20 subject to those provisions applicable to employees of
21 political subdivisions of the state and board members are
22 subject to those provisions applicable to appointed public
23 officers or public officials of political subdivisions of the
24 state and, for purposes of s. 112.3143(2), board members are
25 considered state public officers.

26 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
27 other provision of law, an employee or board member may not
28 knowingly accept, directly or indirectly, any gift or
29 expenditure from a person or entity, or an employee or
30 representative of such person or entity, that has a
31 contractual relationship with the corporation or who is under

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1 consideration for a contract. An employee or board member who
 2 fails to comply with subparagraph 3. or this subparagraph is
 3 subject to penalties provided under s. ~~ss.~~ 112.317 and
 4 ~~112.3173.~~

5 5. Any senior manager of the corporation who is
 6 employed on or after January 1, 2007, regardless of the date
 7 of hire, who subsequently retires or terminates employment is
 8 prohibited from representing another person or entity before
 9 the corporation for 2 years after retirement or termination of
 10 employment from the corporation.

11 6. Any senior manager ~~employee~~ of the corporation who
 12 is employed on or after January 1, 2007, regardless of the
 13 date of hire, who subsequently retires or terminates
 14 employment is prohibited from having any employment or
 15 contractual relationship for 2 years with an insurer that has
 16 ~~received~~ a take-out bonus agreement with ~~from~~ the corporation.

17 (j)1. The corporation shall establish and maintain a
 18 unit or division to investigate possible fraudulent claims by
 19 insureds or by persons making claims for services or repairs
 20 against policies held by insureds; or it may contract with
 21 others to investigate possible fraudulent claims for services
 22 or repairs against policies held by the corporation pursuant
 23 to s. 626.9891. The corporation must comply with reporting
 24 requirements of s. 626.9891. An employee of the corporation
 25 shall notify the Corporation's Office of the Internal Auditor
 26 and the Division of Insurance Fraud within 48 hours after
 27 having information that would lead a reasonable person to
 28 suspect that fraud may have been committed by any employee of
 29 the corporation.

30 2. The corporation shall establish a unit or division
 31 responsible for receiving and responding to consumer

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1 | complaints, which unit or division is the sole responsibility
2 | of a senior manager of the corporation.

3 | (m)1. Rates for coverage provided by the corporation
4 | shall be actuarially sound and subject to the requirements of
5 | s. 627.062, except as otherwise provided in this paragraph.
6 | The corporation shall file its recommended rates with the
7 | office at least annually. The corporation shall provide any
8 | additional information regarding the rates which the office
9 | requires. The office shall consider the recommendations of the
10 | board and issue a final order establishing the rates for the
11 | corporation within 45 days after the recommended rates are
12 | filed. The corporation may not pursue an administrative
13 | challenge or judicial review of the final order of the office.

14 | 2. In addition to the rates otherwise determined
15 | pursuant to this paragraph, the corporation shall impose and
16 | collect an amount equal to the premium tax provided for in s.
17 | 624.509 to augment the financial resources of the corporation.

18 | 3. After the public hurricane loss-projection model
19 | under s. 627.06281 has been found to be accurate and reliable
20 | by the Florida Commission on Hurricane Loss Projection
21 | Methodology, that model shall serve as the minimum benchmark
22 | for determining the windstorm portion of the corporation's
23 | rates. This subparagraph does not require or allow the
24 | corporation to adopt rates lower than the rates otherwise
25 | required or allowed by this paragraph.

26 | 4. The rate filings for the corporation which were
27 | approved by the office and which took effect January 1, 2007,
28 | are rescinded, except for those rates that were lowered. As
29 | soon as possible, the corporation shall begin using the lower
30 | rates that were in effect on December 31, 2006, and shall
31 | provide refunds to policyholders who have paid higher rates as

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1 a result of that rate filing. The rates in effect on December
 2 31, 2006, shall remain in effect through at least December 31,
 3 2007, ~~for the 2007 calendar year~~ except for any rate change
 4 that results in a lower rate. The next rate change that may
 5 increase rates shall be filed with the office by ~~take effect~~
 6 January 1, 2008, ~~pursuant to a new rate filing recommended by~~
 7 ~~the corporation and established by the office,~~ subject to the
 8 requirements of this paragraph.

9 (n) If coverage in an account is deactivated pursuant
 10 to paragraph (f), coverage through the corporation shall be
 11 reactivated by order of the office only under one of the
 12 following circumstances:

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

28 2. In response to a state of emergency declared by the
 29 Governor under s. 252.36, the office may activate coverage by
 30 order for the period of the emergency upon a finding by the
 31 office that the emergency significantly affects the

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1 availability of residential property insurance.

2 (r)1. There shall be no liability on the part of, and
3 no cause of action of any nature shall arise against, any
4 assessable insurer or its agents or employees, the corporation
5 or its agents or employees, members of the board of governors
6 or their respective designees at a board meeting, corporation
7 committee members, or the office or its representatives, for
8 any action taken by them in the performance of their duties or
9 responsibilities under this subsection. Such immunity does not
10 apply to:

11 ~~a.1.~~ Any of the foregoing persons or entities for any
12 willful tort;

13 ~~b.2.~~ The corporation or its producing agents for
14 breach of any contract or agreement pertaining to insurance
15 coverage;

16 ~~c.3.~~ The corporation with respect to issuance or
17 payment of debt; ~~or~~

18 ~~d.4.~~ Any assessable insurer with respect to any action
19 to enforce an assessable insurer's obligations to the
20 corporation under this subsection; ~~or.~~

21 e. The corporation in any pending or future action for
22 breach of contract or for benefits under a policy issued by
23 the corporation; in any such action, the corporation shall be
24 liable to the policyholders and beneficiaries for attorney's
25 fees under s. 627.428.

26 2. The corporation shall manage its claim employees,
27 independent adjusters, and others who handle claims to ensure
28 they carry out the corporation's duty to its policyholders to
29 handle claims carefully, timely, diligently, and in good
30 faith, balanced against the corporation's duty to the state to
31 manage its assets responsibly to minimize its assessment

1 potential.

2 (v) Notwithstanding any other provision of law:

3 1. The pledge or sale of, the lien upon, and the
4 security interest in any rights, revenues, or other assets of
5 the corporation created or purported to be created pursuant to
6 any financing documents to secure any bonds or other
7 indebtedness of the corporation shall be and remain valid and
8 enforceable, notwithstanding the commencement of and during
9 the continuation of, and after, any rehabilitation,
10 insolvency, liquidation, bankruptcy, receivership,
11 conservatorship, reorganization, or similar proceeding against
12 the corporation under the laws of this state.

13 2. No such proceeding shall relieve the corporation of
14 its obligation, or otherwise affect its ability to perform its
15 obligation, to continue to collect, or levy and collect,
16 assessments, market equalization or other surcharges under
17 subparagraph (c)10., or any other rights, revenues, or other
18 assets of the corporation pledged pursuant to any financing
19 documents.

20 3. Each such pledge or sale of, lien upon, and
21 security interest in, including the priority of such pledge,
22 lien, or security interest, any such assessments, market
23 equalization or other surcharges, or other rights, revenues,
24 or other assets which are collected, or levied and collected,
25 after the commencement of and during the pendency of, or
26 after, any such proceeding shall continue unaffected by such
27 proceeding. As used in this subsection, the term "financing
28 documents" means any agreement or agreements, instrument or
29 instruments, or other document or documents now existing or
30 hereafter created evidencing any bonds or other indebtedness
31 of the corporation or pursuant to which any such bonds or

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1 other indebtedness has been or may be issued and pursuant to
 2 which any rights, revenues, or other assets of the corporation
 3 are pledged or sold to secure the repayment of such bonds or
 4 indebtedness, together with the payment of interest on such
 5 bonds or such indebtedness, or the payment of any other
 6 obligation or financial product, as defined in the plan of
 7 operation of the corporation related to such bonds or
 8 indebtedness.

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

27 5. As long as the corporation has any bonds
 28 outstanding, the corporation may not file a voluntary petition
 29 under chapter 9 of the federal Bankruptcy Code or such
 30 corresponding chapter or sections as may be in effect, from
 31 time to time, and a public officer or any organization,

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1 entity, or other person may not authorize the corporation to
2 be or become a debtor under chapter 9 of the federal
3 Bankruptcy Code or such corresponding chapter or sections as
4 may be in effect, from time to time, during any such period.

5 6. If ordered by a court of competent jurisdiction,
6 the corporation may assume policies or otherwise provide
7 coverage for policyholders of an insurer placed in liquidation
8 under chapter 631, under such forms, rates, terms, and
9 conditions as the corporation deems appropriate, subject to
10 approval by the office.

11 (ff) The office may establish a pilot program to offer
12 optional sinkhole coverage in one or more counties or other
13 territories of the corporation for the purpose of implementing
14 s. 627.706, as amended by s. 30 of chapter 2007-1, Laws of
15 Florida. Under the pilot program, the corporation is not
16 required to issue a notice of nonrenewal to exclude sinkhole
17 coverage upon the renewal of existing policies, but may
18 exclude such coverage using a notice of coverage change.

19 Section 14. Subsection (4) of section 627.3511,
20 Florida Statutes, is amended to read:

21 627.3511 Depopulation of Citizens Property Insurance
22 Corporation.--

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

28 (a) Pay to the producing agent of record of the
29 association policy, for the first year, an amount that is the
30 greater of the insurer's usual and customary commission for
31 the type of policy written or a fee equal to the usual and

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1 customary commission of the corporation; or

2 (b) Offer to allow the producing agent of record of
3 the corporation policy to continue servicing the policy for a
4 period of not less than 1 year and offer to pay the agent the
5 greater of the insurer's or the corporation's usual and
6 customary commission for the type of policy written.

7

8 If the producing agent is unwilling or unable to accept
9 appointment, the new insurer shall pay the agent in accordance
10 with paragraph (a). The requirement of this subsection that
11 the producing agent of record is entitled to retain the
12 unearned commission on an association policy does not apply to
13 a policy for which coverage has been provided in the
14 association for 30 days or less or for which a cancellation
15 notice has been issued pursuant to s. 627.351(6)(c)12. ~~s.~~
16 ~~627.351(6)(c)11.~~ during the first 30 days of coverage.

17 Section 15. Paragraph (a) of subsection (3) of section
18 627.3515, Florida Statutes, as amended by chapter 2007-1, Laws
19 of Florida, is amended to read:

20 627.3515 Market assistance plan; property and casualty
21 risks.--

22 (3)(a) The plan and the corporation shall develop a
23 business plan and present it to the Financial Services
24 Commission for approval by September 1, 2007, to provide for
25 the implementation of an electronic database for the purpose
26 of confirming eligibility pursuant to s. 627.351(6). The
27 business plan may provide that authorized insurers or agents
28 of authorized insurers may submit to the plan or the
29 corporation in electronic form, as determined by the plan or
30 the corporation, information determined necessary by the plan
31 or the corporation to deny coverage to risks ineligible for

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1 coverage by the corporation. Any authorized insurer submitting
 2 such information that results in a risk being denied coverage
 3 by the corporation is required to offer coverage to the risk
 4 at its approved rates, for the coverage and premium quoted,
 5 for at least 1 year.

6 Section 16. Section 627.3517, Florida Statutes, is
 7 amended to read:

8 627.3517 Consumer choice.--

9 ~~(1) Except as provided in subsection (2),~~ No provision
 10 of s. 627.351, s. 627.3511, or s. 627.3515 shall be construed
 11 to impair the right of any insurance risk apportionment plan
 12 policyholder, upon receipt of any keepout or take-out offer,
 13 to retain his or her current agent, so long as that agent is
 14 duly licensed and appointed by the insurance risk
 15 apportionment plan or otherwise authorized to place business
 16 with the insurance risk apportionment plan. This right shall
 17 not be canceled, suspended, impeded, abridged, or otherwise
 18 compromised by any rule, plan of operation, or depopulation
 19 plan, whether through keepout, take-out, midterm assumption,
 20 or any other means, of any insurance risk apportionment plan
 21 or depopulation plan, including, but not limited to, those
 22 described in s. 627.351, s. 627.3511, or s. 627.3515. The
 23 commission shall adopt any rules necessary to cause any
 24 insurance risk apportionment plan or market assistance plan
 25 under such sections to demonstrate that the operations of the
 26 plan do not interfere with, promote, or allow interference
 27 with the rights created under this section. If the
 28 policyholder's current agent is unable or unwilling to be
 29 appointed with the insurer making the take-out or keepout
 30 offer, the policyholder shall not be disqualified from
 31 participation in the appropriate insurance risk apportionment

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1 plan because of an offer of coverage in the voluntary market.
 2 An offer of full property insurance coverage by the insurer
 3 currently insuring either the ex-wind or wind-only coverage on
 4 the policy to which the offer applies shall not be considered
 5 a take-out or keepout offer. Any rule, plan of operation, or
 6 plan of depopulation, through keepout, take-out, midterm
 7 assumption, or any other means, of any property insurance risk
 8 apportionment plan under s. 627.351(2) or (6) is subject to
 9 ss. 627.351(2)(b) and (6)(c) and 627.351(4).

10 ~~(2) This section does not apply during the first 10~~
 11 ~~days after a new application for coverage has been submitted~~
 12 ~~to Citizens Property Insurance Corporation under s.~~
 13 ~~627.351(6), whether or not coverage is bound during this~~
 14 ~~period.~~

15 Section 17. Subsection (1) of section 627.4035,
 16 Florida Statutes, as amended by chapter 2007-1, Laws of
 17 Florida, is amended to read:

18 627.4035 Cash payment of premiums; claims.--

19 (1) The premiums for insurance contracts issued in
 20 this state or covering risk located in this state shall be
 21 paid in cash consisting of coins, currency, checks, or money
 22 orders or by using a debit card, credit card, automatic
 23 electronic funds transfer, or payroll deduction plan. By July
 24 1, 2007, insurers issuing personal lines residential and
 25 commercial property policies shall provide a premium payment
 26 plan option to their policyholders which allows for a minimum
 27 of quarterly and semiannual payment of premiums. Insurers may,
 28 but are not required to, offer monthly payment plans. Insurers
 29 issuing such policies must submit their premium payment plan
 30 option to the office for approval before use.

31 Section 18. Paragraph (b) of subsection (2) of section

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1 627.4133, Florida Statutes, is amended, and subsection (7) is
2 added to that section to read:

3 627.4133 Notice of cancellation, nonrenewal, or
4 renewal premium.--

5 (2) With respect to any personal lines or commercial
6 residential property insurance policy, including, but not
7 limited to, any homeowner's, mobile home owner's, farmowner's,
8 condominium association, condominium unit owner's, apartment
9 building, or other policy covering a residential structure or
10 its contents:

11 (b) The insurer shall give the named insured written
12 notice of nonrenewal, cancellation, or termination at least
13 100 days prior to the effective date of the nonrenewal,
14 cancellation, or termination. However, the insurer shall give
15 at least 100 days' written notice, or written notice by June
16 1, whichever is earlier, for any nonrenewal, cancellation, or
17 termination that would be effective between June 1 and
18 November 30. The notice must include the reason or reasons for
19 the nonrenewal, cancellation, or termination, except that:

20 1. When cancellation is for nonpayment of premium, at
21 least 10 days' written notice of cancellation accompanied by
22 the reason therefor shall be given. As used in this
23 subparagraph, the term "nonpayment of premium" means failure
24 of the named insured to discharge when due any of her or his
25 obligations in connection with the payment of premiums on a
26 policy or any installment of such premium, whether the premium
27 is payable directly to the insurer or its agent or indirectly
28 under any premium finance plan or extension of credit, or
29 failure to maintain membership in an organization if such
30 membership is a condition precedent to insurance coverage.

31 "Nonpayment of premium" also means the failure of a financial

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1 institution to honor an insurance applicant's check after
 2 delivery to a licensed agent for payment of a premium, even if
 3 the agent has previously delivered or transferred the premium
 4 to the insurer. If a dishonored check represents the initial
 5 premium payment, the contract and all contractual obligations
 6 shall be void ab initio unless the nonpayment is cured within
 7 the earlier of 5 days after actual notice by certified mail is
 8 received by the applicant or 15 days after notice is sent to
 9 the applicant by certified mail or registered mail, and if the
 10 contract is void, any premium received by the insurer from a
 11 third party shall be refunded to that party in full.

12 2. When such cancellation or termination occurs during
 13 the first 90 days during which the insurance is in force and
 14 the insurance is canceled or terminated for reasons other than
 15 nonpayment of premium, at least 20 days' written notice of
 16 cancellation or termination accompanied by the reason therefor
 17 shall be given except where there has been a material
 18 misstatement or misrepresentation or failure to comply with
 19 the underwriting requirements established by the insurer.

20 3. The requirement for providing written notice of
 21 nonrenewal by June 1 of any nonrenewal that would be effective
 22 between June 1 and November 30 does not apply to the following
 23 situations, but the insurer remains subject to the requirement
 24 to provide such notice at least 100 days prior to the
 25 effective date of nonrenewal:

26 a. A policy that is nonrenewed due to a revision in
 27 the coverage for sinkhole losses and catastrophic ground cover
 28 collapse pursuant to s. 627.706, as amended by s. 30 of
 29 chapter 2007-1, Laws of Florida.

30 b. A policy that is nonrenewed by Citizens Property
 31 Insurance Corporation, pursuant to s. 627.351(6), for a policy

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1 that has been assumed by an authorized insurer offering
2 replacement or renewal coverage to the policyholder.

3
4 After the policy has been in effect for 90 days, the policy
5 shall not be canceled by the insurer except when there has
6 been a material misstatement, a nonpayment of premium, a
7 failure to comply with underwriting requirements established
8 by the insurer within 90 days of the date of effectuation of
9 coverage, or a substantial change in the risk covered by the
10 policy or when the cancellation is for all insureds under such
11 policies for a given class of insureds. This paragraph does
12 not apply to individually rated risks having a policy term of
13 less than 90 days.

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

17 1. The dollar amounts recouped for assessments by the
18 Florida Hurricane Catastrophe Fund, the Citizens Property
19 Insurance Corporation, and the Florida Insurance Guaranty
20 Association. The actual names of the entities must appear next
21 to the dollar amounts.

22 2. The dollar amount of any premium increase that is
23 due to a rate increase and the total dollar amount that is due
24 to coverage changes.

25 (b) The Financial Services Commission may adopt rules
26 pursuant to ss. 120.536(1) and 120.54 to implement this
27 subsection.

28 Section 19. Paragraphs (a) and (c) of subsection (3)
29 and paragraph (d) of subsection (4) of section 627.701,
30 Florida Statutes, as amended by chapter 2007-1, Laws of
31 Florida, are amended, to read:

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1 627.701 Liability of insureds; coinsurance;
2 deductibles.--

3 (3)(a) Except as otherwise provided in this
4 subsection, prior to issuing a personal lines residential
5 property insurance policy, the insurer must offer alternative
6 deductible amounts applicable to hurricane losses equal to
7 \$500, 2 percent, 5 percent, and 10 percent of the policy
8 dwelling limits, unless the specific percentage deductible is
9 less than \$500. The written notice of the offer shall specify
10 the hurricane ~~or wind~~ deductible to be applied in the event
11 that the applicant or policyholder fails to affirmatively
12 choose a hurricane deductible. The insurer must provide such
13 policyholder with notice of the availability of the deductible
14 amounts specified in this paragraph in a form approved by the
15 office in conjunction with each renewal of the policy. The
16 failure to provide such notice constitutes a violation of this
17 code but does not affect the coverage provided under the
18 policy.

19 (c) With respect to a policy covering a risk with
20 dwelling limits of at least \$100,000, but less than \$250,000,
21 the insurer may, in lieu of offering a policy with a \$500
22 hurricane ~~or wind~~ deductible as required by paragraph (a),
23 offer a policy that the insurer guarantees it will not
24 nonrenew for reasons of reducing hurricane loss for one
25 renewal period and that contains up to a 2 percent hurricane
26 ~~or wind~~ deductible as required by paragraph (a).

27 (4)

28 (d)1. A personal lines residential property insurance
29 policy covering a risk valued at less than \$500,000 may not
30 have a hurricane deductible in excess of 10 percent of the
31 policy dwelling limits, unless the following conditions are

1 met:

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

9 b. If the structure insured by the policy is subject
 10 to a mortgage or lien, the policyholder must provide the
 11 insurer with a written statement from the mortgageholder or
 12 lienholder indicating that the mortgageholder or lienholder
 13 approves the policyholder electing to have the specified
 14 deductible.

15 2. A deductible subject to the requirements of this
 16 paragraph applies for the term of the policy and for each
 17 renewal thereafter ~~unless the policyholder elects otherwise.~~
 18 Changes to the deductible percentage may be implemented only
 19 as of the date of renewal.

20 3. An insurer shall keep the original copy of the
 21 signed statement required by this paragraph, electronically or
 22 otherwise, and provide a copy to the policyholder providing
 23 the signed statement. A signed statement meeting the
 24 requirements of this paragraph creates a presumption that
 25 there was an informed, knowing election of coverage.

26 4. The commission shall adopt rules providing
 27 appropriate alternative methods for providing the statements
 28 required by this section for policyholders who have a
 29 handicapping or disabling condition that prevents them from
 30 providing a handwritten statement.

31 Section 20. Subsections (4) and (5) of section

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1 627.70131, Florida Statutes, as amended by chapter 2007-1,
2 Laws of Florida, are amended to read:

3 627.70131 Insurer's duty to acknowledge communications
4 regarding claims; investigation.--

5 (4) For purposes of this section, the term "claim"
6 means any of the following:

7 (a) A claim under an insurance policy providing
8 residential coverage as defined in s. 627.4025(1);

9 (b) A claim for structural or contents coverage under
10 a commercial property insurance policy if the insured
11 structure is 10,000 square feet or less; or

12 (c) A claim for contents coverage under a commercial
13 tenants policy if the insured premises is 10,000 square feet
14 or less. "insurer" means any residential property insurer.

15 (5) Within 90 days after an insurer receives notice of
16 a ~~property insurance~~ claim from a policyholder under a policy
17 providing residential coverage as defined in s. 627.4025, the
18 insurer shall pay or deny such claim or a portion of the claim
19 unless the failure to pay such claim or a portion of the claim
20 is caused by factors beyond the control of the insurer which
21 reasonably prevent such payment. Any payment of a claim or
22 portion of a claim paid 90 days after the insurer receives
23 notice of the claim, or paid more than 15 days after there are
24 no longer factors beyond the control of the insurer which
25 reasonably prevented such payment, whichever is later, shall
26 bear interest at the rate set forth in s. 55.03. Interest
27 begins to accrue from the date the insurer receives notice of
28 the claim. The provisions of this subsection may not be
29 waived, voided, or nullified by the terms of the insurance
30 policy. If there is a right to prejudgment interest, the
31 insured shall select whether to receive prejudgment interest

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1 or interest under this subsection. Interest is payable when
2 the claim or portion of the claim is paid. Failure to comply
3 with this subsection constitutes a violation of this code.

4 Section 21. Subsections (2), (3), (4), and (5) of
5 section 627.712, Florida Statutes, as created by chapter
6 2007-1, Laws of Florida, are amended to read:

7 627.712 Residential hurricane coverage required;
8 availability of exclusions for windstorm or contents.--

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

14 (2) A property ~~An insurer that is subject to~~
15 ~~subsection (1)~~ must make available, at the option of the
16 policyholder, an exclusion of hurricane coverage or windstorm
17 coverage as provided within the applicable policy. The
18 coverage may be excluded only if:

19 (a)1. When the policyholder is a natural person, the
20 policyholder personally writes and provides to the insurer the
21 following statement in his or her own handwriting and signs
22 his or her name, which must also be signed by every other
23 named insured on the policy, and dated: "I do not want the
24 insurance on my (home/mobile home/condominium unit) to pay for
25 damage from windstorms or hurricanes. I will pay those costs.
26 My insurance will not."

27 2. When the policyholder is other than a natural
28 person, the policyholder provides to the insurer on the
29 policyholder's letterhead the following statement that must be
30 signed by the policyholder's authorized representative and
31 dated: "(Name of entity) does not want the insurance on its

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1 (type of structure) to pay for damage from windstorms or
2 hurricanes. (Name of entity) will be responsible for these
3 costs. (Name of entity's) insurance will not."

4 (b) If the structure insured by the policy is subject
5 to a mortgage or lien, the policyholder must provide the
6 insurer with a written statement from the mortgageholder or
7 lienholder indicating that the mortgageholder or lienholder
8 approves the policyholder electing to exclude windstorm
9 coverage or hurricane coverage from his or her or its
10 ~~residential~~ property insurance policy.

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

23 (4) An insurer shall keep the original copy of a
24 signed statement required by this section, electronically or
25 otherwise, and provide a copy to the policyholder providing
26 the signed statement. A signed statement meeting the
27 requirements of this section creates a presumption that there
28 was an informed, knowing rejection of coverage.

29 (5) The exclusions authorized by this section apply
30 for the term of the policy and for each renewal thereafter.
31 Changes to the exclusions authorized by this section may be

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1 implemented only as of the date of renewal. ~~The exclusions~~
 2 ~~authorized by this section are valid for the term of the~~
 3 ~~contract and for each renewal unless the policyholder elects~~
 4 ~~otherwise.~~

5 Section 22. Section 627.713, Florida Statutes, as
 6 created by chapter 2007-1, Laws of Florida, is amended to
 7 read:

8 627.713 Report of hurricane loss data.--

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

12 (a)(1) Number of claims.

13 (b)(2) Amount of claim payments made.

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

15 (d)(4) Amount and percentage of losses covered by
 16 reinsurance or other loss-transfer agreements.

17 (e)(5) Amount of losses covered under specified
 18 deductibles.

19 (f)(6) Claims and payments for specified insured
 20 values.

21 (g)(7) Claims and payments for specified dollar
 22 values.

23 (h)(8) Claims and payments for specified types of
 24 construction or mitigation features.

25 (i)(9) Claims and payments for policies under
 26 specified underwriting criteria.

27 (j)(10) Claims and payments for contents, additional
 28 living expense, and other specified coverages.

29 (k)(11) Claims and payments by county for the
 30 information specified in this section.

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

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

5 Section 23. Subsections (4) and (5) of section
 6 627.7277, Florida Statutes, as amended by chapter 2007-1, Laws
 7 of Florida, are amended to read:

8 627.7277 Notice of renewal premium.--

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

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

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

18 ~~(5) The Financial Services Commission may adopt rules~~
 19 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~
 20 ~~section.~~

21 Section 24. Section 631.52, Florida Statutes, is
 22 amended to read:

23 631.52 Scope.--This part shall apply to all kinds of
 24 direct insurance, except:

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

26 (2) Mortgage guaranty, financial guaranty, or other
 27 forms of insurance offering protection against investment
 28 risks;

29 (3) Fidelity or surety bonds, or any other bonding
 30 obligations;

31 (4) Credit insurance, vendors' single interest

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1 insurance, or collateral protection insurance or any similar
2 insurance protecting the interests of a creditor arising out
3 of a creditor-debtor transaction;

4 (5) Warranty, including motor vehicle service, home
5 warranty, or service warranty;

6 (6) Ambulance service, health care service, or preneed
7 funeral merchandise or service;

8 (7) Optometric service plan, pharmaceutical service
9 plan, or dental service plan;

10 (8) Legal expense;

11 (9) Health maintenance, prepaid health clinic, or
12 continuing care;

13 (10) Ocean marine or wet marine insurance;

14 (11) Self-insurance and any kind of self-insurance
15 fund, liability pool, or risk management fund;

16 (12) Title insurance;

17 (13) Surplus lines;

18 (14) Workers' compensation;

19 (15) Any transaction or combination of transactions
20 between a person, including affiliates of such person, and an
21 insurer, including affiliates of such insurer, which involves
22 the transfer of investment or credit risk unaccompanied by the
23 transfer of insurance risk; or

24 (16) Any insurance provided by or guaranteed by
25 government.

26 Section 25. Paragraph (e) of subsection (3) of section
27 631.57, Florida Statutes, as amended by chapter 2007-1, Laws
28 of Florida, is amended to read:

29 631.57 Powers and duties of the association.--

30 (3)

31 (e)1.a. In addition to assessments otherwise

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

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

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

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

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

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

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1 and (7) to assessments levied under paragraph (a) shall
2 include emergency assessments imposed under this paragraph.

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

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

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

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1 uncollectible emergency assessments.

2 Section 26. Paragraphs (g), (h), and (i) of subsection
3 (1), and subsections (2) and (6) of section 631.695, Florida
4 Statutes, are amended to read:

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

7 (1) The Legislature finds:

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

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

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

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

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

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

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1 legal entity.

2 Section 27. Notwithstanding section 9 of chapter
3 2007-1, Laws of Florida, the internal design option provided
4 in Section 1609.1.4.1, Florida Building Code, Building Volume,
5 and Section R301.2.1.2, Florida Building Code, Residential
6 Volume, shall remain in effect until June 1, 2007, for a
7 building permit application made before that date.

8 Section 28. Section 27 of this act shall take effect
9 upon becoming a law and applies retroactively to January 25,
10 2007, the effective date of chapter 2007-1, Laws of Florida.
11 Section 27 of this act applies to any action taken with
12 respect to a building permit affected by section 9 of chapter
13 2007-1, Laws of Florida, including any actions, legal or
14 ministerial, pertaining to the issuance, revocation, or
15 modifications of any building permit initiated or issued
16 before, on, or after January 25, 2007, or pending as of
17 January 25, 2007. If the retroactivity of any provision of
18 Section 27 of this act or its retroactive application to any
19 person or circumstance is held invalid, the invalidity does
20 not affect the retroactivity or retroactive application of
21 other provisions of Section 27 of this act.

22 Section 29. Except as otherwise expressly provided in
23 this act, this act shall take effect upon becoming a law.

24
25

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

27 And the title is amended as follows:

28 Delete everything before the enacting clause

29

30 and insert:

31 A bill to be entitled

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1 An act relating to hurricane preparedness and
2 insurance; amending s. 163.01, F.S.; correcting
3 a cross-reference; amending s. 215.555, F.S.,
4 relating to the Florida Hurricane Catastrophe
5 Fund; revising certain requirements for
6 reimbursement contracts; authorizing limited
7 apportionment companies to purchase additional
8 coverage from the fund; continuing procedures
9 for Citizens Property Insurance Corporation to
10 obtain coverage for policies of an insurer
11 placed in liquidation; postponing the repeal of
12 the exemption from emergency assessments for
13 medical malpractice insurance premiums;
14 revising criteria, requirements, and
15 limitations on temporary emergency options for
16 additional coverage under the Florida Hurricane
17 Catastrophe Fund; amending s. 215.5595, F.S.;
18 providing eligibility of certain insurers for a
19 surplus note from the Insurance Capital
20 Build-Up Incentive Program; providing an
21 aggregate requirement; revising a definition;
22 amending s. 624.407, F.S.; revising an insurer
23 criterion for capital funds requirements for
24 new insurers; amending s. 626.2815, F.S.;
25 authorizing a licensee to take the final
26 examination for continuing education courses by
27 various specified methods; amending s. 626.914,
28 F.S.; revising the definition of the term
29 "diligent effort"; amending s. 626.916, F.S.;
30 providing requirements for insurance coverage
31 eligible for export for residential property

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1 risks; requiring that the insured be notified
2 that coverage may be available from Citizens
3 Property Insurance Corporation; amending s.
4 626.9201, F.S.; defining the term "nonpayment
5 of premium"; providing additional criterion for
6 cancellation for nonpayment of premium;
7 amending s. 626.9541, F.S.; providing that
8 certain violations of state law and the failure
9 to pay undisputed amounts of partial or full
10 benefits under first-party property insurance
11 policies within a specified period constitute
12 unfair claim settlement practices; amending s.
13 627.0613, F.S.; limiting application of certain
14 annual report card preparation powers of the
15 consumer advocate to personal residential
16 property insurers; amending s. 627.062, F.S.;
17 specifying an effective date of application of
18 certain "file and use" requirements for rate
19 filing for certain insurers; prohibiting an
20 insurer from including certain interest paid in
21 the insurer's rate base; prohibiting an insurer
22 from using such interest to justify a rate or
23 rate change; amending s. 627.0655, F.S.;
24 revising criteria for the inclusion of
25 discounts in certain premiums; amending s.
26 627.351, F.S.; specifying the purpose of
27 Citizens Property Insurance Corporation; making
28 legislative findings that the lack of
29 affordable property insurance coverage
30 threatens the public health, safety, and
31 welfare of the state and that there is a

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

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1 requirements for cancellation or nonrenewal of
2 a policy do not apply under certain situations;
3 revising provisions of a premium payment plan
4 option of the operating plan requirements of
5 Citizens Property Insurance Corporation;
6 establishing a pilot program to offer optional
7 sinkhole coverage; amending s. 627.3511, F.S.;
8 correcting a cross-reference; amending s.
9 627.3515, F.S.; revising criteria for an
10 electronic database for a business plan for
11 determining eligibility for coverage in
12 Citizens Property Insurance Corporation;
13 amending s. 627.3517, F.S.; deleting a
14 provision specifying that the "consumer choice"
15 statute does not apply during the first 10 days
16 after a new application for coverage has been
17 submitted to the corporation; amending s.
18 627.4035, F.S.; revising provisions of a
19 premium payment plan option for certain
20 insurers; amending s. 627.4133, F.S.;
21 specifying requirements for notices of
22 nonrenewal and renewal of property insurance
23 policies; authorizing the Financial Services
24 Commission to adopt rules; amending s. 627.701,
25 F.S.; revising requirements for deductibles for
26 certain personal lines residential property
27 insurance policies; amending s. 627.70131,
28 F.S.; defining the term "claim" for purposes of
29 provisions requiring that an insurer
30 acknowledge communications regarding claims;
31 specifying that certain requirements for the

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

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1 covered claims of insurers rendered insolvent
2 as a result of a hurricane; providing that the
3 internal design option of the Florida Building
4 Code remains in effect until a specified date
5 for a building permit application made before
6 that date, notwithstanding provisions of ch.
7 2007-1, Laws of Florida; providing an effective
8 date and for retroactive application; applying
9 the act to any actions taken with respect to a
10 building permit affected by such prior act;
11 providing an effective date.

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