

Amendment No.

CHAMBER ACTION

Senate

House



1 Representative(s) Reagan offered the following:

2

3 **Substitute Amendment for Amendment (695989) (with title**
4 **amendment)**

5 Remove everything after the enacting clause, and insert:

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

9 163.01 Florida Interlocal Cooperation Act of 1969.--

10 (7)

11 (h)1. Notwithstanding the provisions of paragraph (c), any
12 separate legal entity consisting of an alliance, as defined in
13 s. 395.106(2) (a), created pursuant to this paragraph and
14 controlled by and whose members consist of eligible entities
15 comprised of special districts created pursuant to a special act
16 and having the authority to own or operate one or more hospitals

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17 licensed in this state or hospitals licensed in this state that
18 are owned, operated, or funded by a county or municipality, for
19 the purpose of providing property insurance coverage as defined
20 in s. 395.106(2) (b) ~~(e)~~, for such eligible entities, may exercise
21 all powers under this subsection in connection with borrowing
22 funds for such purposes, including, without limitation, the
23 authorization, issuance, and sale of bonds, notes, or other
24 obligations of indebtedness. Borrowed funds, including, but not
25 limited to, bonds issued by such alliance shall be deemed issued
26 on behalf of such eligible entities that enter into loan
27 agreements with such separate legal entity as provided in this
28 paragraph.

29 2. Any such separate legal entity shall have all the
30 powers that are provided by the interlocal agreement under which
31 the entity is created or that are necessary to finance, operate,
32 or manage the alliance's property insurance coverage program.
33 Proceeds of bonds, notes, or other obligations issued by such an
34 entity may be loaned to any one or more eligible entities. Such
35 eligible entities are authorized to enter into loan agreements
36 with any separate legal entity created pursuant to this
37 paragraph for the purpose of obtaining moneys with which to
38 finance property insurance coverage or claims. Obligations of
39 any eligible entity pursuant to a loan agreement as described in
40 this paragraph may be validated as provided in chapter 75.

41 3. Any bonds, notes, or other obligations to be issued or
42 incurred by a separate legal entity created pursuant to this
43 paragraph shall be authorized by resolution of the governing
44 body of such entity and bear the date or dates; mature at the

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45 | time or times, not exceeding 30 years from their respective
46 | dates; bear interest at the rate or rates, which may be fixed or
47 | vary at such time or times and in accordance with a specified
48 | formula or method of determination; be payable at the time or
49 | times; be in the denomination; be in the form; carry the
50 | registration privileges; be executed in the manner; be payable
51 | from the sources and in the medium of payment and at the place;
52 | and be subject to redemption, including redemption prior to
53 | maturity, as the resolution may provide. The bonds, notes, or
54 | other obligations may be sold at public or private sale for such
55 | price as the governing body of the separate legal entity shall
56 | determine. The bonds may be secured by such credit enhancement,
57 | if any, as the governing body of the separate legal entity deems
58 | appropriate. The bonds may be secured by an indenture of trust
59 | or trust agreement. In addition, the governing body of the
60 | separate legal entity may delegate, to such officer or official
61 | of such entity as the governing body may select, the power to
62 | determine the time; manner of sale, public or private;
63 | maturities; rate or rates of interest, which may be fixed or may
64 | vary at such time or times and in accordance with a specified
65 | formula or method of determination; and other terms and
66 | conditions as may be deemed appropriate by the officer or
67 | official so designated by the governing body of such separate
68 | legal entity. However, the amounts and maturities of such bonds,
69 | the interest rate or rates, and the purchase price of such bonds
70 | shall be within the limits prescribed by the governing body of
71 | such separate legal entity in its resolution delegating to such

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72 officer or official the power to authorize the issuance and sale
73 of such bonds.

74 4. Bonds issued pursuant to this paragraph may be
75 validated as provided in chapter 75. The complaint in any action
76 to validate such bonds shall be filed only in the Circuit Court
77 for Leon County. The notice required to be published by s. 75.06
78 shall be published in Leon County and in each county in which an
79 eligible entity that is a member of an alliance is located. The
80 complaint and order of the circuit court shall be served only on
81 the State Attorney of the Second Judicial Circuit and on the
82 state attorney of each circuit in each county in which an
83 eligible entity receiving bond proceeds is located.

84 5. The accomplishment of the authorized purposes of a
85 separate legal entity created under this paragraph is deemed in
86 all respects for the benefit, increase of the commerce and
87 prosperity, and improvement of the health and living conditions
88 of the people of this state. Inasmuch as the separate legal
89 entity performs essential public functions in accomplishing its
90 purposes, the separate legal entity is not required to pay any
91 taxes or assessments of any kind upon any property acquired or
92 used by the entity for such purposes or upon any revenues at any
93 time received by the entity. The bonds, notes, and other
94 obligations of such separate legal entity, the transfer of and
95 income from such bonds, notes, and other obligations, including
96 any profits made on the sale of such bonds, notes, and other
97 obligations, are at all times free from taxation of any kind of
98 the state or by any political subdivision or other agency or
99 instrumentality of the state. The exemption granted in this
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100 paragraph does not apply to any tax imposed by chapter 220 on
101 interest, income, or profits on debt obligations owned by
102 corporations.

103 6. The participation by any eligible entity in an alliance
104 or a separate legal entity created pursuant to this paragraph
105 may not be deemed a waiver of immunity to the extent of
106 liability or any other coverage, and a contract entered
107 regarding such alliance is not required to contain any provision
108 for waiver.

109 Section 2. Paragraph (b) of subsection (4), paragraph (e)
110 of subsection (5), paragraph (b) of subsection (6), and
111 subsection (16) of section 215.555, Florida Statutes, as amended
112 by chapter 2007-1, Laws of Florida, are amended to read:

113 215.555 Florida Hurricane Catastrophe Fund.--

114 (4) REIMBURSEMENT CONTRACTS.--

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

120 2. The insurer must elect one of the percentage coverage
121 levels specified in this paragraph and may, upon renewal of a
122 reimbursement contract, elect a lower percentage coverage level
123 if no revenue bonds issued under subsection (6) after a covered
124 event are outstanding, or elect a higher percentage coverage
125 level, regardless of whether or not revenue bonds are
126 outstanding. All members of an insurer group must elect the same
127 percentage coverage level. Any joint underwriting association,

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128 risk apportionment plan, or other entity created under s.
129 627.351 must elect the 90-percent coverage level.

130 3. The contract shall provide that reimbursement amounts
131 shall not be reduced by reinsurance paid or payable to the
132 insurer from other sources.

133 4. Notwithstanding any other provision contained in this
134 section, the board shall make available to insurers that
135 purchased coverage provided by this subparagraph ~~participated in~~
136 2006, insurers qualifying as limited apportionment companies
137 under s. 627.351(6)(c) ~~which began writing property insurance in~~
138 ~~2007~~, and insurers that were approved to participate in 2006 or
139 that are approved in 2007 for the Insurance Capital Build-Up
140 Incentive Program pursuant to s. 215.5595, a contract or
141 contract addendum that provides an additional amount of
142 reimbursement coverage of up to \$10 million. The premium to be
143 charged for this additional reimbursement coverage shall be 50
144 percent of the additional reimbursement coverage provided, which
145 shall include one prepaid reinstatement. The minimum retention
146 level that an eligible participating insurer must retain
147 associated with this additional coverage layer is 30 percent of
148 the insurer's surplus as of December 31, 2006. This coverage
149 shall be in addition to all other coverage that may be provided
150 under this section. The coverage provided by the fund under this
151 subsection shall be in addition to the claims-paying capacity as
152 defined in subparagraph (c)1., but only with respect to those
153 insurers that select the additional coverage option and meet the
154 requirements of this subsection. The claims-paying capacity with
155 respect to all other participating insurers and limited

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156 | apportionment companies that do not select the additional
157 | coverage option shall be limited to their reimbursement
158 | premium's proportionate share of the actual claims-paying
159 | capacity otherwise defined in subparagraph (c)1. and as provided
160 | for under the terms of the reimbursement contract. Coverage
161 | provided in the reimbursement contract will not be affected by
162 | the additional premiums paid by participating insurers
163 | exercising the additional coverage option allowed in this
164 | subparagraph. This subparagraph expires on May 31, 2008.

165 | (5) REIMBURSEMENT PREMIUMS.--

166 | (e) If Citizens Property Insurance Corporation assumes or
167 | otherwise provides coverage for policies of an insurer placed in
168 | liquidation under chapter 631 pursuant to s. 627.351(6), the
169 | corporation may, pursuant to conditions mutually agreed to
170 | between the corporation and the State Board of Administration,
171 | obtain coverage for such policies under its contract with the
172 | fund or accept an assignment of the liquidated insurer's
173 | contract with the fund. If Citizens Property Insurance
174 | Corporation elects to cover these policies under the
175 | corporation's contract with the fund, it shall notify the board
176 | of its insured values with respect to such policies within a
177 | specified time mutually agreed to between the corporation and
178 | the board, after such assumption or other coverage transaction,
179 | and the fund shall treat such policies as having been in effect
180 | as of June 30 of that year. In the event of an assignment, the
181 | fund shall apply that contract to such policies and treat
182 | Citizens Property Insurance Corporation as if the corporation
183 | were the liquidated insurer for the remaining term of the

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184 contract, and the corporation shall have all rights and duties
185 of the liquidated insurer beginning on the date it provides
186 coverage for such policies, but the corporation is not subject
187 to any preexisting rights, liabilities, or duties of the
188 liquidated insurer. The assignment, including any unresolved
189 issues between the liquidated insurer and Citizens Property
190 Insurance Corporation under the contract, shall be provided for
191 in the liquidation order or otherwise determined by the court.
192 However, if a covered event occurs before the effective date of
193 the assignment, the corporation may not obtain coverage for such
194 policies under its contract with the fund and shall accept an
195 assignment of the liquidated insurer's contract as provided in
196 this paragraph. ~~This paragraph expires on June 1, 2007.~~

197 (6) REVENUE BONDS.--

198 (b) Emergency assessments.--

199 1. If the board determines that the amount of revenue
200 produced under subsection (5) is insufficient to fund the
201 obligations, costs, and expenses of the fund and the
202 corporation, including repayment of revenue bonds and that
203 portion of the debt service coverage not met by reimbursement
204 premiums, the board shall direct the Office of Insurance
205 Regulation to levy, by order, an emergency assessment on direct
206 premiums for all property and casualty lines of business in this
207 state, including property and casualty business of surplus lines
208 insurers regulated under part VIII of chapter 626, but not
209 including any workers' compensation premiums or medical
210 malpractice premiums. As used in this subsection, the term
211 "property and casualty business" includes all lines of business

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212 identified on Form 2, Exhibit of Premiums and Losses, in the
213 annual statement required of authorized insurers by s. 624.424
214 and any rule adopted under this section, except for those lines
215 identified as accident and health insurance and except for
216 policies written under the National Flood Insurance Program. The
217 assessment shall be specified as a percentage of direct written
218 premium and is subject to annual adjustments by the board in
219 order to meet debt obligations. The same percentage shall apply
220 to all policies in lines of business subject to the assessment
221 issued or renewed during the 12-month period beginning on the
222 effective date of the assessment.

223 2. A premium is not subject to an annual assessment under
224 this paragraph in excess of 6 percent of premium with respect to
225 obligations arising out of losses attributable to any one
226 contract year, and a premium is not subject to an aggregate
227 annual assessment under this paragraph in excess of 10 percent
228 of premium. An annual assessment under this paragraph shall
229 continue as long as the revenue bonds issued with respect to
230 which the assessment was imposed are outstanding, including any
231 bonds the proceeds of which were used to refund the revenue
232 bonds, unless adequate provision has been made for the payment
233 of the bonds under the documents authorizing issuance of the
234 bonds.

235 3. Emergency assessments shall be collected from
236 policyholders. Emergency assessments shall be remitted by
237 insurers as a percentage of direct written premium for the
238 preceding calendar quarter as specified in the order from the
239 Office of Insurance Regulation. The office shall verify the

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240 accurate and timely collection and remittance of emergency
241 assessments and shall report the information to the board in a
242 form and at a time specified by the board. Each insurer
243 collecting assessments shall provide the information with
244 respect to premiums and collections as may be required by the
245 office to enable the office to monitor and verify compliance
246 with this paragraph.

247 4. With respect to assessments of surplus lines premiums,
248 each surplus lines agent shall collect the assessment at the
249 same time as the agent collects the surplus lines tax required
250 by s. 626.932, and the surplus lines agent shall remit the
251 assessment to the Florida Surplus Lines Service Office created
252 by s. 626.921 at the same time as the agent remits the surplus
253 lines tax to the Florida Surplus Lines Service Office. The
254 emergency assessment on each insured procuring coverage and
255 filing under s. 626.938 shall be remitted by the insured to the
256 Florida Surplus Lines Service Office at the time the insured
257 pays the surplus lines tax to the Florida Surplus Lines Service
258 Office. The Florida Surplus Lines Service Office shall remit the
259 collected assessments to the fund or corporation as provided in
260 the order levied by the Office of Insurance Regulation. The
261 Florida Surplus Lines Service Office shall verify the proper
262 application of such emergency assessments and shall assist the
263 board in ensuring the accurate and timely collection and
264 remittance of assessments as required by the board. The Florida
265 Surplus Lines Service Office shall annually calculate the
266 aggregate written premium on property and casualty business,
267 other than workers' compensation and medical malpractice,

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268 | procured through surplus lines agents and insureds procuring
269 | coverage and filing under s. 626.938 and shall report the
270 | information to the board in a form and at a time specified by
271 | the board.

272 | 5. Any assessment authority not used for a particular
273 | contract year may be used for a subsequent contract year. If,
274 | for a subsequent contract year, the board determines that the
275 | amount of revenue produced under subsection (5) is insufficient
276 | to fund the obligations, costs, and expenses of the fund and the
277 | corporation, including repayment of revenue bonds and that
278 | portion of the debt service coverage not met by reimbursement
279 | premiums, the board shall direct the Office of Insurance
280 | Regulation to levy an emergency assessment up to an amount not
281 | exceeding the amount of unused assessment authority from a
282 | previous contract year or years, plus an additional 4 percent
283 | provided that the assessments in the aggregate do not exceed the
284 | limits specified in subparagraph 2.

285 | 6. The assessments otherwise payable to the corporation
286 | under this paragraph shall be paid to the fund unless and until
287 | the Office of Insurance Regulation and the Florida Surplus Lines
288 | Service Office have received from the corporation and the fund a
289 | notice, which shall be conclusive and upon which they may rely
290 | without further inquiry, that the corporation has issued bonds
291 | and the fund has no agreements in effect with local governments
292 | under paragraph (c). On or after the date of the notice and
293 | until the date the corporation has no bonds outstanding, the
294 | fund shall have no right, title, or interest in or to the

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295 assessments, except as provided in the fund's agreement with the
296 corporation.

297 7. Emergency assessments are not premium and are not
298 subject to the premium tax, to the surplus lines tax, to any
299 fees, or to any commissions. An insurer is liable for all
300 assessments that it collects and must treat the failure of an
301 insured to pay an assessment as a failure to pay the premium. An
302 insurer is not liable for uncollectible assessments.

303 8. When an insurer is required to return an unearned
304 premium, it shall also return any collected assessment
305 attributable to the unearned premium. A credit adjustment to the
306 collected assessment may be made by the insurer with regard to
307 future remittances that are payable to the fund or corporation,
308 but the insurer is not entitled to a refund.

309 9. When a surplus lines insured or an insured who has
310 procured coverage and filed under s. 626.938 is entitled to the
311 return of an unearned premium, the Florida Surplus Lines Service
312 Office shall provide a credit or refund to the agent or such
313 insured for the collected assessment attributable to the
314 unearned premium prior to remitting the emergency assessment
315 collected to the fund or corporation.

316 10. The exemption of medical malpractice insurance
317 premiums from emergency assessments under this paragraph is
318 repealed May 31, 2008 ~~2007~~, and medical malpractice insurance
319 premiums shall be subject to emergency assessments attributable
320 to loss events occurring in the contract years commencing on
321 June 1, 2008 ~~2007~~.

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322 (16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL

323 COVERAGE.--

324 (a) Findings and intent.--

325 1. The Legislature finds that:

326 a. Because of temporary disruptions in the market for
327 catastrophic reinsurance, many property insurers were unable to
328 procure reinsurance for the 2006 hurricane season with an
329 attachment point below the insurers' respective Florida
330 Hurricane Catastrophe Fund attachment points, were unable to
331 procure sufficient amounts of such reinsurance, or were able to
332 procure such reinsurance only by incurring substantially higher
333 costs than in prior years.

334 b. The reinsurance market problems were responsible, at
335 least in part, for substantial premium increases to many
336 consumers and increases in the number of policies issued by the
337 Citizens Property Insurance Corporation.

338 c. It is likely that the reinsurance market disruptions
339 will not significantly abate prior to the 2007 hurricane season.

340 2. It is the intent of the Legislature to create a
341 temporary emergency program, applicable to the 2007, 2008, and
342 2009 hurricane seasons, to address these market disruptions and
343 enable insurers, at their option, to procure additional coverage
344 from the Florida Hurricane Catastrophe Fund.

345 (b) Applicability of other provisions of this
346 section.--All provisions of this section and the rules adopted
347 under this section apply to the program created by this
348 subsection unless specifically superseded by this subsection.

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349 (c) Optional coverage.--For the contract year commencing
350 June 1, 2007, and ending May 31, 2008, the contract year
351 commencing June 1, 2008, and ending May 31, 2009, and the
352 contract year commencing June 1, 2009, and ending May 31, 2010,
353 the board shall offer for each of such years the optional
354 coverage as provided in this subsection.

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

357 1. "TEACO options" means the temporary emergency
358 additional coverage options created under this subsection.

359 2. "TEACO insurer" means an insurer that has opted to
360 obtain coverage under the TEACO options in addition to the
361 coverage provided to the insurer under its reimbursement
362 contract.

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

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

369 a. The board shall calculate and report to each TEACO
370 insurer the TEACO retention multiples. There shall be three
371 TEACO retention multiples for defining coverage. Each multiple
372 shall be calculated by dividing \$3 billion, \$4 billion, or \$5
373 billion by the total estimated mandatory FHCF TEACO
374 reimbursement premium assuming all insurers ~~selected that~~
375 ~~option. Total estimated TEACO reimbursement premium for purposes~~
376 ~~of the calculation under this sub-subparagraph shall be~~
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377 ~~calculated using the assumption that all insurers have selected~~
378 ~~a specific TEACO retention multiple option and have selected the~~
379 90-percent coverage level.

380 b. The TEACO retention multiples as determined under sub-
381 subparagraph a. shall be adjusted to reflect the coverage level
382 elected by the insurer. For insurers electing the 90-percent
383 coverage level, the adjusted retention multiple is 100 percent
384 of the amount determined under sub-subparagraph a. For insurers
385 electing the 75-percent coverage level, the retention multiple
386 is 120 percent of the amount determined under sub-subparagraph
387 a. For insurers electing the 45-percent coverage level, the
388 adjusted retention multiple is 200 percent of the amount
389 determined under sub-subparagraph a.

390 c. An insurer shall determine its provisional TEACO
391 retention by multiplying its estimated mandatory FHCF
392 ~~provisional TEACO~~ reimbursement premium by the applicable
393 adjusted TEACO retention multiple and shall determine its actual
394 TEACO retention by multiplying its actual mandatory FHCF ~~TEACO~~
395 reimbursement premium by the applicable adjusted TEACO retention
396 multiple.

397 d. For TEACO insurers who experience multiple covered
398 events causing loss during the contract year, the insurer's full
399 TEACO retention shall be applied to each of the covered events
400 causing the two largest losses for that insurer. For other
401 covered events resulting in losses, the TEACO option does not
402 apply and the insurer's retention shall be one-third of the full
403 retention as calculated under paragraph (2) (e).

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404 5. "TEACO addendum" means an addendum to the reimbursement
405 contract reflecting the obligations of the fund and TEACO
406 insurers under the program created by this subsection.

407 6. "FHCF" means the Florida Hurricane Catastrophe Fund.

408 (e) TEACO addendum.--

409 1. The TEACO addendum shall provide for reimbursement of
410 TEACO insurers for covered events occurring during the contract
411 year, in exchange for the TEACO reimbursement premium paid into
412 the fund under paragraph (f). Any insurer writing covered
413 policies has the option of choosing to accept the TEACO addendum
414 for any of the 3 contract years that the coverage is offered.

415 2. The TEACO addendum shall contain a promise by the board
416 to reimburse the TEACO insurer for 45 percent, 75 percent, or 90
417 percent of its losses from each covered event in excess of the
418 insurer's TEACO retention, plus 5 percent of the reimbursed
419 losses to cover loss adjustment expenses. The percentage shall
420 be the same as the coverage level selected by the insurer under
421 paragraph (4) (b).

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

425 4. The TEACO addendum shall also provide that the
426 obligation of the board with respect to all TEACO addenda shall
427 not exceed an amount equal to two times the difference between
428 the industry retention level calculated under paragraph (2) (e)
429 and the \$3 billion, \$4 billion, or \$5 billion industry TEACO
430 retention level options actually selected, but in no event may
431 the board's obligation exceed the actual claims-paying capacity

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432 of the fund plus the additional capacity created in paragraph
433 (g). If the actual claims-paying capacity and the additional
434 capacity created under paragraph (g) fall short of the board's
435 obligations under the reimbursement contract, each insurer's
436 share of the fund's capacity shall be prorated based on the
437 premium an insurer pays for its mandatory ~~normal~~ reimbursement
438 coverage and the premium paid for its optional TEACO coverage as
439 each such premium bears to the total premiums paid to the fund
440 times the available capacity.

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

444 6. A TEACO insurer's maximum reimbursement for a single
445 event shall be equal to the product of multiplying its mandatory
446 FHCF premium by the difference between its FHCF retention
447 multiple and its TEACO retention multiple under the TEACO option
448 selected and by the coverage selected under paragraph (4) (b),
449 plus an additional 5 percent for loss adjustment expenses. A
450 TEACO insurer's maximum reimbursement under the TEACO option
451 selected for a TEACO insurer's two largest events addendum shall
452 be twice its maximum reimbursement for a single event calculated
453 by multiplying the insurer's share of the estimated total TEACO
454 reimbursement premium as calculated under sub-subparagraph
455 (d)4.a. by an amount equal to two times the difference between
456 the industry retention level calculated under paragraph (2) (e)
457 and the \$3 billion, \$4 billion, or \$5 billion industry TEACO
458 retention level specified in sub-subparagraph (d)4.a. as
459 selected by the TEACO insurer.

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460 (f) TEACO reimbursement premiums.--

461 1. Each TEACO insurer shall pay to the fund, in the manner
462 and at the time provided in the reimbursement contract for
463 payment of reimbursement premiums, a TEACO reimbursement premium
464 calculated as specified in this paragraph.

465 ~~2. The TEACO reimbursement premiums shall be calculated~~
466 ~~based on the assumption that, if all insurers entering into~~
467 ~~reimbursement contracts under subsection (4) also accepted the~~
468 ~~TEACO option.~~

469 a. The insurer's industry TEACO reimbursement premium
470 associated with the \$3 billion retention option shall ~~would~~ be
471 equal to 85 percent of a TEACO insurer's maximum reimbursement
472 for a single event as calculated under subparagraph (e)6. ~~the~~
473 ~~difference between the industry retention level calculated under~~
474 ~~paragraph (2)(c) and the \$3 billion industry TEACO retention~~
475 ~~level.~~

476 b. The TEACO reimbursement premium associated with the \$4
477 billion retention option shall ~~would~~ be equal to 80 percent of a
478 TEACO insurer's maximum reimbursement for a single event as
479 calculated under subparagraph (e)6. ~~the difference between the~~
480 ~~industry retention level calculated under paragraph (2)(c) and~~
481 ~~the \$4 billion industry TEACO retention level.~~

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

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

491 (g) Effect on claims-paying capacity of the fund.--For the
492 contract term commencing June 1, 2007, the contract year
493 commencing June 1, 2008, and the contract term beginning June 1,
494 2009, the program created by this subsection shall increase the
495 claims-paying capacity of the fund as provided in subparagraph
496 (4)(c)1. by an amount equal to two times the difference between
497 the industry retention level calculated under paragraph (2)(e)
498 and the \$3 billion industry TEACO retention level specified in
499 sub-subparagraph (d)4.a. The additional capacity shall apply
500 only to the additional coverage provided by the TEACO option and
501 shall not otherwise affect any insurer's reimbursement from the
502 fund.

503 Section 3. Paragraph (b) of subsection (2) of section
504 215.5595, Florida Statutes, is amended to read:

505 215.5595 Insurance Capital Build-Up Incentive Program.--

506 (2) The purpose of this section is to provide surplus
507 notes to new or existing authorized residential property
508 insurers under the Insurance Capital Build-Up Incentive Program
509 administered by the State Board of Administration, under the
510 following conditions:

511 (b) The insurer must contribute an amount of new capital
512 to its surplus which is at least equal to the amount of the
513 surplus note and must apply to the board by July 1, 2006. If an
514 insurer applies after July 1, 2006, but before June 1, 2007, the
515 amount of the surplus note is limited to one-half of the new
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516 capital that the insurer contributes to its surplus, except for
517 an insurer writing only manufactured housing policies, for which
518 the amount of the surplus note is equal to the amount of the new
519 capital that the insurer contributes to its surplus. For
520 purposes of this section, new capital must be in the form of
521 cash or cash equivalents as specified in s. 625.012(1).

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

525 624.407 Capital funds required; new insurers.--

526 (1) To receive authority to transact any one kind or
527 combinations of kinds of insurance, as defined in part V of this
528 chapter, an insurer applying for its original certificate of
529 authority in this state after the effective date of this section
530 shall possess surplus as to policyholders not less than the
531 greater of:

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

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

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

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

541
542 however, a domestic insurer that transacts residential property
543 insurance and is a wholly owned subsidiary of an insurer

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544 | domiciled authorized to do business in any other state shall
545 | possess surplus as to policyholders of at least \$50 million, but
546 | no insurer shall be required under this subsection to have
547 | surplus as to policyholders greater than \$100 million.

548 | Section 5. Paragraph (a) of subsection (1) of section
549 | 624.408, Florida Statutes, is amended to read:

550 | 624.408 Surplus as to policyholders required; new and
551 | existing insurers.--

552 | (1) (a) To maintain a certificate of authority to transact
553 | any one kind or combinations of kinds of insurance, as defined
554 | in part V of this chapter, an insurer in this state shall at all
555 | times maintain surplus as to policyholders not less than the
556 | greater of:

557 | 1. Except as provided in subparagraph 5. and paragraph
558 | (b), \$1.5 million;

559 | 2. For life insurers, 4 percent of the insurer's total
560 | liabilities;

561 | 3. For life and health insurers, 4 percent of the
562 | insurer's total liabilities plus 6 percent of the insurer's
563 | liabilities relative to health insurance; or

564 | 4. For all insurers other than mortgage guaranty insurers,
565 | life insurers, and life and health insurers, 10 percent of the
566 | insurer's total liabilities.

567 | 5. For property and casualty insurers, \$4 million;
568 | however, a domestic insurer that transacts residential property
569 | insurance and is a wholly owned subsidiary of an insurer
570 | domiciled in any other state shall possess surplus as to
571 | policyholders of at least \$50 million.

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572 Section 6. Subsection (2) of section 626.9201, Florida
573 Statutes, is amended to read:

574 626.9201 Notice of cancellation or nonrenewal.--

575 (2) An insurer issuing a policy providing coverage for
576 property, casualty, surety, or marine insurance shall give the
577 named insured written notice of cancellation or termination
578 other than nonrenewal at least 45 days prior to the effective
579 date of the cancellation or termination, including in the
580 written notice the reason or reasons for the cancellation or
581 termination, except that:

582 (a) When cancellation is for nonpayment of premium, at
583 least 10 days' written notice of cancellation accompanied by the
584 reason therefor shall be given. As used in this paragraph, the
585 term "nonpayment of premium" means failure of the named insured
586 to discharge when due any of his or her obligations in
587 connection with the payment of premiums on a policy or any
588 installment of such premium, whether the premium is payable
589 directly to the insurer or its agent or indirectly under any
590 premium finance plan or extension of credit, or failure to
591 maintain membership in an organization if such membership is a
592 condition precedent to insurance coverage. The term "nonpayment
593 of premium" also means the failure of a financial institution to
594 honor an insurance applicant's check after delivery to a
595 licensed agent for payment of a premium, even if the agent has
596 previously delivered or transferred the premium to the insurer.
597 If a correctly dishonored check represents the initial premium
598 payment, the contract and all contractual obligations shall be
599 void ab initio unless the nonpayment is cured within the earlier

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600 of 5 days after actual notice by certified mail is received by
601 the applicant or 15 days after notice is sent to the applicant
602 by certified mail or registered mail, and, if the contract is
603 void, any premium received by the insurer from a third party
604 shall be refunded to that party in full; and

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

613 Section 7. Subsection (4) of section 627.0613, Florida
614 Statutes, as amended by chapter 2007-1, Laws of Florida, is
615 amended to read:

616 627.0613 Consumer advocate.--The Chief Financial Officer
617 must appoint a consumer advocate who must represent the general
618 public of the state before the department and the office. The
619 consumer advocate must report directly to the Chief Financial
620 Officer, but is not otherwise under the authority of the
621 department or of any employee of the department. The consumer
622 advocate has such powers as are necessary to carry out the
623 duties of the office of consumer advocate, including, but not
624 limited to, the powers to:

625 (4) Prepare an annual report card for each authorized
626 personal residential property insurer, on a form and using a

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627 letter-grade scale developed by the commission by rule, which
628 grades each insurer based on the following factors:

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

631 (b) The disposition of all complaints received by the
632 department.

633 (c) The average length of time for payment of claims by
634 the insurer.

635 (d) Any other factors the commission identifies as
636 assisting policyholders in making informed choices about
637 homeowner's insurance.

638 Section 8. Paragraph (a) of subsection (2) of section
639 627.062, Florida Statutes, as amended by chapter 2007-1, Laws of
640 Florida, is amended to read:

641 627.062 Rate standards.--

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

643 (a) Insurers or rating organizations shall establish and
644 use rates, rating schedules, or rating manuals to allow the
645 insurer a reasonable rate of return on such classes of insurance
646 written in this state. A copy of rates, rating schedules, rating
647 manuals, premium credits or discount schedules, and surcharge
648 schedules, and changes thereto, shall be filed with the office
649 under one of the following procedures except as provided in
650 subparagraph 3.:

651 1. If the filing is made at least 90 days before the
652 proposed effective date and the filing is not implemented during
653 the office's review of the filing and any proceeding and
654 judicial review, then such filing shall be considered a "file
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655 and use" filing. In such case, the office shall finalize its
656 review by issuance of a notice of intent to approve or a notice
657 of intent to disapprove within 90 days after receipt of the
658 filing. The notice of intent to approve and the notice of intent
659 to disapprove constitute agency action for purposes of the
660 Administrative Procedure Act. Requests for supporting
661 information, requests for mathematical or mechanical
662 corrections, or notification to the insurer by the office of its
663 preliminary findings shall not toll the 90-day period during any
664 such proceedings and subsequent judicial review. The rate shall
665 be deemed approved if the office does not issue a notice of
666 intent to approve or a notice of intent to disapprove within 90
667 days after receipt of the filing.

668 2. If the filing is not made in accordance with the
669 provisions of subparagraph 1., such filing shall be made as soon
670 as practicable, but no later than 30 days after the effective
671 date, and shall be considered a "use and file" filing. An
672 insurer making a "use and file" filing is potentially subject to
673 an order by the office to return to policyholders portions of
674 rates found to be excessive, as provided in paragraph (h).

675 3. For all filings made or submitted after January 25,
676 2007, but ~~en-er~~ before December 31, 2008, an insurer seeking a
677 rate that is greater than the rate most recently approved by the
678 office shall make a "file and use" filing. This subparagraph
679 applies to property insurance only. For purposes of this
680 subparagraph, motor vehicle collision and comprehensive
681 coverages are not considered to be property coverages.
682

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683 The provisions of this subsection shall not apply to workers'
684 compensation and employer's liability insurance and to motor
685 vehicle insurance.

686 Section 9. Section 627.0655, Florida Statutes, as created
687 by chapter 2007-1, Laws of Florida, is amended to read:

688 627.0655 Policyholder loss or expense-related premium
689 discounts.--An insurer or person authorized to engage in the
690 business of insurance in this state may include, in the premium
691 charged an insured for any policy, contract, or certificate of
692 insurance, a discount based on the fact that another policy,
693 contract, or certificate of any type has been purchased by the
694 insured from the same insurer or insurer group.

695 Section 10. Paragraphs (a), (b), (c), (d), (m), (n), and
696 (v) of subsection (6) of section 627.351, Florida Statutes, as
697 amended by chapter 2007-1, Laws of Florida, are amended to read:

698 627.351 Insurance risk apportionment plans.--

699 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

700 (a)1. It is the public purpose of this subsection to
701 ensure the existence of an orderly market for property insurance
702 for Florida's residents and businesses. The Legislature finds
703 that ~~actual and threatened catastrophic losses to property in~~
704 ~~this state from hurricanes have caused insurers are to be~~
705 unwilling or unable to provide affordable property insurance
706 coverage in this state to the extent sought and needed. The
707 absence of affordable property insurance threatens the public
708 health, safety, and welfare and likewise threatens the economic
709 health of this state. The state therefore has a compelling ~~It is~~
710 ~~in the~~ public interest and a public purpose to assist in

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711 | assuring that property in the state is insured so as to
712 | facilitate the remediation, reconstruction, and replacement of
713 | damaged or destroyed property in order to reduce or avoid the
714 | negative effects otherwise resulting to the public health,
715 | safety, and welfare; to the economy of the state; and to the
716 | revenues of the state and local governments needed to provide
717 | for the public welfare. It is necessary, therefore, to provide
718 | property insurance to applicants who are in good faith entitled
719 | to procure insurance through the voluntary market but are unable
720 | to do so. The Legislature intends by this subsection that
721 | property insurance be provided and that it continues to be
722 | provided, as long as necessary, through Citizens Property
723 | Insurance Corporation, a government entity that is an integral
724 | part of the state and that is not a private insurance company.
725 | To that end, the corporation shall strive ~~an entity organized~~ to
726 | achieve efficiencies and economies, while providing service to
727 | policyholders, applicants, and agents that is no less than the
728 | quality generally provided in the voluntary market, for all
729 | ~~toward~~ the achievement of the foregoing public purposes. Because
730 | it is essential for such government entity ~~the corporation~~ to
731 | have the maximum financial resources to pay claims following a
732 | catastrophic hurricane, it is the intent of the Legislature that
733 | Citizens Property Insurance Corporation continues to be an
734 | integral part of this state and that the income of the
735 | corporation be exempt from federal income taxation and that
736 | interest on the debt obligations issued by the corporation be
737 | exempt from federal income taxation.

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738 2. The Residential Property and Casualty Joint
739 Underwriting Association originally created by this statute
740 shall be known, as of July 1, 2002, as the Citizens Property
741 Insurance Corporation. The corporation shall provide insurance
742 for residential and commercial property, for applicants who are
743 in good faith entitled, but are unable, to procure insurance
744 through the voluntary market. The corporation shall operate
745 pursuant to a plan of operation approved by order of the
746 Financial Services Commission. The plan is subject to continuous
747 review by the commission. The commission may, by order, withdraw
748 approval of all or part of a plan if the commission determines
749 that conditions have changed since approval was granted and that
750 the purposes of the plan require changes in the plan. The
751 corporation shall continue to operate pursuant to the plan of
752 operation approved by the Office of Insurance Regulation until
753 October 1, 2006. For the purposes of this subsection,
754 residential coverage includes both personal lines residential
755 coverage, which consists of the type of coverage provided by
756 homeowner's, mobile home owner's, dwelling, tenant's,
757 condominium unit owner's, and similar policies, and commercial
758 lines residential coverage, which consists of the type of
759 coverage provided by condominium association, apartment
760 building, and similar policies.

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

763 a. Property that has been granted a homestead exemption
764 under chapter 196;

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

769 c. An owner-occupied mobile home or manufactured home, as
770 defined in s. 320.01, which is permanently affixed to real
771 property, is owned by a Florida resident, and has been granted a
772 homestead exemption under chapter 196 or, if the owner does not
773 own the real property, the owner certifies that the mobile home
774 or manufactured home is his or her principal place of residence;

775 d. Tenant's coverage;

776 e. Commercial lines residential property; or

777 f. Any county, district, or municipal hospital; a hospital
778 licensed by any not-for-profit corporation qualified under s.
779 501(c)(3) of the United States Internal Revenue Code; or a
780 continuing care retirement community that is certified under
781 chapter 651 and that receives an exemption from ad valorem taxes
782 under chapter 196.

783 4. For the purposes of this subsection, the term
784 "nonhomestead property" means property that is not homestead
785 property.

786 5. Effective July 1, 2008, a personal lines residential
787 structure that has a dwelling replacement cost of \$1 million or
788 more, or a single condominium unit that has a combined dwelling
789 and content replacement cost of \$1 million or more is not
790 eligible for coverage by the corporation. Such dwellings insured
791 by the corporation on June 30, 2008, may continue to be covered
792 by the corporation until the end of the policy term. However,

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793 such dwellings that are insured by the corporation and become
794 ineligible for coverage due to the provisions of this
795 subparagraph may reapply and obtain coverage in the high-risk
796 account and be considered "nonhomestead property" if the
797 property owner provides the corporation with a sworn affidavit
798 from one or more insurance agents, on a form provided by the
799 corporation, stating that the agents have made their best
800 efforts to obtain coverage and that the property has been
801 rejected for coverage by at least one authorized insurer and at
802 least three surplus lines insurers. If such conditions are met,
803 the dwelling may be insured by the corporation for up to 3
804 years, after which time the dwelling is ineligible for coverage.
805 The office shall approve the method used by the corporation for
806 valuing the dwelling replacement cost for the purposes of this
807 subparagraph. If a policyholder is insured by the corporation
808 prior to being determined to be ineligible pursuant to this
809 subparagraph and such policyholder files a lawsuit challenging
810 the determination, the policyholder may remain insured by the
811 corporation until the conclusion of the litigation.

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

818 7. It is the intent of the Legislature that policyholders,
819 applicants, and agents of the corporation receive service and
820 treatment of the highest possible level but never less than that
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821 generally provided in the voluntary market. It also is intended
822 that the corporation be held to service standards no less than
823 those applied to insurers in the voluntary market by the office
824 with respect to responsiveness, timeliness, customer courtesy,
825 and overall dealings with policyholders, applicants, or agents
826 of the corporation.

827 (b)1. All insurers authorized to write one or more subject
828 lines of business in this state are subject to assessment by the
829 corporation and, for the purposes of this subsection, are
830 referred to collectively as "assessable insurers." Insurers
831 writing one or more subject lines of business in this state
832 pursuant to part VIII of chapter 626 are not assessable
833 insurers, but insureds who procure one or more subject lines of
834 business in this state pursuant to part VIII of chapter 626 are
835 subject to assessment by the corporation and are referred to
836 collectively as "assessable insureds." An authorized insurer's
837 assessment liability shall begin on the first day of the
838 calendar year following the year in which the insurer was issued
839 a certificate of authority to transact insurance for subject
840 lines of business in this state and shall terminate 1 year after
841 the end of the first calendar year during which the insurer no
842 longer holds a certificate of authority to transact insurance
843 for subject lines of business in this state.

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

847 (I) A personal lines account for personal residential
848 policies issued by the corporation or issued by the Residential
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849 Property and Casualty Joint Underwriting Association and renewed
850 by the corporation that provide comprehensive, multiperil
851 coverage on risks that are not located in areas eligible for
852 coverage in the Florida Windstorm Underwriting Association as
853 those areas were defined on January 1, 2002, and for such
854 policies that do not provide coverage for the peril of wind on
855 risks that are located in such areas;

856 (II) A commercial lines account for commercial residential
857 and commercial nonresidential policies issued by the corporation
858 or issued by the Residential Property and Casualty Joint
859 Underwriting Association and renewed by the corporation that
860 provide coverage for basic property perils on risks that are not
861 located in areas eligible for coverage in the Florida Windstorm
862 Underwriting Association as those areas were defined on January
863 1, 2002, and for such policies that do not provide coverage for
864 the peril of wind on risks that are located in such areas; and

865 (III) A high-risk account for personal residential
866 policies and commercial residential and commercial
867 nonresidential property policies issued by the corporation or
868 transferred to the corporation that provide coverage for the
869 peril of wind on risks that are located in areas eligible for
870 coverage in the Florida Windstorm Underwriting Association as
871 those areas were defined on January 1, 2002. Subject to the
872 approval of a business plan by the Financial Services Commission
873 and Legislative Budget Commission as provided in this sub-sub-
874 subparagraph, but no earlier than March 31, 2007, the
875 corporation may offer policies that provide multiperil coverage
876 and the corporation shall continue to offer policies that

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877 provide coverage only for the peril of wind for risks located in
878 areas eligible for coverage in the high-risk account. In issuing
879 multiperil coverage, the corporation may use its approved policy
880 forms and rates for the personal lines account. An applicant or
881 insured who is eligible to purchase a multiperil policy from the
882 corporation may purchase a multiperil policy from an authorized
883 insurer without prejudice to the applicant's or insured's
884 eligibility to prospectively purchase a policy that provides
885 coverage only for the peril of wind from the corporation. An
886 applicant or insured who is eligible for a corporation policy
887 that provides coverage only for the peril of wind may elect to
888 purchase or retain such policy and also purchase or retain
889 coverage excluding wind from an authorized insurer without
890 prejudice to the applicant's or insured's eligibility to
891 prospectively purchase a policy that provides multiperil
892 coverage from the corporation. It is the goal of the Legislature
893 that there would be an overall average savings of 10 percent or
894 more for a policyholder who currently has a wind-only policy
895 with the corporation, and an ex-wind policy with a voluntary
896 insurer or the corporation, and who then obtains a multiperil
897 policy from the corporation. It is the intent of the Legislature
898 that the offer of multiperil coverage in the high-risk account
899 be made and implemented in a manner that does not adversely
900 affect the tax-exempt status of the corporation or
901 creditworthiness of or security for currently outstanding
902 financing obligations or credit facilities of the high-risk
903 account, the personal lines account, or the commercial lines
904 account. By March 1, 2007, the corporation shall prepare and
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905 submit for approval by the Financial Services Commission and
906 Legislative Budget Commission a report detailing the
907 corporation's business plan for issuing multiperil coverage in
908 the high-risk account. The business plan shall be approved or
909 disapproved within 30 days after receipt, as submitted or
910 modified and resubmitted by the corporation. The business plan
911 must include: the impact of such multiperil coverage on the
912 corporation's financial resources, the impact of such multiperil
913 coverage on the corporation's tax-exempt status, the manner in
914 which the corporation plans to implement the processing of
915 applications and policy forms for new and existing
916 policyholders, the impact of such multiperil coverage on the
917 corporation's ability to deliver customer service at the high
918 level required by this subsection, the ability of the
919 corporation to process claims, the ability of the corporation to
920 quote and issue policies, the impact of such multiperil coverage
921 on the corporation's agents, the impact of such multiperil
922 coverage on the corporation's existing policyholders, and the
923 impact of such multiperil coverage on rates and premium. The
924 high-risk account must also include quota share primary
925 insurance under subparagraph (c)2. The area eligible for
926 coverage under the high-risk account also includes the area
927 within Port Canaveral, which is bordered on the south by the
928 City of Cape Canaveral, bordered on the west by the Banana
929 River, and bordered on the north by Federal Government property.

930 b. The three separate accounts must be maintained as long
931 as financing obligations entered into by the Florida Windstorm
932 Underwriting Association or Residential Property and Casualty

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933 Joint Underwriting Association are outstanding, in accordance
934 with the terms of the corresponding financing documents. When
935 the financing obligations are no longer outstanding, in
936 accordance with the terms of the corresponding financing
937 documents, the corporation may use a single account for all
938 revenues, assets, liabilities, losses, and expenses of the
939 corporation. Consistent with the requirement of this
940 subparagraph and prudent investment policies that minimize the
941 cost of carrying debt, the board shall exercise its best efforts
942 to retire existing debt or to obtain approval of necessary
943 parties to amend the terms of existing debt, so as to structure
944 the most efficient plan to consolidate the three separate
945 accounts into a single account. By February 1, 2007, the board
946 shall submit a report to the Financial Services Commission, the
947 President of the Senate, and the Speaker of the House of
948 Representatives which includes an analysis of consolidating the
949 accounts, the actions the board has taken to minimize the cost
950 of carrying debt, and its recommendations for executing the most
951 efficient plan.

952 c. Creditors of the Residential Property and Casualty
953 Joint Underwriting Association shall have a claim against, and
954 recourse to, the accounts referred to in sub-sub-subparagraphs
955 a.(I) and (II) and shall have no claim against, or recourse to,
956 the account referred to in sub-sub-subparagraph a.(III).
957 Creditors of the Florida Windstorm Underwriting Association
958 shall have a claim against, and recourse to, the account
959 referred to in sub-sub-subparagraph a.(III) and shall have no

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960 claim against, or recourse to, the accounts referred to in sub-
961 sub-subparagraphs a.(I) and (II).

962 d. Revenues, assets, liabilities, losses, and expenses not
963 attributable to particular accounts shall be prorated among the
964 accounts.

965 e. The Legislature finds that the revenues of the
966 corporation are revenues that are necessary to meet the
967 requirements set forth in documents authorizing the issuance of
968 bonds under this subsection.

969 f. No part of the income of the corporation may inure to
970 the benefit of any private person.

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

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

978 b. When the deficit incurred in a particular calendar year
979 exceeds 10 percent of the aggregate statewide direct written
980 premium for the subject lines of business for the prior calendar
981 year, the corporation shall levy regular assessments on
982 assessable insurers under paragraph (p) and on assessable
983 insureds in an amount equal to the greater of 10 percent of the
984 deficit or 10 percent of the aggregate statewide direct written
985 premium for the subject lines of business for the prior calendar
986 year. Any remaining deficit shall be recovered through emergency
987 assessments under sub-subparagraph d.

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988 | c. Each assessable insurer's share of the amount being
989 | assessed under sub-subparagraph a. or sub-subparagraph b. shall
990 | be in the proportion that the assessable insurer's direct
991 | written premium for the subject lines of business for the year
992 | preceding the assessment bears to the aggregate statewide direct
993 | written premium for the subject lines of business for that year.
994 | The assessment percentage applicable to each assessable insured
995 | is the ratio of the amount being assessed under sub-subparagraph
996 | a. or sub-subparagraph b. to the aggregate statewide direct
997 | written premium for the subject lines of business for the prior
998 | year. Assessments levied by the corporation on assessable
999 | insurers under sub-subparagraphs a. and b. shall be paid as
1000 | required by the corporation's plan of operation and paragraph
1001 | (p). Notwithstanding any other provision of this subsection, the
1002 | aggregate amount of a regular assessment for a deficit incurred
1003 | in a particular calendar year shall be reduced by the estimated
1004 | amount to be received by the corporation from the Citizens
1005 | policyholder surcharge under subparagraph (c)~~10.11~~ and the
1006 | amount collected or estimated to be collected from the
1007 | assessment on Citizens policyholders pursuant to sub-
1008 | subparagraph i. Assessments levied by the corporation on
1009 | assessable insureds under sub-subparagraphs a. and b. shall be
1010 | collected by the surplus lines agent at the time the surplus
1011 | lines agent collects the surplus lines tax required by s.
1012 | 626.932 and shall be paid to the Florida Surplus Lines Service
1013 | Office at the time the surplus lines agent pays the surplus
1014 | lines tax to the Florida Surplus Lines Service Office. Upon
1015 | receipt of regular assessments from surplus lines agents, the

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1016 Florida Surplus Lines Service Office shall transfer the
1017 assessments directly to the corporation as determined by the
1018 corporation.

1019 d. Upon a determination by the board of governors that a
1020 deficit in an account exceeds the amount that will be recovered
1021 through regular assessments under sub-subparagraph a. or sub-
1022 subparagraph b., the board shall levy, after verification by the
1023 office, emergency assessments, for as many years as necessary to
1024 cover the deficits, to be collected by assessable insurers and
1025 the corporation and collected from assessable insureds upon
1026 issuance or renewal of policies for subject lines of business,
1027 excluding National Flood Insurance policies. The amount of the
1028 emergency assessment collected in a particular year shall be a
1029 uniform percentage of that year's direct written premium for
1030 subject lines of business and all accounts of the corporation,
1031 excluding National Flood Insurance Program policy premiums, as
1032 annually determined by the board and verified by the office. The
1033 office shall verify the arithmetic calculations involved in the
1034 board's determination within 30 days after receipt of the
1035 information on which the determination was based.

1036 Notwithstanding any other provision of law, the corporation and
1037 each assessable insurer that writes subject lines of business
1038 shall collect emergency assessments from its policyholders
1039 without such obligation being affected by any credit,
1040 limitation, exemption, or deferment. Emergency assessments
1041 levied by the corporation on assessable insureds shall be
1042 collected by the surplus lines agent at the time the surplus
1043 lines agent collects the surplus lines tax required by s.

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1044 626.932 and shall be paid to the Florida Surplus Lines Service
1045 Office at the time the surplus lines agent pays the surplus
1046 lines tax to the Florida Surplus Lines Service Office. The
1047 emergency assessments so collected shall be transferred directly
1048 to the corporation on a periodic basis as determined by the
1049 corporation and shall be held by the corporation solely in the
1050 applicable account. The aggregate amount of emergency
1051 assessments levied for an account under this sub-subparagraph in
1052 any calendar year may not exceed the greater of 10 percent of
1053 the amount needed to cover the original deficit, plus interest,
1054 fees, commissions, required reserves, and other costs associated
1055 with financing of the original deficit, or 10 percent of the
1056 aggregate statewide direct written premium for subject lines of
1057 business and for all accounts of the corporation for the prior
1058 year, plus interest, fees, commissions, required reserves, and
1059 other costs associated with financing the original deficit.

1060 e. The corporation may pledge the proceeds of assessments,
1061 projected recoveries from the Florida Hurricane Catastrophe
1062 Fund, other insurance and reinsurance recoverables, policyholder
1063 surcharges and other surcharges, and other funds available to
1064 the corporation as the source of revenue for and to secure bonds
1065 issued under paragraph (p), bonds or other indebtedness issued
1066 under subparagraph (c)3., or lines of credit or other financing
1067 mechanisms issued or created under this subsection, or to retire
1068 any other debt incurred as a result of deficits or events giving
1069 rise to deficits, or in any other way that the board determines
1070 will efficiently recover such deficits. The purpose of the lines
1071 of credit or other financing mechanisms is to provide additional

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1072 resources to assist the corporation in covering claims and
1073 expenses attributable to a catastrophe. As used in this
1074 subsection, the term "assessments" includes regular assessments
1075 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1076 (p)1. and emergency assessments under sub-subparagraph d.
1077 Emergency assessments collected under sub-subparagraph d. are
1078 not part of an insurer's rates, are not premium, and are not
1079 subject to premium tax, fees, or commissions; however, failure
1080 to pay the emergency assessment shall be treated as failure to
1081 pay premium. The emergency assessments under sub-subparagraph d.
1082 shall continue as long as any bonds issued or other indebtedness
1083 incurred with respect to a deficit for which the assessment was
1084 imposed remain outstanding, unless adequate provision has been
1085 made for the payment of such bonds or other indebtedness
1086 pursuant to the documents governing such bonds or other
1087 indebtedness.

1088 f. As used in this subsection for purposes of any deficit
1089 incurred on or after January 25, 2007, the term "subject lines
1090 of business" means insurance written by assessable insurers or
1091 procured by assessable insureds for all property and casualty
1092 lines of business in this state, but not including workers'
1093 compensation or medical malpractice. As used in the sub-
1094 subparagraph, the term "property and casualty lines of business"
1095 includes all lines of business identified on Form 2, Exhibit of
1096 Premiums and Losses, in the annual statement required of
1097 authorized insurers by s. 624.424 and any rule adopted under
1098 this section, except for those lines identified as accident and
1099 health insurance and except for policies written under the

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1100 National Flood Insurance Program or the Federal Crop Insurance
1101 Program. For purposes of this sub-subparagraph, the term
1102 "workers' compensation" includes both workers' compensation
1103 insurance and excess workers' compensation insurance.

1104 g. The Florida Surplus Lines Service Office shall
1105 determine annually the aggregate statewide written premium in
1106 subject lines of business procured by assessable insureds and
1107 shall report that information to the corporation in a form and
1108 at a time the corporation specifies to ensure that the
1109 corporation can meet the requirements of this subsection and the
1110 corporation's financing obligations.

1111 h. The Florida Surplus Lines Service Office shall verify
1112 the proper application by surplus lines agents of assessment
1113 percentages for regular assessments and emergency assessments
1114 levied under this subparagraph on assessable insureds and shall
1115 assist the corporation in ensuring the accurate, timely
1116 collection and payment of assessments by surplus lines agents as
1117 required by the corporation.

1118 i. If a deficit is incurred in any account in 2008 or
1119 thereafter, the board of governors shall levy an immediate
1120 assessment against the premium of each nonhomestead property
1121 policyholder in all accounts of the corporation, as a uniform
1122 percentage of the premium of the policy of up to 10 percent of
1123 such premium, which funds shall be used to offset the deficit.
1124 If this assessment is insufficient to eliminate the deficit, the
1125 board of governors shall levy an additional assessment against
1126 all policyholders of the corporation, which shall be collected
1127 at the time of issuance or renewal of a policy, as a uniform

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1128 percentage of the premium for the policy of up to 10 percent of
1129 such premium, which funds shall be used to further offset the
1130 deficit.

1131 j. The board of governors shall maintain separate
1132 accounting records that consolidate data for nonhomestead
1133 properties, including, but not limited to, number of policies,
1134 insured values, premiums written, and losses. The board of
1135 governors shall annually report to the office and the
1136 Legislature a summary of such data.

1137 (c) The plan of operation of the corporation:

1138 1. Must provide for adoption of residential property and
1139 casualty insurance policy forms and commercial residential and
1140 nonresidential property insurance forms, which forms must be
1141 approved by the office prior to use. The corporation shall adopt
1142 the following policy forms:

1143 a. Standard personal lines policy forms that are
1144 comprehensive multiperil policies providing full coverage of a
1145 residential property equivalent to the coverage provided in the
1146 private insurance market under an HO-3, HO-4, or HO-6 policy.

1147 b. Basic personal lines policy forms that are policies
1148 similar to an HO-8 policy or a dwelling fire policy that provide
1149 coverage meeting the requirements of the secondary mortgage
1150 market, but which coverage is more limited than the coverage
1151 under a standard policy.

1152 c. Commercial lines residential and nonresidential policy
1153 forms that are generally similar to the basic perils of full
1154 coverage obtainable for commercial residential structures and

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1155 commercial nonresidential structures in the admitted voluntary
1156 market.

1157 d. Personal lines and commercial lines residential
1158 property insurance forms that cover the peril of wind only. The
1159 forms are applicable only to residential properties located in
1160 areas eligible for coverage under the high-risk account referred
1161 to in sub-subparagraph (b)2.a.

1162 e. Commercial lines nonresidential property insurance
1163 forms that cover the peril of wind only. The forms are
1164 applicable only to nonresidential properties located in areas
1165 eligible for coverage under the high-risk account referred to in
1166 sub-subparagraph (b)2.a.

1167 f. The corporation may adopt variations of the policy
1168 forms listed in sub-subparagraphs a.-e. that contain more
1169 restrictive coverage.

1170 2.a. Must provide that the corporation adopt a program in
1171 which the corporation and authorized insurers enter into quota
1172 share primary insurance agreements for hurricane coverage, as
1173 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1174 property insurance forms for eligible risks which cover the
1175 peril of wind only. As used in this subsection, the term:

1176 (I) "Quota share primary insurance" means an arrangement
1177 in which the primary hurricane coverage of an eligible risk is
1178 provided in specified percentages by the corporation and an
1179 authorized insurer. The corporation and authorized insurer are
1180 each solely responsible for a specified percentage of hurricane
1181 coverage of an eligible risk as set forth in a quota share
1182 primary insurance agreement between the corporation and an

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1183 authorized insurer and the insurance contract. The
1184 responsibility of the corporation or authorized insurer to pay
1185 its specified percentage of hurricane losses of an eligible
1186 risk, as set forth in the quota share primary insurance
1187 agreement, may not be altered by the inability of the other
1188 party to the agreement to pay its specified percentage of
1189 hurricane losses. Eligible risks that are provided hurricane
1190 coverage through a quota share primary insurance arrangement
1191 must be provided policy forms that set forth the obligations of
1192 the corporation and authorized insurer under the arrangement,
1193 clearly specify the percentages of quota share primary insurance
1194 provided by the corporation and authorized insurer, and
1195 conspicuously and clearly state that neither the authorized
1196 insurer nor the corporation may be held responsible beyond its
1197 specified percentage of coverage of hurricane losses.

1198 (II) "Eligible risks" means personal lines residential and
1199 commercial lines residential risks that meet the underwriting
1200 criteria of the corporation and are located in areas that were
1201 eligible for coverage by the Florida Windstorm Underwriting
1202 Association on January 1, 2002.

1203 b. The corporation may enter into quota share primary
1204 insurance agreements with authorized insurers at corporation
1205 coverage levels of 90 percent and 50 percent.

1206 c. If the corporation determines that additional coverage
1207 levels are necessary to maximize participation in quota share
1208 primary insurance agreements by authorized insurers, the
1209 corporation may establish additional coverage levels. However,

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1210 the corporation's quota share primary insurance coverage level
1211 may not exceed 90 percent.

1212 d. Any quota share primary insurance agreement entered
1213 into between an authorized insurer and the corporation must
1214 provide for a uniform specified percentage of coverage of
1215 hurricane losses, by county or territory as set forth by the
1216 corporation board, for all eligible risks of the authorized
1217 insurer covered under the quota share primary insurance
1218 agreement.

1219 e. Any quota share primary insurance agreement entered
1220 into between an authorized insurer and the corporation is
1221 subject to review and approval by the office. However, such
1222 agreement shall be authorized only as to insurance contracts
1223 entered into between an authorized insurer and an insured who is
1224 already insured by the corporation for wind coverage.

1225 f. For all eligible risks covered under quota share
1226 primary insurance agreements, the exposure and coverage levels
1227 for both the corporation and authorized insurers shall be
1228 reported by the corporation to the Florida Hurricane Catastrophe
1229 Fund. For all policies of eligible risks covered under quota
1230 share primary insurance agreements, the corporation and the
1231 authorized insurer shall maintain complete and accurate records
1232 for the purpose of exposure and loss reimbursement audits as
1233 required by Florida Hurricane Catastrophe Fund rules. The
1234 corporation and the authorized insurer shall each maintain
1235 duplicate copies of policy declaration pages and supporting
1236 claims documents.

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1237 g. The corporation board shall establish in its plan of
1238 operation standards for quota share agreements which ensure that
1239 there is no discriminatory application among insurers as to the
1240 terms of quota share agreements, pricing of quota share
1241 agreements, incentive provisions if any, and consideration paid
1242 for servicing policies or adjusting claims.

1243 h. The quota share primary insurance agreement between the
1244 corporation and an authorized insurer must set forth the
1245 specific terms under which coverage is provided, including, but
1246 not limited to, the sale and servicing of policies issued under
1247 the agreement by the insurance agent of the authorized insurer
1248 producing the business, the reporting of information concerning
1249 eligible risks, the payment of premium to the corporation, and
1250 arrangements for the adjustment and payment of hurricane claims
1251 incurred on eligible risks by the claims adjuster and personnel
1252 of the authorized insurer. Entering into a quota sharing
1253 insurance agreement between the corporation and an authorized
1254 insurer shall be voluntary and at the discretion of the
1255 authorized insurer.

1256 3. May provide that the corporation may employ or
1257 otherwise contract with individuals or other entities to provide
1258 administrative or professional services that may be appropriate
1259 to effectuate the plan. The corporation shall have the power to
1260 borrow funds, by issuing bonds or by incurring other
1261 indebtedness, and shall have other powers reasonably necessary
1262 to effectuate the requirements of this subsection, including,
1263 without limitation, the power to issue bonds and incur other
1264 indebtedness in order to refinance outstanding bonds or other

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1265 indebtedness. The corporation may, but is not required to, seek
1266 judicial validation of its bonds or other indebtedness under
1267 chapter 75. The corporation may issue bonds or incur other
1268 indebtedness, or have bonds issued on its behalf by a unit of
1269 local government pursuant to subparagraph (g)2., in the absence
1270 of a hurricane or other weather-related event, upon a
1271 determination by the corporation, subject to approval by the
1272 office, that such action would enable it to efficiently meet the
1273 financial obligations of the corporation and that such
1274 financings are reasonably necessary to effectuate the
1275 requirements of this subsection. The corporation is authorized
1276 to take all actions needed to facilitate tax-free status for any
1277 such bonds or indebtedness, including formation of trusts or
1278 other affiliated entities. The corporation shall have the
1279 authority to pledge assessments, projected recoveries from the
1280 Florida Hurricane Catastrophe Fund, other reinsurance
1281 recoverables, market equalization and other surcharges, and
1282 other funds available to the corporation as security for bonds
1283 or other indebtedness. In recognition of s. 10, Art. I of the
1284 State Constitution, prohibiting the impairment of obligations of
1285 contracts, it is the intent of the Legislature that no action be
1286 taken whose purpose is to impair any bond indenture or financing
1287 agreement or any revenue source committed by contract to such
1288 bond or other indebtedness.

1289 4.a. Must require that the corporation operate subject to
1290 the supervision and approval of a board of governors consisting
1291 of eight individuals who are residents of this state, from
1292 different geographical areas of this state. The Governor, the

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1293 Chief Financial Officer, the President of the Senate, and the
1294 Speaker of the House of Representatives shall each appoint two
1295 members of the board. At least one of the two members appointed
1296 by each appointing officer must have demonstrated expertise in
1297 insurance. The Chief Financial Officer shall designate one of
1298 the appointees as chair. All board members serve at the pleasure
1299 of the appointing officer. All members of the board of governors
1300 are subject to removal at will by the officers who appointed
1301 them. All board members, including the chair, must be appointed
1302 to serve for 3-year terms beginning annually on a date
1303 designated by the plan. Any board vacancy shall be filled for
1304 the unexpired term by the appointing officer. The Chief
1305 Financial Officer shall appoint a technical advisory group to
1306 provide information and advice to the board of governors in
1307 connection with the board's duties under this subsection. The
1308 executive director and senior managers of the corporation shall
1309 be engaged by the board and serve at the pleasure of the board.
1310 Any executive director appointed on or after July 1, 2006, is
1311 subject to confirmation by the Senate. The executive director is
1312 responsible for employing other staff as the corporation may
1313 require, subject to review and concurrence by the board.

1314 b. The board shall create a Market Accountability Advisory
1315 Committee to assist the corporation in developing awareness of
1316 its rates and its customer and agent service levels in
1317 relationship to the voluntary market insurers writing similar
1318 coverage. The members of the advisory committee shall consist of
1319 the following 11 persons, one of whom must be elected chair by
1320 the members of the committee: four representatives, one

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1321 appointed by the Florida Association of Insurance Agents, one by
1322 the Florida Association of Insurance and Financial Advisors, one
1323 by the Professional Insurance Agents of Florida, and one by the
1324 Latin American Association of Insurance Agencies; three
1325 representatives appointed by the insurers with the three highest
1326 voluntary market share of residential property insurance
1327 business in the state; one representative from the Office of
1328 Insurance Regulation; one consumer appointed by the board who is
1329 insured by the corporation at the time of appointment to the
1330 committee; one representative appointed by the Florida
1331 Association of Realtors; and one representative appointed by the
1332 Florida Bankers Association. All members must serve for 3-year
1333 terms and may serve for consecutive terms. The committee shall
1334 report to the corporation at each board meeting on insurance
1335 market issues which may include rates and rate competition with
1336 the voluntary market; service, including policy issuance, claims
1337 processing, and general responsiveness to policyholders,
1338 applicants, and agents; and matters relating to depopulation.

1339 5. Must provide a procedure for determining the
1340 eligibility of a risk for coverage, as follows:

1341 a. Subject to the provisions of s. 627.3517, with respect
1342 to personal lines residential risks, if the risk is offered
1343 coverage from an authorized insurer at the insurer's approved
1344 rate under either a standard policy including wind coverage or,
1345 if consistent with the insurer's underwriting rules as filed
1346 with the office, a basic policy including wind coverage, for a
1347 new application to the corporation for coverage, the risk is not
1348 eligible for any policy issued by the corporation unless the

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1349 premium for coverage from the authorized insurer is more than 25
1350 percent greater than the premium for comparable coverage from
1351 the corporation. If the risk is not able to obtain any such
1352 offer, the risk is eligible for either a standard policy
1353 including wind coverage or a basic policy including wind
1354 coverage issued by the corporation; however, if the risk could
1355 not be insured under a standard policy including wind coverage
1356 regardless of market conditions, the risk shall be eligible for
1357 a basic policy including wind coverage unless rejected under
1358 subparagraph 8. However, with regard to a policyholder of the
1359 corporation or a policyholder removed from the corporation
1360 through an assumption agreement until the end of the assumption
1361 period, the policyholder remains eligible for coverage from the
1362 corporation regardless of any offer of coverage from an
1363 authorized insurer or surplus lines insurer. The corporation
1364 shall determine the type of policy to be provided on the basis
1365 of objective standards specified in the underwriting manual and
1366 based on generally accepted underwriting practices.

1367 (I) If the risk accepts an offer of coverage through the
1368 market assistance plan or an offer of coverage through a
1369 mechanism established by the corporation before a policy is
1370 issued to the risk by the corporation or during the first 30
1371 days of coverage by the corporation, and the producing agent who
1372 submitted the application to the plan or to the corporation is
1373 not currently appointed by the insurer, the insurer shall:

1374 (A) Pay to the producing agent of record of the policy,
1375 for the first year, an amount that is the greater of the
1376 insurer's usual and customary commission for the type of policy

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1377 written or a fee equal to the usual and customary commission of
1378 the corporation; or

1379 (B) Offer to allow the producing agent of record of the
1380 policy to continue servicing the policy for a period of not less
1381 than 1 year and offer to pay the agent the greater of the
1382 insurer's or the corporation's usual and customary commission
1383 for the type of policy written.

1384

1385 If the producing agent is unwilling or unable to accept
1386 appointment, the new insurer shall pay the agent in accordance
1387 with sub-sub-sub-subparagraph (A).

1388 (II) When the corporation enters into a contractual
1389 agreement for a take-out plan, the producing agent of record of
1390 the corporation policy is entitled to retain any unearned
1391 commission on the policy, and the insurer shall:

1392 (A) Pay to the producing agent of record of the
1393 corporation policy, for the first year, an amount that is the
1394 greater of the insurer's usual and customary commission for the
1395 type of policy written or a fee equal to the usual and customary
1396 commission of the corporation; or

1397 (B) Offer to allow the producing agent of record of the
1398 corporation policy to continue servicing the policy for a period
1399 of not less than 1 year and offer to pay the agent the greater
1400 of the insurer's or the corporation's usual and customary
1401 commission for the type of policy written.

1402

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1403 If the producing agent is unwilling or unable to accept
1404 appointment, the new insurer shall pay the agent in accordance
1405 with sub-sub-sub-subparagraph (A).

1406 b. With respect to commercial lines residential risks, for
1407 a new application to the corporation for coverage, if the risk
1408 is offered coverage under a policy including wind coverage from
1409 an authorized insurer at its approved rate, the risk is not
1410 eligible for any policy issued by the corporation unless the
1411 premium for coverage from the authorized insurer is more than 25
1412 percent greater than the premium for comparable coverage from
1413 the corporation. If the risk is not able to obtain any such
1414 offer, the risk is eligible for a policy including wind coverage
1415 issued by the corporation. However, with regard to a
1416 policyholder of the corporation or a policyholder removed from
1417 the corporation through an assumption agreement until the end of
1418 the assumption period, the policyholder remains eligible for
1419 coverage from the corporation regardless of any offer of
1420 coverage from an authorized insurer or surplus lines insurer.

1421 (I) If the risk accepts an offer of coverage through the
1422 market assistance plan or an offer of coverage through a
1423 mechanism established by the corporation before a policy is
1424 issued to the risk by the corporation or during the first 30
1425 days of coverage by the corporation, and the producing agent who
1426 submitted the application to the plan or the corporation is not
1427 currently appointed by the insurer, the insurer shall:

1428 (A) Pay to the producing agent of record of the policy,
1429 for the first year, an amount that is the greater of the
1430 insurer's usual and customary commission for the type of policy

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1431 written or a fee equal to the usual and customary commission of
1432 the corporation; or

1433 (B) Offer to allow the producing agent of record of the
1434 policy to continue servicing the policy for a period of not less
1435 than 1 year and offer to pay the agent the greater of the
1436 insurer's or the corporation's usual and customary commission
1437 for the type of policy written.

1438

1439 If the producing agent is unwilling or unable to accept
1440 appointment, the new insurer shall pay the agent in accordance
1441 with sub-sub-sub-subparagraph (A).

1442 (II) When the corporation enters into a contractual
1443 agreement for a take-out plan, the producing agent of record of
1444 the corporation policy is entitled to retain any unearned
1445 commission on the policy, and the insurer shall:

1446 (A) Pay to the producing agent of record of the
1447 corporation policy, for the first year, an amount that is the
1448 greater of the insurer's usual and customary commission for the
1449 type of policy written or a fee equal to the usual and customary
1450 commission of the corporation; or

1451 (B) Offer to allow the producing agent of record of the
1452 corporation policy to continue servicing the policy for a period
1453 of not less than 1 year and offer to pay the agent the greater
1454 of the insurer's or the corporation's usual and customary
1455 commission for the type of policy written.

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1457 If the producing agent is unwilling or unable to accept
1458 appointment, the new insurer shall pay the agent in accordance
1459 with sub-sub-sub-subparagraph (A).

1460 c. For purposes of determining comparable coverage under
1461 sub-subparagraphs a. and b., the comparison shall be based on
1462 those forms and coverages that are reasonably comparable. The
1463 corporation may rely on a determination of comparable coverage
1464 and premium made by the producing agent who submits the
1465 application to the corporation, made in the agent's capacity as
1466 the corporation's agent. A comparison may be made solely of the
1467 premium with respect to the main building or structure only on
1468 the following basis: the same coverage A or other building
1469 limits; the same percentage hurricane deductible that applies on
1470 an annual basis or that applies to each hurricane for commercial
1471 residential property; the same percentage of ordinance and law
1472 coverage, if the same limit is offered by both the corporation
1473 and the authorized insurer; the same mitigation credits, to the
1474 extent the same types of credits are offered both by the
1475 corporation and the authorized insurer; the same method for loss
1476 payment, such as replacement cost or actual cash value, if the
1477 same method is offered both by the corporation and the
1478 authorized insurer in accordance with underwriting rules; and
1479 any other form or coverage that is reasonably comparable as
1480 determined by the board. If an application is submitted to the
1481 corporation for wind-only coverage in the high-risk account, the
1482 premium for the corporation's wind-only policy plus the premium
1483 for the ex-wind policy that is offered by an authorized insurer
1484 to the applicant shall be compared to the premium for multiperil

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1485 coverage offered by an authorized insurer, subject to the
1486 standards for comparison specified in this subparagraph. If the
1487 corporation or the applicant requests from the authorized
1488 insurer a breakdown of the premium of the offer by types of
1489 coverage so that a comparison may be made by the corporation or
1490 its agent and the authorized insurer refuses or is unable to
1491 provide such information, the corporation may treat the offer as
1492 not being an offer of coverage from an authorized insurer at the
1493 insurer's approved rate.

1494 ~~6. Must provide by July 1, 2007, that an application for~~
1495 ~~coverage for a new policy is subject to a waiting period of 10~~
1496 ~~days before coverage is effective, during which time the~~
1497 ~~corporation shall make such application available for review by~~
1498 ~~general lines agents and authorized property and casualty~~
1499 ~~insurers. The board shall approve an exception that allows for~~
1500 ~~coverage to be effective before the end of the 10 day waiting~~
1501 ~~period, for coverage issued in conjunction with a real estate~~
1502 ~~closing. The board may approve such other exceptions as the~~
1503 ~~board determines are necessary to prevent lapses in coverage.~~

1504 ~~6.7. Must include rules for classifications of risks and~~
1505 ~~rates therefor.~~

1506 ~~7.8. Must provide that if premium and investment income~~
1507 ~~for an account attributable to a particular calendar year are in~~
1508 ~~excess of projected losses and expenses for the account~~
1509 ~~attributable to that year, such excess shall be held in surplus~~
1510 ~~in the account. Such surplus shall be available to defray~~
1511 ~~deficits in that account as to future years and shall be used~~

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1512 for that purpose prior to assessing assessable insurers and
1513 assessable insureds as to any calendar year.

1514 ~~8.9.~~ Must provide objective criteria and procedures to be
1515 uniformly applied for all applicants in determining whether an
1516 individual risk is so hazardous as to be uninsurable. In making
1517 this determination and in establishing the criteria and
1518 procedures, the following shall be considered:

1519 a. Whether the likelihood of a loss for the individual
1520 risk is substantially higher than for other risks of the same
1521 class; and

1522 b. Whether the uncertainty associated with the individual
1523 risk is such that an appropriate premium cannot be determined.

1524
1525 The acceptance or rejection of a risk by the corporation shall
1526 be construed as the private placement of insurance, and the
1527 provisions of chapter 120 shall not apply.

1528 ~~9.10.~~ Must provide that the corporation shall make its
1529 best efforts to procure catastrophe reinsurance at reasonable
1530 rates, to cover its projected 100-year probable maximum loss as
1531 determined by the board of governors.

1532 ~~10.11.~~ Must provide that in the event of regular deficit
1533 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
1534 (b)3.b., in the personal lines account, the commercial lines
1535 residential account, or the high-risk account, the corporation
1536 shall levy upon corporation policyholders in its next rate
1537 filing, or by a separate rate filing solely for this purpose, a
1538 Citizens policyholder surcharge arising from a regular
1539 assessment in such account in a percentage equal to the total
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1540 amount of such regular assessments divided by the aggregate
1541 statewide direct written premium for subject lines of business
1542 for the prior calendar year. For purposes of calculating the
1543 Citizens policyholder surcharge to be levied under this
1544 subparagraph, the total amount of the regular assessment to
1545 which this surcharge is related shall be determined as set forth
1546 in subparagraph (b)3., without deducting the estimated Citizens
1547 policyholder surcharge. Citizens policyholder surcharges under
1548 this subparagraph are not considered premium and are not subject
1549 to commissions, fees, or premium taxes; however, failure to pay
1550 a market equalization surcharge shall be treated as failure to
1551 pay premium.

1552 ~~11.12.~~ The policies issued by the corporation must provide
1553 that, if the corporation or the market assistance plan obtains
1554 an offer from an authorized insurer to cover the risk at its
1555 approved rates, the risk is no longer eligible for renewal
1556 through the corporation, except as otherwise provided in this
1557 subsection.

1558 ~~12.13.~~ Corporation policies and applications must include
1559 a notice that the corporation policy could, under this section,
1560 be replaced with a policy issued by an authorized insurer that
1561 does not provide coverage identical to the coverage provided by
1562 the corporation. The notice shall also specify that acceptance
1563 of corporation coverage creates a conclusive presumption that
1564 the applicant or policyholder is aware of this potential.

1565 ~~13.14.~~ May establish, subject to approval by the office,
1566 different eligibility requirements and operational procedures
1567 for any line or type of coverage for any specified county or
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1568 area if the board determines that such changes to the
1569 eligibility requirements and operational procedures are
1570 justified due to the voluntary market being sufficiently stable
1571 and competitive in such area or for such line or type of
1572 coverage and that consumers who, in good faith, are unable to
1573 obtain insurance through the voluntary market through ordinary
1574 methods would continue to have access to coverage from the
1575 corporation. When coverage is sought in connection with a real
1576 property transfer, such requirements and procedures shall not
1577 provide for an effective date of coverage later than the date of
1578 the closing of the transfer as established by the transferor,
1579 the transferee, and, if applicable, the lender.

1580 ~~14.15-~~ Must provide that, with respect to the high-risk
1581 account, any assessable insurer with a surplus as to
1582 policyholders of \$25 million or less writing 25 percent or more
1583 of its total countrywide property insurance premiums in this
1584 state may petition the office, within the first 90 days of each
1585 calendar year, to qualify as a limited apportionment company. A
1586 regular assessment levied by the corporation on a limited
1587 apportionment company for a deficit incurred by the corporation
1588 for the high-risk account in 2006 or thereafter may be paid to
1589 the corporation on a monthly basis as the assessments are
1590 collected by the limited apportionment company from its insureds
1591 pursuant to s. 627.3512, but the regular assessment must be paid
1592 in full within 12 months after being levied by the corporation.
1593 A limited apportionment company shall collect from its
1594 policyholders any emergency assessment imposed under sub-
1595 subparagraph (b)3.d. The plan shall provide that, if the office
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1596 | determines that any regular assessment will result in an
1597 | impairment of the surplus of a limited apportionment company,
1598 | the office may direct that all or part of such assessment be
1599 | deferred as provided in subparagraph (g)4. However, there shall
1600 | be no limitation or deferment of an emergency assessment to be
1601 | collected from policyholders under sub-subparagraph (b)3.d.

1602 | ~~15.16.~~ Must provide that the corporation appoint as its
1603 | licensed agents only those agents who also hold an appointment
1604 | as defined in s. 626.015(3) with an insurer who at the time of
1605 | the agent's initial appointment by the corporation is authorized
1606 | to write and is actually writing personal lines residential
1607 | property coverage, commercial residential property coverage, or
1608 | commercial nonresidential property coverage within the state.

1609 | ~~16.17.~~ Must provide, by July 1, 2007, a premium payment
1610 | plan option to its policyholders which allows at a minimum for
1611 | quarterly and semiannual payment of premiums. A monthly payment
1612 | plan may, but is not required to, be offered.

1613 | ~~17.18.~~ Must provide, effective June 1, 2007, that the
1614 | corporation contract with each insurer providing the non-wind
1615 | coverage for risks insured by the corporation in the high-risk
1616 | account, requiring that the insurer provide claims adjusting
1617 | services for the wind coverage provided by the corporation for
1618 | such risks. An insurer is required to enter into this contract
1619 | as a condition of providing non-wind coverage for a risk that is
1620 | insured by the corporation in the high-risk account unless the
1621 | board finds, after a hearing, that the insurer is not capable of
1622 | providing adjusting services at an acceptable level of quality
1623 | to corporation policyholders. The terms and conditions of such
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1624 contracts must be substantially the same as the contracts that
1625 the corporation executed with insurers under the "adjust-your-
1626 own" program in 2006, except as may be mutually agreed to by the
1627 parties and except for such changes that the board determines
1628 are necessary to ensure that claims are adjusted appropriately.
1629 The corporation shall provide a process for neutral arbitration
1630 of any dispute between the corporation and the insurer regarding
1631 the terms of the contract. The corporation shall review and
1632 monitor the performance of insurers under these contracts.

1633 ~~18.19.~~ Must limit coverage on mobile homes or manufactured
1634 homes built prior to 1994 to actual cash value of the dwelling
1635 rather than replacement costs of the dwelling.

1636 ~~19.20.~~ May provide such limits of coverage as the board
1637 determines, consistent with the requirements of this subsection.

1638 ~~20.21.~~ May require commercial property to meet specified
1639 hurricane mitigation construction features as a condition of
1640 eligibility for coverage.

1641 (d)1. All prospective employees for senior management
1642 positions, as defined by the plan of operation, are subject to
1643 background checks as a prerequisite for employment. The office
1644 shall conduct background checks on such prospective employees
1645 pursuant to ss. 624.34, 624.404(3), and 628.261.

1646 2. On or before July 1 of each year, employees of the
1647 corporation are required to sign and submit a statement
1648 attesting that they do not have a conflict of interest, as
1649 defined in part III of chapter 112. As a condition of
1650 employment, all prospective employees are required to sign and
1651 submit to the corporation a conflict-of-interest statement.

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1652 3. Senior managers and members of the board of governors
1653 are subject to the provisions of part III of chapter 112,
1654 including, but not limited to, the code of ethics and public
1655 disclosure and reporting of financial interests, pursuant to s.
1656 112.3145. For purposes of the filing requirements in s.
1657 112.3145, senior managers and board members are also required to
1658 file such disclosures with the Commission on Ethics and the
1659 Office of Insurance Regulation. The executive director of the
1660 corporation or his or her designee shall notify each newly
1661 appointed and existing appointed member of the board of
1662 governors and senior managers of their duty to comply with the
1663 reporting requirements of s. 112.3145 ~~part III of chapter 112.~~
1664 At least quarterly, the executive director or his or her
1665 designee shall submit to the Commission on Ethics a list of
1666 names of the senior managers and members of the board of
1667 governors who are subject to the public disclosure requirements
1668 under s. 112.3145.

1669 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
1670 other provision of law, an employee or board member may not
1671 knowingly accept, directly or indirectly, any gift or
1672 expenditure from a person or entity, or an employee or
1673 representative of such person or entity, that has a contractual
1674 relationship with the corporation or who is under consideration
1675 for a contract. An employee or board member who fails to comply
1676 with subparagraph 3. or this subparagraph is subject to
1677 penalties provided under ss. 112.317 and 112.3173.

1678 5. Any senior manager of the corporation who is employed
1679 on or after January 1, 2007, regardless of the date of hire, who

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1680 subsequently retires or terminates employment is prohibited from
1681 representing another person or entity before the corporation for
1682 2 years after retirement or termination of employment from the
1683 corporation.

1684 6. Any senior manager ~~employee~~ of the corporation who is
1685 employed on or after January 1, 2007, regardless of the date of
1686 hire, who subsequently retires or terminates employment is
1687 prohibited from having any employment or contractual
1688 relationship for 2 years with an insurer that has entered into
1689 ~~received~~ a take-out bonus agreement with ~~from~~ the corporation.

1690 (m)1. Rates for coverage provided by the corporation shall
1691 be actuarially sound and subject to the requirements of s.
1692 627.062, except as otherwise provided in this paragraph. The
1693 corporation shall file its recommended rates with the office at
1694 least annually. The corporation shall provide any additional
1695 information regarding the rates which the office requires. The
1696 office shall consider the recommendations of the board and issue
1697 a final order establishing the rates for the corporation within
1698 45 days after the recommended rates are filed. The corporation
1699 may not pursue an administrative challenge or judicial review of
1700 the final order of the office.

1701 2. In addition to the rates otherwise determined pursuant
1702 to this paragraph, the corporation shall impose and collect an
1703 amount equal to the premium tax provided for in s. 624.509 to
1704 augment the financial resources of the corporation.

1705 3. After the public hurricane loss-projection model under
1706 s. 627.06281 has been found to be accurate and reliable by the
1707 Florida Commission on Hurricane Loss Projection Methodology,
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1708 that model shall serve as the minimum benchmark for determining
1709 the windstorm portion of the corporation's rates. This
1710 subparagraph does not require or allow the corporation to adopt
1711 rates lower than the rates otherwise required or allowed by this
1712 paragraph.

1713 4. The rate filings for the corporation which were
1714 approved by the office and which took effect January 1, 2007,
1715 are rescinded, except for those rates that were lowered. As soon
1716 as possible, the corporation shall begin using the lower rates
1717 that were in effect on December 31, 2006, and shall provide
1718 refunds to policyholders who have paid higher rates as a result
1719 of that rate filing. The rates in effect on December 31, 2006,
1720 shall remain in effect through at least December 31, 2007, ~~for~~
1721 ~~the 2007 calendar year~~ except for any rate change that results
1722 in a lower rate. The next rate change that may increase rates
1723 shall be filed with the office by ~~take effect~~ January 1, 2008,
1724 ~~pursuant to a new rate filing recommended by the corporation and~~
1725 ~~established by the office,~~ subject to the requirements of this
1726 paragraph.

1727 (n) If coverage in an account is deactivated pursuant to
1728 paragraph (f), coverage through the corporation shall be
1729 reactivated by order of the office only under one of the
1730 following circumstances:

1731 1. If the market assistance plan receives a minimum of 100
1732 applications for coverage within a 3-month period, or 200
1733 applications for coverage within a 1-year period or less for
1734 residential coverage, unless the market assistance plan provides
1735 a quotation from admitted carriers at their filed rates for at
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1736 | least 90 percent of such applicants. Any market assistance plan
1737 | application that is rejected because an individual risk is so
1738 | hazardous as to be uninsurable using the criteria specified in
1739 | subparagraph (c) ~~7.8~~ shall not be included in the minimum
1740 | percentage calculation provided herein. In the event that there
1741 | is a legal or administrative challenge to a determination by the
1742 | office that the conditions of this subparagraph have been met
1743 | for eligibility for coverage in the corporation, any eligible
1744 | risk may obtain coverage during the pendency of such challenge.

1745 | 2. In response to a state of emergency declared by the
1746 | Governor under s. 252.36, the office may activate coverage by
1747 | order for the period of the emergency upon a finding by the
1748 | office that the emergency significantly affects the availability
1749 | of residential property insurance.

1750 | (v) Notwithstanding any other provision of law:

1751 | 1. The pledge or sale of, the lien upon, and the security
1752 | interest in any rights, revenues, or other assets of the
1753 | corporation created or purported to be created pursuant to any
1754 | financing documents to secure any bonds or other indebtedness of
1755 | the corporation shall be and remain valid and enforceable,
1756 | notwithstanding the commencement of and during the continuation
1757 | of, and after, any rehabilitation, insolvency, liquidation,
1758 | bankruptcy, receivership, conservatorship, reorganization, or
1759 | similar proceeding against the corporation under the laws of
1760 | this state.

1761 | 2. No such proceeding shall relieve the corporation of its
1762 | obligation, or otherwise affect its ability to perform its
1763 | obligation, to continue to collect, or levy and collect,

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1764 assessments, market equalization or other surcharges under
1765 subparagraph (c) ~~9.10~~, or any other rights, revenues, or other
1766 assets of the corporation pledged pursuant to any financing
1767 documents.

1768 3. Each such pledge or sale of, lien upon, and security
1769 interest in, including the priority of such pledge, lien, or
1770 security interest, any such assessments, market equalization or
1771 other surcharges, or other rights, revenues, or other assets
1772 which are collected, or levied and collected, after the
1773 commencement of and during the pendency of, or after, any such
1774 proceeding shall continue unaffected by such proceeding. As used
1775 in this subsection, the term "financing documents" means any
1776 agreement or agreements, instrument or instruments, or other
1777 document or documents now existing or hereafter created
1778 evidencing any bonds or other indebtedness of the corporation or
1779 pursuant to which any such bonds or other indebtedness has been
1780 or may be issued and pursuant to which any rights, revenues, or
1781 other assets of the corporation are pledged or sold to secure
1782 the repayment of such bonds or indebtedness, together with the
1783 payment of interest on such bonds or such indebtedness, or the
1784 payment of any other obligation or financial product, as defined
1785 in the plan of operation of the corporation related to such
1786 bonds or indebtedness.

1787 4. Any such pledge or sale of assessments, revenues,
1788 contract rights, or other rights or assets of the corporation
1789 shall constitute a lien and security interest, or sale, as the
1790 case may be, that is immediately effective and attaches to such
1791 assessments, revenues, or contract rights or other rights or
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1792 | assets, whether or not imposed or collected at the time the
1793 | pledge or sale is made. Any such pledge or sale is effective,
1794 | valid, binding, and enforceable against the corporation or other
1795 | entity making such pledge or sale, and valid and binding against
1796 | and superior to any competing claims or obligations owed to any
1797 | other person or entity, including policyholders in this state,
1798 | asserting rights in any such assessments, revenues, or contract
1799 | rights or other rights or assets to the extent set forth in and
1800 | in accordance with the terms of the pledge or sale contained in
1801 | the applicable financing documents, whether or not any such
1802 | person or entity has notice of such pledge or sale and without
1803 | the need for any physical delivery, recordation, filing, or
1804 | other action.

1805 | 5. As long as the corporation has any bonds outstanding,
1806 | the corporation may not file a voluntary petition under chapter
1807 | 9 of the federal Bankruptcy Code or such corresponding chapter
1808 | or sections as may be in effect, from time to time, and a public
1809 | officer or any organization, entity, or other person may not
1810 | authorize the corporation to be or become a debtor under chapter
1811 | 9 of the federal Bankruptcy Code or such corresponding chapter
1812 | or sections as may be in effect, from time to time, during any
1813 | such period.

1814 | 6. If ordered by a court of competent jurisdiction, the
1815 | corporation may assume policies or otherwise provide coverage
1816 | for policyholders of an insurer placed in liquidation under
1817 | chapter 631, under such forms, rates, terms, and conditions as
1818 | the corporation deems appropriate, subject to approval by the
1819 | office.

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1820 Section 11. Subsection (4) of section 627.3511, Florida
1821 Statutes, is amended to read:

1822 627.3511 Depopulation of Citizens Property Insurance
1823 Corporation.--

1824 (4) AGENT BONUS.--When the corporation enters into a
1825 contractual agreement for a take-out plan that provides a bonus
1826 to the insurer, the producing agent of record of the corporation
1827 policy is entitled to retain any unearned commission on such
1828 policy, and the insurer shall either:

1829 (a) Pay to the producing agent of record of the
1830 association policy, for the first year, an amount that is the
1831 greater of the insurer's usual and customary commission for the
1832 type of policy written or a fee equal to the usual and customary
1833 commission of the corporation; or

1834 (b) Offer to allow the producing agent of record of the
1835 corporation policy to continue servicing the policy for a period
1836 of not less than 1 year and offer to pay the agent the greater
1837 of the insurer's or the corporation's usual and customary
1838 commission for the type of policy written.

1839
1840 If the producing agent is unwilling or unable to accept
1841 appointment, the new insurer shall pay the agent in accordance
1842 with paragraph (a). The requirement of this subsection that the
1843 producing agent of record is entitled to retain the unearned
1844 commission on an association policy does not apply to a policy
1845 for which coverage has been provided in the association for 30
1846 days or less or for which a cancellation notice has been issued

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1847 pursuant to s. 627.351(6)(c)~~10.11~~ during the first 30 days of
1848 coverage.

1849 Section 12. Paragraph (a) of subsection (3) of section
1850 627.3515, Florida Statutes, as amended by chapter 2007-1, Laws
1851 of Florida, is amended to read:

1852 627.3515 Market assistance plan; property and casualty
1853 risks.--

1854 (3)(a) The plan and the corporation shall develop a
1855 business plan and present it to the Financial Services
1856 Commission for approval by September 1, 2007, to provide for the
1857 implementation of an electronic database for the purpose of
1858 confirming eligibility pursuant to s. 627.351(6). The business
1859 plan may provide that authorized insurers or agents of
1860 authorized insurers may submit to the plan or the corporation in
1861 electronic form, as determined by the plan or the corporation,
1862 information determined necessary by the plan or the corporation
1863 to deny coverage to risks ineligible for coverage by the
1864 corporation. Any authorized insurer submitting such information
1865 that results in a risk being denied coverage by the corporation
1866 is required to provide coverage to the risk at its approved
1867 rates, for the coverage and premium quoted, for at least 1 year.

1868 Section 13. Section 627.3517, Florida Statutes, is amended
1869 to read:

1870 627.3517 Consumer choice.--

1871 ~~(1) Except as provided in subsection (2),~~ No provision of
1872 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to
1873 impair the right of any insurance risk apportionment plan
1874 policyholder, upon receipt of any keepout or take-out offer, to

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1875 retain his or her current agent, so long as that agent is duly
1876 licensed and appointed by the insurance risk apportionment plan
1877 or otherwise authorized to place business with the insurance
1878 risk apportionment plan. This right shall not be canceled,
1879 suspended, impeded, abridged, or otherwise compromised by any
1880 rule, plan of operation, or depopulation plan, whether through
1881 keepout, take-out, midterm assumption, or any other means, of
1882 any insurance risk apportionment plan or depopulation plan,
1883 including, but not limited to, those described in s. 627.351, s.
1884 627.3511, or s. 627.3515. The commission shall adopt any rules
1885 necessary to cause any insurance risk apportionment plan or
1886 market assistance plan under such sections to demonstrate that
1887 the operations of the plan do not interfere with, promote, or
1888 allow interference with the rights created under this section.
1889 If the policyholder's current agent is unable or unwilling to be
1890 appointed with the insurer making the take-out or keepout offer,
1891 the policyholder shall not be disqualified from participation in
1892 the appropriate insurance risk apportionment plan because of an
1893 offer of coverage in the voluntary market. An offer of full
1894 property insurance coverage by the insurer currently insuring
1895 either the ex-wind or wind-only coverage on the policy to which
1896 the offer applies shall not be considered a take-out or keepout
1897 offer. Any rule, plan of operation, or plan of depopulation,
1898 through keepout, take-out, midterm assumption, or any other
1899 means, of any property insurance risk apportionment plan under
1900 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
1901 and 627.3511(4).

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1902 ~~(2) This section does not apply during the first 10 days~~
1903 ~~after a new application for coverage has been submitted to~~
1904 ~~Citizens Property Insurance Corporation under s. 627.351(6),~~
1905 ~~whether or not coverage is bound during this period.~~

1906 Section 14. Subsection (1) of section 627.4035, Florida
1907 Statutes, as amended by chapter 2007-1, Laws of Florida, is
1908 amended to read:

1909 627.4035 Cash payment of premiums; claims.--

1910 (1) The premiums for insurance contracts issued in this
1911 state or covering risk located in this state shall be paid in
1912 cash consisting of coins, currency, checks, or money orders or
1913 by using a debit card, credit card, automatic electronic funds
1914 transfer, or payroll deduction plan. By July 1, 2007, insurers
1915 issuing personal lines residential and commercial property
1916 policies shall provide a premium payment plan option to their
1917 policyholders which allows for a minimum of quarterly and
1918 semiannual payment of premiums. Insurers may, but are not
1919 required to, offer monthly payment plans. Insurers issuing such
1920 policies must submit their premium payment plan option to the
1921 office for approval before use.

1922 Section 15. Subsection (7) is added to section 627.4133,
1923 Florida Statutes, to read:

1924 627.4133 Notice of cancellation, nonrenewal, or renewal
1925 premium.--

1926 (7) (a) Effective August 1, 2007, with respect to any
1927 residential property insurance policy, every notice of renewal
1928 premium must specify:

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1929 1. The dollar amounts recouped for assessments by the
1930 Florida Hurricane Catastrophe Fund, the Citizens Property
1931 Insurance Corporation, and the Florida Insurance Guaranty
1932 Association. The actual names of the entities must appear next
1933 to the dollar amounts.

1934 2. The dollar amount of any premium increase that is due
1935 to an approved rate increase and the dollar amounts that are due
1936 to coverage changes.

1937 (b) The Financial Services Commission may adopt rules
1938 pursuant to ss. 120.536(1) and 120.54 to implement this
1939 subsection.

1940 Section 16. Paragraphs (a) and (c) of subsection (3) and
1941 paragraph (d) of subsection (4) of section 627.701, Florida
1942 Statutes, as amended by chapter 2007-1, Laws of Florida, are
1943 amended to read:

1944 627.701 Liability of insureds; coinsurance; deductibles.--

1945 (3) (a) Except as otherwise provided in this subsection,
1946 prior to issuing a personal lines residential property insurance
1947 policy, the insurer must offer alternative deductible amounts
1948 applicable to hurricane losses equal to \$500, 2 percent, 5
1949 percent, and 10 percent of the policy dwelling limits, unless
1950 the specific percentage deductible is less than \$500. The
1951 written notice of the offer shall specify the hurricane ~~or wind~~
1952 deductible to be applied in the event that the applicant or
1953 policyholder fails to affirmatively choose a hurricane
1954 deductible. The insurer must provide such policyholder with
1955 notice of the availability of the deductible amounts specified
1956 in this paragraph in a form approved by the office in

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1957 conjunction with each renewal of the policy. The failure to
1958 provide such notice constitutes a violation of this code but
1959 does not affect the coverage provided under the policy.

1960 (c) With respect to a policy covering a risk with dwelling
1961 limits of at least \$100,000, but less than \$250,000, the insurer
1962 may, in lieu of offering a policy with a \$500 hurricane ~~or wind~~
1963 deductible as required by paragraph (a), offer a policy that the
1964 insurer guarantees it will not nonrenew for reasons of reducing
1965 hurricane loss for one renewal period and that contains up to a
1966 2 percent hurricane ~~or wind~~ deductible as required by paragraph
1967 (a).

1968 (4)

1969 (d)1. A personal lines residential property insurance
1970 policy covering a risk valued at less than \$500,000 may not have
1971 a hurricane deductible in excess of 10 percent of the policy
1972 dwelling limits, unless the following conditions are met:

1973 a. The policyholder must personally write and provide to
1974 the insurer the following statement in his or her own
1975 handwriting and sign his or her name, which must also be signed
1976 by every other named insured on the policy, and dated: "I do not
1977 want the insurance on my home to pay for the first (specify
1978 dollar value) of damage from hurricanes. I will pay those costs.
1979 My insurance will not."

1980 b. If the structure insured by the policy is subject to a
1981 mortgage or lien, the policyholder must provide the insurer with
1982 a written statement from the mortgageholder or lienholder
1983 indicating that the mortgageholder or lienholder approves the
1984 policyholder electing to have the specified deductible.

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1985 2. A deductible subject to the requirements of this
1986 paragraph applies for the term of the policy and for each
1987 renewal thereafter ~~unless the policyholder elects otherwise.~~
1988 Changes to the deductible percentage may be implemented only as
1989 of the date of renewal.

1990 3. An insurer shall keep the original copy of the signed
1991 statement required by this paragraph, electronically or
1992 otherwise, and provide a copy to the policyholder providing the
1993 signed statement. A signed statement meeting the requirements of
1994 this paragraph creates a presumption that there was an informed,
1995 knowing election of coverage.

1996 4. The commission shall adopt rules providing appropriate
1997 alternative methods for providing the statements required by
1998 this section for policyholders who have a handicapping or
1999 disabling condition that prevents them from providing a
2000 handwritten statement.

2001 Section 17. Subsection (5) of section 627.70131, Florida
2002 Statutes, as amended by chapter 2007-1, Laws of Florida, is
2003 amended to read:

2004 627.70131 Insurer's duty to acknowledge communications
2005 regarding claims; investigation.--

2006 (5) Within 90 days after an insurer receives notice of
2007 loss of a residential property insurance claim from a
2008 policyholder, the insurer shall pay or deny such claim unless
2009 the failure to pay such claim is caused by factors beyond the
2010 control of the insurer which reasonably prevent such payment.
2011 Within 90 days after an insurer receives notice of loss of a
2012 commercial property insurance claim from a policyholder, the

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2013 | insurer shall pay or deny such claim unless the insurer provides
2014 | specific reasons to the policyholder why the claim cannot be
2015 | paid within the 90-day period. Any overdue payment of a claim
2016 | shall bear interest at the rate as set forth in s. 55.03.
2017 | Interest on an overdue payment for a claim begins to accrue from
2018 | the date the insurer receives notice of the claim. The interest
2019 | is payable with the payment of the claim. Interest paid may not
2020 | be used in future rate filing as an expense. The provisions of
2021 | this subsection may not be waived, voided, or nullified by
2022 | contract. The exclusive remedy for a violation of this
2023 | subsection is a regulatory action under this code. ~~Failure to~~
2024 | ~~comply with this subsection constitutes a violation of this~~
2025 | ~~code.~~

2026 | Section 18. Subsections (2), (4), and (5) of section
2027 | 627.712, Florida Statutes, as created by chapter 2007-1, Laws of
2028 | Florida, are amended to read:

2029 | 627.712 Residential hurricane coverage required;
2030 | availability of exclusions for windstorm or contents.--

2031 | (1) An insurer issuing a residential property insurance
2032 | policy must provide hurricane or windstorm coverage as defined
2033 | in s. 627.4025. This subsection does not apply with respect to
2034 | risks that are eligible for wind-only coverage from Citizens
2035 | Property Insurance Corporation under s. 627.351(6).

2036 | (2) A property ~~An insurer that is subject to subsection~~
2037 | ~~(1)~~ must make available, at the option of the policyholder, an
2038 | exclusion of hurricane coverage or windstorm coverage as
2039 | provided within the applicable policy. The coverage may be
2040 | excluded only if:

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2041 (a) 1. When the policyholder is a natural person, the
2042 policyholder personally writes and provides to the insurer the
2043 following statement in his or her own handwriting and signs his
2044 or her name, which must also be signed by every other named
2045 insured on the policy, and dated: "I do not want the insurance
2046 on my (home/mobile home/condominium unit) to pay for damage from
2047 windstorms or hurricanes. I will pay those costs. My insurance
2048 will not."

2049 2. When the policyholder is other than a natural person,
2050 the policyholder provides to the insurer on the policyholder's
2051 letterhead the following statement that must be signed by the
2052 policyholder's authorized representative and dated: "(Name of
2053 entity) does not want the insurance on its (type of structure)
2054 to pay for damage from windstorms or hurricanes. (Name of
2055 entity) will be responsible for these costs. (Name of entity)'s
2056 insurance will not."

2057 (b) If the structure insured by the policy is subject to a
2058 mortgage or lien, the policyholder must provide the insurer with
2059 a written statement from the mortgageholder or lienholder
2060 indicating that the mortgageholder or lienholder approves the
2061 policyholder electing to exclude windstorm coverage or hurricane
2062 coverage from his or her or its ~~residential~~ property insurance
2063 policy.

2064 (4) An insurer shall keep the original copy of a signed
2065 statement required by this section, electronically or otherwise,
2066 and provide a copy to the policyholder providing the signed
2067 statement. A signed statement meeting the requirements of this

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2068 section creates a presumption that there was an informed,
2069 knowing rejection of coverage.

2070 (5) The exclusions authorized by this section apply for
2071 the term of the policy and for each renewal thereafter. Changes
2072 to the exclusions authorized by this section may be implemented
2073 only as of the date of renewal. The exclusions authorized by
2074 this section are valid for the term of the contract and for each
2075 renewal unless the policyholder elects otherwise.

2076 Section 19. Subsections (4) and (5) of section 627.7277,
2077 Florida Statutes, as amended by chapter 2007-1, Laws of Florida,
2078 are amended to read:

2079 627.7277 Notice of renewal premium.--

2080 ~~(4) Every notice of renewal premium must specify:~~

2081 ~~(a) The dollar amounts recouped for assessments by the~~
2082 ~~Florida Hurricane Catastrophe Fund, the Citizens Property~~
2083 ~~Insurance Corporation, and the Florida Insurance Guaranty~~
2084 ~~Association. The actual names of the entities must appear next~~
2085 ~~to the dollar amounts.~~

2086 ~~(b) The dollar amount of any premium increase that is due~~
2087 ~~to a rate increase and the dollar amounts that are due to~~
2088 ~~coverage changes.~~

2089 ~~(5) The Financial Services Commission may adopt rules~~
2090 ~~pursuant to ss. 120.536(1) and 120.54 to implement this section.~~

2091 Section 20. Subsection (11) of section 631.52, Florida
2092 Statutes, is amended to read:

2093 631.52 Scope.--This part shall apply to all kinds of
2094 direct insurance, except:

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2095 (11) Self-insurance and any kind of self-insurance fund,
2096 liability pool, or risk management fund;

2097 Section 21. Paragraph (e) of subsection (3) of section
2098 631.57, Florida Statutes, as amended by chapter 2007-1, Laws of
2099 Florida, is amended to read:

2100 631.57 Powers and duties of the association.--

2101 (3)

2102 (e)1.a. In addition to assessments otherwise authorized in
2103 paragraph (a) and to the extent necessary to secure the funds
2104 for the account specified in s. 631.55(2)(c) for the direct
2105 payment of covered claims of insurers rendered insolvent by the
2106 effects of a hurricane homeowners' insurers and to pay the
2107 reasonable costs to administer such claims, or to retire
2108 indebtedness, including, without limitation, the principal,
2109 redemption premium, if any, and interest on, and related costs
2110 of issuance of, bonds issued under s. 631.695 and the funding of
2111 any reserves and other payments required under the bond
2112 resolution or trust indenture pursuant to which such bonds have
2113 been issued, the office, upon certification of the board of
2114 directors, shall levy emergency assessments upon insurers
2115 holding a certificate of authority. The emergency assessments
2116 payable under this paragraph by any insurer shall not exceed in
2117 any single year more than 2 percent of that insurer's direct
2118 written premiums, net of refunds, in this state during the
2119 preceding calendar year for the kinds of insurance within the
2120 account specified in s. 631.55(2)(c).

2121 b. Any emergency assessments authorized under this
2122 paragraph shall be levied by the office upon insurers referred
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2123 | to in sub-subparagraph a., upon certification as to the need for
2124 | such assessments by the board of directors. In the event the
2125 | board of directors participates in the issuance of bonds in
2126 | accordance with s. 631.695, emergency assessments shall be
2127 | levied in each year that bonds issued under s. 631.695 and
2128 | secured by such emergency assessments are outstanding, in such
2129 | amounts up to such 2-percent limit as required in order to
2130 | provide for the full and timely payment of the principal of,
2131 | redemption premium, if any, and interest on, and related costs
2132 | of issuance of, such bonds. The emergency assessments provided
2133 | for in this paragraph are assigned and pledged to the
2134 | municipality, county, or legal entity issuing bonds under s.
2135 | 631.695 for the benefit of the holders of such bonds, in order
2136 | to enable such municipality, county, or legal entity to provide
2137 | for the payment of the principal of, redemption premium, if any,
2138 | and interest on such bonds, the cost of issuance of such bonds,
2139 | and the funding of any reserves and other payments required
2140 | under the bond resolution or trust indenture pursuant to which
2141 | such bonds have been issued, without the necessity of any
2142 | further action by the association, the office, or any other
2143 | party. To the extent bonds are issued under s. 631.695 and the
2144 | association determines to secure such bonds by a pledge of
2145 | revenues received from the emergency assessments, such bonds,
2146 | upon such pledge of revenues, shall be secured by and payable
2147 | from the proceeds of such emergency assessments, and the
2148 | proceeds of emergency assessments levied under this paragraph
2149 | shall be remitted directly to and administered by the trustee or
2150 | custodian appointed for such bonds.

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2151 c. Emergency assessments under this paragraph may be
2152 payable in a single payment or, at the option of the
2153 association, may be payable in 12 monthly installments with the
2154 first installment being due and payable at the end of the month
2155 after an emergency assessment is levied and subsequent
2156 installments being due not later than the end of each succeeding
2157 month.

2158 d. If emergency assessments are imposed, the report
2159 required by s. 631.695(7) shall include an analysis of the
2160 revenues generated from the emergency assessments imposed under
2161 this paragraph.

2162 e. If emergency assessments are imposed, the references in
2163 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
2164 assessments levied under paragraph (a) shall include emergency
2165 assessments imposed under this paragraph.

2166 2. In order to ensure that insurers paying emergency
2167 assessments levied under this paragraph continue to charge rates
2168 that are neither inadequate nor excessive, within 90 days after
2169 being notified of such assessments, each insurer that is to be
2170 assessed pursuant to this paragraph shall submit a rate filing
2171 for coverage included within the account specified in s.
2172 631.55(2)(c) and for which rates are required to be filed under
2173 s. 627.062. If the filing reflects a rate change that, as a
2174 percentage, is equal to the difference between the rate of such
2175 assessment and the rate of the previous year's assessment under
2176 this paragraph, the filing shall consist of a certification so
2177 stating and shall be deemed approved when made. Any rate change

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2178 of a different percentage shall be subject to the standards and
2179 procedures of s. 627.062.

2180 3. In the event the board of directors participates in the
2181 issuance of bonds in accordance with s. 631.695, an annual
2182 assessment under this paragraph shall continue while the bonds
2183 issued with respect to which the assessment was imposed are
2184 outstanding, including any bonds the proceeds of which were used
2185 to refund bonds issued pursuant to s. 631.695, unless adequate
2186 provision has been made for the payment of the bonds in the
2187 documents authorizing the issuance of such bonds.

2188 4. Emergency assessments under this paragraph are not
2189 premium and are not subject to the premium tax, to any fees, or
2190 to any commissions. An insurer is liable for all emergency
2191 assessments that the insurer collects and shall treat the
2192 failure of an insured to pay an emergency assessment as a
2193 failure to pay the premium. An insurer is not liable for
2194 uncollectible emergency assessments.

2195 Section 22. Paragraphs (g), (h), and (i) of subsection (1)
2196 and subsections (2) and (6) of section 631.695, Florida
2197 Statutes, are amended to read:

2198 631.695 Revenue bond issuance through counties or
2199 municipalities.--

2200 (1) The Legislature finds:

2201 (g) To achieve the foregoing purposes, it is proper to
2202 authorize municipalities and counties of this state
2203 ~~substantially affected by the landfall of a hurricane~~ to issue
2204 bonds to assist the Florida Insurance Guaranty Association in

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2205 expediting the handling and payment of covered claims of
2206 insolvent insurers.

2207 (h) In order to avoid the needless and indiscriminate
2208 proliferation, duplication, and fragmentation of such assistance
2209 programs, it is in the best interests of the residents of this
2210 state to authorize municipalities and counties ~~severely affected~~
2211 ~~by a hurricane~~ to provide for the payment of covered claims
2212 beyond their territorial limits in the implementation of such
2213 programs.

2214 (i) It is a paramount public purpose for municipalities
2215 and counties ~~substantially affected by the landfall of a~~
2216 ~~hurricane~~ to be able to issue bonds for the purposes described
2217 in this section. Such issuance shall provide assistance to
2218 residents of those municipalities and counties as well as to
2219 other residents of this state.

2220 (2) The governing body of any municipality or county, ~~the~~
2221 ~~residents of which have been substantially affected by a~~
2222 ~~hurricane~~, may issue bonds to fund an assistance program in
2223 conjunction with, and with the consent of, the Florida Insurance
2224 Guaranty Association for the purpose of paying claimants' or
2225 policyholders' covered claims, as defined in s. 631.54, arising
2226 through the insolvency of an insurer, which insolvency is
2227 determined by the Florida Insurance Guaranty Association to have
2228 been a result of a hurricane, regardless of whether the
2229 claimants or policyholders are residents of such municipality or
2230 county or the property to which the claim relates is located
2231 within or outside the territorial jurisdiction of the
2232 municipality or county. The power of a municipality or county to
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2233 | issue bonds, as described in this section, is in addition to any
2234 | powers granted by law and may not be abrogated or restricted by
2235 | any provisions in such municipality's or county's charter. A
2236 | municipality or county issuing bonds for this purpose shall
2237 | enter into such contracts with the Florida Insurance Guaranty
2238 | Association or any entity acting on behalf of the Florida
2239 | Insurance Guaranty Association as are necessary to implement the
2240 | assistance program. Any bonds issued by a municipality or county
2241 | or a combination thereof under this subsection shall be payable
2242 | from and secured by moneys received by or on behalf of the
2243 | municipality or county from assessments levied under s.
2244 | 631.57(3) (a) and assigned and pledged to or on behalf of the
2245 | municipality or county for the benefit of the holders of the
2246 | bonds in connection with the assistance program. The funds,
2247 | credit, property, and taxing power of the state or any
2248 | municipality or county shall not be pledged for the payment of
2249 | such bonds.

2250 | (6) Two or more municipalities or counties, ~~the residents~~
2251 | ~~of which have been substantially affected by a hurricane,~~ may
2252 | create a legal entity pursuant to s. 163.01(7)(g) to exercise
2253 | the powers described in this section as well as those powers
2254 | granted in s. 163.01(7)(g). References in this section to a
2255 | municipality or county includes such legal entity.

2256 | Section 23. (1) Notwithstanding section 9 of chapter
2257 | 2007-1, Laws of Florida, the internal design option provided in
2258 | s. 1609.1.4.1. of the Florida Building Code shall remain in
2259 | effect until June 1, 2007, for a building permit application
2260 | made prior to that date.

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2261 (2) This section shall take effect upon this act becoming
2262 a law and shall apply retroactively to January 25, 2007. This
2263 section shall apply to any actions taken on any building permit
2264 affected by section 9 of chapter 2007-1, Laws of Florida,
2265 including any actions, legal or ministerial, pertaining to the
2266 issuance, revocation, or modifications of any building permit
2267 initiated or issued prior to, on, after, or pending as of
2268 January 25, 2007. If the retroactive application of any
2269 provision of this section is held invalid, the invalidity shall
2270 not affect the retroactive application of other provisions of
2271 this section.

2272 Section 24. Except as otherwise expressly provided in this
2273 act, this act shall take effect July 1, 2007.

2274

2275 ===== T I T L E A M E N D M E N T =====

2276 Remove the entire title, and insert:

2277 A bill to be entitled

2278 An act relating to insurance; amending s. 163.01, F.S.;

2279 correcting a cross-reference; amending s. 215.555, F.S.;

2280 revising certain reimbursement contract requirements;

2281 deleting an expiration provision relating to obtaining

2282 coverage for liquidated insurers; delaying repeal of an

2283 exemption of medical malpractice insurance premiums from

2284 emergency assessments; revising criteria, requirements,

2285 and limitations on temporary emergency options for

2286 additional coverage under the Florida Hurricane

2287 Catastrophe Fund; amending s. 215.5595, F.S.; providing an

2288 exception to certain surplus note limitations for certain

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2289 manufactured housing insurers; amending s. 624.407, F.S.;
2290 revising an insurer criterion for capital funds
2291 requirements for new insurers; amending s. 624.408, F.S.;
2292 specifying an additional surplus to policyholder amount
2293 requirement for certain insurers; amending s. 626.9201,
2294 F.S.; defining the term "nonpayment of premium"; providing
2295 additional criterion for cancellation for nonpayment of
2296 premium; amending s. 627.0613, F.S.; limiting application
2297 of certain annual report card preparation powers of the
2298 consumer advocate to personal residential property
2299 insurers; amending s. 627.062, F.S.; specifying
2300 application of certain "file and use" requirements to
2301 property insurance only; excluding certain motor vehicle
2302 coverages; amending s. 627.0655, F.S.; revising criteria
2303 for certain inclusion of discounts in certain premiums;
2304 amending s. 627.351, F.S.; revising legislative findings
2305 and intent; limiting application of the term "subject
2306 lines of business" to deficit assessments; revising a
2307 provision for determining eligibility of a risk for
2308 coverage; providing requirements for determining
2309 comparable coverage; revising requirements relating to
2310 senior management employees and members of the board of
2311 governors; revising rate filings provisions; amending s.
2312 627.3511, F.S.; correcting a cross-reference; amending s.
2313 627.3515, F.S.; revising criteria for an electronic
2314 database for a business plan; amending s. 627.3517, F.S.;
2315 deleting a provision specifying nonapplication for a
2316 certain period; amending s. 627.4035, F.S.; revising a

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2317 premium payment plan option provision for certain
2318 insurers; amending s. 627.4133, F.S.; specifying
2319 requirements for notices of renewal premium of property
2320 insurance policies; authorizing the Financial Services
2321 Commission to adopt rules; amending s. 627.701, F.S.;
2322 revising requirements for deductibles for certain personal
2323 lines residential property insurance policies; amending s.
2324 627.70131, F.S.; revising certain payment or denial of
2325 claim requirements; requiring an insurer to pay or deny a
2326 claim within a certain time period; providing requirements
2327 for payment of interest on overdue claims; prohibiting the
2328 expensing of interest paid in future rate filings;
2329 prohibiting contractual waivers, voidances, or
2330 nullifications; specifying regulatory action as an
2331 exclusive remedy for certain violations; amending s.
2332 627.712, F.S.; limiting application of certain residential
2333 hurricane coverage requirements to property insurance
2334 policies; specifying separate coverage exclusion
2335 statements for policyholders that are natural persons and
2336 other than natural persons; specifying a period of
2337 application of certain exclusions; providing for
2338 implementation of changes to certain exclusions; amending
2339 s. 627.7277, F.S.; deleting certain notice of renewal
2340 premium requirements; deleting authority of the commission
2341 to adopt rules; amending s. 631.52, F.S.; expanding an
2342 exception to application to self insurance of provisions
2343 relating to Florida Insurance Guaranty of Payment;
2344 amending s. 631.57, F.S.; revising certain emergency

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2345 | assessment provisions relating to insurers rendered
2346 | insolvent by the effects of hurricanes; amending s.
2347 | 631.695, F.S.; deleting provisions limiting application of
2348 | certain revenue bond issuance authority to certain
2349 | counties; preserving certain Florida Building Code
2350 | internal design options for certain building permits for a
2351 | certain time; providing for retroactive application;
2352 | providing severability; providing effective dates.