

1 A bill to be entitled

2 An act relating to hurricane preparedness and insurance;  
3 providing a short title; amending s. 624.404, F.S.;  
4 prohibiting certain insurers from transacting residential  
5 property insurance business under certain circumstances;  
6 prohibiting private passenger automobile insurance  
7 insurers from writing such insurance under certain  
8 circumstances; amending s. 624.407, F.S.; revising  
9 capitalization requirements for insurers writing property  
10 insurance; specifying certain minimum surplus amounts;  
11 amending s. 624.408, F.S.; revising surplus requirements  
12 for insurers writing property insurance; creating s.  
13 626.9542, F.S.; authorizing insurers to provide certain  
14 premium discounts under certain circumstances; providing  
15 criteria; amending s. 627.0613, F.S.; providing additional  
16 duties of the consumer advocate; amending s. 627.062,  
17 F.S.; requiring the filing of a statement of certification  
18 for certain rate filings; providing statement  
19 requirements; providing a penalty; requiring the Office of  
20 Insurance Regulation to adopt rules; providing an  
21 additional rate filing review factor; specifying  
22 arbitrator decision requirements for "use and file"  
23 filings; amending s. 627.0629, F.S.; providing legislative  
24 intent relating to savings to customers for windstorm  
25 mitigation efforts; amending s. 627.4035, F.S.; requiring  
26 insurers to provide certain premium payment plan options  
27 to policyholders; amending s. 627.4133, F.S.; increasing a  
28 period of notice for nonrenewals, cancellations, and

29 terminations; requiring residential property insurers to  
30 return excess profits to policyholders; providing duties  
31 of the office; transferring, renumbering, and amending s.  
32 627.4261, F.S.; requiring insurers to pay or deny certain  
33 claims within a time certain; providing an exception;  
34 providing penalties; creating s. 627.70141, F.S.;  
35 providing for additional offers of coverage for personal  
36 lines residential policies; requiring notice of this  
37 option to be maintained; providing application; providing  
38 for rules; creating s. 627.7018, F.S.; providing a  
39 prohibition and requirements for insurers in denying  
40 coverage; amending s. 627.711, F.S.; requiring certain  
41 notices to specify combinations of discounts, credits,  
42 rate differentials, and reductions in deductibles;  
43 creating s. 627.713, F.S.; authorizing the office to  
44 require property insurers to report data regarding  
45 hurricane claims and underwriting costs; amending s.  
46 627.7277, F.S.; requiring certain information to be  
47 included in notices of renewal premium; providing for  
48 rules; amending s. 628.371, F.S.; providing additional  
49 notice requirements for certain domestic stock insurers;  
50 providing additional surplus requirements; amending ss.  
51 627.311, 627.351, 631.56, 631.716, 631.816, 631.912, and  
52 766.105, F.S.; revising the memberships and appointing  
53 officers of certain boards of governors; providing  
54 experience requirements; providing for terms and filling  
55 vacancies; amending s. 440.103, F.S.; correcting a cross-  
56 reference; directing the Department of Financial Services

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57 | to review certain insurance agent commissions for certain  
58 | purposes; providing duties of the office; requiring a  
59 | report; providing effective dates.

60 |  
61 | Be It Enacted by the Legislature of the State of Florida:

62 |  
63 | Section 1. This act may be cited as the "Insurance  
64 | Industry Accountability and Consumer Protection Act."

65 | Section 2. Subsection (8) is added to section 624.404,  
66 | Florida Statutes, to read:

67 | 624.404 General eligibility of insurers for certificate of  
68 | authority.--To qualify for and hold authority to transact  
69 | insurance in this state, an insurer must be otherwise in  
70 | compliance with this code and with its charter powers and must  
71 | be an incorporated stock insurer, an incorporated mutual  
72 | insurer, or a reciprocal insurer, of the same general type as  
73 | may be formed as a domestic insurer under this code; except  
74 | that:

75 | (8) Effective January 1, 2008, no new certificate of  
76 | authority shall be issued to an insurer domiciled in this state  
77 | for the transaction of residential property insurance business  
78 | in this state if the insurer is a wholly owned subsidiary of an  
79 | insurer authorized in any other state.

80 | Section 3. Effective January 1, 2008, no insurer writing  
81 | private passenger automobile insurance in this state may  
82 | continue to write such insurance if the insurer writes  
83 | homeowners' insurance in another state but not in this state  
84 | unless the insurer writing private passenger automobile

85 insurance in this state is affiliated with an insurer writing  
 86 homeowners' insurance in this state.

87 Section 4. Subsection (1) of section 624.407, Florida  
 88 Statutes, is amended to read:

89 624.407 Capital funds required; new insurers.--

90 (1) To receive authority to transact any one kind or  
 91 combinations of kinds of insurance, as defined in part V of this  
 92 chapter, an insurer applying for its original certificate of  
 93 authority in this state after the effective date of this section  
 94 shall possess surplus as to policyholders not less than the  
 95 greater of:

96 (a) Five million dollars for insurers writing casualty  
 97 insurance, \$12 million for insurers writing property insurance a  
 98 ~~property and casualty insurer~~, or \$2.5 million for any other  
 99 insurer;

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

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

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

107  
 108 however, a domestic insurer that transacts residential property  
 109 insurance and is a wholly owned subsidiary of an insurer  
 110 authorized to do business in any other state shall possess  
 111 surplus as to policyholders of at least \$50 million, but no  
 112 insurer shall be required under this subsection to have surplus

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113 as to policyholders greater than \$100 million.

114 Section 5. Subsection (1) of section 624.408, Florida  
 115 Statutes, is amended to read:

116 624.408 Surplus as to policyholders required; new and  
 117 existing insurers.--

118 (1)(a) To maintain a certificate of authority to transact  
 119 any one kind or combinations of kinds of insurance, as defined  
 120 in part V of this chapter, an insurer in this state shall at all  
 121 times maintain surplus as to policyholders not less than the  
 122 greater of:

123 1. Except as provided in subparagraphs ~~subparagraph~~ 5. and  
 124 6. and paragraph (b), \$1.5 million;

125 2. For life insurers, 4 percent of the insurer's total  
 126 liabilities;

127 3. For life and health insurers, 4 percent of the  
 128 insurer's total liabilities plus 6 percent of the insurer's  
 129 liabilities relative to health insurance; ~~or~~

130 4. For all insurers other than mortgage guaranty insurers,  
 131 life insurers, and life and health insurers, 10 percent of the  
 132 insurer's total liabilities;~~or~~

133 5. For ~~property and casualty~~ insurers writing casualty  
 134 insurance, \$4 million; or

135 6. For insurers writing property insurance, \$12 million.

136 (b) For any property ~~and casualty~~ insurer holding a  
 137 certificate of authority on December 30, 2006 ~~1, 1993~~, the  
 138 following amounts apply instead of the \$12 \$4 million required  
 139 by subparagraph (a) 6. ~~(a) 5.~~:

140 1. On December 31, 2006 ~~2001~~, and until December 30, 2007

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141 ~~2002~~, \$4 ~~\$3~~ million.

142 2. On December 31, ~~2007~~ 2002, and until December 30, ~~2008~~  
 143 2003, \$6 ~~\$3.25~~ million.

144 3. On December 31, ~~2008~~ 2003, and until December 30, ~~2009~~  
 145 2004, \$8 ~~\$3.6~~ million.

146 4. On December 31, ~~2009~~ 2004, and until December 30, 2010  
 147 ~~thereafter~~, \$10 ~~\$4~~ million.

148 5. On December 31, 2010, and thereafter, \$12 million.

149 Section 6. Section 626.9542, Florida Statutes, is created  
 150 to read:

151 626.9542 Policyholder loss or expense-related premium  
 152 discounts.--An insurer or person authorized to engage in the  
 153 business of insurance in this state may include, in the premium  
 154 charged an insured for any policy, contract, or certificate of  
 155 insurance, a discount based on the fact that another policy,  
 156 contract, or certificate of any type has been purchased by the  
 157 insured; however, such discount must bear a reasonable relation  
 158 to a reduction in expected losses or expenses and must be  
 159 supported by credible documentation, which may include  
 160 reasonable judgment factors as to expense or experience savings  
 161 or other administrative cost savings.

162 Section 7. Section 627.0613, Florida Statutes, is amended  
 163 to read:

164 627.0613 Consumer advocate.--The Chief Financial Officer  
 165 must appoint a consumer advocate who must represent the general  
 166 public of the state before the department and the office. The  
 167 consumer advocate must report directly to the Chief Financial  
 168 Officer, but is not otherwise under the authority of the

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169 department or of any employee of the department. The consumer  
170 advocate has such powers as are necessary to carry out the  
171 duties of the office of consumer advocate, including, but not  
172 limited to, the powers to:

173 (1) Recommend to the department or office, by petition,  
174 the commencement of any proceeding or action; appear in any  
175 proceeding or action before the department or office; or appear  
176 in any proceeding before the Division of Administrative Hearings  
177 or arbitration panel specified in s. 627.062(6) relating to  
178 subject matter under the jurisdiction of the department or  
179 office.

180 (2) Have access to and use of all files, records, and data  
181 of the department or office.

182 (3) Examine rate and form filings submitted to the office,  
183 hire consultants as necessary to aid in the review process, and  
184 recommend to the department or office any position deemed by the  
185 consumer advocate to be in the public interest.

186 (4) Prepare an annual report card for each authorized  
187 property insurer, on a form and using a letter-grade scale  
188 developed by the commission by rule, which grades each insurer  
189 based on the following factors:

190 1. The number and nature of consumer complaints received  
191 by the department against the insurer.

192 2. The disposition of all complaints received by the  
193 department.

194 3. The average length of time for payment of claims by the  
195 insurer.

196 4. Any other factors the commission identifies as

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197 assisting policyholders in making informed choices about  
198 homeowner's insurance.

199 (5)~~(4)~~ Prepare an annual budget for presentation to the  
200 Legislature by the department, which budget must be adequate to  
201 carry out the duties of the office of consumer advocate.

202 Section 8. Paragraphs (a) and (b) of subsection (2) of  
203 section 627.062, Florida Statutes, are amended, and paragraph  
204 (d) is added to subsection (6) of that section, to read:

205 627.062 Rate standards.--

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

207 (a) Insurers or rating organizations shall establish and  
208 use rates, rating schedules, or rating manuals to allow the  
209 insurer a reasonable rate of return on such classes of insurance  
210 written in this state. A copy of rates, rating schedules, rating  
211 manuals, premium credits or discount schedules, and surcharge  
212 schedules, and changes thereto, shall be filed with the office  
213 under one of the following procedures:

214 1. If the filing is made at least 90 days before the  
215 proposed effective date and the filing is not implemented during  
216 the office's review of the filing and any proceeding and  
217 judicial review, then such filing shall be considered a "file  
218 and use" filing. In such case, the office shall finalize its  
219 review by issuance of a notice of intent to approve or a notice  
220 of intent to disapprove within 90 days after receipt of the  
221 filing. The notice of intent to approve and the notice of intent  
222 to disapprove constitute agency action for purposes of the  
223 Administrative Procedure Act. Requests for supporting  
224 information, requests for mathematical or mechanical



225 corrections, or notification to the insurer by the office of its  
226 preliminary findings shall not toll the 90-day period during any  
227 such proceedings and subsequent judicial review. The rate shall  
228 be deemed approved if the office does not issue a notice of  
229 intent to approve or a notice of intent to disapprove within 90  
230 days after receipt of the filing.

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

238 3. The insurer's senior officer responsible for insurance  
239 business operations in this state shall sign a sworn statement  
240 of certification given under oath subject to the penalty of  
241 perjury to accompany the rate filing. The statement shall  
242 certify the appropriateness of the information provided in and  
243 with the rate filing and that the information fairly presents,  
244 in all material respects, the basis of the rate filing submitted  
245 by the property and casualty insurer. The insurer shall certify  
246 all of the information and factors described in paragraph (b),  
247 including, but not limited to, investment income. The commission  
248 shall prescribe by rule the form and contents of the statement  
249 of certification. Failure to provide such statement of  
250 certification shall result in the rate filing being disapproved  
251 without prejudice to be refiled but shall not create any private  
252 right of action against the insurer.

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253 (b) Upon receiving a rate filing, the office shall review  
254 the rate filing to determine if a rate is excessive, inadequate,  
255 or unfairly discriminatory. In making that determination, the  
256 office shall, in accordance with generally accepted and  
257 reasonable actuarial techniques, consider the following factors:

258 1. Past and prospective loss experience within and without  
259 this state.

260 2. Past and prospective expenses.

261 3. The degree of competition among insurers for the risk  
262 insured.

263 4. Investment income reasonably expected by the insurer,  
264 consistent with the insurer's investment practices, from  
265 investable premiums anticipated in the filing, plus any other  
266 expected income from currently invested assets representing the  
267 amount expected on unearned premium reserves and loss reserves.  
268 The commission may adopt rules utilizing reasonable techniques  
269 of actuarial science and economics to specify the manner in  
270 which insurers shall calculate investment income attributable to  
271 such classes of insurance written in this state and the manner  
272 in which such investment income shall be used in the calculation  
273 of insurance rates. Such manner shall contemplate allowances for  
274 an underwriting profit factor and full consideration of  
275 investment income which produce a reasonable rate of return;  
276 however, investment income from invested surplus shall not be  
277 considered.

278 5. The reasonableness of the judgment reflected in the  
279 filing.

280 6. Dividends, savings, or unabsorbed premium deposits

281 allowed or returned to Florida policyholders, members, or  
 282 subscribers.

283 7. The adequacy of loss reserves.

284 8. The cost of reinsurance.

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

287 10. Conflagration and catastrophe hazards, if applicable.

288 11. A reasonable margin for underwriting profit and  
 289 contingencies. For that portion of the rate covering the risk of  
 290 hurricanes and other catastrophic losses for which the insurer  
 291 has not purchased reinsurance and has exposed its capital and  
 292 surplus to such risk, the office must approve a rating factor  
 293 that provides the insurer a reasonable rate of return that is  
 294 commensurate with such risk.

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

296 13. For an insurer that is a wholly owned subsidiary of an  
 297 insurer authorized to do business in any other state, the  
 298 profits of the insurer authorized to do business in any other  
 299 state for the most recent reporting year. However, this  
 300 subparagraph may not be the sole basis for a rate filing denial.

301 ~~14.13.~~ Other relevant factors which impact upon the  
 302 frequency or severity of claims or upon expenses.

303

304 The provisions of this subsection shall not apply to workers'  
 305 compensation and employer's liability insurance and to motor  
 306 vehicle insurance.

307 (6)

308 (d) For any "use and file" filing made in accordance with

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309 subparagraph (2)(a)2., the decision of the arbitrator shall  
310 require a credit or refund of premiums charged each policyholder  
311 constituting the portion of the rate above the rate that was  
312 actuarially justified.

313 Section 9. Subsection (1) of section 627.0629, Florida  
314 Statutes, is amended to read:

315 627.0629 Residential property insurance; rate filings.--

316 (1) It is the intent of the Legislature that insurers must  
317 provide savings to consumers who install or implement windstorm  
318 damage mitigation techniques, alterations, or solutions to their  
319 properties to prevent windstorm losses. ~~Effective June 1, 2002,~~

320 A rate filing for residential property insurance must include  
321 actuarially reasonable discounts, credits, or other rate  
322 differentials, or appropriate reductions in deductibles, for  
323 properties on which fixtures or construction techniques  
324 demonstrated to reduce the amount of loss in a windstorm have  
325 been installed or implemented. The fixtures or construction  
326 techniques shall include, but not be limited to, fixtures or  
327 construction techniques which enhance roof strength, roof  
328 covering performance, roof-to-wall strength, wall-to-floor-to-  
329 foundation strength, opening protection, and window, door, and  
330 skylight strength. Credits, discounts, or other rate  
331 differentials for fixtures and construction techniques which  
332 meet the minimum requirements of the Florida Building Code must  
333 be included in the rate filing. All insurance companies must  
334 make a rate filing which includes the credits, discounts, or  
335 other rate differentials by February 28, 2003. By July 1, 2007,  
336 the office shall reevaluate the discounts, credits, other rate

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337 differentials, and appropriate reductions in deductibles for  
338 fixtures and construction techniques that meet the minimum  
339 requirements of the Florida Building Code, based upon actual  
340 experience or any other loss relativity studies available to the  
341 office. The office shall determine the discounts, credits, other  
342 rate differentials, and appropriate reductions in deductibles  
343 that reflect the full actuarial value of such revaluation, which  
344 may be used by insurers in rate filings.

345 Section 10. Subsection (1) of section 627.4035, Florida  
346 Statutes, is amended to read:

347 627.4035 Cash payment of premiums; claims.--

348 (1) The premiums for insurance contracts issued in this  
349 state or covering risk located in this state shall be paid in  
350 cash consisting of coins, currency, checks, or money orders or  
351 by using a debit card, credit card, automatic electronic funds  
352 transfer, or payroll deduction plan. By July 1, 2007, insurers  
353 issuing personal lines residential and commercial property  
354 policies shall provide a premium payment plan option to their  
355 policyholders which allows for monthly, quarterly, and  
356 semiannual payment of premiums.

357 Section 11. Paragraph (b) of subsection (2) of section  
358 627.4133, Florida Statutes, is amended to read:

359 627.4133 Notice of cancellation, nonrenewal, or renewal  
360 premium.--

361 (2) With respect to any personal lines or commercial  
362 residential property insurance policy, including, but not  
363 limited to, any homeowner's, mobile home owner's, farmowner's,  
364 condominium association, condominium unit owner's, apartment

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365 building, or other policy covering a residential structure or  
366 its contents:

367 (b) The insurer shall give the named insured written  
368 notice of nonrenewal, cancellation, or termination at least 100  
369 ~~90~~ days prior to the effective date of the nonrenewal,  
370 cancellation, or termination. However, the insurer shall give at  
371 least 100 days' written notice, or written notice by June 1,  
372 whichever is earlier, for any nonrenewal, cancellation, or  
373 termination that would be effective between June 1 and November  
374 30. The notice must include the reason or reasons for the  
375 nonrenewal, cancellation, or termination, except that:

376 1. When cancellation is for nonpayment of premium, at  
377 least 10 days' written notice of cancellation accompanied by the  
378 reason therefor shall be given. As used in this subparagraph,  
379 the term "nonpayment of premium" means failure of the named  
380 insured to discharge when due any of her or his obligations in  
381 connection with the payment of premiums on a policy or any  
382 installment of such premium, whether the premium is payable  
383 directly to the insurer or its agent or indirectly under any  
384 premium finance plan or extension of credit, or failure to  
385 maintain membership in an organization if such membership is a  
386 condition precedent to insurance coverage. "Nonpayment of  
387 premium" also means the failure of a financial institution to  
388 honor an insurance applicant's check after delivery to a  
389 licensed agent for payment of a premium, even if the agent has  
390 previously delivered or transferred the premium to the insurer.  
391 If a dishonored check represents the initial premium payment,  
392 the contract and all contractual obligations shall be void ab

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393 initio unless the nonpayment is cured within the earlier of 5  
394 days after actual notice by certified mail is received by the  
395 applicant or 15 days after notice is sent to the applicant by  
396 certified mail or registered mail, and if the contract is void,  
397 any premium received by the insurer from a third party shall be  
398 refunded to that party in full.

399 2. When such cancellation or termination occurs during the  
400 first 90 days during which the insurance is in force and the  
401 insurance is canceled or terminated for reasons other than  
402 nonpayment of premium, at least 20 days' written notice of  
403 cancellation or termination accompanied by the reason therefor  
404 shall be given except where there has been a material  
405 misstatement or misrepresentation or failure to comply with the  
406 underwriting requirements established by the insurer.

407  
408 After the policy has been in effect for 90 days, the policy  
409 shall not be canceled by the insurer except when there has been  
410 a material misstatement, a nonpayment of premium, a failure to  
411 comply with underwriting requirements established by the insurer  
412 within 90 days of the date of effectuation of coverage, or a  
413 substantial change in the risk covered by the policy or when the  
414 cancellation is for all insureds under such policies for a given  
415 class of insureds. This paragraph does not apply to individually  
416 rated risks having a policy term of less than 90 days.

417 Section 12. A residential property insurer shall return  
418 all excess profits to policyholders. In determining whether  
419 profits are excessive, the Office of Insurance Regulation shall  
420 consider the profits of national affiliates of Florida-based

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421 subsidiaries.

422 Section 13. Section 627.4261, Florida Statutes, is  
423 transferred and renumbered as section 627.70131, Florida  
424 Statutes, and subsection (5) is added to that section, to read:

425 627.70131 ~~627.4261~~ Insurer's duty to acknowledge  
426 communications regarding claims; investigation.--

427 (5) Within 90 days after an insurer receives notice of a  
428 property insurance claim from a policyholder, the insurer shall  
429 pay or deny such claim unless the failure to pay such claim is  
430 caused by factors beyond the control of the insurer which  
431 reasonably prevent such payment. Failure to comply with this  
432 subsection constitutes a violation of this code.

433 Section 14. Section 627.70141, Florida Statutes, is  
434 created to read:

435 627.70141 Personal lines residential policies; additional  
436 offers of coverage.--

437 (1) Every insurer offering a personal lines residential  
438 property insurance policy covering windstorm in this state  
439 shall, in addition to a standard comprehensive policy, offer  
440 policy dwelling limits for windstorm which only cover the  
441 outstanding balance of the mortgage. If an applicant or insured  
442 elects policy dwelling limits for windstorm which only cover the  
443 outstanding balance of the mortgage, the insurer shall obtain a  
444 written election of such limited coverage on a form approved by  
445 the office. The form must fully advise the applicant or  
446 policyholder that the coverage the applicant or policyholder is  
447 obtaining is for policy dwelling limits for windstorm which only  
448 cover the outstanding balance of the mortgage. If this form is



449 signed by the insured, it will be conclusively presumed that  
 450 there was an informed, knowing selection of dwelling limits for  
 451 windstorm which only cover the outstanding balance of the  
 452 mortgage on behalf of all insureds.

453 (2) On a form approved by the office, the insurer must  
 454 provide notices of the offer specified in subsection (1) to the  
 455 applicant prior to policy issuance and to the policyholder in  
 456 conjunction with each policy renewal. The failure to provide  
 457 such notice constitutes a violation of this code but does not  
 458 affect the coverage provided under the policy.

459 (3) A signed, written election of coverage shall remain in  
 460 effect for subsequent renewals unless the policyholder notifies  
 461 the insurer in writing of another selection.

462 (4) This section only applies to policyholders with  
 463 property with an insured value of at least \$500,000.

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

466 Section 15. Section 627.7018, Florida Statutes, is created  
 467 to read:

468 627.7018 Standards for determining risk of coverage.--In  
 469 determining the risk of providing property insurance coverage,  
 470 an insurer may not deny coverage solely on the basis of the age  
 471 of the property and shall consider the wind resistance of the  
 472 structure and measures undertaken by the owner to protect the  
 473 property against hurricane loss.

474 Section 16. Section 627.711, Florida Statutes, is amended  
 475 to read:

476 627.711 Notice of premium discounts for hurricane loss

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477 mitigation.-- Using a form prescribed by the Office of Insurance  
478 Regulation, the insurer shall clearly notify the applicant or  
479 policyholder of any personal lines residential property  
480 insurance policy, at the time of the issuance of the policy and  
481 at each renewal, of the availability and the range of each  
482 premium discount, credit, other rate differential, or reduction  
483 in deductibles for properties on which fixtures or construction  
484 techniques, and all combinations of discounts, credits, rate  
485 differentials, or reductions in deductibles, demonstrated to  
486 reduce the amount of loss in a windstorm can be or have been  
487 installed or implemented. The prescribed form shall describe  
488 generally what actions the policyholders may be able to take to  
489 reduce their windstorm premium. The prescribed form and a list  
490 of such ranges approved by the office for each insurer licensed  
491 in the state and providing such discounts, credits, other rate  
492 differentials, or reductions in deductibles for properties  
493 described in this subsection shall be available for electronic  
494 viewing and download from the Department of Financial Services'  
495 or the Office of Insurance Regulation's Internet website. The  
496 Financial Services Commission may adopt rules to implement this  
497 subsection.

498 Section 17. Section 627.713, Florida Statutes, is created  
499 to read:

500 627.713 Report of hurricane loss data.--The office may  
501 require property insurers to report data regarding hurricane  
502 claims and underwriting costs, including, but not limited to:

503 (1) Number of claims.

504 (2) Amount of claim payments made.

- 505       (3) Number and amount of total-loss claims.
- 506       (4) Amount and percentage of losses covered by reinsurance  
507 or other loss-transfer agreements.
- 508       (5) Amount of losses covered under specified deductibles.
- 509       (6) Claims and payments for specified insured values.
- 510       (7) Claims and payments for specified dollar values.
- 511       (8) Claims and payments for specified types of  
512 construction or mitigation features.
- 513       (9) Claims and payments for policies under specified  
514 underwriting criteria.
- 515       (10) Claims and payments for contents, additional living  
516 expense, and other specified coverages.
- 517       (11) Claims and payments by county for the information  
518 specified in this section.
- 519       (12) Any other data that the office requires.

520       Section 18. Section 627.7277, Florida Statutes, is amended  
521 to read:

522       627.7277 Notice of renewal premium.--

523       (1) As used in this section, the terms "policy" and  
524 "renewal" have the meaning ascribed in s. 627.728.

525       (2) An insurer shall mail or deliver to its policyholder  
526 at least 30 days' advance written notice of the renewal premium  
527 for the policy.

528       (3) If the insurer fails to provide the 30 days' notice of  
529 a renewal premium that results in a premium increase, the  
530 coverage under the policy remains in effect at the existing  
531 rates until 30 days after the notice is given or until the  
532 effective date of replacement coverage obtained by the insured,

533 whichever occurs first.

534 (4) Every notice of renewal premium must specify:

535 (a) The dollar amounts recouped for assessments by the  
536 Florida Hurricane Catastrophe Fund and the Florida Insurance  
537 Guaranty Association. The actual names of the entities must  
538 appear next to the dollar amounts.

539 (b) The dollar amount of any premium increase that is due  
540 to a rate increase and the dollar amounts that are due to  
541 coverage changes.

542 (c) For an insurer that is a wholly owned subsidiary of an  
543 insurer authorized to do business in any other state, the dollar  
544 amount of profit or loss for all lines of property insurance for  
545 the wholly owned subsidiary and the parent for the most recent  
546 reporting year.

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

549 Section 19. Subsection (5) is added to section 628.371,  
550 Florida Statutes, to read:

551 628.371 Dividends to stockholders.--

552 (5) In addition to the requirements of subsections (2) and  
553 (3), a domestic stock insurer that transacts residential  
554 property insurance in this state shall file notice with the  
555 office 10 business days prior to the payment of any dividend or  
556 distribution of cash or other property to stockholders and shall  
557 have surplus to policyholders equal to or exceeding 133 percent  
558 of the minimum required statutory surplus as to policyholders  
559 after the dividend or distribution is made.

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560 Section 20. Paragraph (e) of subsection (3) and paragraph  
 561 (b) of subsection (5) of section 627.311, Florida Statutes, are  
 562 amended to read:

563 627.311 Joint underwriters and joint reinsurers; public  
 564 records and public meetings exemptions.--

565 (3) The office may, after consultation with insurers  
 566 licensed to write automobile insurance in this state, approve a  
 567 joint underwriting plan for purposes of equitable apportionment  
 568 or sharing among insurers of automobile liability insurance and  
 569 other motor vehicle insurance, as an alternate to the plan  
 570 required in s. 627.351(1). All insurers authorized to write  
 571 automobile insurance in this state shall subscribe to the plan  
 572 and participate therein. The plan shall be subject to continuous  
 573 review by the office which may at any time disapprove the entire  
 574 plan or any part thereof if it determines that conditions have  
 575 changed since prior approval and that in view of the purposes of  
 576 the plan changes are warranted. Any disapproval by the office  
 577 shall be subject to the provisions of chapter 120. The Florida  
 578 Automobile Joint Underwriting Association is created under the  
 579 plan. The plan and the association:

580 (e) Must provide that the joint underwriting association  
 581 will operate subject to the supervision and approval of a board  
 582 of governors consisting of 16 ~~11~~ individuals. The Governor, the  
 583 Chief Financial Officer, the President of the Senate, and the  
 584 Speaker of the House of Representatives shall each appoint four  
 585 members of the board. Members appointed by the President of the  
 586 Senate and the Speaker of the House of Representatives may not  
 587 be members of the Legislature unless they are appointed as ex

588 officio, nonvoting members. At least one of the members  
589 appointed by each appointing officer must have demonstrated  
590 expertise in insurance. The Chief Financial Officer shall  
591 designate one of the appointees as chair. All board members  
592 serve at the pleasure of the appointing officer. All board  
593 members, including the chair, must be appointed to serve for 3-  
594 year terms beginning annually on a date designated by the plan.  
595 Any board vacancy shall be filled for the unexpired term by the  
596 appointing officer, including 1 who will be elected as chair.  
597 ~~Five members of the board must be appointed by the Chief~~  
598 ~~Financial Officer. Two of the Chief Financial Officer's~~  
599 ~~appointees must be chosen from the insurance industry. Any board~~  
600 ~~member appointed by the Chief Financial Officer may be removed~~  
601 ~~and replaced by her or him at any time without cause. Six~~  
602 ~~members of the board must be appointed by the participating~~  
603 ~~insurers, two of whom must be from the insurance agents'~~  
604 ~~associations. All board members, including the chair, must be~~  
605 ~~appointed to serve for 2 year terms beginning annually on a date~~  
606 ~~designated by the plan.~~

607 (5)

608 (b) The operation of the plan is subject to the  
609 supervision and approval of a ~~9-member~~ board of governors  
610 consisting of nine individuals. The Governor shall appoint three  
611 members and the Chief Financial Officer, the President of the  
612 Senate, and the Speaker of the House of Representatives shall  
613 each appoint two members of the board. Members appointed by the  
614 President of the Senate and the Speaker of the House of  
615 Representatives may not be members of the Legislature unless

616 they are appointed as ex officio, nonvoting members. At least  
617 one of the members appointed by each appointing officer must  
618 have demonstrated expertise in insurance. The Chief Financial  
619 Officer shall designate one of the appointees as chair. All  
620 board members serve at the pleasure of the appointing officer.  
621 All board members, including the chair, must be appointed to  
622 serve for 3-year terms beginning annually on a date designated  
623 by the plan. Any board vacancy shall be filled for the unexpired  
624 term by the appointing officer. The board of governors shall be  
625 comprised of:

626 ~~1. Three members appointed by the Financial Services~~  
627 ~~Commission. Each member appointed by the commission shall serve~~  
628 ~~at the pleasure of the commission;~~

629 ~~2. Two of the 20 domestic insurers, as defined in s.~~  
630 ~~624.06(1), having the largest voluntary direct premiums written~~  
631 ~~in this state for workers' compensation and employer's liability~~  
632 ~~insurance, which shall be elected by those 20 domestic insurers;~~

633 ~~3. Two of the 20 foreign insurers as defined in s.~~  
634 ~~624.06(2) having the largest voluntary direct premiums written~~  
635 ~~in this state for workers' compensation and employer's liability~~  
636 ~~insurance, which shall be elected by those 20 foreign insurers;~~

637 ~~4. One person appointed by the largest property and~~  
638 ~~casualty insurance agents' association in this state; and~~

639 ~~5. The consumer advocate appointed under s. 627.0613 or~~  
640 ~~the consumer advocate's designee.~~

641  
642 ~~Each board member shall serve a 4 year term and may serve~~  
643 ~~consecutive terms. A vacancy on the board shall be filled in the~~

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644 ~~same manner as the original appointment for the unexpired~~  
645 ~~portion of the term. The Financial Services Commission shall~~  
646 ~~designate a member of the board to serve as chair.~~ No board  
647 member shall be an insurer which provides services to the plan  
648 or which has an affiliate which provides services to the plan or  
649 which is serviced by a service company or third-party  
650 administrator which provides services to the plan or which has  
651 an affiliate which provides services to the plan. The minutes,  
652 audits, and procedures of the board of governors are subject to  
653 chapter 119.

654 Section 21. Paragraph (b) of subsection (5) of section  
655 627.311, Florida Statutes, as amended by section 1 of chapter  
656 2003-108, section 1096 of chapter 2003-261, and section 35 of  
657 chapter 2003-412, Laws of Florida, is amended to read:

658 627.311 Joint underwriters and joint reinsurers; public  
659 records and public meetings exemptions.--

660 (5)

661 (b) The operation of the plan is subject to the  
662 supervision and approval of a ~~13-member~~ board of governors  
663 consisting of nine individuals. The Governor shall appoint three  
664 members and the Chief Financial Officer, the President of the  
665 Senate, and the Speaker of the House of Representatives shall  
666 each appoint two members of the board. Members appointed by the  
667 President of the Senate and the Speaker of the House of  
668 Representatives may not be members of the Legislature unless  
669 they are appointed as ex officio, nonvoting members. At least  
670 one of the members appointed by each appointing officer must  
671 have demonstrated expertise in insurance. The Chief Financial



672 Officer shall designate one of the appointees as chair. All  
 673 board members serve at the pleasure of the appointing officer.  
 674 All board members, including the chair, must be appointed to  
 675 serve for 3-year terms beginning annually on a date designated  
 676 by the plan. Any board vacancy shall be filled for the unexpired  
 677 term by the appointing officer. The board of governors shall be  
 678 ~~comprised of:~~

679 ~~1. Five of the 20 domestic insurers, as defined in s.~~  
 680 ~~624.06(1), having the largest voluntary direct premiums written~~  
 681 ~~in this state for workers' compensation and employer's liability~~  
 682 ~~insurance, which shall be elected by those 20 domestic insurers;~~

683 ~~2. Five of the 20 foreign insurers as defined in s.~~  
 684 ~~624.06(2) having the largest voluntary direct premiums written~~  
 685 ~~in this state for workers' compensation and employer's liability~~  
 686 ~~insurance, which shall be elected by those 20 foreign insurers;~~

687 ~~3. One person, who shall serve as the chair, appointed by~~  
 688 ~~the Chief Financial Officer;~~

689 ~~4. One person appointed by the largest property and~~  
 690 ~~easualty insurance agents' association in this state; and~~

691 ~~5. The consumer advocate appointed under s. 627.0613 or~~  
 692 ~~the consumer advocate's designee.~~

693  
 694 ~~Each board member shall serve a 4 year term and may serve~~  
 695 ~~consecutive terms.~~ No board member shall be an insurer which  
 696 provides service to the plan or which has an affiliate which  
 697 provides services to the plan or which is serviced by a service  
 698 company or third-party administrator which provides services to  
 699 the plan or which has an affiliate which provides services to

700 the plan. The minutes, audits, and procedures of the board of  
701 governors are subject to chapter 119.

702 Section 22. Paragraph (c) of subsection (4) and paragraph  
703 (a) of subsection (5) of section 627.351, Florida Statutes, are  
704 amended to read:

705 627.351 Insurance risk apportionment plans.--

706 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

707 (c) The Joint Underwriting Association shall operate  
708 subject to the supervision and approval of a board of governors  
709 consisting of nine individuals. The Governor shall appoint three  
710 members and the Chief Financial Officer, the President of the  
711 Senate, and the Speaker of the House of Representatives shall  
712 each appoint two members of the board. Members appointed by the  
713 President of the Senate and the Speaker of the House of  
714 Representatives may not be members of the Legislature unless  
715 they are appointed as ex officio, nonvoting members. At least  
716 one of the members appointed by each appointing officer must  
717 have demonstrated expertise in insurance. The Chief Financial  
718 Officer shall designate one of the appointees as chair. All  
719 board members serve at the pleasure of the appointing officer.  
720 All board members, including the chair, must be appointed to  
721 serve for 3-year terms beginning annually on a date designated  
722 by the plan. Any board vacancy shall be filled for the unexpired  
723 term by the appointing officer ~~representatives of five of the~~  
724 ~~insurers participating in the Joint Underwriting Association, an~~  
725 ~~attorney to be named by The Florida Bar, a physician to be named~~  
726 ~~by the Florida Medical Association, a dentist to be named by the~~  
727 ~~Florida Dental Association, and a hospital representative to be~~

728 ~~named by the Florida Hospital Association. The Chief Financial~~  
729 ~~Officer shall select the representatives of the five insurers.~~  
730 ~~One insurer representative shall be selected from~~  
731 ~~recommendations of the American Insurance Association. One~~  
732 ~~insurer representative shall be selected from recommendations of~~  
733 ~~the Alliance of American Insurers. One insurer representative~~  
734 ~~shall be selected from recommendations of the National~~  
735 ~~Association of Independent Insurers. Two insurer representatives~~  
736 ~~shall be selected to represent insurers that are not affiliated~~  
737 ~~with these associations. The board of governors shall choose,~~  
738 ~~during the first meeting of the board after June 30 of each~~  
739 ~~year, one of its members to serve as chair of the board and~~  
740 ~~another member to serve as vice chair of the board. There shall~~  
741 ~~be no liability on the part of, and no cause of action of any~~  
742 ~~nature shall arise against, any member insurer, self-insurer, or~~  
743 ~~its agents or employees, the Joint Underwriting Association or~~  
744 ~~its agents or employees, members of the board of governors, or~~  
745 ~~the office or its representatives for any action taken by them~~  
746 ~~in the performance of their powers and duties under this~~  
747 ~~subsection.~~

748 (5) PROPERTY AND CASUALTY INSURANCE RISK  
749 APPORTIONMENT.--The commission shall adopt by rule a joint  
750 underwriting plan to equitably apportion among insurers  
751 authorized in this state to write property insurance as defined  
752 in s. 624.604 or casualty insurance as defined in s. 624.605,  
753 the underwriting of one or more classes of property insurance or  
754 casualty insurance, except for the types of insurance that are  
755 included within property insurance or casualty insurance for

756 which an equitable apportionment plan, assigned risk plan, or  
757 joint underwriting plan is authorized under s. 627.311 or  
758 subsection (1), subsection (2), subsection (3), subsection (4),  
759 or subsection (5) and except for risks eligible for flood  
760 insurance written through the federal flood insurance program to  
761 persons with risks eligible under subparagraph (a)1. and who are  
762 in good faith entitled to, but are unable to, obtain such  
763 property or casualty insurance coverage, including excess  
764 coverage, through the voluntary market. For purposes of this  
765 subsection, an adequate level of coverage means that coverage  
766 which is required by state law or by responsible or prudent  
767 business practices. The Joint Underwriting Association shall not  
768 be required to provide coverage for any type of risk for which  
769 there are no insurers providing similar coverage in this state.  
770 The office may designate one or more participating insurers who  
771 agree to provide policyholder and claims service, including the  
772 issuance of policies, on behalf of the participating insurers.

773 (a) The plan shall provide:

774 1. A means of establishing eligibility of a risk for  
775 obtaining insurance through the plan, which provides that:

776 a. A risk shall be eligible for such property insurance or  
777 casualty insurance as is required by Florida law if the  
778 insurance is unavailable in the voluntary market, including the  
779 market assistance program and the surplus lines market.

780 b. A commercial risk not eligible under sub-subparagraph

781 a. shall be eligible for property or casualty insurance if:

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782 (I) The insurance is unavailable in the voluntary market,  
783 including the market assistance plan and the surplus lines  
784 market;

785 (II) Failure to secure the insurance would substantially  
786 impair the ability of the entity to conduct its affairs; and

787 (III) The risk is not determined by the Risk Underwriting  
788 Committee to be uninsurable.

789 c. In the event the Federal Government terminates the  
790 Federal Crime Insurance Program established under 44 C.F.R. ss.  
791 80-83, Florida commercial and residential risks previously  
792 insured under the federal program shall be eligible under the  
793 plan.

794 d.(I) In the event a risk is eligible under this paragraph  
795 and in the event the market assistance plan receives a minimum  
796 of 100 applications for coverage within a 3-month period, or 200  
797 applications for coverage within a 1-year period or less, for a  
798 given class of risk contained in the classification system  
799 defined in the plan of operation of the Joint Underwriting  
800 Association, and unless the market assistance plan provides a  
801 quotation for at least 80 percent of such applicants, such  
802 classification shall immediately be eligible for coverage in the  
803 Joint Underwriting Association.

804 (II) Any market assistance plan application which is  
805 rejected because an individual risk is so hazardous as to be  
806 practically uninsurable, considering whether the likelihood of a  
807 loss for such a risk is substantially higher than for other  
808 risks of the same class due to individual risk characteristics,  
809 prior loss experience, unwillingness to cooperate with a prior

810 insurer, physical characteristics and physical location shall  
 811 not be included in the minimum percentage calculation provided  
 812 above. In the event that there is any legal or administrative  
 813 challenge to a determination by the office that the conditions  
 814 of this subparagraph have been met for eligibility for coverage  
 815 in the Joint Underwriting Association for a given  
 816 classification, any eligible risk may obtain coverage during the  
 817 pendency of any such challenge.

818 e. In order to qualify as a quotation for the purpose of  
 819 meeting the minimum percentage calculation in this subparagraph,  
 820 the quoted premium must meet the following criteria:

821 (I) In the case of an admitted carrier, the quoted premium  
 822 must not exceed the premium available for a given classification  
 823 currently in use by the Joint Underwriting Association or the  
 824 premium developed by using the rates and rating plans on file  
 825 with the office by the quoting insurer, whichever is greater.

826 (II) In the case of an authorized surplus lines insurer,  
 827 the quoted premium must not exceed the premium available for a  
 828 given classification currently in use by the Joint Underwriting  
 829 Association by more than 25 percent, after consideration of any  
 830 individual risk surcharge or credit.

831 f. Any agent who falsely certifies the unavailability of  
 832 coverage as provided by sub-subparagraphs a. and b., is subject  
 833 to the penalties provided in s. 626.611.

834 2. A means for the equitable apportionment of profits or  
 835 losses and expenses among participating insurers.

836 3. Rules for the classification of risks and rates which  
 837 reflect the past and prospective loss experience.

838 4. A rating plan which reasonably reflects the prior  
839 claims experience of the insureds. Such rating plan shall  
840 include at least two levels of rates for risks that have  
841 favorable loss experience and risks that have unfavorable loss  
842 experience, as established by the plan.

843 5. Reasonable limits to available amounts of insurance.  
844 Such limits may not be less than the amounts of insurance  
845 required of eligible risks by Florida law.

846 6. Risk management requirements for insurance where such  
847 requirements are reasonable and are expected to reduce losses.

848 7. Deductibles as may be necessary to meet the needs of  
849 insureds.

850 8. Policy forms which are consistent with the forms in use  
851 by the majority of the insurers providing coverage in the  
852 voluntary market for the coverage requested by the applicant.

853 9. A means to remove risks from the plan once such risks  
854 no longer meet the eligibility requirements of this paragraph.  
855 For this purpose, the plan shall include the following  
856 requirements: At each 6-month interval after the activation of  
857 any class of insureds, the board of governors or its designated  
858 committee shall review the number of applications to the market  
859 assistance plan for that class. If, based on these latest  
860 numbers, at least 90 percent of such applications have been  
861 provided a quotation, the Joint Underwriting Association shall  
862 cease underwriting new applications for such class within 30  
863 days, and notification of this decision shall be sent to the  
864 office, the major agents' associations, and the board of  
865 directors of the market assistance plan. A quotation for the

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866 purpose of this subparagraph shall meet the same criteria for a  
867 quotation as provided in sub-subparagraph 1.e. All policies  
868 which were previously written for that class shall continue in  
869 force until their normal expiration date, at which time, subject  
870 to the required timely notification of nonrenewal by the Joint  
871 Underwriting Association, the insured may then elect to reapply  
872 to the Joint Underwriting Association according to the  
873 requirements of eligibility. If, upon reapplication, those  
874 previously insured Joint Underwriting Association risks meet the  
875 eligibility requirements, the Joint Underwriting Association  
876 shall provide the coverage requested.

877 10. A means for providing credits to insurers against any  
878 deficit assessment levied pursuant to paragraph (c), for risks  
879 voluntarily written through the market assistance plan by such  
880 insurers.

881 11. That the Joint Underwriting Association shall operate  
882 subject to the supervision and approval of a board of governors  
883 consisting of 13 individuals. The Governor shall appoint four  
884 members and the Chief Financial Officer, the President of the  
885 Senate, and the Speaker of the House of Representatives shall  
886 each appoint three members of the board. Members appointed by  
887 the President of the Senate and the Speaker of the House of  
888 Representatives may not be members of the Legislature unless  
889 they are appointed as ex officio, nonvoting members. At least  
890 one of the members appointed by each appointing officer must  
891 have demonstrated expertise in insurance. The Chief Financial  
892 Officer shall designate one of the appointees as chair. All  
893 board members serve at the pleasure of the appointing officer.



894 All board members, including the chair, must be appointed to  
 895 serve for 3-year terms beginning annually on a date designated  
 896 by the plan. Any board vacancy shall be filled for the unexpired  
 897 term by the appointing officer ~~appointed by the Chief Financial~~  
 898 ~~Officer, and shall have an executive or underwriting committee.~~  
 899 ~~At least four of the members shall be representatives of~~  
 900 ~~insurance trade associations as follows: one member from the~~  
 901 ~~American Insurance Association, one member from the Alliance of~~  
 902 ~~American Insurers, one member from the National Association of~~  
 903 ~~Independent Insurers, and one member from an unaffiliated~~  
 904 ~~insurer writing coverage on a national basis. Two~~  
 905 ~~representatives shall be from two of the statewide agents'~~  
 906 ~~associations. Each board member shall be appointed to serve for~~  
 907 ~~2 year terms beginning on a date designated by the plan and~~  
 908 ~~shall serve at the pleasure of the Chief Financial Officer.~~  
 909 ~~Members may be reappointed for subsequent terms.~~

910 Section 23. Section 631.56, Florida Statutes, is amended  
 911 to read:

912 631.56 Board of directors.--

913 (1) The board of directors of the association shall  
 914 consist of eight individuals. The Governor, the Chief Financial  
 915 Officer, the President of the Senate, and the Speaker of the  
 916 House of Representatives shall each appoint two members of the  
 917 board. Members appointed by the President of the Senate and the  
 918 Speaker of the House of Representatives may not be members of  
 919 the Legislature unless they are appointed as ex officio,  
 920 nonvoting members. At least one of the members appointed by each  
 921 appointing officer must have demonstrated expertise in

922 insurance. The Chief Financial Officer shall designate one of  
923 the appointees as chair. All board members serve at the pleasure  
924 of the appointing officer. All board members, including the  
925 chair, must be appointed to serve for 3-year terms beginning  
926 annually on a date designated by the plan. Any board vacancy  
927 shall be filled for the unexpired term by the appointing officer  
928 ~~not less than five or more than nine persons serving terms as~~  
929 ~~established in the plan of operation. The department shall~~  
930 ~~approve and appoint to the board persons recommended by the~~  
931 ~~member insurers. In the event the department finds that any~~  
932 ~~recommended person does not meet the qualifications for service~~  
933 ~~on the board, the department shall request the member insurers~~  
934 ~~to recommend another person. Each member shall serve for a 4-~~  
935 ~~year term and may be reappointed. Vacancies on the board shall~~  
936 ~~be filled for the remaining period of the term in the same~~  
937 ~~manner as initial appointments.~~

938 ~~(2) In appointing members to the board, the department~~  
939 ~~shall consider among other things whether all areas of insurance~~  
940 ~~covered by this part are fairly represented.~~

941 (2)~~(3)~~ Members of the board may be reimbursed from the  
942 assets of the association for expenses incurred by them as  
943 members of the board of directors.

944 Section 24. Section 631.716, Florida Statutes, is amended  
945 to read:

946 631.716 Board of directors.--

947 (1) The board of directors of the association shall be  
948 comprised of eight individuals. The Governor, the Chief  
949 Financial Officer, the President of the Senate, and the Speaker

950 of the House of Representatives shall each appoint two members  
951 of the board. Members appointed by the President of the Senate  
952 and the Speaker of the House of Representatives may not be  
953 members of the Legislature unless they are appointed as ex  
954 officio, nonvoting members. At least one of the members  
955 appointed by each appointing officer must have demonstrated  
956 expertise in insurance. The Chief Financial Officer shall  
957 designate one of the appointees as chair. All board members  
958 serve at the pleasure of the appointing officer. All board  
959 members, including the chair, must be appointed to serve for 3-  
960 year terms beginning annually on a date designated by the plan.  
961 Any board vacancy shall be filled for the unexpired term by the  
962 appointing officer ~~not fewer than five nor more than nine member~~  
963 ~~insurers, serving terms as established in the plan of operation.~~  
964 ~~At all times at least one member of the board shall be a~~  
965 ~~domestic insurer as defined in s. 624.06(1). The members of the~~  
966 ~~board shall be elected by member insurers subject to the~~  
967 ~~approval of the department. A vacancy on the board shall be~~  
968 ~~filled for the remaining period of the term by a majority vote~~  
969 ~~of the remaining board members, subject to the approval of the~~  
970 ~~department. Prior to the selection of the initial board of~~  
971 ~~directors and the organization of the association, the~~  
972 ~~department shall give notice to all member insurers of the time~~  
973 ~~and place of the organizational meeting. At the organizational~~  
974 ~~meeting, each member insurer shall be entitled to one vote, in~~  
975 ~~person or by proxy. If the board of directors is not elected~~  
976 ~~within 60 days after notice of the organizational meeting, the~~  
977 ~~department may appoint the initial members.~~

978 ~~(2) In approving the election of members to the board, or~~  
 979 ~~in appointing members to the board, the department shall~~  
 980 ~~consider, among other things, whether all member insurers are~~  
 981 ~~fairly represented.~~

982 ~~(2)(3)~~ Members of the board may be reimbursed from the  
 983 assets of the association for expenses incurred by them as  
 984 members of the board of directors, but members of the board  
 985 shall not otherwise be compensated by the association for their  
 986 services.

987 Section 25. Section 631.816, Florida Statutes, is amended  
 988 to read:

989 631.816 Board of directors.--

990 (1) The board of directors of the plan shall consist of  
 991 eight individuals. The Governor, the Chief Financial Officer,  
 992 the President of the Senate, and the Speaker of the House of  
 993 Representatives shall each appoint two members of the board.  
 994 Members appointed by the President of the Senate and the Speaker  
 995 of the House of Representatives may not be members of the  
 996 Legislature unless they are appointed as ex officio, nonvoting  
 997 members. At least one of the members appointed by each  
 998 appointing officer must have demonstrated expertise in  
 999 insurance. The Chief Financial Officer shall designate one of  
 1000 the appointees as chair. All board members serve at the pleasure  
 1001 of the appointing officer. All board members, including the  
 1002 chair, must be appointed to serve for 3-year terms beginning  
 1003 annually on a date designated by the plan. Any board vacancy  
 1004 shall be filled for the unexpired term by the appointing officer  
 1005 ~~not less than five or more than nine persons serving terms as~~

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1006 ~~established in the plan of operation. The department shall~~  
1007 ~~approve and appoint to the board persons recommended by the~~  
1008 ~~member HMOs. In the event the department finds that any~~  
1009 ~~recommended person does not meet the qualifications for service~~  
1010 ~~on the board, the department shall request the member HMOs to~~  
1011 ~~recommend another person. Each member shall serve for a 4 year~~  
1012 ~~term and may be reappointed, except that terms may be staggered~~  
1013 ~~as defined in the plan of operation. Vacancies on the board~~  
1014 ~~shall be filled for the remaining period of the term in the same~~  
1015 ~~manner as initial appointments. In determining voting rights,~~  
1016 ~~each HMO is entitled to vote on the basis of cumulative weighted~~  
1017 ~~voting based on the net written premium for non-Medicare and~~  
1018 ~~non-Medicaid policies.~~

1019 ~~(2) In appointing members to the board, the department~~  
1020 ~~shall consider, among other things, whether all member HMOs are~~  
1021 ~~fairly represented.~~

1022 (2)~~(3)~~ Members of the board may be reimbursed from the  
1023 assets of the plan for expenses incurred by them as members of  
1024 the board of directors, but members of the board shall not  
1025 otherwise be compensated by the plan for their services.

1026 ~~(4) The board of directors shall elect one of its members~~  
1027 ~~as chair.~~

1028 (3)~~(5)~~ The board may contract with an administrator to  
1029 carry out the provisions of this part; however, this shall not  
1030 relieve the board of its duties and obligations under this part.

1031 (4)~~(6)~~ The board shall collect assessments from all HMOs  
1032 as set forth in this part.

1033           Section 26. Subsection (1) of section 631.912, Florida  
 1034 Statutes, is amended to read:  
 1035           631.912 Board of directors.--  
 1036           (1) The board of directors of the corporation shall  
 1037 consist of 16 individuals. The Governor, the Chief Financial  
 1038 Officer, the President of the Senate, and the Speaker of the  
 1039 House of Representatives shall each appoint four members of the  
 1040 board. Members appointed by the President of the Senate and the  
 1041 Speaker of the House of Representatives may not be members of  
 1042 the Legislature unless they are appointed as ex officio,  
 1043 nonvoting members. At least one of the members appointed by each  
 1044 appointing officer must have demonstrated expertise in  
 1045 insurance. The Chief Financial Officer shall designate one of  
 1046 the appointees as chair. All board members serve at the pleasure  
 1047 of the appointing officer. All board members, including the  
 1048 chair, must be appointed to serve for 3-year terms beginning  
 1049 annually on a date designated by the plan. Any board vacancy  
 1050 shall be filled for the unexpired term by the appointing officer  
 1051 ~~11 persons, 1 of whom is the insurance consumer advocate~~  
 1052 ~~appointed under s. 627.0613 or designee and 1 of whom is~~  
 1053 ~~designated by the Chief Financial Officer. The department shall~~  
 1054 ~~appoint to the board 6 persons selected by private carriers from~~  
 1055 ~~among the 20 workers' compensation insurers with the largest~~  
 1056 ~~amount of net direct written premium as determined by the~~  
 1057 ~~department, and 3 persons selected by the self insurance funds.~~  
 1058 ~~At least two of the private carriers shall be foreign carriers~~  
 1059 ~~authorized to do business in this state. The board shall elect a~~  
 1060 ~~chairperson from among its members. The Chief Financial Officer~~

1061 ~~may remove any board member for cause. Each board member shall~~  
 1062 ~~serve for a 4-year term and may be reappointed. A vacancy on the~~  
 1063 ~~board shall be filled for the remaining period of the term in~~  
 1064 ~~the same manner by which the original appointment was made.~~

1065 Section 27. Paragraph (b) of subsection (3) of section  
 1066 766.105, Florida Statutes, is amended to read:

1067 766.105 Florida Patient's Compensation Fund.--

1068 (3) THE FUND.--

1069 (b) Fund administration and operation.--

1070 1. The fund shall operate subject to the supervision and  
 1071 approval of a board of governors consisting of 16 individuals.  
 1072 The Governor, the Chief Financial Officer, the President of the  
 1073 Senate, and the Speaker of the House of Representatives shall  
 1074 each appoint four members of the board. Members appointed by the  
 1075 President of the Senate and the Speaker of the House of  
 1076 Representatives may not be members of the Legislature unless  
 1077 they are appointed as ex officio, nonvoting members. At least  
 1078 one of the members appointed by each appointing officer must  
 1079 have demonstrated expertise in insurance. The Chief Financial  
 1080 Officer shall designate one of the appointees as chair. All  
 1081 board members serve at the pleasure of the appointing officer.  
 1082 All board members, including the chair, must be appointed to  
 1083 serve for 3-year terms beginning annually on a date designated  
 1084 by the plan. Any board vacancy shall be filled for the unexpired  
 1085 term by the appointing officer ~~a representative of the insurance~~  
 1086 ~~industry appointed by the Chief Financial Officer, an attorney~~  
 1087 ~~appointed by The Florida Bar, a representative of physicians~~  
 1088 ~~appointed by the Florida Medical Association, a representative~~

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1089 ~~of physicians' insurance appointed by the Chief Financial~~  
1090 ~~Officer, a representative of physicians' self insurance~~  
1091 ~~appointed by the Chief Financial Officer, two representatives of~~  
1092 ~~hospitals appointed by the Florida Hospital Association, a~~  
1093 ~~representative of hospital insurance appointed by the Chief~~  
1094 ~~Financial Officer, a representative of hospital self insurance~~  
1095 ~~appointed by the Chief Financial Officer, a representative of~~  
1096 ~~the osteopathic physicians' or podiatric physicians' insurance~~  
1097 ~~or self insurance appointed by the Chief Financial Officer, and~~  
1098 ~~a representative of the general public appointed by the Chief~~  
1099 ~~Financial Officer. The board of governors shall, during the~~  
1100 ~~first meeting after June 30 of each year, choose one of its~~  
1101 ~~members to serve as chair of the board and another member to~~  
1102 ~~serve as vice chair of the board. The members of the board shall~~  
1103 ~~be appointed to serve terms of 4 years, except that the initial~~  
1104 ~~appointments of a representative of the general public by the~~  
1105 ~~Chief Financial Officer, an attorney by The Florida Bar, a~~  
1106 ~~representative of physicians by the Florida Medical Association,~~  
1107 ~~and one of the two representatives of the Florida Hospital~~  
1108 ~~Association shall be for terms of 3 years; thereafter, such~~  
1109 ~~representatives shall be appointed for terms of 4 years.~~  
1110 ~~Subsequent to initial appointments for 4 year terms, the~~  
1111 ~~representative of the osteopathic physicians' or podiatric~~  
1112 ~~physicians' insurance or self insurance appointed by the Chief~~  
1113 ~~Financial Officer and the representative of hospital self-~~  
1114 ~~insurance appointed by the Chief Financial Officer shall be~~  
1115 ~~appointed for 2 year terms; thereafter, such representatives~~  
1116 ~~shall be appointed for terms of 4 years. Each appointed member~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1117 | may designate in writing to the chair an alternate to act in the  
 1118 | member's absence or incapacity. A member of the board, or the  
 1119 | member's alternate, may be reimbursed from the assets of the  
 1120 | fund for expenses incurred by him or her as a member, or  
 1121 | alternate member, of the board and for committee work, but he or  
 1122 | she may not otherwise be compensated by the fund for his or her  
 1123 | service as a board member or alternate.

1124 |         2. There shall be no liability on the part of, and no  
 1125 | cause of action of any nature shall arise against, the fund or  
 1126 | its agents or employees, professional advisers or consultants,  
 1127 | members of the board of governors or their alternates, or the  
 1128 | Department of Financial Services or the Office of Insurance  
 1129 | Regulation of the Financial Services Commission or their  
 1130 | representatives for any action taken by them in the performance  
 1131 | of their powers and duties pursuant to this section.

1132 |         Section 28. Section 440.103, Florida Statutes, is amended  
 1133 | to read:

1134 |         440.103 Building permits; identification of minimum  
 1135 | premium policy.--Every employer shall, as a condition to  
 1136 | applying for and receiving a building permit, show proof and  
 1137 | certify to the permit issuer that it has secured compensation  
 1138 | for its employees under this chapter as provided in ss. 440.10  
 1139 | and 440.38. Such proof of compensation must be evidenced by a  
 1140 | certificate of coverage issued by the carrier, a valid exemption  
 1141 | certificate approved by the department, or a copy of the  
 1142 | employer's authority to self-insure and shall be presented each  
 1143 | time the employer applies for a building permit. As provided in  
 1144 | s. 627.413 (6) ~~(5)~~, each certificate of coverage must show, on its

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1145 face, whether or not coverage is secured under the minimum  
1146 premium provisions of rules adopted by rating organizations  
1147 licensed pursuant to s. 627.221. The words "minimum premium  
1148 policy" or equivalent language shall be typed, printed, stamped,  
1149 or legibly handwritten.

1150       Section 29. The Department of Financial Services shall  
1151 review how insurance agent commissions for the placement and  
1152 renewal of property insurance policies are established and  
1153 applied and shall make recommendations, based on industry best  
1154 practices, for standards to ensure that agent commissions are  
1155 justified on a market basis based on the nature and amount of  
1156 work performed by the agents. The Office of Insurance Regulation  
1157 shall provide the department with all information requested  
1158 pursuant to this section. The department shall report its  
1159 findings and recommendations to the Governor, the President of  
1160 the Senate, and the Speaker of the House of Representatives by  
1161 July 1, 2007.

1162       Section 30. Except as otherwise expressly provided in this  
1163 act, this act shall take effect upon becoming a law.