

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 and exclusions
36 for personal lines residential policies; requiring notice
37 of this option to be maintained; providing application;
38 providing for rules; creating s. 627.7018, F.S.; providing
39 a 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

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

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

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.

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

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

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

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 and exclusion.--

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. The failure of the insurer
453 to obtain a signed selection of coverage renders the selection
454 void.

455 (2) Every insurer offering a personal lines residential
456 property insurance policy covering windstorm in this state
457 shall, in addition to a standard comprehensive policy, offer a
458 policy that excludes personal contents coverage. If an applicant
459 or insured elects to exclude personal contents coverage, the
460 insurer shall obtain a written rejection of such coverage on a
461 form approved by the office. The form must fully advise the
462 applicant or policyholder that the coverage the applicant or
463 policyholder is obtaining does not contain personal contents
464 coverage. If this form is signed by the insured, it will be
465 conclusively presumed that there was an informed, knowing
466 rejection of personal contents coverage on behalf of all
467 insureds. The failure of the insurer to obtain a signed
468 rejection of personal contents coverage renders the selection
469 void.

470 (3) On a form approved by the office, the insurer shall
471 provide notices of the offers specified in subsections (1) and
472 (2) to the applicant prior to policy issuance and to the
473 policyholder in conjunction with each policy renewal. The
474 failure to provide such notice constitutes a violation of this
475 code but does not affect the coverage provided under the policy.

476 (4) A signed, written rejection or selection of coverage

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477 shall remain in effect for subsequent renewals unless the
 478 policyholder notifies the insurer in writing of another
 479 selection.

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

482 Section 15. Section 627.7018, Florida Statutes, is created
 483 to read:

484 627.7018 Standards for determining risk of coverage.--In
 485 determining the risk of providing property insurance coverage,
 486 an insurer may not deny coverage solely on the basis of the age
 487 of the property and shall consider the wind resistance of the
 488 structure and measures undertaken by the owner to protect the
 489 property against hurricane loss.

490 Section 16. Section 627.711, Florida Statutes, is amended
 491 to read:

492 627.711 Notice of premium discounts for hurricane loss
 493 mitigation.-- Using a form prescribed by the Office of Insurance
 494 Regulation, the insurer shall clearly notify the applicant or
 495 policyholder of any personal lines residential property
 496 insurance policy, at the time of the issuance of the policy and
 497 at each renewal, of the availability and the range of each
 498 premium discount, credit, other rate differential, or reduction
 499 in deductibles for properties on which fixtures or construction
 500 techniques, and all combinations of discounts, credits, rate
 501 differentials, or reductions in deductibles, demonstrated to
 502 reduce the amount of loss in a windstorm can be or have been
 503 installed or implemented. The prescribed form shall describe
 504 generally what actions the policyholders may be able to take to

505 reduce their windstorm premium. The prescribed form and a list
 506 of such ranges approved by the office for each insurer licensed
 507 in the state and providing such discounts, credits, other rate
 508 differentials, or reductions in deductibles for properties
 509 described in this subsection shall be available for electronic
 510 viewing and download from the Department of Financial Services'
 511 or the Office of Insurance Regulation's Internet website. The
 512 Financial Services Commission may adopt rules to implement this
 513 subsection.

514 Section 17. Section 627.713, Florida Statutes, is created
 515 to read:

516 627.713 Report of hurricane loss data.--The office may
 517 require property insurers to report data regarding hurricane
 518 claims and underwriting costs, including, but not limited to:

- 519 (1) Number of claims.
- 520 (2) Amount of claim payments made.
- 521 (3) Number and amount of total-loss claims.
- 522 (4) Amount and percentage of losses covered by reinsurance
 523 or other loss-transfer agreements.
- 524 (5) Amount of losses covered under specified deductibles.
- 525 (6) Claims and payments for specified insured values.
- 526 (7) Claims and payments for specified dollar values.
- 527 (8) Claims and payments for specified types of
 528 construction or mitigation features.
- 529 (9) Claims and payments for policies under specified
 530 underwriting criteria.
- 531 (10) Claims and payments for contents, additional living
 532 expense, and other specified coverages.

533 (11) Claims and payments by county for the information
 534 specified in this section.

535 (12) Any other data that the office requires.

536 Section 18. Section 627.7277, Florida Statutes, is amended
 537 to read:

538 627.7277 Notice of renewal premium.--

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

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

544 (3) If the insurer fails to provide the 30 days' notice of
 545 a renewal premium that results in a premium increase, the
 546 coverage under the policy remains in effect at the existing
 547 rates until 30 days after the notice is given or until the
 548 effective date of replacement coverage obtained by the insured,
 549 whichever occurs first.

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

551 (a) The dollar amounts recouped for assessments by the
 552 Florida Hurricane Catastrophe Fund, the Citizens Property
 553 Insurance Corporation, and the Florida Insurance Guaranty
 554 Association. The actual names of the entities must appear next
 555 to the dollar amounts.

556 (b) The dollar amount of any premium increase that is due
 557 to a rate increase and the dollar amounts that are due to
 558 coverage changes.

559 (c) For an insurer that is a wholly owned subsidiary of an
 560 insurer authorized to do business in any other state, the dollar

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561 amount of profit or loss for all lines of property insurance for
562 the wholly owned subsidiary and the parent for the most recent
563 reporting year.

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

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

568 628.371 Dividends to stockholders.--

569 (5) In addition to the requirements of subsections (2) and
570 (3), a domestic stock insurer that transacts residential
571 property insurance in this state shall file notice with the
572 office 10 business days prior to the payment of any dividend or
573 distribution of cash or other property to stockholders and shall
574 have surplus to policyholders equal to or exceeding 133 percent
575 of the minimum required statutory surplus as to policyholders
576 after the dividend or distribution is made.

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

580 627.311 Joint underwriters and joint reinsurers; public
581 records and public meetings exemptions.--

582 (3) The office may, after consultation with insurers
583 licensed to write automobile insurance in this state, approve a
584 joint underwriting plan for purposes of equitable apportionment
585 or sharing among insurers of automobile liability insurance and
586 other motor vehicle insurance, as an alternate to the plan
587 required in s. 627.351(1). All insurers authorized to write
588 automobile insurance in this state shall subscribe to the plan

589 and participate therein. The plan shall be subject to continuous
 590 review by the office which may at any time disapprove the entire
 591 plan or any part thereof if it determines that conditions have
 592 changed since prior approval and that in view of the purposes of
 593 the plan changes are warranted. Any disapproval by the office
 594 shall be subject to the provisions of chapter 120. The Florida
 595 Automobile Joint Underwriting Association is created under the
 596 plan. The plan and the association:

597 (e) Must provide that the joint underwriting association
 598 will operate subject to the supervision and approval of a board
 599 of governors consisting of 16 ~~11~~ individuals. The Governor, the
 600 Chief Financial Officer, the President of the Senate, and the
 601 Speaker of the House of Representatives shall each appoint four
 602 members of the board. Members appointed by the President of the
 603 Senate and the Speaker of the House of Representatives may not
 604 be members of the Legislature unless they are appointed as ex
 605 officio, nonvoting members. At least one of the members
 606 appointed by each appointing officer must have demonstrated
 607 expertise in insurance. The Chief Financial Officer shall
 608 designate one of the appointees as chair. All board members
 609 serve at the pleasure of the appointing officer. All board
 610 members, including the chair, must be appointed to serve for 3-
 611 year terms beginning annually on a date designated by the plan.
 612 Any board vacancy shall be filled for the unexpired term by the
 613 appointing officer, including 1 who will be elected as chair.
 614 ~~Five members of the board must be appointed by the Chief~~
 615 ~~Financial Officer. Two of the Chief Financial Officer's~~
 616 ~~appointees must be chosen from the insurance industry. Any board~~

617 ~~member appointed by the Chief Financial Officer may be removed~~
618 ~~and replaced by her or him at any time without cause. Six~~
619 ~~members of the board must be appointed by the participating~~
620 ~~insurers, two of whom must be from the insurance agents'~~
621 ~~associations. All board members, including the chair, must be~~
622 ~~appointed to serve for 2 year terms beginning annually on a date~~
623 ~~designated by the plan.~~

624 (5)

625 (b) The operation of the plan is subject to the
626 supervision and approval of a ~~9-member~~ board of governors
627 consisting of nine individuals. The Governor shall appoint three
628 members and the Chief Financial Officer, the President of the
629 Senate, and the Speaker of the House of Representatives shall
630 each appoint two members of the board. Members appointed by the
631 President of the Senate and the Speaker of the House of
632 Representatives may not be members of the Legislature unless
633 they are appointed as ex officio, nonvoting members. At least
634 one of the members appointed by each appointing officer must
635 have demonstrated expertise in insurance. The Chief Financial
636 Officer shall designate one of the appointees as chair. All
637 board members serve at the pleasure of the appointing officer.
638 All board members, including the chair, must be appointed to
639 serve for 3-year terms beginning annually on a date designated
640 by the plan. Any board vacancy shall be filled for the unexpired
641 term by the appointing officer. The board of governors shall be
642 comprised of:

643 ~~1. Three members appointed by the Financial Services~~
644 ~~Commission. Each member appointed by the commission shall serve~~
645 ~~at the pleasure of the commission;~~
646 ~~2. Two of the 20 domestic insurers, as defined in s.~~
647 ~~624.06(1), having the largest voluntary direct premiums written~~
648 ~~in this state for workers' compensation and employer's liability~~
649 ~~insurance, which shall be elected by those 20 domestic insurers;~~
650 ~~3. Two of the 20 foreign insurers as defined in s.~~
651 ~~624.06(2) having the largest voluntary direct premiums written~~
652 ~~in this state for workers' compensation and employer's liability~~
653 ~~insurance, which shall be elected by those 20 foreign insurers;~~
654 ~~4. One person appointed by the largest property and~~
655 ~~casualty insurance agents' association in this state; and~~
656 ~~5. The consumer advocate appointed under s. 627.0613 or~~
657 ~~the consumer advocate's designee.~~
658
659 ~~Each board member shall serve a 4 year term and may serve~~
660 ~~consecutive terms. A vacancy on the board shall be filled in the~~
661 ~~same manner as the original appointment for the unexpired~~
662 ~~portion of the term. The Financial Services Commission shall~~
663 ~~designate a member of the board to serve as chair. No board~~
664 ~~member shall be an insurer which provides services to the plan~~
665 ~~or which has an affiliate which provides services to the plan or~~
666 ~~which is serviced by a service company or third-party~~
667 ~~administrator which provides services to the plan or which has~~
668 ~~an affiliate which provides services to the plan. The minutes,~~
669 ~~audits, and procedures of the board of governors are subject to~~
670 ~~chapter 119.~~

671 Section 21. Paragraph (b) of subsection (5) of section
 672 627.311, Florida Statutes, as amended by section 1 of chapter
 673 2003-108, section 1096 of chapter 2003-261, and section 35 of
 674 chapter 2003-412, Laws of Florida, is amended to read:

675 627.311 Joint underwriters and joint reinsurers; public
 676 records and public meetings exemptions.--

677 (5)

678 (b) The operation of the plan is subject to the
 679 supervision and approval of a ~~13-member~~ board of governors
 680 consisting of nine individuals. The Governor shall appoint three
 681 members and the Chief Financial Officer, the President of the
 682 Senate, and the Speaker of the House of Representatives shall
 683 each appoint two members of the board. Members appointed by the
 684 President of the Senate and the Speaker of the House of
 685 Representatives may not be members of the Legislature unless
 686 they are appointed as ex officio, nonvoting members. At least
 687 one of the members appointed by each appointing officer must
 688 have demonstrated expertise in insurance. The Chief Financial
 689 Officer shall designate one of the appointees as chair. All
 690 board members serve at the pleasure of the appointing officer.
 691 All board members, including the chair, must be appointed to
 692 serve for 3-year terms beginning annually on a date designated
 693 by the plan. Any board vacancy shall be filled for the unexpired
 694 term by the appointing officer. ~~The board of governors shall be~~
 695 ~~comprised of:~~

696 ~~1. Five of the 20 domestic insurers, as defined in s.~~
 697 ~~624.06(1), having the largest voluntary direct premiums written~~

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698 ~~in this state for workers' compensation and employer's liability~~
 699 ~~insurance, which shall be elected by those 20 domestic insurers,~~
 700 ~~2. Five of the 20 foreign insurers as defined in s.~~
 701 ~~624.06(2) having the largest voluntary direct premiums written~~
 702 ~~in this state for workers' compensation and employer's liability~~
 703 ~~insurance, which shall be elected by those 20 foreign insurers,~~
 704 ~~3. One person, who shall serve as the chair, appointed by~~
 705 ~~the Chief Financial Officer,~~
 706 ~~4. One person appointed by the largest property and~~
 707 ~~casualty insurance agents' association in this state, and~~
 708 ~~5. The consumer advocate appointed under s. 627.0613 or~~
 709 ~~the consumer advocate's designee.~~

710
 711 ~~Each board member shall serve a 4 year term and may serve~~
 712 ~~consecutive terms.~~ No board member shall be an insurer which
 713 provides service to the plan or which has an affiliate which
 714 provides services to the plan or which is serviced by a service
 715 company or third-party administrator which provides services to
 716 the plan or which has an affiliate which provides services to
 717 the plan. The minutes, audits, and procedures of the board of
 718 governors are subject to chapter 119.

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

722 627.351 Insurance risk apportionment plans.--

723 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

724 (c) The Joint Underwriting Association shall operate
 725 subject to the supervision and approval of a board of governors

726 consisting of nine individuals. The Governor shall appoint three
727 members and the Chief Financial Officer, the President of the
728 Senate, and the Speaker of the House of Representatives shall
729 each appoint two members of the board. Members appointed by the
730 President of the Senate and the Speaker of the House of
731 Representatives may not be members of the Legislature unless
732 they are appointed as ex officio, nonvoting members. At least
733 one of the members appointed by each appointing officer must
734 have demonstrated expertise in insurance. The Chief Financial
735 Officer shall designate one of the appointees as chair. All
736 board members serve at the pleasure of the appointing officer.
737 All board members, including the chair, must be appointed to
738 serve for 3-year terms beginning annually on a date designated
739 by the plan. Any board vacancy shall be filled for the unexpired
740 term by the appointing officer ~~representatives of five of the~~
741 ~~insurers participating in the Joint Underwriting Association, an~~
742 ~~attorney to be named by The Florida Bar, a physician to be named~~
743 ~~by the Florida Medical Association, a dentist to be named by the~~
744 ~~Florida Dental Association, and a hospital representative to be~~
745 ~~named by the Florida Hospital Association. The Chief Financial~~
746 ~~Officer shall select the representatives of the five insurers.~~
747 ~~One insurer representative shall be selected from~~
748 ~~recommendations of the American Insurance Association. One~~
749 ~~insurer representative shall be selected from recommendations of~~
750 ~~the Alliance of American Insurers. One insurer representative~~
751 ~~shall be selected from recommendations of the National~~
752 ~~Association of Independent Insurers. Two insurer representatives~~
753 ~~shall be selected to represent insurers that are not affiliated~~

754 ~~with these associations. The board of governors shall choose,~~
 755 ~~during the first meeting of the board after June 30 of each~~
 756 ~~year, one of its members to serve as chair of the board and~~
 757 ~~another member to serve as vice chair of the board.~~ There shall
 758 be no liability on the part of, and no cause of action of any
 759 nature shall arise against, any member insurer, self-insurer, or
 760 its agents or employees, the Joint Underwriting Association or
 761 its agents or employees, members of the board of governors, or
 762 the office or its representatives for any action taken by them
 763 in the performance of their powers and duties under this
 764 subsection.

765 (5) PROPERTY AND CASUALTY INSURANCE RISK

766 APPORTIONMENT.--The commission shall adopt by rule a joint
 767 underwriting plan to equitably apportion among insurers
 768 authorized in this state to write property insurance as defined
 769 in s. 624.604 or casualty insurance as defined in s. 624.605,
 770 the underwriting of one or more classes of property insurance or
 771 casualty insurance, except for the types of insurance that are
 772 included within property insurance or casualty insurance for
 773 which an equitable apportionment plan, assigned risk plan, or
 774 joint underwriting plan is authorized under s. 627.311 or
 775 subsection (1), subsection (2), subsection (3), subsection (4),
 776 or subsection (5) and except for risks eligible for flood
 777 insurance written through the federal flood insurance program to
 778 persons with risks eligible under subparagraph (a)1. and who are
 779 in good faith entitled to, but are unable to, obtain such
 780 property or casualty insurance coverage, including excess
 781 coverage, through the voluntary market. For purposes of this

782 subsection, an adequate level of coverage means that coverage
 783 which is required by state law or by responsible or prudent
 784 business practices. The Joint Underwriting Association shall not
 785 be required to provide coverage for any type of risk for which
 786 there are no insurers providing similar coverage in this state.
 787 The office may designate one or more participating insurers who
 788 agree to provide policyholder and claims service, including the
 789 issuance of policies, on behalf of the participating insurers.

790 (a) The plan shall provide:

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

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

797 b. A commercial risk not eligible under sub-subparagraph
 798 a. shall be eligible for property or casualty insurance if:

799 (I) The insurance is unavailable in the voluntary market,
 800 including the market assistance plan and the surplus lines
 801 market;

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

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

806 c. In the event the Federal Government terminates the
 807 Federal Crime Insurance Program established under 44 C.F.R. ss.
 808 80-83, Florida commercial and residential risks previously

809 insured under the federal program shall be eligible under the
810 plan.

811 d.(I) In the event a risk is eligible under this paragraph
812 and in the event the market assistance plan receives a minimum
813 of 100 applications for coverage within a 3-month period, or 200
814 applications for coverage within a 1-year period or less, for a
815 given class of risk contained in the classification system
816 defined in the plan of operation of the Joint Underwriting
817 Association, and unless the market assistance plan provides a
818 quotation for at least 80 percent of such applicants, such
819 classification shall immediately be eligible for coverage in the
820 Joint Underwriting Association.

821 (II) Any market assistance plan application which is
822 rejected because an individual risk is so hazardous as to be
823 practically uninsurable, considering whether the likelihood of a
824 loss for such a risk is substantially higher than for other
825 risks of the same class due to individual risk characteristics,
826 prior loss experience, unwillingness to cooperate with a prior
827 insurer, physical characteristics and physical location shall
828 not be included in the minimum percentage calculation provided
829 above. In the event that there is any legal or administrative
830 challenge to a determination by the office that the conditions
831 of this subparagraph have been met for eligibility for coverage
832 in the Joint Underwriting Association for a given
833 classification, any eligible risk may obtain coverage during the
834 pendency of any such challenge.

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

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

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

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

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

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

855 4. A rating plan which reasonably reflects the prior
856 claims experience of the insureds. Such rating plan shall
857 include at least two levels of rates for risks that have
858 favorable loss experience and risks that have unfavorable loss
859 experience, as established by the plan.

860 5. Reasonable limits to available amounts of insurance.
861 Such limits may not be less than the amounts of insurance
862 required of eligible risks by Florida law.

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

865 7. Deductibles as may be necessary to meet the needs of
866 insureds.

867 8. Policy forms which are consistent with the forms in use
868 by the majority of the insurers providing coverage in the
869 voluntary market for the coverage requested by the applicant.

870 9. A means to remove risks from the plan once such risks
871 no longer meet the eligibility requirements of this paragraph.
872 For this purpose, the plan shall include the following
873 requirements: At each 6-month interval after the activation of
874 any class of insureds, the board of governors or its designated
875 committee shall review the number of applications to the market
876 assistance plan for that class. If, based on these latest
877 numbers, at least 90 percent of such applications have been
878 provided a quotation, the Joint Underwriting Association shall
879 cease underwriting new applications for such class within 30
880 days, and notification of this decision shall be sent to the
881 office, the major agents' associations, and the board of
882 directors of the market assistance plan. A quotation for the
883 purpose of this subparagraph shall meet the same criteria for a
884 quotation as provided in sub-subparagraph 1.e. All policies
885 which were previously written for that class shall continue in
886 force until their normal expiration date, at which time, subject
887 to the required timely notification of nonrenewal by the Joint
888 Underwriting Association, the insured may then elect to reapply
889 to the Joint Underwriting Association according to the
890 requirements of eligibility. If, upon reapplication, those

891 | previously insured Joint Underwriting Association risks meet the
892 | eligibility requirements, the Joint Underwriting Association
893 | shall provide the coverage requested.

894 | 10. A means for providing credits to insurers against any
895 | deficit assessment levied pursuant to paragraph (c), for risks
896 | voluntarily written through the market assistance plan by such
897 | insurers.

898 | 11. That the Joint Underwriting Association shall operate
899 | subject to the supervision and approval of a board of governors
900 | consisting of 13 individuals. The Governor shall appoint four
901 | members and the Chief Financial Officer, the President of the
902 | Senate, and the Speaker of the House of Representatives shall
903 | each appoint three members of the board. Members appointed by
904 | the President of the Senate and the Speaker of the House of
905 | Representatives may not be members of the Legislature unless
906 | they are appointed as ex officio, nonvoting members. At least
907 | one of the members appointed by each appointing officer must
908 | have demonstrated expertise in insurance. The Chief Financial
909 | Officer shall designate one of the appointees as chair. All
910 | board members serve at the pleasure of the appointing officer.
911 | All board members, including the chair, must be appointed to
912 | serve for 3-year terms beginning annually on a date designated
913 | by the plan. Any board vacancy shall be filled for the unexpired
914 | term by the appointing officer appointed by the Chief Financial
915 | Officer, and shall have an executive or underwriting committee.
916 | ~~At least four of the members shall be representatives of~~
917 | ~~insurance trade associations as follows: one member from the~~
918 | ~~American Insurance Association, one member from the Alliance of~~

919 ~~American Insurers, one member from the National Association of~~
920 ~~Independent Insurers, and one member from an unaffiliated~~
921 ~~insurer writing coverage on a national basis. Two~~
922 ~~representatives shall be from two of the statewide agents'~~
923 ~~associations. Each board member shall be appointed to serve for~~
924 ~~2 year terms beginning on a date designated by the plan and~~
925 ~~shall serve at the pleasure of the Chief Financial Officer.~~
926 ~~Members may be reappointed for subsequent terms.~~

927 Section 23. Section 631.56, Florida Statutes, is amended
928 to read:

929 631.56 Board of directors.--

930 (1) The board of directors of the association shall
931 consist of eight individuals. The Governor, the Chief Financial
932 Officer, the President of the Senate, and the Speaker of the
933 House of Representatives shall each appoint two members of the
934 board. Members appointed by the President of the Senate and the
935 Speaker of the House of Representatives may not be members of
936 the Legislature unless they are appointed as ex officio,
937 nonvoting members. At least one of the members appointed by each
938 appointing officer must have demonstrated expertise in
939 insurance. The Chief Financial Officer shall designate one of
940 the appointees as chair. All board members serve at the pleasure
941 of the appointing officer. All board members, including the
942 chair, must be appointed to serve for 3-year terms beginning
943 annually on a date designated by the plan. Any board vacancy
944 shall be filled for the unexpired term by the appointing officer
945 ~~not less than five or more than nine persons serving terms as~~
946 ~~established in the plan of operation. The department shall~~

947 ~~approve and appoint to the board persons recommended by the~~
948 ~~member insurers. In the event the department finds that any~~
949 ~~recommended person does not meet the qualifications for service~~
950 ~~on the board, the department shall request the member insurers~~
951 ~~to recommend another person. Each member shall serve for a 4-~~
952 ~~year term and may be reappointed. Vacancies on the board shall~~
953 ~~be filled for the remaining period of the term in the same~~
954 ~~manner as initial appointments.~~

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

958 ~~(2)(3)~~ Members of the board may be reimbursed from the
959 assets of the association for expenses incurred by them as
960 members of the board of directors.

961 Section 24. Section 631.716, Florida Statutes, is amended
962 to read:

963 631.716 Board of directors.--

964 (1) The board of directors of the association shall be
965 comprised of eight individuals. The Governor, the Chief
966 Financial Officer, the President of the Senate, and the Speaker
967 of the House of Representatives shall each appoint two members
968 of the board. Members appointed by the President of the Senate
969 and the Speaker of the House of Representatives may not be
970 members of the Legislature unless they are appointed as ex
971 officio, nonvoting members. At least one of the members
972 appointed by each appointing officer must have demonstrated
973 expertise in insurance. The Chief Financial Officer shall
974 designate one of the appointees as chair. All board members

975 serve at the pleasure of the appointing officer. All board
976 members, including the chair, must be appointed to serve for 3-
977 year terms beginning annually on a date designated by the plan.
978 Any board vacancy shall be filled for the unexpired term by the
979 appointing officer ~~not fewer than five nor more than nine member~~
980 ~~insurers, serving terms as established in the plan of operation.~~
981 ~~At all times at least one member of the board shall be a~~
982 ~~domestic insurer as defined in s. 624.06(1). The members of the~~
983 ~~board shall be elected by member insurers subject to the~~
984 ~~approval of the department. A vacancy on the board shall be~~
985 ~~filled for the remaining period of the term by a majority vote~~
986 ~~of the remaining board members, subject to the approval of the~~
987 ~~department. Prior to the selection of the initial board of~~
988 ~~directors and the organization of the association, the~~
989 ~~department shall give notice to all member insurers of the time~~
990 ~~and place of the organizational meeting. At the organizational~~
991 ~~meeting, each member insurer shall be entitled to one vote, in~~
992 ~~person or by proxy. If the board of directors is not elected~~
993 ~~within 60 days after notice of the organizational meeting, the~~
994 ~~department may appoint the initial members.~~

995 ~~(2) In approving the election of members to the board, or~~
996 ~~in appointing members to the board, the department shall~~
997 ~~consider, among other things, whether all member insurers are~~
998 ~~fairly represented.~~

999 (2) ~~(3)~~ Members of the board may be reimbursed from the
1000 assets of the association for expenses incurred by them as
1001 members of the board of directors, but members of the board

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1002 shall not otherwise be compensated by the association for their
1003 services.

1004 Section 25. Section 631.816, Florida Statutes, is amended
1005 to read:

1006 631.816 Board of directors.--

1007 (1) The board of directors of the plan shall consist of
1008 eight individuals. The Governor, the Chief Financial Officer,
1009 the President of the Senate, and the Speaker of the House of
1010 Representatives shall each appoint two members of the board.
1011 Members appointed by the President of the Senate and the Speaker
1012 of the House of Representatives may not be members of the
1013 Legislature unless they are appointed as ex officio, nonvoting
1014 members. At least one of the members appointed by each
1015 appointing officer must have demonstrated expertise in
1016 insurance. The Chief Financial Officer shall designate one of
1017 the appointees as chair. All board members serve at the pleasure
1018 of the appointing officer. All board members, including the
1019 chair, must be appointed to serve for 3-year terms beginning
1020 annually on a date designated by the plan. Any board vacancy
1021 shall be filled for the unexpired term by the appointing officer
1022 ~~not less than five or more than nine persons serving terms as~~
1023 ~~established in the plan of operation. The department shall~~
1024 ~~approve and appoint to the board persons recommended by the~~
1025 ~~member HMOs. In the event the department finds that any~~
1026 ~~recommended person does not meet the qualifications for service~~
1027 ~~on the board, the department shall request the member HMOs to~~
1028 ~~recommend another person. Each member shall serve for a 4 year~~
1029 ~~term and may be reappointed, except that terms may be staggered~~

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1030 ~~as defined in the plan of operation. Vacancies on the board~~
 1031 ~~shall be filled for the remaining period of the term in the same~~
 1032 ~~manner as initial appointments. In determining voting rights,~~
 1033 ~~each HMO is entitled to vote on the basis of cumulative weighted~~
 1034 ~~voting based on the net written premium for non-Medicare and~~
 1035 ~~non-Medicaid policies.~~

1036 ~~(2) In appointing members to the board, the department~~
 1037 ~~shall consider, among other things, whether all member HMOs are~~
 1038 ~~fairly represented.~~

1039 (2)~~(3)~~ Members of the board may be reimbursed from the
 1040 assets of the plan for expenses incurred by them as members of
 1041 the board of directors, but members of the board shall not
 1042 otherwise be compensated by the plan for their services.

1043 ~~(4) The board of directors shall elect one of its members~~
 1044 ~~as chair.~~

1045 (3)~~(5)~~ The board may contract with an administrator to
 1046 carry out the provisions of this part; however, this shall not
 1047 relieve the board of its duties and obligations under this part.

1048 (4)~~(6)~~ The board shall collect assessments from all HMOs
 1049 as set forth in this part.

1050 Section 26. Subsection (1) of section 631.912, Florida
 1051 Statutes, is amended to read:

1052 631.912 Board of directors.--

1053 (1) The board of directors of the corporation shall
 1054 consist of 16 individuals. The Governor, the Chief Financial
 1055 Officer, the President of the Senate, and the Speaker of the
 1056 House of Representatives shall each appoint four members of the
 1057 board. Members appointed by the President of the Senate and the

1058 Speaker of the House of Representatives may not be members of
 1059 the Legislature unless they are appointed as ex officio,
 1060 nonvoting members. At least one of the members appointed by each
 1061 appointing officer must have demonstrated expertise in
 1062 insurance. The Chief Financial Officer shall designate one of
 1063 the appointees as chair. All board members serve at the pleasure
 1064 of the appointing officer. All board members, including the
 1065 chair, must be appointed to serve for 3-year terms beginning
 1066 annually on a date designated by the plan. Any board vacancy
 1067 shall be filled for the unexpired term by the appointing officer
 1068 ~~11 persons, 1 of whom is the insurance consumer advocate~~
 1069 ~~appointed under s. 627.0613 or designee and 1 of whom is~~
 1070 ~~designated by the Chief Financial Officer. The department shall~~
 1071 ~~appoint to the board 6 persons selected by private carriers from~~
 1072 ~~among the 20 workers' compensation insurers with the largest~~
 1073 ~~amount of net direct written premium as determined by the~~
 1074 ~~department, and 3 persons selected by the self insurance funds.~~
 1075 ~~At least two of the private carriers shall be foreign carriers~~
 1076 ~~authorized to do business in this state. The board shall elect a~~
 1077 ~~chairperson from among its members. The Chief Financial Officer~~
 1078 ~~may remove any board member for cause. Each board member shall~~
 1079 ~~serve for a 4 year term and may be reappointed. A vacancy on the~~
 1080 ~~board shall be filled for the remaining period of the term in~~
 1081 ~~the same manner by which the original appointment was made.~~

1082 Section 27. Paragraph (b) of subsection (3) of section
 1083 766.105, Florida Statutes, is amended to read:

1084 766.105 Florida Patient's Compensation Fund.--

1085 (3) THE FUND.--

1086 (b) Fund administration and operation.--
 1087 1. The fund shall operate subject to the supervision and
 1088 approval of a board of governors consisting of 16 individuals.
 1089 The Governor, the Chief Financial Officer, the President of the
 1090 Senate, and the Speaker of the House of Representatives shall
 1091 each appoint four members of the board. Members appointed by the
 1092 President of the Senate and the Speaker of the House of
 1093 Representatives may not be members of the Legislature unless
 1094 they are appointed as ex officio, nonvoting members. At least
 1095 one of the members appointed by each appointing officer must
 1096 have demonstrated expertise in insurance. The Chief Financial
 1097 Officer shall designate one of the appointees as chair. All
 1098 board members serve at the pleasure of the appointing officer.
 1099 All board members, including the chair, must be appointed to
 1100 serve for 3-year terms beginning annually on a date designated
 1101 by the plan. Any board vacancy shall be filled for the unexpired
 1102 term by the appointing officer ~~a representative of the insurance~~
 1103 ~~industry appointed by the Chief Financial Officer, an attorney~~
 1104 ~~appointed by The Florida Bar, a representative of physicians~~
 1105 ~~appointed by the Florida Medical Association, a representative~~
 1106 ~~of physicians' insurance appointed by the Chief Financial~~
 1107 ~~Officer, a representative of physicians' self insurance~~
 1108 ~~appointed by the Chief Financial Officer, two representatives of~~
 1109 ~~hospitals appointed by the Florida Hospital Association, a~~
 1110 ~~representative of hospital insurance appointed by the Chief~~
 1111 ~~Financial Officer, a representative of hospital self insurance~~
 1112 ~~appointed by the Chief Financial Officer, a representative of~~
 1113 ~~the osteopathic physicians' or podiatric physicians' insurance~~

1114 ~~or self insurance appointed by the Chief Financial Officer, and~~
1115 ~~a representative of the general public appointed by the Chief~~
1116 ~~Financial Officer. The board of governors shall, during the~~
1117 ~~first meeting after June 30 of each year, choose one of its~~
1118 ~~members to serve as chair of the board and another member to~~
1119 ~~serve as vice chair of the board. The members of the board shall~~
1120 ~~be appointed to serve terms of 4 years, except that the initial~~
1121 ~~appointments of a representative of the general public by the~~
1122 ~~Chief Financial Officer, an attorney by The Florida Bar, a~~
1123 ~~representative of physicians by the Florida Medical Association,~~
1124 ~~and one of the two representatives of the Florida Hospital~~
1125 ~~Association shall be for terms of 3 years; thereafter, such~~
1126 ~~representatives shall be appointed for terms of 4 years.~~
1127 ~~Subsequent to initial appointments for 4 year terms, the~~
1128 ~~representative of the osteopathic physicians' or podiatric~~
1129 ~~physicians' insurance or self insurance appointed by the Chief~~
1130 ~~Financial Officer and the representative of hospital self-~~
1131 ~~insurance appointed by the Chief Financial Officer shall be~~
1132 ~~appointed for 2 year terms; thereafter, such representatives~~
1133 ~~shall be appointed for terms of 4 years. Each appointed member~~
1134 ~~may designate in writing to the chair an alternate to act in the~~
1135 ~~member's absence or incapacity. A member of the board, or the~~
1136 ~~member's alternate, may be reimbursed from the assets of the~~
1137 ~~fund for expenses incurred by him or her as a member, or~~
1138 ~~alternate member, of the board and for committee work, but he or~~
1139 ~~she may not otherwise be compensated by the fund for his or her~~
1140 ~~service as a board member or alternate.~~

1141 2. There shall be no liability on the part of, and no
 1142 cause of action of any nature shall arise against, the fund or
 1143 its agents or employees, professional advisers or consultants,
 1144 members of the board of governors or their alternates, or the
 1145 Department of Financial Services or the Office of Insurance
 1146 Regulation of the Financial Services Commission or their
 1147 representatives for any action taken by them in the performance
 1148 of their powers and duties pursuant to this section.

1149 Section 28. Section 440.103, Florida Statutes, is amended
 1150 to read:

1151 440.103 Building permits; identification of minimum
 1152 premium policy.--Every employer shall, as a condition to
 1153 applying for and receiving a building permit, show proof and
 1154 certify to the permit issuer that it has secured compensation
 1155 for its employees under this chapter as provided in ss. 440.10
 1156 and 440.38. Such proof of compensation must be evidenced by a
 1157 certificate of coverage issued by the carrier, a valid exemption
 1158 certificate approved by the department, or a copy of the
 1159 employer's authority to self-insure and shall be presented each
 1160 time the employer applies for a building permit. As provided in
 1161 s. 627.413(6)~~(5)~~, each certificate of coverage must show, on its
 1162 face, whether or not coverage is secured under the minimum
 1163 premium provisions of rules adopted by rating organizations
 1164 licensed pursuant to s. 627.221. The words "minimum premium
 1165 policy" or equivalent language shall be typed, printed, stamped,
 1166 or legibly handwritten.

1167 Section 29. The Department of Financial Services shall
 1168 review how insurance agent commissions for the placement and

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1169 renewal of property insurance policies are established and
1170 applied and shall make recommendations, based on industry best
1171 practices, for standards to ensure that agent commissions are
1172 justified on a market basis based on the nature and amount of
1173 work performed by the agents. The Office of Insurance Regulation
1174 shall provide the department with all information requested
1175 pursuant to this section. The department shall report its
1176 findings and recommendations to the Governor, the President of
1177 the Senate, and the Speaker of the House of Representatives by
1178 July 1, 2007.

1179 Section 30. Except as otherwise expressly provided in this
1180 act, this act shall take effect upon becoming a law.