

1 A bill to be entitled

2 An act relating to hurricane preparedness and insurance;
3 amending s. 163.01, F.S., relating to the Florida
4 Interlocal Cooperation Act; redefining the term "public
5 agency" to include certain legal or administrative
6 entities; authorizing such entities to finance the
7 provision of property coverage contracts for or from local
8 government property insurance pools or property coverage
9 contracts; providing a definition; authorizing certain
10 hospitals to jointly issue bonds to finance windstorm
11 coverages and claims; granting authority to individual
12 hospitals and teaching hospitals to jointly issue bond
13 anticipation notes; authorizing validation of bonds issued
14 to certain hospital entities; specifying that a hospital's
15 immunity caps are not waived through issuance of bonds to
16 pay windstorm coverage or claims; amending s. 215.555,
17 F.S., relating to the Florida Hurricane Catastrophe Fund;
18 revising certain provisions of the reimbursement contracts
19 for insurers; deleting a rapid cash buildup requirement
20 from a reimbursement premium formula factor; expanding the
21 State Board of Administration's reinsurance procurement
22 powers and duties for certain purposes; providing for
23 temporary emergency options for additional coverage and
24 for temporary increase in coverage limit options;
25 providing legislative findings and intent; providing for
26 application of certain provisions; providing additional
27 definitions; providing for a reimbursement contract
28 addendum for certain insurers; providing requirements and

29 | procedures under the addendum; providing for certain
30 | reimbursement premiums for such insurers; providing for
31 | calculation of such premiums; providing for effect on
32 | claims-paying capacity of fund; requiring insurers
33 | electing optional coverages offered by the Florida
34 | Hurricane Catastrophe Fund to make rate filings that
35 | reflect savings or reduction in loss exposure; requiring
36 | that the Office of Insurance Regulation specify, by order,
37 | the dates on which such filings must be made; requiring
38 | certain insurers to make additional rate filings;
39 | specifying rate filing requirements; amending s. 215.5586,
40 | F.S.; revising criteria for wind certification and
41 | hurricane mitigation inspectors; requiring a level 2
42 | background check for wind certification and hurricane
43 | mitigation inspectors; authorizing the Department of
44 | Financial Services to conduct criminal records checks of
45 | inspectors; requiring payment of fingerprint processing
46 | fees; revising certain financial wind certification and
47 | mitigation grant criteria and use provisions; providing
48 | additional uses for grant funding for certain homeowners;
49 | authorizing the department to contract with not-for-profit
50 | corporations to conduct the Florida Comprehensive
51 | Hurricane Damage Mitigation Program and enhance awareness
52 | of the benefits of mitigation; requiring the department to
53 | develop and maintain a list of wind certification and
54 | hurricane mitigation inspectors; amending s. 215.5595,
55 | F.S.; including manufactured housing insurers in the
56 | Insurance Capital Build-Up Incentive Program; providing

57 | manufactured housing insurer program contribution
58 | requirements; providing surplus requirements; prioritizing
59 | funding for manufactured housing insurers; providing
60 | premium to surplus ratio requirements for certain
61 | manufactured housing insurers; creating s. 395.106, F.S.;
62 | authorizing certain hospitals and hospital systems to pool
63 | and spread windstorm property exposure risk among members;
64 | providing criteria for participation; providing
65 | definitions; subjecting alliances not in compliance with
66 | risk-pooling requirements to the Insurance Code; excluding
67 | an alliance meeting provision requirements from
68 | participation in or coverage by an insurance guaranty
69 | association established by ch. 631, F.S.; amending s.
70 | 553.73, F.S.; prohibiting the Florida Building Commission
71 | from modifying certain foundation codes relating to wind
72 | resistance or the prevention of water intrusion unless the
73 | modification enhances such provisions; amending s.
74 | 553.775, F.S., relating to interpretations of the Florida
75 | Building Code; conforming a cross-reference; requiring
76 | jurisdictions having authority to enforce the Florida
77 | Building Code to require wind-borne-debris protection
78 | according to specified requirements; requiring that the
79 | Florida Building Commission amend the Florida Building
80 | Code to reflect the requirements of the act and eliminate
81 | certain less stringent requirements; providing an
82 | exception; requiring the commission to develop voluntary
83 | guidelines for increasing the hurricane resistance of
84 | buildings; requiring that the guidelines be included in

85 | the commission's report to the 2008 Legislature; amending
86 | s. 624.407, F.S., relating to capitalization requirements
87 | for insurers writing property insurance; specifying
88 | certain minimum surplus amounts; prohibiting insurers
89 | writing private passenger automobile insurance from
90 | writing such insurance under certain circumstances;
91 | amending s. 624.462, F.S.; revising requirements for the
92 | establishment of a commercial self-insurance fund by a
93 | not-for-profit group; amending s. 624.4622, F.S.;
94 | authorizing local government self-insurance funds to
95 | insure or self-insure real or personal property against
96 | loss or damage; creating s. 624.4625, F.S.; authorizing
97 | two or more corporations not for profit to form a self-
98 | insurance fund for certain purposes; providing specific
99 | requirements; providing a definition; providing
100 | limitations; providing for application of certain
101 | provisions to certain premiums, contributions, and
102 | assessments; providing for payment of insurance premium
103 | tax at a reduced rate by corporation not-for-profit self-
104 | insurance funds; subjecting a corporation not for profit
105 | self-insurance fund to certain group self-insurance fund
106 | provisions under certain circumstances; amending s.
107 | 624.610, F.S.; prescribing responsibilities of the
108 | Commissioner of Insurance Regulation relating to allowing
109 | credit for reinsurance; amending s. 626.2815, F.S.;
110 | requiring continuing education for certain agents and
111 | customer representatives on the subject of premium
112 | discounts for hurricane mitigation options; amending s.

113 627.0613, F.S.; providing additional duties of the
114 consumer advocate; amending s. 627.062, F.S.; requiring
115 that an insurer make a "file and use" filing under certain
116 circumstances; deleting provisions exempting certain rate
117 filings from review by the Office of Insurance Regulation;
118 requiring certain rate filings to account for certain
119 mitigation measures; requiring the chief executive
120 officer, chief financial officer, or chief actuary of a
121 property insurer to certify the information contained in a
122 rate filing; providing penalties for knowingly making a
123 false certification; authorizing the Financial Services
124 Commission to adopt rules; amending s. 627.0629, F.S.;
125 providing legislative intent relating to savings to
126 customers for windstorm mitigation efforts; providing for
127 reductions in deductibles for mitigation measures;
128 creating s. 627.0655, F.S.; authorizing insurers to
129 provide certain premium discounts under certain
130 circumstances; amending s. 627.351, F.S., relating to the
131 Citizens Property Insurance Corporation; deleting
132 provisions that deny certain nonhomestead property
133 eligibility for coverage by the corporation; including
134 commercial nonresidential policies into an account of the
135 corporation; authorizing the corporation to issue
136 multiperil coverage and continue to offer wind-only
137 coverage in the high-risk account after a specified date;
138 deleting provisions authorizing the Office of Insurance
139 Regulation to remove territory from the area eligible for
140 wind-only and quota share coverage; requiring the board of

141 | governors of the corporation to levy an assessment against
142 | nonhomestead property policyholders if certain deficits
143 | occur after a specified date; restricting the eligibility
144 | of a risk for a policy issued by the corporation under
145 | certain circumstances; authorizing the plan of operation
146 | to establish limits of coverage and to require commercial
147 | property to meet specified hurricane-mitigation features;
148 | requiring that the corporation annually file recommended
149 | rates; requiring that the office issue a final order
150 | establishing the rates within a specified period;
151 | prohibiting the corporation from pursuing administrative
152 | or judicial review of such order; deleting provisions
153 | specifying circumstances under which a rate is deemed
154 | inadequate; deleting legislative intent concerning rate
155 | adequacy in the residual market; deleting provisions
156 | providing requirements for personal lines residential
157 | policies and residential wind-only policies; deleting an
158 | exemption provided for coverage provided by the
159 | corporation in Monroe County under certain circumstances;
160 | deleting a requirement that the corporation certify to the
161 | office that its rates comply with certain requirements;
162 | deleting a requirement for a notice to policyholders and
163 | applicants; rescinding certain rate filings by the
164 | corporation which took effect January 1, 2007; reinstating
165 | certain rates in effect on December 31, 2006; clarifying
166 | the effect of a policy that is taken out, assumed, or
167 | removed from the corporation; providing legislative intent
168 | that commercial nonresidential property insurance be made

169 available from Citizens Property Insurance Corporation;
170 requiring that Citizens Property Insurance Corporation
171 adopt a plan providing for the transition of such coverage
172 from the Property and Casualty Joint Underwriting
173 Association to Citizens; providing requirements for the
174 plan; amending s. 627.3515, F.S.; requiring Citizens
175 Property Insurance Corporation to develop a business plan,
176 which must be approved by the commission; providing that
177 an insurer is not liable and there is no cause of action
178 against an insurer acting within the scope of its
179 authority; amending s. 627.4035, F.S.; requiring insurers
180 to provide certain premium payment plan options to
181 policyholders; requiring prior approval of such plans by
182 the office; amending s. 627.4133, F.S.; increasing a
183 period of notice for nonrenewals, cancellations, and
184 terminations; requiring residential property insurers to
185 return excess profits to policyholders except as directed
186 by the Office of Insurance Regulation; providing a formula
187 for determining excess profits; transferring, renumbering,
188 and amending s. 627.4261, F.S.; requiring insurers to pay
189 or deny certain claims within a time certain; providing an
190 exception; providing penalties; amending s. 627.701, F.S.;
191 requiring insurers to provide insureds options for certain
192 deductibles, credits, or rate differentials; creating s.
193 627.7018, F.S.; providing a prohibition and requirements
194 for insurers in denying coverage; amending s. 627.706,
195 F.S., relating to sinkhole insurance; defining the term
196 "catastrophic ground cover collapse"; requiring property

197 insurers to provide coverage for catastrophic ground cover
198 collapse; allowing property insurers to charge an
199 appropriate additional premium for coverage for sinkhole
200 loss; specifying the date on which coverage for
201 catastrophic ground cover collapse may take effect;
202 requiring insurers offering policies that exclude coverage
203 for sinkhole losses to provide notice to policyholders;
204 amending s. 627.711, F.S.; requiring certain notices to
205 specify combinations of discounts, credits, rate
206 differentials, and reductions in deductibles; requiring
207 the Financial Services Commission to develop uniform
208 mitigation verification inspection forms; providing duties
209 of the commission; creating s. 627.712, F.S.; requiring
210 insurers issuing residential property insurance to provide
211 hurricane or windstorm coverage; authorizing a
212 policyholder to make a written rejection of such coverage
213 by signing a statement acknowledging the lack of insurance
214 or providing a statement from the mortgageholder or
215 lienholder; requiring insurers issuing residential
216 property insurance to make available an exclusion of
217 coverage for contents; providing for the policyholder to
218 make a written rejection of such coverage; requiring that
219 the insurer keep documentation of such statements;
220 requiring the Financial Services Commission to adopt
221 rules; creating s. 627.713, F.S.; authorizing the office
222 to require property insurers to report data regarding
223 hurricane claims and underwriting costs; amending s.
224 627.7277, F.S.; requiring certain information to be

225 included in notices of renewal premium; providing for
 226 rules; amending s. 631.57, F.S.; revising criteria and
 227 requirements for levy of emergency assessments by the
 228 Florida Insurance Guaranty Association; revising
 229 characterizations of emergency assessments; providing
 230 legislative intent; amending s. 718.111, F.S.; providing
 231 for windstorm insurance for condominium associations;
 232 creating the Task Force on Citizens Property Insurance
 233 Claims Handling and Resolution; providing for
 234 administration of the task force; providing for
 235 membership; providing for reimbursement of expenses but no
 236 compensation; providing purpose and intent; requiring the
 237 task force to address certain issues; requiring reports
 238 and recommendations; providing additional responsibilities
 239 of the task force; providing for expiration of the task
 240 force; creating the Windstorm Mitigation Study Committee
 241 for the purpose of analyzing solutions and programs that
 242 could address the state's need to mitigate the effects of
 243 windstorms on structures; providing for membership and
 244 qualifications; providing that the members are entitled to
 245 reimbursement for expenses incurred in connection with
 246 their duties; providing for reimbursement of travel
 247 expenses; requiring the Department of Financial Services,
 248 the Office of Insurance Regulation, the Citizens Property
 249 Insurance Corporation, and other state agencies to supply
 250 information, assistance, and facilities to the committee;
 251 requiring the department to provide staff assistance;
 252 specifying duties of the committee; requiring the

253 | committee to report to the Governor, the Legislature, the
 254 | Chief Financial Officer, and the Commissioner of Insurance
 255 | Regulation by a specified date; providing for expiration
 256 | of the committee; requiring the Financial Services
 257 | Commission to adopt a uniform home grading scale for
 258 | certain purposes; providing criteria; requiring the
 259 | Department of Community Affairs to implement the 2006
 260 | Disaster Recovery Program for the purpose of assisting
 261 | local governments in hardening low-income housing against
 262 | the effects of hurricanes; specifying that the act does
 263 | not create an entitlement or obligate the state; providing
 264 | for program administration; specifying the entities that
 265 | are eligible to apply for funding; providing for the use
 266 | of funds under the program; prohibiting insurers writing
 267 | private passenger automobile insurance from writing such
 268 | insurance under certain circumstances; expressing the
 269 | intent of the Legislature to create a grant program to
 270 | assist low-income persons in purchasing property
 271 | insurance; repealing s. 627.0629(6), F.S., relating to
 272 | certain limitations on writing residential property
 273 | insurance; providing appropriations; providing for
 274 | severability; providing effective dates.

275 | WHEREAS, homeowners in the State of Florida are
 276 | struggling under increased insurance costs and increased
 277 | housing prices as a result of damage caused by hurricanes
 278 | and tropical storms, and

279 | WHEREAS, this increase in the cost of property
 280 | insurance for the state's residents demands immediate

281 attention, and

282 WHEREAS, the affordability of property insurance
 283 creates financial burdens for Florida's residents and
 284 financial crises for some property owners, and

285 WHEREAS, in addition to affordability, the
 286 availability and stability of property insurance rates are
 287 critical issues to the residents of this state, and

288 WHEREAS, because there is no single, quick, or easy
 289 solution to the current crisis, a comprehensive and
 290 creative approach is required, and

291 WHEREAS, property insurance is so interwoven with
 292 other forms of insurance, through business, regulation,
 293 advocacy, purchasing, and other interactions, that the
 294 viability of the insurance market in Florida is at risk,
 295 and

296 WHEREAS, expanding coverage offered by the Florida
 297 Hurricane Catastrophe Fund can help to address this
 298 crisis, and

299 WHEREAS, taking steps to control or reduce the
 300 premiums charged by Citizens Property Insurance
 301 Corporation can help to address this crisis, and

302 WHEREAS, strengthening the Florida Building Code and
 303 providing for voluntary guidelines in addition to the
 304 requirements of the code can help to address this crisis,
 305 and

306 WHEREAS, sinkhole coverage is a critical part of the
 307 crisis in certain areas of the state and must be addressed
 308 as part of any comprehensive solution, and

309 WHEREAS, requiring property insurers to offer
 310 additional deductibles and exclusions that apply at the
 311 option of the property owner can help to address this
 312 crisis, and

313 WHEREAS, authorizing various groups of public and
 314 private entities to enter into forms of self-insurance or
 315 guaranty groups can help to address this crisis, and

316 WHEREAS, strengthening the processes for establishing
 317 property insurance rates can help to address this crisis,
 318 and

319 WHEREAS, the role of consumer advocacy is a critical
 320 part of addressing this crisis and consumer advocacy for
 321 property insurance is a critical, if not the predominant,
 322 part of consumer advocacy regarding insurance, and

323 WHEREAS, promoting, through financial and regulatory
 324 methods, the ability of property insurers and reinsurers
 325 to do business in Florida can help to address this crisis,
 326 and

327 WHEREAS, promoting, through financial and regulatory
 328 incentives for property owners, the strengthening of
 329 property to withstand the effects of windstorm damage can
 330 help to address this crisis, NOW, THEREFORE,

331

332 Be It Enacted by the Legislature of the State of Florida:

333

334 Section 1. Paragraph (b) of subsection (3) and paragraph
 335 (e) of subsection (7) of section 163.01, Florida Statutes, are
 336 amended, and paragraph (h) is added to subsection (7) of that

337 section, to read:

338 163.01 Florida Interlocal Cooperation Act of 1969.--

339 (3) As used in this section:

340 (b) "Public agency" means a political subdivision, agency,
341 or officer of this state or of any state of the United States,
342 including, but not limited to, state government, county, city,
343 school district, single and multipurpose special district,
344 single and multipurpose public authority, metropolitan or
345 consolidated government, a separate legal entity or
346 administrative entity created under subsection (7), an
347 independently elected county officer, any agency of the United
348 States Government, a federally recognized Native American tribe,
349 and any similar entity of any other state of the United States.

350 (7)

351 (e)1. Notwithstanding the provisions of paragraph (c), any
352 separate legal entity, created pursuant to the provisions of
353 this section and controlled by counties or municipalities of
354 this state, the membership of which consists or is to consist
355 only of public agencies of this state, may, for the purpose of
356 financing the provision or acquisition of liability or property
357 coverage contracts for or from one or more local government
358 liability or property pools to provide liability or property
359 coverage for counties, municipalities, or other public agencies
360 of this state, exercise all powers in connection with the
361 authorization, issuance, and sale of bonds. All of the
362 privileges, benefits, powers, and terms of s. 125.01 relating to
363 counties and s. 166.021 relating to municipalities shall be
364 fully applicable to such entity and such entity shall be

365 considered a unit of local government for all of the privileges,
366 benefits, powers, and terms of part I of chapter 159. Bonds
367 issued by such entity shall be deemed issued on behalf of
368 counties, municipalities, or public agencies which enter into
369 loan agreements with such entity as provided in this paragraph.
370 Proceeds of bonds issued by such entity may be loaned to
371 counties, municipalities, or other public agencies of this
372 state, whether or not such counties, municipalities, or other
373 public agencies are also members of the entity issuing the
374 bonds, and such counties, municipalities, or other public
375 agencies may in turn deposit such loan proceeds with a separate
376 local government liability or property pool for purposes of
377 providing or acquiring liability or property coverage contracts.

378 2. Counties or municipalities of this state are authorized
379 pursuant to this section, in addition to the authority provided
380 by s. 125.01, part II of chapter 166, and other applicable law,
381 to issue bonds for the purpose of acquiring liability coverage
382 contracts from a local government liability pool. Any individual
383 county or municipality may, by entering into interlocal
384 agreements with other counties, municipalities, or public
385 agencies of this state, issue bonds on behalf of itself and
386 other counties, municipalities, or other public agencies, for
387 purposes of acquiring a liability coverage contract or contracts
388 from a local government liability pool. Counties,
389 municipalities, or other public agencies are also authorized to
390 enter into loan agreements with any entity created pursuant to
391 subparagraph 1., or with any county or municipality issuing
392 bonds pursuant to this subparagraph, for the purpose of

393 obtaining bond proceeds with which to acquire liability coverage
394 contracts from a local government liability pool. No county,
395 municipality, or other public agency shall at any time have more
396 than one loan agreement outstanding for the purpose of obtaining
397 bond proceeds with which to acquire liability coverage contracts
398 from a local government liability pool. Obligations of any
399 county, municipality, or other public agency of this state
400 pursuant to a loan agreement as described above may be validated
401 as provided in chapter 75. Prior to the issuance of any bonds
402 pursuant to subparagraph 1. or this subparagraph for the purpose
403 of acquiring liability coverage contracts from a local
404 government liability pool, the reciprocal insurer or the manager
405 of any self-insurance program shall demonstrate to the
406 satisfaction of the Office of Insurance Regulation of the
407 Financial Services Commission that excess liability coverage for
408 counties, municipalities, or other public agencies is reasonably
409 unobtainable in the amounts provided by such pool or that the
410 liability coverage obtained through acquiring contracts from a
411 local government liability pool, after taking into account costs
412 of issuance of bonds and any other administrative fees, is less
413 expensive to counties, municipalities, or special districts than
414 similar commercial coverage then reasonably available.

415 3. Any entity created pursuant to this section or any
416 county or municipality may also issue bond anticipation notes,
417 as provided by s. 215.431, in connection with the authorization,
418 issuance, and sale of such bonds. In addition, the governing
419 body of such legal entity or the governing body of such county
420 or municipality may also authorize bonds to be issued and sold

421 from time to time and may delegate, to such officer, official,
422 or agent of such legal entity as the governing body of such
423 legal entity may select, the power to determine the time; manner
424 of sale, public or private; maturities; rate or rates of
425 interest, which may be fixed or may vary at such time or times
426 and in accordance with a specified formula or method of
427 determination; and other terms and conditions as may be deemed
428 appropriate by the officer, official, or agent so designated by
429 the governing body of such legal entity. However, the amounts
430 and maturities of such bonds and the interest rate or rates of
431 such bonds shall be within the limits prescribed by the
432 governing body of such legal entity and its resolution
433 delegating to such officer, official, or agent the power to
434 authorize the issuance and sale of such bonds. Any series of
435 bonds issued pursuant to this paragraph for liability coverage
436 shall mature no later than 7 years following the date of
437 issuance ~~thereof~~. A series of bonds issued pursuant to this
438 paragraph for property coverage shall mature no later than 30
439 years following the date of issuance.

440 4. Bonds issued pursuant to subparagraph 1. may be
441 validated as provided in chapter 75. The complaint in any
442 action to validate such bonds shall be filed only in the Circuit
443 Court for Leon County. The notice required to be published by
444 s. 75.06 shall be published in Leon County and in each county
445 which is an owner of the entity issuing the bonds, or in which a
446 member of the entity is located, and the complaint and order of
447 the circuit court shall be served only on the State Attorney of
448 the Second Judicial Circuit and on the state attorney of each

449 circuit in each county or municipality which is an owner of the
450 entity issuing the bonds or in which a member of the entity is
451 located.

452 5. Bonds issued pursuant to subparagraph 2. may be
453 validated as provided in chapter 75. The complaint in any action
454 to validate such bonds shall be filed in the circuit court of
455 the county or municipality which will issue the bonds. The
456 notice required to be published by s. 75.06 shall be published
457 only in the county where the complaint is filed, and the
458 complaint and order of the circuit court shall be served only on
459 the state attorney of the circuit in the county or municipality
460 which will issue the bonds.

461 6. The participation by any county, municipality, or other
462 public agency of this state in a local government liability pool
463 shall not be deemed a waiver of immunity to the extent of
464 liability coverage, nor shall any contract entered regarding
465 such a local government liability pool be required to contain
466 any provision for waiver.

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

477 all powers under this subsection in connection with borrowing
478 funds for such purposes, including, without limitation, the
479 authorization, issuance, and sale of bonds, notes, or other
480 obligations of indebtedness. Borrowed funds, including, but not
481 limited to, bonds issued by such alliance shall be deemed issued
482 on behalf of such eligible entities that enter into loan
483 agreements with such separate legal entity as provided in this
484 paragraph.

485 2. Any such separate legal entity shall have all the
486 powers that are provided by the interlocal agreement under which
487 the entity is created or that are necessary to finance, operate,
488 or manage the alliance's property insurance coverage program.
489 Proceeds of bonds, notes, or other obligations issued by such an
490 entity may be loaned to any one or more eligible entities. Such
491 eligible entities are authorized to enter into loan agreements
492 with any separate legal entity created pursuant to this
493 paragraph for the purpose of obtaining moneys with which to
494 finance property insurance coverage or claims. Obligations of
495 any eligible entity pursuant to a loan agreement as described in
496 this paragraph may be validated as provided in chapter 75.

497 3. Any bonds, notes, or other obligations to be issued or
498 incurred by a separate legal entity created pursuant to this
499 paragraph shall be authorized by resolution of the governing
500 body of such entity and bear the date or dates; mature at the
501 time or times, not exceeding 30 years from their respective
502 dates; bear interest at the rate or rates, which may be fixed or
503 vary at such time or times and in accordance with a specified
504 formula or method of determination; be payable at the time or

505 times; be in the denomination; be in the form; carry the
506 registration privileges; be executed in the manner; be payable
507 from the sources and in the medium of payment and at the place;
508 and be subject to redemption, including redemption prior to
509 maturity, as the resolution may provide. The bonds, notes, or
510 other obligations may be sold at public or private sale for such
511 price as the governing body of the separate legal entity shall
512 determine. The bonds may be secured by such credit enhancement,
513 if any, as the governing body of the separate legal entity deems
514 appropriate. The bonds may be secured by an indenture of trust
515 or trust agreement. In addition, the governing body of the
516 separate legal entity may delegate, to such officer or official
517 of such entity as the governing body may select, the power to
518 determine the time; manner of sale, public or private;
519 maturities; rate or rates of interest, which may be fixed or may
520 vary at such time or times and in accordance with a specified
521 formula or method of determination; and other terms and
522 conditions as may be deemed appropriate by the officer or
523 official so designated by the governing body of such separate
524 legal entity. However, the amounts and maturities of such bonds,
525 the interest rate or rates, and the purchase price of such bonds
526 shall be within the limits prescribed by the governing body of
527 such separate legal entity in its resolution delegating to such
528 officer or official the power to authorize the issuance and sale
529 of such bonds.

530 4. Bonds issued pursuant to this paragraph may be
531 validated as provided in chapter 75. The complaint in any action
532 to validate such bonds shall be filed only in the Circuit Court

533 for Leon County. The notice required to be published by s. 75.06
534 shall be published in Leon County and in each county in which an
535 eligible entity that is a member of an alliance is located. The
536 complaint and order of the circuit court shall be served only on
537 the state attorney of the Second Judicial Circuit and on the
538 state attorney of each circuit in each county in which an
539 eligible entity receiving bond proceeds is located.

540 5. The accomplishment of the authorized purposes of a
541 separate legal entity created under this paragraph is deemed in
542 all respects for the benefit, increase of the commerce and
543 prosperity, and improvement of the health and living conditions
544 of the people of this state. Inasmuch as the separate legal
545 entity performs essential public functions in accomplishing its
546 purposes, the separate legal entity is not required to pay any
547 taxes or assessments of any kind upon any property acquired or
548 used by the entity for such purposes or upon any revenues at any
549 time received by the entity. The bonds, notes, and other
550 obligations of such separate legal entity, the transfer of and
551 income from such bonds, notes, and other obligations, including
552 any profits made on the sale of such bonds, notes, and other
553 obligations, are at all times free from taxation of any kind of
554 the state or by any political subdivision or other agency or
555 instrumentality if the state. The exemption granted in this
556 paragraph does not apply to any tax imposed by chapter 220 on
557 interest, income, or profits on debt obligations owned by
558 corporations.

559 6. The participation by any eligible entity in an alliance
560 or a separate legal entity created pursuant to this paragraph

561 may not be deemed a waiver of immunity to the extent of
562 liability or any other coverage and a contract entered regarding
563 such alliance is not required to contain any provision for
564 waiver.

565 Section 2. Paragraphs (b), (c), and (d) of subsection (4),
566 paragraph (b) of subsection (5), and paragraph (a) of subsection
567 (7) of section 215.555, Florida Statutes, are amended, and
568 subsections (16) and (17) are added to that section, to read:

569 215.555 Florida Hurricane Catastrophe Fund.--

570 (4) REIMBURSEMENT CONTRACTS.--

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

576 2. The insurer must elect one of the percentage coverage
577 levels specified in this paragraph and may, upon renewal of a
578 reimbursement contract, elect a lower percentage coverage level
579 if no revenue bonds issued under subsection (6) after a covered
580 event are outstanding, or elect a higher percentage coverage
581 level, regardless of whether or not revenue bonds are
582 outstanding. All members of an insurer group must elect the same
583 percentage coverage level. Any joint underwriting association,
584 risk apportionment plan, or other entity created under s.
585 627.351 must elect the 90-percent coverage level.

586 3. The contract shall provide that reimbursement amounts
587 shall not be reduced by reinsurance paid or payable to the
588 insurer from other sources.

589 4. Notwithstanding any other provision contained in this
590 section, the board shall make available to insurers that
591 participated in 2006, insurers qualifying as limited
592 apportionment companies under s. 627.351(6)(c) which began
593 writing property insurance in 2007, and insurers that were
594 approved to participate in 2006 or that are approved in 2007 for
595 the Insurance Capital Build-Up Incentive Program pursuant to s.
596 215.5595, a contract or contract addendum that provides an
597 additional amount of reimbursement coverage of up to \$10
598 million. The premium to be charged for this additional
599 reimbursement coverage shall be 50 percent of the additional
600 reimbursement coverage provided, which shall include one prepaid
601 reinstatement. The minimum retention level that an eligible
602 participating insurer must retain associated with this
603 additional coverage layer is 30 percent of the insurer's surplus
604 as of December ~~March~~ 31, 2006. This coverage shall be in
605 addition to all other coverage that may be provided under this
606 section. The coverage provided by the fund under this subsection
607 shall be in addition to the claims-paying capacity as defined in
608 subparagraph (c)1., but only with respect to those insurers that
609 select the additional coverage option and meet the requirements
610 of this subsection. The claims-paying capacity with respect to
611 all other participating insurers and limited apportionment
612 companies that do not select the additional coverage option
613 shall be limited to their reimbursement premium's proportionate
614 share of the actual claims-paying capacity otherwise defined in
615 subparagraph (c)1. and as provided for under the terms of the
616 reimbursement contract. Coverage provided in the reimbursement

617 | contract ~~for participating insurers~~ will not be affected by the
618 | additional premiums paid by participating insurers ~~limited~~
619 | ~~apportionment companies~~ exercising the additional coverage
620 | option allowed in this subparagraph. This subparagraph expires
621 | on May 31, 2008 ~~2007~~.

622 | (c)1. The contract shall also provide that the obligation
623 | of the board with respect to all contracts covering a particular
624 | contract year shall not exceed the actual claims-paying capacity
625 | of the fund up to a limit of \$15 billion for that contract year
626 | adjusted based upon the reported exposure from the prior
627 | contract year to reflect the percentage growth in exposure to
628 | the fund for covered policies since 2003, provided the dollar
629 | growth in the limit may not increase in any year by an amount
630 | greater than the dollar growth of the balance of the fund as of
631 | December 31, less any premiums or interest attributable to
632 | optional coverage, as defined by rule which occurred over the
633 | prior calendar year.

634 | 2. In May before the start of the upcoming contract year
635 | and in October during the contract year, the board shall publish
636 | in the Florida Administrative Weekly a statement of the fund's
637 | estimated borrowing capacity and the projected balance of the
638 | fund as of December 31. After the end of each calendar year, the
639 | board shall notify insurers of the estimated borrowing capacity
640 | and the balance of the fund as of December 31 to provide
641 | insurers with data necessary to assist them in determining their
642 | retention and projected payout from the fund for loss
643 | reimbursement purposes. In conjunction with the development of
644 | the premium formula, as provided for in subsection (5), the

645 board shall publish factors or multiples that assist insurers in
 646 determining their retention and projected payout for the next
 647 contract year. For all regulatory and reinsurance purposes, an
 648 insurer may calculate its projected payout from the fund as its
 649 share of the total fund premium for the current contract year
 650 multiplied by the sum of the projected balance of the fund as of
 651 December 31 and the estimated borrowing capacity for that
 652 contract year as reported under this subparagraph.

653 (d)1. For purposes of determining potential liability and
 654 to aid in the sound administration of the fund, the contract
 655 shall require each insurer to report such insurer's losses from
 656 each covered event on an interim basis, as directed by the
 657 board. The contract shall require the insurer to report to the
 658 board no later than December 31 of each year, and quarterly
 659 thereafter, its reimbursable losses from covered events for the
 660 year. The contract shall require the board to determine and pay,
 661 as soon as practicable after receiving these reports of
 662 reimbursable losses, the initial amount of reimbursement due and
 663 adjustments to this amount based on later loss information. The
 664 adjustments to reimbursement amounts shall require the board to
 665 pay, or the insurer to return, amounts reflecting the most
 666 recent calculation of losses.

667 2. In determining reimbursements pursuant to this
 668 subsection, the contract shall provide that the board shall:

669 a. ~~Next~~ pay to each insurer such insurer's projected
 670 payout, which is the amount of reimbursement it is owed, up to
 671 an amount equal to the insurer's share of the actual premium
 672 paid for that contract year, multiplied by the actual claims-

673 paying capacity available for that contract year, ~~provided,~~
674 ~~entities created pursuant to s. 627.351 shall be further~~
675 ~~reimbursed in accordance with sub-subparagraph b.~~

676 ~~b. Thereafter, establish the prorated reimbursement level~~
677 ~~at the highest level for which any remaining fund balance or~~
678 ~~bond proceeds are sufficient to reimburse entities created~~
679 ~~pursuant to s. 627.351 based on reimbursable losses exceeding~~
680 ~~the amounts payable pursuant to sub-subparagraph a. for the~~
681 ~~current contract year.~~

682 (5) REIMBURSEMENT PREMIUMS.--

683 (b) The State Board of Administration shall select an
684 independent consultant to develop a formula for determining the
685 actuarially indicated premium to be paid to the fund. The
686 formula shall specify, for each zip code or other limited
687 geographical area, the amount of premium to be paid by an
688 insurer for each \$1,000 of insured value under covered policies
689 in that zip code or other area. In establishing premiums, the
690 board shall consider the coverage elected under paragraph (4) (b)
691 and any factors that tend to enhance the actuarial
692 sophistication of ratemaking for the fund, including
693 deductibles, type of construction, type of coverage provided,
694 relative concentration of risks, and other such factors deemed
695 by the board to be appropriate. The formula may provide for a
696 procedure to determine the premiums to be paid by new insurers
697 that begin writing covered policies after the beginning of a
698 contract year, taking into consideration when the insurer starts
699 writing covered policies, the potential exposure of the insurer,
700 the potential exposure of the fund, the administrative costs to

701 the insurer and to the fund, and any other factors deemed
 702 appropriate by the board. ~~The formula shall include a factor of~~
 703 ~~25 percent of the fund's actuarially indicated premium in order~~
 704 ~~to provide for more rapid cash buildup in the fund.~~ The formula
 705 must be approved by unanimous vote of the board. The board may,
 706 at any time, revise the formula pursuant to the procedure
 707 provided in this paragraph.

708 (7) ADDITIONAL POWERS AND DUTIES.--

709 (a) The board may procure reinsurance from reinsurers
 710 acceptable to the Office of Insurance Regulation for the purpose
 711 of maximizing the capacity of the fund and may enter into
 712 capital market transactions, including, but not limited to,
 713 industry loss warranties, catastrophe bonds, side-car
 714 arrangements, or financial contracts permissible for the board's
 715 usage under s. 215.47(10) and (11), consistent with prudent
 716 management of the fund.

717 (16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.--

718 (a) Findings and intent.--

719 1. The Legislature finds that:

720 a. Because of temporary disruptions in the market for
 721 catastrophic reinsurance, many property insurers were unable to
 722 procure reinsurance for the 2006 hurricane season with an
 723 attachment point below the insurers' respective Florida
 724 Hurricane Catastrophe Fund attachment points, were unable to
 725 procure sufficient amounts of such reinsurance, or were able to
 726 procure such reinsurance only by incurring substantially higher
 727 costs than in prior years.

728 b. The reinsurance market problems were responsible, at

729 least in part, for substantial premium increases to many
 730 consumers and increases in the number of policies issued by the
 731 Citizens Property Insurance Corporation.

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

734 2. It is the intent of the Legislature to create a
 735 temporary emergency program, applicable to the 2007, 2008, and
 736 2009 hurricane seasons, to address these market disruptions and
 737 enable insurers, at their option, to procure additional coverage
 738 from the Florida Hurricane Catastrophe Fund.

739 (b) Applicability of other provisions of this section.--
 740 All provisions of this section and the rules adopted under this
 741 section apply to the program created by this subsection unless
 742 specifically superseded by this subsection.

743 (c) Optional coverage.--For the contract year commencing
 744 June 1, 2007, and ending May 31, 2008, the contract year
 745 commencing June 1, 2008, and ending May 31, 2009, and the
 746 contract year commencing June 1, 2009, and ending May 31, 2010,
 747 the board shall offer for each of such years the optional
 748 coverage as provided in this subsection.

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

751 1. "TEACO options" means the temporary emergency
 752 additional coverage options created under this subsection.

753 2. "TEACO insurer" means an insurer that has opted to
 754 obtain coverage under the TEACO options in addition to the
 755 coverage provided to the insurer under its reimbursement
 756 contract.

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

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

763 a. The board shall calculate and report to each TEACO
764 insurer the TEACO retention multiples. There shall be three
765 TEACO retention multiples for defining coverage. Each multiple
766 shall be calculated by dividing \$3 billion, \$4 billion, or \$5
767 billion by the total estimated TEACO reimbursement premium
768 assuming all insurers selected that option. Total estimated
769 TEACO reimbursement premium for purposes of the calculation
770 under this sub-subparagraph shall be calculated using the
771 assumption that all insurers have selected a specific TEACO
772 retention multiple option and have selected the 90-percent
773 coverage level.

774 b. The TEACO retention multiples as determined under sub-
775 subparagraph a. shall be adjusted to reflect the coverage level
776 elected by the insurer. For insurers electing the 90-percent
777 coverage level, the adjusted retention multiple is 100 percent
778 of the amount determined under sub-subparagraph a. For insurers
779 electing the 75-percent coverage level, the retention multiple
780 is 120 percent of the amount determined under sub-subparagraph
781 a. For insurers electing the 45-percent coverage level, the
782 adjusted retention multiple is 200 percent of the amount
783 determined under sub-subparagraph a.

784 c. An insurer shall determine its provisional TEACO

785 retention by multiplying its provisional TEACO reimbursement
786 premium by the applicable adjusted TEACO retention multiple and
787 shall determine its actual TEACO retention by multiplying its
788 actual TEACO reimbursement premium by the applicable adjusted
789 TEACO retention multiple.

790 d. For TEACO insurers who experience multiple covered
791 events causing loss during the contract year, the insurer's full
792 TEACO retention shall be applied to each of the covered events
793 causing the two largest losses for that insurer. For other
794 covered events resulting in losses, the TEACO option does not
795 apply and the insurer's retention shall be one-third of the full
796 retention as calculated under paragraph (2) (e).

797 5. "TEACO addendum" means an addendum to the reimbursement
798 contract reflecting the obligations of the fund and TEACO
799 insurers under the program created by this subsection.

800 (e) TEACO addendum.--

801 1. The TEACO addendum shall provide for reimbursement of
802 TEACO insurers for covered events occurring during the contract
803 year, in exchange for the TEACO reimbursement premium paid into
804 the fund under paragraph (f). Any insurer writing covered
805 policies has the option of choosing to accept the TEACO addendum
806 for any of the three contract years that the coverage is
807 offered.

808 2. The TEACO addendum shall contain a promise by the board
809 to reimburse the TEACO insurer for 45 percent, 75 percent, or 90
810 percent of its losses from each covered event in excess of the
811 insurer's TEACO retention, plus 5 percent of the reimbursed
812 losses to cover loss adjustment expenses. The percentage shall

813 be the same as the coverage level selected by the insurer under
814 paragraph (4) (b).

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

818 4. The TEACO addendum shall also provide that the
819 obligation of the board with respect to all TEACO addenda shall
820 not exceed an amount equal to two times the difference between
821 the industry retention level calculated under paragraph (2) (e)
822 and the \$3 billion, \$4 billion, or \$5 billion industry TEACO
823 retention level options actually selected, but in no event may
824 the board's obligation exceed the actual claims-paying capacity
825 of the fund plus the additional capacity created in paragraph
826 (g). If the actual claims-paying capacity and the additional
827 capacity created under paragraph (g) fall short of the board's
828 obligations under the reimbursement contract, each insurer's
829 share of the fund's capacity shall be pro rated based on the
830 premium an insurer pays for its normal reimbursement coverage
831 and the premium paid for its optional TEACO coverage as each
832 such premium bears to the total premiums paid to the fund times
833 the available capacity.

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

837 6. A TEACO insurer's maximum reimbursement under the TEACO
838 addendum shall be calculated by multiplying the insurer's share
839 of the estimated total TEACO reimbursement premium as calculated
840 under sub-subparagraph (d)4.a. by an amount equal to two times

841 the difference between the industry retention level calculated
842 under paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5
843 billion industry TEACO retention level specified in sub-
844 subparagraph (d)4.a. as selected by the TEACO insurer.

845 (f) TEACO reimbursement premiums.--

846 1. Each TEACO insurer shall pay to the fund, in the manner
847 and at the time provided in the reimbursement contract for
848 payment of reimbursement premiums, a TEACO reimbursement premium
849 calculated as specified in this paragraph.

850 2. The TEACO reimbursement premiums shall be calculated
851 based on the assumption that, if all insurers entering into
852 reimbursement contracts under subsection (4) also accepted the
853 TEACO option:

854 a. The industry TEACO reimbursement premium associated
855 with the \$3 billion retention option would be equal to 85
856 percent of the difference between the industry retention level
857 calculated under paragraph (2)(e) and the \$3 billion industry
858 TEACO retention level.

859 b. The TEACO reimbursement premium associated with the \$4
860 billion retention option would be equal to 80 percent of the
861 difference between the industry retention level calculated under
862 paragraph (2)(e) and the \$4 billion industry TEACO retention
863 level.

864 c. The TEACO premium associated with the \$5 billion
865 retention option would be equal to 75 percent of the difference
866 between the industry retention level calculated under paragraph
867 (2)(e) and the \$5 billion industry TEACO retention level.

868 3. Each insurer's TEACO premium shall be calculated based

869 on its share of the total TEACO reimbursement premiums based on
 870 its coverage selection under the TEACO addendum.

871 (g) Effect on claims-paying capacity of the fund.--For the
 872 contract term commencing June 1, 2007, the contract year
 873 commencing June 1, 2008, and the contract term beginning June 1,
 874 2009, the program created by this subsection shall increase the
 875 claims-paying capacity of the fund as provided in subparagraph
 876 (4)(c)1. by an amount equal to two times the difference between
 877 the industry retention level calculated under paragraph (2)(e)
 878 and the \$3 billion industry TEACO retention level specified in
 879 sub-subparagraph (d)4.a. The additional capacity shall apply
 880 only to the additional coverage provided by the TEACO option and
 881 shall not otherwise affect any insurer's reimbursement from the
 882 fund.

883 (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

884 (a) Findings and intent.--

885 1. The Legislature finds that:

886 a. Because of temporary disruptions in the market for
 887 catastrophic reinsurance, many property insurers were unable to
 888 procure sufficient amounts of reinsurance for the 2006 hurricane
 889 season or were able to procure such reinsurance only by
 890 incurring substantially higher costs than in prior years.

891 b. The reinsurance market problems were responsible, at
 892 least in part, for substantial premium increases to many
 893 consumers and increases in the number of policies issued by
 894 Citizens Property Insurance Corporation.

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

897 2. It is the intent of the Legislature to create options
898 for insurers to purchase a temporary increased coverage limit
899 above the statutorily determined limit in subparagraph (4)(c)1.,
900 applicable for the 2007, 2008, and 2009 hurricane seasons, to
901 address market disruptions and enable insurers, at their option,
902 to procure additional coverage from the Florida Hurricane
903 Catastrophe Fund.

904 (b) Applicability of other provisions of this section.--
905 All provisions of this section and the rules adopted under this
906 section apply to the coverage created by this subsection unless
907 specifically superseded by provisions in this subsection.

908 (c) Optional coverage.--For the contract year commencing
909 June 1, 2007, and ending May 31, 2008, the contract year
910 commencing June 1, 2008, and ending May 31, 2009, the contract
911 year commencing June 1, 2009, and ending May 31, 2010, the board
912 shall offer, for each of such years, the optional coverage as
913 provided in this subsection.

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

916 1. "FHCF" means Florida Hurricane Catastrophe Fund.

917 2. "FHCF reimbursement premium" means the premium paid by
918 an insurer for its coverage as a mandatory participant in the
919 FHCF, but does not include additional premiums for optional
920 coverages.

921 3. "Payout multiple" means the number or multiple created
922 by dividing the statutorily defined claims-paying capacity as
923 determined in subparagraph (4)(c)1. by the aggregate
924 reimbursement premiums paid by all insurers estimated or

925 projected as of calendar year-end.

926 4. "TICL" means the temporary increase in coverage limit.

927 5. "TICL options" means the temporary increase in coverage
928 options created under this subsection.

929 6. "TICL insurer" means an insurer that has opted to
930 obtain coverage under the TICL options addendum in addition to
931 the coverage provided to the insurer under its FHCF
932 reimbursement contract.

933 7. "TICL reimbursement premium" means the premium charged
934 by the fund for coverage provided under the TICL option.

935 8. "TICL coverage multiple" means the coverage multiple
936 when multiplied by an insurer's reimbursement premium that
937 defines the temporary increase in coverage limit.

938 9. "TICL coverage" means the coverage for an insurer's
939 losses above the insurer's statutorily determined claims-paying
940 capacity based on the claims-paying limit in subparagraph
941 (4)(c)1., which an insurer selects as its temporary increase in
942 coverage from the fund under the TICL options selected. A TICL
943 insurer's increased coverage limit options shall be calculated
944 as follows:

945 a. The board shall calculate and report to each TICL
946 insurer the TICL coverage multiples based on twelve options for
947 increasing the insurer's FHCF coverage limit. Each TICL coverage
948 multiple shall be calculated by dividing \$1 billion, \$2 billion,
949 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
950 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by
951 the total estimated aggregate FHCF reimbursement premiums for
952 the 2007-2008 contract year, the 2008-2009 contract year, and

953 the 2009-2010 contract year.

954 b. The TICL insurer's increased coverage shall be the FHCF
955 reimbursement premium multiplied by the TICL coverage multiple.
956 In order to determine an insurer's total limit of coverage, an
957 insurer shall add its TICL coverage multiple to its payout
958 multiple. The total shall represent a number that, when
959 multiplied by an insurer's FHCF reimbursement premium for a
960 given reimbursement contract year, defines an insurer's total
961 limit of FHCF reimbursement coverage for that reimbursement
962 contract year.

963 10. "TICL options addendum" means an addendum to the
964 reimbursement contract reflecting the obligations of the fund
965 and insurers selecting an option to increase an insurer's FHCF
966 coverage limit.

967 (e) TICL options addendum.--

968 1. The TICL options addendum shall provide for
969 reimbursement of TICL insurers for covered events occurring
970 between June 1, 2007, May 31, 2008, and between June 1, 2008,
971 and May 31, 2009, or between June 1, 2009, and May 31, 2010, in
972 exchange for the TICL reimbursement premium paid into the fund
973 under paragraph (e). Any insurer writing covered policies has
974 the option of selecting an increased limit of coverage under the
975 TICL options addendum and shall select such coverage at the time
976 that it executes the FHCF reimbursement contract.

977 2. The TICL addendum shall contain a promise by the board
978 to reimburse the TICL insurer for 45 percent, 75 percent, or 90
979 percent of its losses from each covered event in excess of the
980 insurer's retention, plus 5 percent of the reimbursed losses to

981 cover loss adjustment expenses. The percentage shall be the same
982 as the coverage level selected by the insurer under paragraph
983 (4) (b) .

984 3. The TICL addendum shall provide that reimbursement
985 amounts shall not be reduced by reinsurance paid or payable to
986 the insurer from other sources.

987 4. The priorities, schedule, and method of reimbursements
988 under the TICL addendum shall be the same as provided under
989 subsection (4) .

990 (f) TICL reimbursement premiums.--Each TICL insurer shall
991 pay to the fund, in the manner and at the time provided in the
992 reimbursement contract for payment of reimbursement premiums, a
993 TICL reimbursement premium determined as specified in subsection
994 (5) .

995 (g) Effect on claims-paying capacity of the fund.--For the
996 contract terms commencing June 1, 2007, June 1, 2008, and June
997 1, 2009, the program created by this subsection shall increase
998 the claims-paying capacity of the fund as provided in
999 subparagraph (4) (c) 1. by an amount not to exceed \$12 billion
1000 dollars and shall depend on the TICL coverage options selected
1001 and the number of insurers that select the TICL optional
1002 coverage. The additional capacity shall apply only to the
1003 additional coverage provided under the TICL options and shall
1004 not otherwise affect any insurer's reimbursement from the fund
1005 if the insurer chooses not to select the temporary option to
1006 increase its limit of coverage under the FHCF.

1007 (h) Increasing the claims-paying capacity of the fund.--
1008 For the contract years commencing June 1, 2007, June 1, 2008,

1009 and June 1, 2009, the board may increase the claims-paying
 1010 capacity of the fund as provided in paragraph (g) by an amount
 1011 not to exceed \$4 billion in four \$1 billion options and shall
 1012 depend on the TICL coverage options selected and the number of
 1013 insurers that select the TICL optional coverage. Each insurer's
 1014 TICL premium shall be calculated based upon the additional limit
 1015 of increased coverage that the insurer selects. Such limit is
 1016 determined by multiplying the TICL multiple associated with one
 1017 of the four options times the insurer's FHCF reimbursement
 1018 premium. The reimbursement premium associated with the
 1019 additional coverage provided in this paragraph shall be
 1020 determined as specified in subsection (5).

1021 Section 3. (1) Every residential property insurer must
 1022 make a rate filing with the Office of Insurance Regulation,
 1023 pursuant to the "file and use" provisions of s. 627.062(2)(a)1.,
 1024 Florida Statutes, which reflects the savings or reduction in
 1025 loss exposure to the insurer due to the provisions of section 2
 1026 of this act. An insurer may not obtain a rate increase due to
 1027 the election of coverage options from the Florida Hurricane
 1028 Catastrophe Fund pursuant to s. 215.555(4), (16), or (17),
 1029 Florida Statutes.

1030 (2) The office shall specify, by order, the date or dates
 1031 on which the rate filings required by this section must be made
 1032 and be effective in order to provide rate relief to
 1033 policyholders as soon as practicable.

1034 (3) By March 15, 2007, the Office of Insurance Regulation
 1035 shall calculate a presumed factor or factors to be used in the
 1036 rate filings required by this section to reflect the impact to

1037 rates of the changes made by section 2 of this act and this
 1038 section.

1039 (4) In determining the presumed factor, the Office of
 1040 Insurance Regulation shall use generally accepted actuarial
 1041 techniques and standards in determining the expected impact on
 1042 losses, expenses, and investment income of insurers.

1043 (5) The office may contract with an appropriate vendor to
 1044 advise the office in determining the presumed factor or factors.

1045 (6) Each residential property insurer shall reflect a rate
 1046 change that takes into account the presumed factor determined
 1047 under subsection (3) for any policy written or renewed on or
 1048 after June 1, 2007. Such factor must be taken into account for
 1049 the coverage options offered pursuant to s. 215.555(4), (16),
 1050 and (17), Florida Statutes, for an insurer eligible to elect
 1051 such optional coverage, whether or not the insurer purchases
 1052 that coverage. Any additional cost for private reinsurance or
 1053 loss exposure that duplicates such coverage options may not be
 1054 factored in the rate, whether or not such coverage options are
 1055 purchased.

1056 (7) The sum of \$250,000 in nonrecurring funds is
 1057 appropriated from the Insurance Regulatory Trust Fund in the
 1058 Department of Financial Services to the Office of Insurance
 1059 Regulation for the 2006-2007 fiscal year for the purpose of
 1060 implementing this section.

1061 Section 4. Paragraph (b) of subsection (1) and subsection
 1062 (2) of section 215.5586, Florida Statutes, are amended, and
 1063 subsections (7) and (8) are added to that section, to read:

1064 215.5586 Florida Comprehensive Hurricane Damage Mitigation

1065 Program.--There is established within the Department of
 1066 Financial Services the Florida Comprehensive Hurricane Damage
 1067 Mitigation Program. This section does not create an entitlement
 1068 for property owners or obligate the state in any way to fund the
 1069 inspection or retrofitting of residential property in this
 1070 state. Implementation of this program is subject to annual
 1071 legislative appropriations. The program shall be administered by
 1072 an individual with prior executive experience in the private
 1073 sector in the areas of insurance, business, or construction. The
 1074 program shall develop and implement a comprehensive and
 1075 coordinated approach for hurricane damage mitigation that shall
 1076 include the following:

1077 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
 1078 INSPECTIONS.--

1079 (b) To qualify for selection by the department as a
 1080 provider of wind certification and hurricane mitigation
 1081 inspections, the entity shall, at a minimum:

1082 1. Use wind certification and hurricane mitigation
 1083 inspectors who:

1084 a. Have prior experience in residential construction or
 1085 inspection and have received specialized training in hurricane
 1086 mitigation procedures.

1087 b. Have undergone drug testing and level 2 background
 1088 checks pursuant to s. 435.04. The department is authorized to
 1089 conduct criminal record checks of inspectors. Inspectors must
 1090 submit a set of the fingerprints to the department for state and
 1091 national criminal history checks and must pay the fingerprint
 1092 processing fee set forth in s. 624.501. The fingerprints shall

1093 be sent by the department to the Department of Law Enforcement
 1094 and forwarded to the Federal Bureau of Investigation for
 1095 processing. The results shall be returned to the department for
 1096 screening. The fingerprints shall be taken by a law enforcement
 1097 agency, designated examination center, or other department-
 1098 approved entity. Wind certification and hurricane mitigation
 1099 inspectors participating in the program on the effective date of
 1100 this act shall have until June 1, 2007, to meet the requirements
 1101 for a criminal record check.

1102 c. Have been certified, in a manner satisfactory to the
 1103 department, to conduct the inspections.

1104 2. Provide a quality assurance program including a
 1105 reinspection component.

1106 (2) GRANTS.--Financial grants shall be used to encourage
 1107 single-family, site-built, owner-occupied, residential property
 1108 owners to retrofit their properties to make them less vulnerable
 1109 to hurricane damage.

1110 (a) To be eligible for a grant, a residential property
 1111 must:

1112 1. Have been granted a homestead exemption under chapter
 1113 196.

1114 2. Be a dwelling with an insured value of \$500,000 or
 1115 less. Homeowners who are low-income persons, as defined in s.
 1116 420.0004(10), are exempt from this requirement.

1117 3. Have undergone an acceptable wind certification and
 1118 hurricane mitigation inspection, if the property is an existing
 1119 structure.

1120

1121 A residential property which is part of a multifamily
 1122 residential unit may receive a grant only if all homeowners
 1123 participate and the total number of units does not exceed four.

1124 (b) All grants must be matched on a dollar-for-dollar
 1125 basis for a total of \$10,000 for the mitigation project with the
 1126 state's contribution not to exceed \$5,000.

1127 (c) The program shall create a process in which mitigation
 1128 contractors agree to participate and seek reimbursement from the
 1129 state and homeowners select from a list of participating
 1130 contractors. All mitigation must be based upon the securing of
 1131 all required local permits and inspections. Mitigation projects
 1132 are subject to random reinspection of up to at least 10 percent
 1133 of all projects.

1134 (d) Matching fund grants shall also be made available to
 1135 local governments and nonprofit entities for projects that will
 1136 reduce hurricane damage to single-family, site-built, owner-
 1137 occupied, residential property.

1138 (e) Grants may be used for the following improvements:

- 1139 1. Roof deck attachment~~_.†~~
- 1140 2. Secondary water barrier~~_.†~~
- 1141 3. Roof covering~~_.†~~
- 1142 4. Brace gable ends~~_.†~~
- 1143 5. Reinforce roof-to-wall connections~~_.†~~
- 1144 6. Opening protection~~_.†~~ and
- 1145 7. Exterior doors, including garage doors.

1146 (f) Grants may be used on a previously inspected existing
 1147 structure or on a rebuild. A rebuild is defined as a site-built,
 1148 single-family dwelling under construction to replace a home that

1149 was destroyed or significantly damaged by a hurricane and deemed
 1150 unlivable by a regulatory authority. The homeowner must have had
 1151 a homestead exemption prior to the hurricane and maintained the
 1152 homestead exemption.

1153 (g) ~~(f)~~ Low-income homeowners, as defined in s.
 1154 420.0004 (10) ~~(9)~~, who otherwise meet the requirements of
 1155 paragraphs (a), ~~and~~ (c), (e), and (f) are eligible for a grant
 1156 of up to \$5,000 and are not required to provide a matching
 1157 amount to receive the grant. Additionally, for low-income
 1158 homeowners, grant funding may be used for repair to existing
 1159 structures leading to any of the mitigation improvements
 1160 provided in paragraph (e), limited to 20 percent of the grant
 1161 value. Such grants shall be used to retrofit single-family,
 1162 site built, owner occupied, residential properties in order to
 1163 make them less vulnerable to hurricane damage.

1164 (7) CONTRACTS WITH NOT-FOR-PROFIT CORPORATIONS.--The
 1165 Department of Financial Services is authorized to contract with
 1166 not-for-profit corporations to conduct all or portions of the
 1167 program and to increase the awareness of the benefits of
 1168 mitigation among homeowners in this state. The department shall
 1169 consider the not-for-profit corporation's ability to raise funds
 1170 from the private sector to provide for mitigation grants, as
 1171 well as administrative capabilities for conducting other
 1172 business related to the program.

1173 (8) WIND CERTIFICATION AND HURRICANE MITIGATION INSPECTOR
 1174 LIST.--The department shall develop and maintain as a public
 1175 record a current list of wind certification and hurricane
 1176 mitigation inspectors authorized to conduct wind certification

1177 and hurricane mitigation inspections pursuant to this section.

1178 Section 5. Paragraphs (a), (c), and (g) of subsection (2)
 1179 of section 215.5595, Florida Statutes, are amended, and
 1180 paragraph (i) is added to that subsection, to read:

1181 215.5595 Insurance Capital Build-Up Incentive Program.--

1182 (2) The purpose of this section is to provide surplus
 1183 notes to new or existing authorized residential property
 1184 insurers under the Insurance Capital Build-Up Incentive Program
 1185 administered by the State Board of Administration, under the
 1186 following conditions:

1187 (a) The amount of the surplus note for any insurer or
 1188 insurer group, other than an insurer writing only manufactured
 1189 housing policies, may not exceed \$25 million or 20 percent of
 1190 the total amount of funds available under the program, whichever
 1191 is greater. The amount of the surplus note for any insurer or
 1192 insurer group writing residential property insurance covering
 1193 only manufactured housing may not exceed \$7 million.

1194 (c) The insurer's surplus, new capital, and the surplus
 1195 note must total at least \$50 million, except for insurers
 1196 writing residential property insurance covering only
 1197 manufactured housing. The insurer's surplus, new capital, and
 1198 the surplus note must total at least \$14 million for insurers
 1199 writing only residential property insurance covering
 1200 manufactured housing policies as provided in paragraph (a).

1201 (g) The total amount of funds available for the program is
 1202 limited to the amount appropriated by the Legislature for this
 1203 purpose. If the amount of surplus notes requested by insurers
 1204 exceeds the amount of funds available, the board may prioritize

1205 insurers that are eligible and approved, with priority for
1206 funding given to insurers writing only manufactured housing
1207 policies, regardless of the date of application, based on the
1208 financial strength of the insurer, the viability of its proposed
1209 business plan for writing additional residential property
1210 insurance in the state, and the effect on competition in the
1211 residential property insurance market.

1212 (i) Notwithstanding paragraph (d), a newly formed
1213 manufactured housing insurer that is eligible for a surplus note
1214 under this section shall meet the premium to surplus ratio
1215 provisions of s. 624.4095.

1216 Section 6. Section 395.106, Florida Statutes, is created
1217 to read:

1218 395.106 Risk pooling by certain hospitals and hospital
1219 systems.--

1220 (1) Notwithstanding any other provision of law, any two or
1221 more hospitals licensed in this state and located in this state
1222 may form an alliance for the purpose of pooling and spreading
1223 liabilities of its members relative to property exposure or
1224 securing such property insurance coverage for the benefit of its
1225 members, provided an alliance that is created:

1226 (a) Has annual premiums in excess of \$3 million.

1227 (b) Maintains a continuing program of premium calculation
1228 and evaluation and reserve evaluation to protect the financial
1229 stability of the alliance in an amount and manner determined by
1230 consultants using catastrophic (CAT) modeling criteria or other
1231 risk-estimating methodologies, including those used by qualified
1232 and independent actuaries.

1233 (c) Causes to be prepared annually a fiscal year-end
 1234 financial statement based upon generally accepted accounting
 1235 principles and audited by an independent certified public
 1236 accountant within 6 months after the end of the fiscal year.

1237 (d) Has a governing body comprised entirely of member
 1238 entities whose representatives on such governing body are
 1239 specified by the organizational documents of the alliance.

1240 (2) For purposes of this section, the term:

1241 (a) "Alliance" means a corporation, association, limited
 1242 liability company, or partnership or any other legal entity
 1243 formed by a group of eligible entities.

1244 (b) "Property coverage" means property coverage provided
 1245 by self-insurance or insurance for real or personal property of
 1246 every kind and every interest in such property against loss or
 1247 damage from any hazard or cause and against any loss
 1248 consequential to such loss or damage.

1249 (3) An alliance that meets the requirements of this
 1250 section is not subject to any provision of the Insurance Code.

1251 (4) An alliance that meets the requirements of this
 1252 section is not an insurer for purposes of participation in or
 1253 coverage by the Florida Insurance Guaranty Association
 1254 established in part II of chapter 631. Alliance self-insured
 1255 coverage is not subject to insurance premium tax, and any such
 1256 alliance formed pursuant to this section may not be assessed for
 1257 purposes of s. 627.351 or s. 215.555.

1258 Section 7. Section 553.73, Florida Statutes, is amended to
 1259 read:

1260 553.73 Florida Building Code.--

1261 (1) (a) The commission shall adopt, by rule pursuant to ss.
 1262 120.536(1) and 120.54, the Florida Building Code which shall
 1263 contain or incorporate by reference all laws and rules which
 1264 pertain to and govern the design, construction, erection,
 1265 alteration, modification, repair, and demolition of public and
 1266 private buildings, structures, and facilities and enforcement of
 1267 such laws and rules, except as otherwise provided in this
 1268 section.

1269 (b) The technical portions of the Florida Accessibility
 1270 Code for Building Construction shall be contained in their
 1271 entirety in the Florida Building Code. The civil rights portions
 1272 and the technical portions of the accessibility laws of this
 1273 state shall remain as currently provided by law. Any revision or
 1274 amendments to the Florida Accessibility Code for Building
 1275 Construction pursuant to part II shall be considered adopted by
 1276 the commission as part of the Florida Building Code. Neither the
 1277 commission nor any local government shall revise or amend any
 1278 standard of the Florida Accessibility Code for Building
 1279 Construction except as provided for in part II.

1280 (c) The Florida Fire Prevention Code and the Life Safety
 1281 Code shall be referenced in the Florida Building Code, but shall
 1282 be adopted, modified, revised, or amended, interpreted, and
 1283 maintained by the Department of Financial Services by rule
 1284 adopted pursuant to ss. 120.536(1) and 120.54. The Florida
 1285 Building Commission may not adopt a fire prevention or
 1286 lifesafety code, and nothing in the Florida Building Code shall
 1287 affect the statutory powers, duties, and responsibilities of any
 1288 fire official or the Department of Financial Services.

1289 (d) Conflicting requirements between the Florida Building
 1290 Code and the Florida Fire Prevention Code and Life Safety Code
 1291 of the state established pursuant to ss. 633.022 and 633.025
 1292 shall be resolved by agreement between the commission and the
 1293 State Fire Marshal in favor of the requirement that offers the
 1294 greatest degree of lifesafety or alternatives that would provide
 1295 an equivalent degree of lifesafety and an equivalent method of
 1296 construction. If the commission and State Fire Marshal are
 1297 unable to agree on a resolution, the question shall be referred
 1298 to a mediator, mutually agreeable to both parties, to resolve
 1299 the conflict in favor of the provision that offers the greatest
 1300 lifesafety, or alternatives that would provide an equivalent
 1301 degree of lifesafety and an equivalent method of construction.

1302 (e) Subject to the provisions of this act, responsibility
 1303 for enforcement, interpretation, and regulation of the Florida
 1304 Building Code shall be vested in a specified local board or
 1305 agency, and the words "local government" and "local governing
 1306 body" as used in this part shall be construed to refer
 1307 exclusively to such local board or agency.

1308 (2) The Florida Building Code shall contain provisions or
 1309 requirements for public and private buildings, structures, and
 1310 facilities relative to structural, mechanical, electrical,
 1311 plumbing, energy, and gas systems, existing buildings,
 1312 historical buildings, manufactured buildings, elevators, coastal
 1313 construction, lodging facilities, food sales and food service
 1314 facilities, health care facilities, including assisted living
 1315 facilities, adult day care facilities, hospice residential and
 1316 inpatient facilities and units, and facilities for the control

1317 of radiation hazards, public or private educational facilities,
1318 swimming pools, and correctional facilities and enforcement of
1319 and compliance with such provisions or requirements. Further,
1320 the Florida Building Code must provide for uniform
1321 implementation of ss. 515.25, 515.27, and 515.29 by including
1322 standards and criteria for residential swimming pool barriers,
1323 pool covers, latching devices, door and window exit alarms, and
1324 other equipment required therein, which are consistent with the
1325 intent of s. 515.23. Technical provisions to be contained within
1326 the Florida Building Code are restricted to requirements related
1327 to the types of materials used and construction methods and
1328 standards employed in order to meet criteria specified in the
1329 Florida Building Code. Provisions relating to the personnel,
1330 supervision or training of personnel, or any other professional
1331 qualification requirements relating to contractors or their
1332 workforce may not be included within the Florida Building Code,
1333 and subsections (4), (5), (6), ~~and (7)~~, and (8) are not to be
1334 construed to allow the inclusion of such provisions within the
1335 Florida Building Code by amendment. This restriction applies to
1336 both initial development and amendment of the Florida Building
1337 Code.

1338 (3) The commission shall select from available national or
1339 international model building codes, or other available building
1340 codes and standards currently recognized by the laws of this
1341 state, to form the foundation for the Florida Building Code. The
1342 commission may modify the selected model codes and standards as
1343 needed to accommodate the specific needs of this state.
1344 Standards or criteria referenced by the selected model codes

1345 shall be similarly incorporated by reference. If a referenced
1346 standard or criterion requires amplification or modification to
1347 be appropriate for use in this state, only the amplification or
1348 modification shall be specifically set forth in the Florida
1349 Building Code. The Florida Building Commission may approve
1350 technical amendments to the code, subject to the requirements of
1351 subsections (7) and (8), after the amendments have been subject
1352 to the following conditions:

1353 (a) The proposed amendment has been published on the
1354 commission's website for a minimum of 45 days and all the
1355 associated documentation has been made available to any
1356 interested party before any consideration by any Technical
1357 Advisory Committee;

1358 (b) In order for a Technical Advisory Committee to make a
1359 favorable recommendation to the commission, the proposal must
1360 receive a three-fourths vote of the members present at the
1361 Technical Advisory Committee meeting and at least half of the
1362 regular members must be present in order to conduct a meeting;

1363 (c) After Technical Advisory Committee consideration and a
1364 recommendation for approval of any proposed amendment, the
1365 proposal must be published on the commission's website for not
1366 less than 45 days before any consideration by the commission;
1367 and

1368 (d) Any proposal may be modified by the commission based
1369 on public testimony and evidence from a public hearing held in
1370 accordance with chapter 120.

1371
1372 The commission shall incorporate within sections of the Florida

1373 Building Code provisions which address regional and local
 1374 concerns and variations. The commission shall make every effort
 1375 to minimize conflicts between the Florida Building Code, the
 1376 Florida Fire Prevention Code, and the Life Safety Code.

1377 (4) (a) All entities authorized to enforce the Florida
 1378 Building Code pursuant to s. 553.80 shall comply with applicable
 1379 standards for issuance of mandatory certificates of occupancy,
 1380 minimum types of inspections, and procedures for plans review
 1381 and inspections as established by the commission by rule. Local
 1382 governments may adopt amendments to the administrative
 1383 provisions of the Florida Building Code, subject to the
 1384 limitations of this paragraph. Local amendments shall be more
 1385 stringent than the minimum standards described herein and shall
 1386 be transmitted to the commission within 30 days after enactment.

1387 The local government shall make such amendments available to
 1388 the general public in a usable format. The State Fire Marshal
 1389 is responsible for establishing the standards and procedures
 1390 required in this paragraph for governmental entities with
 1391 respect to applying the Florida Fire Prevention Code and the
 1392 Life Safety Code.

1393 (b) Local governments may, subject to the limitations of
 1394 this section, adopt amendments to the technical provisions of
 1395 the Florida Building Code which apply solely within the
 1396 jurisdiction of such government and which provide for more
 1397 stringent requirements than those specified in the Florida
 1398 Building Code, not more than once every 6 months. A local
 1399 government may adopt technical amendments that address local
 1400 needs if:

1401 1. The local governing body determines, following a public
1402 hearing which has been advertised in a newspaper of general
1403 circulation at least 10 days before the hearing, that there is a
1404 need to strengthen the requirements of the Florida Building
1405 Code. The determination must be based upon a review of local
1406 conditions by the local governing body, which review
1407 demonstrates by evidence or data that the geographical
1408 jurisdiction governed by the local governing body exhibits a
1409 local need to strengthen the Florida Building Code beyond the
1410 needs or regional variation addressed by the Florida Building
1411 Code, that the local need is addressed by the proposed local
1412 amendment, and that the amendment is no more stringent than
1413 necessary to address the local need.

1414 2. Such additional requirements are not discriminatory
1415 against materials, products, or construction techniques of
1416 demonstrated capabilities.

1417 3. Such additional requirements may not introduce a new
1418 subject not addressed in the Florida Building Code.

1419 4. The enforcing agency shall make readily available, in a
1420 usable format, all amendments adopted pursuant to this section.

1421 5. Any amendment to the Florida Building Code shall be
1422 transmitted within 30 days by the adopting local government to
1423 the commission. The commission shall maintain copies of all
1424 such amendments in a format that is usable and obtainable by the
1425 public. Local technical amendments shall not become effective
1426 until 30 days after the amendment has been received and
1427 published by the commission.

1428 6. Any amendment to the Florida Building Code adopted by a

1429 local government pursuant to this paragraph shall be effective
1430 only until the adoption by the commission of the new edition of
1431 the Florida Building Code every third year. At such time, the
1432 commission shall review such amendment for consistency with the
1433 criteria in paragraph (8) (a) ~~(7) (a)~~ and adopt such amendment as
1434 part of the Florida Building Code or rescind the amendment. The
1435 commission shall immediately notify the respective local
1436 government of the rescission of any amendment. After receiving
1437 such notice, the respective local government may readopt the
1438 rescinded amendment pursuant to the provisions of this
1439 paragraph.

1440 7. Each county and municipality desiring to make local
1441 technical amendments to the Florida Building Code shall by
1442 interlocal agreement establish a countywide compliance review
1443 board to review any amendment to the Florida Building Code,
1444 adopted by a local government within the county pursuant to this
1445 paragraph, that is challenged by any substantially affected
1446 party for purposes of determining the amendment's compliance
1447 with this paragraph. If challenged, the local technical
1448 amendments shall not become effective until time for filing an
1449 appeal pursuant to subparagraph 8. has expired or, if there is
1450 an appeal, until the commission issues its final order
1451 determining the adopted amendment is in compliance with this
1452 subsection.

1453 8. If the compliance review board determines such
1454 amendment is not in compliance with this paragraph, the
1455 compliance review board shall notify such local government of
1456 the noncompliance and that the amendment is invalid and

1457 unenforceable until the local government corrects the amendment
 1458 to bring it into compliance. The local government may appeal the
 1459 decision of the compliance review board to the commission. If
 1460 the compliance review board determines such amendment to be in
 1461 compliance with this paragraph, any substantially affected party
 1462 may appeal such determination to the commission. Any such appeal
 1463 shall be filed with the commission within 14 days of the board's
 1464 written determination. The commission shall promptly refer the
 1465 appeal to the Division of Administrative Hearings for the
 1466 assignment of an administrative law judge. The administrative
 1467 law judge shall conduct the required hearing within 30 days, and
 1468 shall enter a recommended order within 30 days of the conclusion
 1469 of such hearing. The commission shall enter a final order within
 1470 30 days thereafter. The provisions of chapter 120 and the
 1471 uniform rules of procedure shall apply to such proceedings. The
 1472 local government adopting the amendment that is subject to
 1473 challenge has the burden of proving that the amendment complies
 1474 with this paragraph in proceedings before the compliance review
 1475 board and the commission, as applicable. Actions of the
 1476 commission are subject to judicial review pursuant to s. 120.68.
 1477 The compliance review board shall determine whether its
 1478 decisions apply to a respective local jurisdiction or apply
 1479 countywide.

1480 9. An amendment adopted under this paragraph shall include
 1481 a fiscal impact statement which documents the costs and benefits
 1482 of the proposed amendment. Criteria for the fiscal impact
 1483 statement shall include the impact to local government relative
 1484 to enforcement, the impact to property and building owners, as

1485 well as to industry, relative to the cost of compliance. The
1486 fiscal impact statement may not be used as a basis for
1487 challenging the amendment for compliance.

1488 10. In addition to subparagraphs 7. and 9., the
1489 commission may review any amendments adopted pursuant to this
1490 subsection and make nonbinding recommendations related to
1491 compliance of such amendments with this subsection.

1492 (c) Any amendment adopted by a local enforcing agency
1493 pursuant to this subsection shall not apply to state or school
1494 district owned buildings, manufactured buildings or factory-
1495 built school buildings approved by the commission, or prototype
1496 buildings approved pursuant to s. 553.77(3). The respective
1497 responsible entities shall consider the physical performance
1498 parameters substantiating such amendments when designing,
1499 specifying, and constructing such exempt buildings.

1500 (5) The initial adoption of, and any subsequent update or
1501 amendment to, the Florida Building Code by the commission is
1502 deemed adopted for use statewide without adoptions by local
1503 government. For a building permit for which an application is
1504 submitted prior to the effective date of the Florida Building
1505 Code, the state minimum building code in effect in the
1506 permitting jurisdiction on the date of the application governs
1507 the permitted work for the life of the permit and any extension
1508 granted to the permit.

1509 (6) (a) The commission, by rule adopted pursuant to ss.
1510 120.536(1) and 120.54, shall update the Florida Building Code
1511 every 3 years. When updating the Florida Building Code, the
1512 commission shall select the most current version of the

1513 International Building Code, the International Fuel Gas Code,
1514 the International Mechanical Code, the International Plumbing
1515 Code, and the International Residential Code, all of which are
1516 adopted by the International Code Council, and the National
1517 Electrical Code, which is adopted by the National Fire
1518 Protection Association, to form the foundation codes of the
1519 updated Florida Building Code, if the version has been adopted
1520 by the applicable model code entity and made available to the
1521 public at least 6 months prior to its selection by the
1522 commission.

1523 (b) Codes regarding noise contour lines shall be reviewed
1524 annually, and the most current federal guidelines shall be
1525 adopted.

1526 (c) The commission may modify any portion of the
1527 foundation codes only as needed to accommodate the specific
1528 needs of this state, maintaining Florida-specific amendments
1529 previously adopted by the commission and not addressed by the
1530 updated foundation code. Standards or criteria referenced by the
1531 codes shall be incorporated by reference. If a referenced
1532 standard or criterion requires amplification or modification to
1533 be appropriate for use in this state, only the amplification or
1534 modification shall be set forth in the Florida Building Code.
1535 The commission may approve technical amendments to the updated
1536 Florida Building Code after the amendments have been subject to
1537 the conditions set forth in paragraphs (3) (a) - (d). Amendments to
1538 the foundation codes which are adopted in accordance with this
1539 subsection shall be clearly marked in printed versions of the
1540 Florida Building Code so that the fact that the provisions are

1541 Florida-specific amendments to the foundation codes is readily
 1542 apparent.

1543 (d) The commission shall further consider the commission's
 1544 own interpretations, declaratory statements, appellate
 1545 decisions, and approved statewide and local technical amendments
 1546 and shall incorporate such interpretations, statements,
 1547 decisions, and amendments into the updated Florida Building Code
 1548 only to the extent that they are needed to modify the foundation
 1549 codes to accommodate the specific needs of the state. A change
 1550 made by an institute or standards organization to any standard
 1551 or criterion that is adopted by reference in the Florida
 1552 Building Code does not become effective statewide until it has
 1553 been adopted by the commission. Furthermore, the edition of the
 1554 Florida Building Code which is in effect on the date of
 1555 application for any permit authorized by the code governs the
 1556 permitted work for the life of the permit and any extension
 1557 granted to the permit.

1558 (e) A rule updating the Florida Building Code in
 1559 accordance with this subsection shall take effect no sooner than
 1560 6 months after publication of the updated code. Any amendment to
 1561 the Florida Building Code which is adopted upon a finding by the
 1562 commission that the amendment is necessary to protect the public
 1563 from immediate threat of harm takes effect immediately.

1564 (f) Provisions of the foundation codes, including those
 1565 contained in referenced standards and criteria, relating to wind
 1566 resistance or the prevention of water intrusion may not be
 1567 modified to diminish those construction requirements; however,
 1568 the commission may, subject to conditions in this subsection,

1569 modify the provisions to enhance those construction
 1570 requirements.

1571 (7) ~~(f)~~ Upon the conclusion of a triennial update to the
 1572 Florida Building Code, notwithstanding the provisions of ~~this~~
 1573 ~~subsection or~~ subsection (3) or subsection (6), the commission
 1574 may address issues identified in this subsection ~~paragraph~~ by
 1575 amending the code pursuant only to the rule adoption procedures
 1576 contained in chapter 120. Provisions of the Florida Building
 1577 Code, including those contained in referenced standards and
 1578 criteria, relating to wind resistance or the prevention of water
 1579 intrusion may not be amended pursuant to this subsection to
 1580 diminish those construction requirements; however, the
 1581 commission may, subject to conditions in this subsection, amend
 1582 the provisions to enhance those construction requirements.

1583 Following the approval of any amendments to the Florida Building
 1584 Code by the commission and publication of the amendments on the
 1585 commission's website, authorities having jurisdiction to enforce
 1586 the Florida Building Code may enforce the amendments. The
 1587 commission may approve amendments that are needed to address:

- 1588 (a) ~~1.~~ Conflicts within the updated code;
- 1589 (b) ~~2.~~ Conflicts between the updated code and the Florida
 1590 Fire Prevention Code adopted pursuant to chapter 633;
- 1591 (c) ~~3.~~ The omission of previously adopted Florida-specific
 1592 amendments to the updated code if such omission is not supported
 1593 by a specific recommendation of a technical advisory committee
 1594 or particular action by the commission; or
- 1595 (d) ~~4.~~ Unintended results from the integration of
 1596 previously adopted Florida-specific amendments with the model

1597 code.

1598 (8)~~(7)~~(a) The commission may approve technical amendments

1599 to the Florida Building Code once each year for statewide or

1600 regional application upon a finding that the amendment:

1601 1. Is needed in order to accommodate the specific needs of

1602 this state.

1603 2. Has a reasonable and substantial connection with the

1604 health, safety, and welfare of the general public.

1605 3. Strengthens or improves the Florida Building Code, or

1606 in the case of innovation or new technology, will provide

1607 equivalent or better products or methods or systems of

1608 construction.

1609 4. Does not discriminate against materials, products,

1610 methods, or systems of construction of demonstrated

1611 capabilities.

1612 5. Does not degrade the effectiveness of the Florida

1613 Building Code.

1614

1615 Furthermore, the Florida Building Commission may approve

1616 technical amendments to the code once each year to incorporate

1617 into the Florida Building Code its own interpretations of the

1618 code which are embodied in its opinions, final orders,

1619 declaratory statements, and interpretations of hearing officer

1620 panels under s. 553.775(3)(c), but shall do so only to the

1621 extent that incorporation of interpretations is needed to modify

1622 the foundation codes to accommodate the specific needs of this

1623 state. Amendments approved under this paragraph shall be adopted

1624 by rule pursuant to ss. 120.536(1) and 120.54, after the

1625 amendments have been subjected to the provisions of subsection
1626 (3).

1627 (b) A proposed amendment shall include a fiscal impact
1628 statement which documents the costs and benefits of the proposed
1629 amendment. Criteria for the fiscal impact statement shall be
1630 established by rule by the commission and shall include the
1631 impact to local government relative to enforcement, the impact
1632 to property and building owners, as well as to industry,
1633 relative to the cost of compliance.

1634 (c) The commission may not approve any proposed amendment
1635 that does not accurately and completely address all requirements
1636 for amendment which are set forth in this section. The
1637 commission shall require all proposed amendments and information
1638 submitted with proposed amendments to be reviewed by commission
1639 staff prior to consideration by any technical advisory
1640 committee. These reviews shall be for sufficiency only and are
1641 not intended to be qualitative in nature. Staff members shall
1642 reject any proposed amendment that fails to include a fiscal
1643 impact statement. Proposed amendments rejected by members of the
1644 staff may not be considered by the commission or any technical
1645 advisory committee.

1646 (d) Provisions of the Florida Building Code, including
1647 those contained in referenced standards and criteria, relating
1648 to wind resistance or the prevention of water intrusion may not
1649 be amended pursuant to this subsection to diminish those
1650 construction requirements; however, the commission may, subject
1651 to conditions in this subsection, amend the provisions to
1652 enhance those construction requirements.

1653 (9)~~(8)~~ The following buildings, structures, and facilities
1654 are exempt from the Florida Building Code as provided by law,
1655 and any further exemptions shall be as determined by the
1656 Legislature and provided by law:

1657 (a) Buildings and structures specifically regulated and
1658 preempted by the Federal Government.

1659 (b) Railroads and ancillary facilities associated with the
1660 railroad.

1661 (c) Nonresidential farm buildings on farms.

1662 (d) Temporary buildings or sheds used exclusively for
1663 construction purposes.

1664 (e) Mobile or modular structures used as temporary
1665 offices, except that the provisions of part II relating to
1666 accessibility by persons with disabilities shall apply to such
1667 mobile or modular structures.

1668 (f) Those structures or facilities of electric utilities,
1669 as defined in s. 366.02, which are directly involved in the
1670 generation, transmission, or distribution of electricity.

1671 (g) Temporary sets, assemblies, or structures used in
1672 commercial motion picture or television production, or any
1673 sound-recording equipment used in such production, on or off the
1674 premises.

1675 (h) Storage sheds that are not designed for human
1676 habitation and that have a floor area of 720 square feet or less
1677 are not required to comply with the mandatory wind-borne-debris-
1678 impact standards of the Florida Building Code.

1679 (i) Chickees constructed by the Miccosukee Tribe of
1680 Indians of Florida or the Seminole Tribe of Florida. As used in

1681 this paragraph, the term "chickee" means an open-sided wooden
1682 hut that has a thatched roof of palm or palmetto or other
1683 traditional materials, and that does not incorporate any
1684 electrical, plumbing, or other nonwood features.

1685

1686 With the exception of paragraphs (a), (b), (c), and (f), in
1687 order to preserve the health, safety, and welfare of the public,
1688 the Florida Building Commission may, by rule adopted pursuant to
1689 chapter 120, provide for exceptions to the broad categories of
1690 buildings exempted in this section, including exceptions for
1691 application of specific sections of the code or standards
1692 adopted therein. The Department of Agriculture and Consumer
1693 Services shall have exclusive authority to adopt by rule,
1694 pursuant to chapter 120, exceptions to nonresidential farm
1695 buildings exempted in paragraph (c) when reasonably necessary to
1696 preserve public health, safety, and welfare. The exceptions must
1697 be based upon specific criteria, such as under-roof floor area,
1698 aggregate electrical service capacity, HVAC system capacity, or
1699 other building requirements. Further, the commission may
1700 recommend to the Legislature additional categories of buildings,
1701 structures, or facilities which should be exempted from the
1702 Florida Building Code, to be provided by law.

1703 (10)~~(9)~~(a) In the event of a conflict between the Florida
1704 Building Code and the Florida Fire Prevention Code and the Life
1705 Safety Code as applied to a specific project, the conflict shall
1706 be resolved by agreement between the local building code
1707 enforcement official and the local fire code enforcement
1708 official in favor of the requirement of the code which offers

1709 the greatest degree of lifesafety or alternatives which would
1710 provide an equivalent degree of lifesafety and an equivalent
1711 method of construction.

1712 (b) Any decision made by the local fire official and the
1713 local building official may be appealed to a local
1714 administrative board designated by the municipality, county, or
1715 special district having firesafety responsibilities. If the
1716 decision of the local fire official and the local building
1717 official is to apply the provisions of either the Florida
1718 Building Code or the Florida Fire Prevention Code and the Life
1719 Safety Code, the board may not alter the decision unless the
1720 board determines that the application of such code is not
1721 reasonable. If the decision of the local fire official and the
1722 local building official is to adopt an alternative to the codes,
1723 the local administrative board shall give due regard to the
1724 decision rendered by the local officials and may modify that
1725 decision if the administrative board adopts a better
1726 alternative, taking into consideration all relevant
1727 circumstances. In any case in which the local administrative
1728 board adopts alternatives to the decision rendered by the local
1729 fire official and the local building official, such alternatives
1730 shall provide an equivalent degree of lifesafety and an
1731 equivalent method of construction as the decision rendered by
1732 the local officials.

1733 (c) If the local building official and the local fire
1734 official are unable to agree on a resolution of the conflict
1735 between the Florida Building Code and the Florida Fire
1736 Prevention Code and the Life Safety Code, the local

1737 administrative board shall resolve the conflict in favor of the
1738 code which offers the greatest degree of lifesafety or
1739 alternatives which would provide an equivalent degree of
1740 lifesafety and an equivalent method of construction.

1741 (d) All decisions of the local administrative board, or if
1742 none exists, the decisions of the local building official and
1743 the local fire official, are subject to review by a joint
1744 committee composed of members of the Florida Building Commission
1745 and the Fire Code Advisory Council. If the joint committee is
1746 unable to resolve conflicts between the codes as applied to a
1747 specific project, the matter shall be resolved pursuant to the
1748 provisions of paragraph (1) (d).

1749 (e) The local administrative board shall, to the greatest
1750 extent possible, be composed of members with expertise in
1751 building construction and firesafety standards.

1752 (f) All decisions of the local building official and local
1753 fire official and all decisions of the administrative board
1754 shall be in writing and shall be binding upon all persons but
1755 shall not limit the authority of the State Fire Marshal or the
1756 Florida Building Commission pursuant to paragraph (1) (d) and ss.
1757 663.01 and 633.161. Decisions of general application shall be
1758 indexed by building and fire code sections and shall be
1759 available for inspection during normal business hours.

1760 (11)~~(10)~~ Except within coastal building zones as defined
1761 in s. 161.54, specification standards developed by nationally
1762 recognized code promulgation organizations to determine
1763 compliance with engineering criteria of the Florida Building
1764 Code for wind load design shall not apply to one or two family

1765 dwellings which are two stories or less in height unless
 1766 approved by the commission for use or unless expressly made
 1767 subject to said standards and criteria by local ordinance
 1768 adopted in accordance with the provisions of subsection (4).

1769 (12)~~(11)~~ The Florida Building Code does not apply to, and
 1770 no code enforcement action shall be brought with respect to,
 1771 zoning requirements, land use requirements, and owner
 1772 specifications or programmatic requirements which do not pertain
 1773 to and govern the design, construction, erection, alteration,
 1774 modification, repair, or demolition of public or private
 1775 buildings, structures, or facilities or to programmatic
 1776 requirements that do not pertain to enforcement of the Florida
 1777 Building Code. Additionally, a local code enforcement agency
 1778 may not administer or enforce the Florida Building Code to
 1779 prevent the siting of any publicly owned facility, including,
 1780 but not limited to, correctional facilities, juvenile justice
 1781 facilities, or state universities, community colleges, or public
 1782 education facilities, as provided by law.

1783 Section 8. Subsection (2) of section 553.775, Florida
 1784 Statutes, is amended to read:

1785 553.775 Interpretations.--

1786 (2) Local enforcement agencies, local building officials,
 1787 state agencies, and the commission shall interpret provisions of
 1788 the Florida Building Code in a manner that is consistent with
 1789 declaratory statements and interpretations entered by the
 1790 commission, except that conflicts between the Florida Fire
 1791 Prevention Code and the Florida Building Code shall be resolved
 1792 in accordance with s. 553.73(10)(c) and (d) ~~s. 553.73(9)(e) and~~

1793 ~~(d).~~

1794 Section 9. Upon the effective date of this act, each
1795 jurisdiction having authority to enforce the Florida Building
1796 Code shall, at a minimum, require wind-borne-debris protection
1797 in accordance with s. 1609.1, International Building Code (2006)
1798 and the International Residential Code (2006) within the "wind-
1799 borne-debris region" as that term is defined in s. 1609.2,
1800 International Building Code (2006), and s. R301.2, International
1801 Residential Code (2006).

1802 Section 10. (1) The Florida Building Commission shall
1803 amend the Florida Building Code to reflect the application of
1804 provisions identified in section 9 of this act, and to eliminate
1805 all exceptions that provide less stringent requirements. The
1806 amendments by the commission shall apply throughout the state
1807 with the exception of the High Velocity Hurricane Zone, which
1808 shall be governed as currently provided within the Florida
1809 Building Code. The commission shall fulfill these obligations
1810 before July 1, 2007, pursuant only to the provisions of chapter
1811 120, Florida Statutes.

1812 (2) The Florida Building Commission shall develop
1813 voluntary "Code Plus" guidelines for increasing the hurricane
1814 resistance of buildings. The guidelines may be modeled on the
1815 requirements for the High Velocity Hurricane Zone and must
1816 identify products, systems, and methods of construction that the
1817 commission anticipates could result in stronger construction.
1818 The commission shall include these guidelines in its report to
1819 the 2008 Legislature.

1820 Section 11. Subsection (1) of section 624.407, Florida

1821 Statutes, is amended to read:

1822 624.407 Capital funds required; new insurers.--

1823 (1) To receive authority to transact any one kind or
 1824 combinations of kinds of insurance, as defined in part V of this
 1825 chapter, an insurer applying for its original certificate of
 1826 authority in this state after the effective date of this section
 1827 shall possess surplus as to policyholders not less than the
 1828 greater of:

1829 (a) Five million dollars for a property and casualty
 1830 insurer, or \$2.5 million for any other insurer;

1831 (b) For life insurers, 4 percent of the insurer's total
 1832 liabilities;

1833 (c) For life and health insurers, 4 percent of the
 1834 insurer's total liabilities, plus 6 percent of the insurer's
 1835 liabilities relative to health insurance; or

1836 (d) For all insurers other than life insurers and life and
 1837 health insurers, 10 percent of the insurer's total liabilities;

1838
 1839 however, a domestic insurer that transacts residential property
 1840 insurance and is a wholly owned subsidiary of an insurer
 1841 authorized to do business in any other state shall possess
 1842 surplus as to policyholders of at least \$50 million, but no
 1843 insurer shall be required under this subsection to have surplus
 1844 as to policyholders greater than \$100 million.

1845 Section 12. Paragraph (a) of subsection (2) of section
 1846 624.462, Florida Statutes, is amended to read:

1847 624.462 Commercial self-insurance funds.--

1848 (2) As used in ss. 624.460-624.488, "commercial self-

1849 insurance fund" or "fund" means a group of members, operating
 1850 individually and collectively through a trust or corporation,
 1851 that must be:

1852 (a) Established by:

1853 1. A not-for-profit trade association, industry
 1854 association, or professional association of employers or
 1855 professionals which has a constitution or bylaws, which is
 1856 incorporated under the laws of this state, and which has been
 1857 organized for purposes other than that of obtaining or providing
 1858 insurance and operated in good faith for a continuous period of
 1859 1 year;

1860 2. A self-insurance trust fund organized pursuant to s.
 1861 627.357 and maintained in good faith for a continuous period of
 1862 1 year for purposes other than that of obtaining or providing
 1863 insurance pursuant to this section. Each member of a commercial
 1864 self-insurance trust fund established pursuant to this
 1865 subsection must maintain membership in the self-insurance trust
 1866 fund organized pursuant to s. 627.357;

1867 3. A group of 10 or more health care providers, as defined
 1868 in s. 627.351(4)(h), for purposes of providing medical
 1869 malpractice coverage; or

1870 4. A not-for-profit group comprised of one or more
 1871 community ~~no less than 10 condominium~~ associations responsible
 1872 for operating at least 50 residential parcels or units created
 1873 and operating under chapter 718, chapter 719, chapter 720,
 1874 chapter 721, or chapter 723 as defined in s. 718.103(2), which
 1875 ~~is incorporated under the laws of this state,~~ which restricts
 1876 its membership to community ~~condominium~~ associations only, and

1877 | which has been organized and maintained in good faith for the
 1878 | purpose of pooling and spreading the liabilities of its group
 1879 | members relating to property or casualty risk or surety a
 1880 | ~~continuous period of 1 year for purposes other than that of~~
 1881 | ~~obtaining or providing~~ insurance.

1882 | Section 13. Subsection (1) of section 624.4622, Florida
 1883 | Statutes, is amended to read:

1884 | 624.4622 Local government self-insurance funds.--

1885 | (1) Any two or more local governmental entities may enter
 1886 | into interlocal agreements for the purpose of securing the
 1887 | payment of benefits under chapter 440, or insuring or self-
 1888 | insuring real or personal property of every kind and every
 1889 | interest in such property against loss or damage from any hazard
 1890 | or cause and against any loss consequential to such loss or
 1891 | damage, provided the local government self-insurance fund that
 1892 | is created must:

1893 | (a) Have annual normal premiums in excess of \$5 million;

1894 | (b) Maintain a continuing program of excess insurance
 1895 | coverage and reserve evaluation to protect the financial
 1896 | stability of the fund in an amount and manner determined by a
 1897 | qualified and independent actuary;

1898 | (c) Submit annually an audited fiscal year-end financial
 1899 | statement by an independent certified public accountant within 6
 1900 | months after the end of the fiscal year to the office; and

1901 | (d) Have a governing body which is comprised entirely of
 1902 | local elected officials.

1903 | Section 14. Section 624.4625, Florida Statutes, is created
 1904 | to read:

1905 624.4625 Corporation not-for-profit self-insurance funds.--

1906 (1) Notwithstanding any other provision of law, any two or
 1907 more corporations not for profit located in and organized under
 1908 the laws of this state may form a self-insurance fund for the
 1909 purpose of pooling and spreading liabilities of its group
 1910 members in any one or combination of property or casualty risk,
 1911 provided the corporation not for profit self-insurance fund that
 1912 is created:

1913 (a) Has annual normal premiums in excess of \$5 million.

1914 (b) Requires for qualification that each participating
 1915 member receive at least 75 percent of its revenues from local,
 1916 state, or federal governmental sources or a combination of such
 1917 sources.

1918 (c) Uses a qualified actuary to determine rates using
 1919 accepted actuarial principles and annually submits to the office
 1920 a certification by the actuary that the rates are actuarially
 1921 sound and are not inadequate, as defined in s. 627.062.

1922 (d) Uses a qualified actuary to establish reserves for loss
 1923 and loss adjustment expenses and annually submits to the office
 1924 a certification by the actuary that the loss and loss adjustment
 1925 expense reserves are adequate. If the actuary determines that
 1926 reserves are not adequate, the fund shall file with the office a
 1927 remedial plan for increasing the reserves or otherwise
 1928 addressing the financial condition of the fund, subject to a
 1929 determination by the office that the fund will operate on an
 1930 actuarially sound basis and the fund does not pose a significant
 1931 risk of insolvency.

1932 (e) Maintains a continuing program of excess insurance

1933 coverage and reserve evaluation to protect the financial
 1934 stability of the fund in an amount and manner determined by a
 1935 qualified actuary. At a minimum, this program must:
 1936 1. Purchase excess insurance from authorized insurance
 1937 carriers.
 1938 2. Retain a per-loss occurrence that does not exceed
 1939 \$350,000.
 1940 (f) Submits to the office annually an audited fiscal year-
 1941 end financial statement by an independent certified public
 1942 accountant within 6 months after the end of the fiscal year.
 1943 (g) Has a governing body that is comprised entirely of
 1944 officials from corporations not for profit that are members of
 1945 the corporation not-for-profit self-insurance fund.
 1946 (h) Uses knowledgeable persons or business entities to
 1947 administer or service the fund in the areas of claims
 1948 administration, claims adjusting, underwriting, risk management,
 1949 loss control, policy administration, financial audit, and legal
 1950 areas. Such persons must meet all applicable requirements of law
 1951 for state licensure and must have at least 5 years' experience
 1952 with commercial self-insurance funds formed under s. 624.462,
 1953 self-insurance funds formed under s. 624.4622, or domestic
 1954 insurers.
 1955 (i) Submits to the office copies of contracts used for its
 1956 members that clearly establish the liability of each member for
 1957 the obligations of the fund.
 1958 (j) Annually submits to the office a certification by the
 1959 governing body of the fund that, to the best of its knowledge,
 1960 the requirements of this section are met.

1961 (2) As used in this section, the term "qualified actuary"
 1962 means an actuary that is a member of the Casualty Actuarial
 1963 Society or the American Academy of Actuaries.

1964 (3) A corporation not-for-profit self-insurance fund that
 1965 meets the requirements of this section is not:

1966 (a) An insurer for purposes of participation in or
 1967 coverage by any insurance guaranty association established by
 1968 chapter 631; or

1969 (b) Subject to s. 624.4621 and is not required to file any
 1970 report with the department under s. 440.38(2)(b) that is
 1971 uniquely required of group self-insurer funds qualified under s.
 1972 624.4621.

1973 (4) Premiums, contributions, and assessments received by a
 1974 corporation not-for-profit self-insurance fund are subject to
 1975 ss. 624.509(1) and (2) and 624.5092, except that the tax rate
 1976 shall be 1.6 percent of the gross amount of such premiums,
 1977 contributions, and assessments.

1978 (5) If any of the requirements of subsection (1) are not
 1979 met, a corporation not-for-profit self-insurance fund is subject
 1980 to the requirements of s. 624.4621 if the fund provides only
 1981 workers' compensation coverage or is subject to the requirements
 1982 of ss. 624.460-624.488 if the fund provides coverage for other
 1983 property, casualty, or surety risks.

1984 Section 15. Subsection (3) of section 624.610, Florida
 1985 Statutes, is amended to read:

1986 624.610 Reinsurance.--

1987 (3)(a) Credit must be allowed when the reinsurance is
 1988 ceded to an assuming insurer that is authorized to transact

1989 insurance or reinsurance in this state.
 1990 (b)1. Credit must be allowed when the reinsurance is ceded
 1991 to an assuming insurer that is accredited as a reinsurer in this
 1992 state. An accredited reinsurer is one that:
 1993 a. Files with the office evidence of its submission to
 1994 this state's jurisdiction;
 1995 b. Submits to this state's authority to examine its books
 1996 and records;
 1997 c. Is licensed or authorized to transact insurance or
 1998 reinsurance in at least one state or, in the case of a United
 1999 States branch of an alien assuming insurer, is entered through,
 2000 licensed, or authorized to transact insurance or reinsurance in
 2001 at least one state;
 2002 d. Files annually with the office a copy of its annual
 2003 statement filed with the insurance department of its state of
 2004 domicile any quarterly statements if required by its state of
 2005 domicile or such quarterly statements if specifically requested
 2006 by the office, and a copy of its most recent audited financial
 2007 statement; and
 2008 (I) Maintains a surplus as regards policyholders in an
 2009 amount not less than \$20 million and whose accreditation has not
 2010 been denied by the office within 90 days after its submission;
 2011 or
 2012 (II) Maintains a surplus as regards policyholders in an
 2013 amount not less than \$20 million and whose accreditation has
 2014 been approved by the office.
 2015 2. The office may deny or revoke an assuming insurer's
 2016 accreditation if the assuming insurer does not submit the

2017 required documentation pursuant to subparagraph 1., if the
 2018 assuming insurer fails to meet all of the standards required of
 2019 an accredited reinsurer, or if the assuming insurer's
 2020 accreditation would be hazardous to the policyholders of this
 2021 state. In determining whether to deny or revoke accreditation,
 2022 the office may consider the qualifications of the assuming
 2023 insurer with respect to all the following subjects:

- 2024 a. Its financial stability;
- 2025 b. The lawfulness and quality of its investments;
- 2026 c. The competency, character, and integrity of its
 2027 management;
- 2028 d. The competency, character, and integrity of persons who
 2029 own or have a controlling interest in the assuming insurer; and
- 2030 e. Whether claims under its contracts are promptly and
 2031 fairly adjusted and are promptly and fairly paid in accordance
 2032 with the law and the terms of the contracts.

2033 3. Credit must not be allowed a ceding insurer if the
 2034 assuming insurer's accreditation has been revoked by the office
 2035 after notice and the opportunity for a hearing.

2036 4. The actual costs and expenses incurred by the office to
 2037 review a reinsurer's request for accreditation and subsequent
 2038 reviews must be charged to and collected from the requesting
 2039 reinsurer. If the reinsurer fails to pay the actual costs and
 2040 expenses promptly when due, the office may refuse to accredit
 2041 the reinsurer or may revoke the reinsurer's accreditation.

2042 (c)1. Credit must be allowed when the reinsurance is ceded
 2043 to an assuming insurer that maintains a trust fund in a
 2044 qualified United States financial institution, as defined in

2045 paragraph (5)(b), for the payment of the valid claims of its
 2046 United States ceding insurers and their assigns and successors
 2047 in interest. To enable the office to determine the sufficiency
 2048 of the trust fund, the assuming insurer shall report annually to
 2049 the office information substantially the same as that required
 2050 to be reported on the NAIC Annual Statement form by authorized
 2051 insurers. The assuming insurer shall submit to examination of
 2052 its books and records by the office and bear the expense of
 2053 examination.

2054 2.a. Credit for reinsurance must not be granted under this
 2055 subsection unless the form of the trust and any amendments to
 2056 the trust have been approved by:

2057 (I) The insurance regulator of the state in which the
 2058 trust is domiciled; or

2059 (II) The insurance regulator of another state who,
 2060 pursuant to the terms of the trust instrument, has accepted
 2061 principal regulatory oversight of the trust.

2062 b. The form of the trust and any trust amendments must be
 2063 filed with the insurance regulator of every state in which the
 2064 ceding insurer beneficiaries of the trust are domiciled. The
 2065 trust instrument must provide that contested claims are valid
 2066 and enforceable upon the final order of any court of competent
 2067 jurisdiction in the United States. The trust must vest legal
 2068 title to its assets in its trustees for the benefit of the
 2069 assuming insurer's United States ceding insurers and their
 2070 assigns and successors in interest. The trust and the assuming
 2071 insurer are subject to examination as determined by the
 2072 insurance regulator.

2073 c. The trust remains in effect for as long as the assuming
 2074 insurer has outstanding obligations due under the reinsurance
 2075 agreements subject to the trust. No later than February 28 of
 2076 each year, the trustee of the trust shall report to the
 2077 insurance regulator in writing the balance of the trust and list
 2078 the trust's investments at the preceding year end, and shall
 2079 certify that the trust will not expire prior to the following
 2080 December 31.

2081 3. The following requirements apply to the following
 2082 categories of assuming insurer:

2083 a. The trust fund for a single assuming insurer consists
 2084 of funds in trust in an amount not less than the assuming
 2085 insurer's liabilities attributable to reinsurance ceded by
 2086 United States ceding insurers, and, in addition, the assuming
 2087 insurer shall maintain a trusteed surplus of not less than \$20
 2088 million. Not less than 50 percent of the funds in the trust
 2089 covering the assuming insurer's liabilities attributable to
 2090 reinsurance ceded by United States ceding insurers and trusteed
 2091 surplus shall consist of assets of a quality substantially
 2092 similar to that required in part II of chapter 625. Clean,
 2093 irrevocable, unconditional, and evergreen letters of credit,
 2094 issued or confirmed by a qualified United States financial
 2095 institution, as defined in paragraph (5)(a), effective no later
 2096 than December 31 of the year for which the filing is made and in
 2097 the possession of the trust on or before the filing date of its
 2098 annual statement, may be used to fund the remainder of the trust
 2099 and trusteed surplus.

2100 b.(I) In the case of a group including incorporated and

2101 individual unincorporated underwriters:

2102 (A) For reinsurance ceded under reinsurance agreements
2103 with an inception, amendment, or renewal date on or after August
2104 1, 1995, the trust consists of a trustee account in an amount
2105 not less than the group's several liabilities attributable to
2106 business ceded by United States domiciled ceding insurers to any
2107 member of the group;

2108 (B) For reinsurance ceded under reinsurance agreements
2109 with an inception date on or before July 31, 1995, and not
2110 amended or renewed after that date, notwithstanding the other
2111 provisions of this section, the trust consists of a trustee
2112 account in an amount not less than the group's several insurance
2113 and reinsurance liabilities attributable to business written in
2114 the United States; and

2115 (C) In addition to these trusts, the group shall maintain
2116 in trust a trustee surplus of which \$100 million must be held
2117 jointly for the benefit of the United States domiciled ceding
2118 insurers of any member of the group for all years of account.

2119 (II) The incorporated members of the group must not be
2120 engaged in any business other than underwriting of a member of
2121 the group, and are subject to the same level of regulation and
2122 solvency control by the group's domiciliary regulator as the
2123 unincorporated members.

2124 (III) Within 90 days after its financial statements are
2125 due to be filed with the group's domiciliary regulator, the
2126 group shall provide to the insurance regulator an annual
2127 certification by the group's domiciliary regulator of the
2128 solvency of each underwriter member or, if a certification is

2129 unavailable, financial statements, prepared by independent
2130 public accountants, of each underwriter member of the group.

2131 (d) Credit must be allowed when the reinsurance is ceded
2132 to an assuming insurer not meeting the requirements of paragraph
2133 (a), paragraph (b), or paragraph (c), but only as to the
2134 insurance of risks located in jurisdictions in which the
2135 reinsurance is required to be purchased by a particular entity
2136 by applicable law or regulation of that jurisdiction.

2137 (e) If the reinsurance is ceded to an assuming insurer not
2138 meeting the requirements of paragraph (a), paragraph (b),
2139 paragraph (c), or paragraph (d), the commissioner may allow
2140 credit, but only if the assuming insurer holds surplus in excess
2141 of \$100 million and has a secure financial strength rating from
2142 at least two nationally recognized statistical rating
2143 organizations deemed acceptable by the commissioner. In
2144 determining whether credit should be allowed, the commissioner
2145 shall consider the following:

2146 1. The domiciliary regulatory jurisdiction of the assuming
2147 insurer.

2148 2. The structure and authority of the domiciliary
2149 regulator with regard to solvency regulation requirements and
2150 the financial surveillance of the reinsurer.

2151 3. The substance of financial and operating standards for
2152 reinsurers in the domiciliary jurisdiction.

2153 4. The form and substance of financial reports required to
2154 be filed by the reinsurers in the domiciliary jurisdiction or
2155 other public financial statements filed in accordance with
2156 generally accepted accounting principles.

2157 5. The domiciliary regulator's willingness to cooperate
 2158 with United States regulators in general and the office in
 2159 particular.

2160 6. The history of performance by reinsurers in the
 2161 domiciliary jurisdiction.

2162 7. Any documented evidence of substantial problems with
 2163 the enforcement of valid United States judgments in the
 2164 domiciliary jurisdiction.

2165 8. Any other matters deemed relevant by the commissioner.
 2166 The commissioner shall give appropriate consideration to insurer
 2167 group ratings that may have been issued. The commissioner may,
 2168 in lieu of granting full credit under this subsection, reduce
 2169 the amount required to be held in trust under paragraph (c).

2170 (f)~~(e)~~ If the assuming insurer is not authorized or
 2171 accredited to transact insurance or reinsurance in this state
 2172 pursuant to paragraph (a) or paragraph (b), the credit permitted
 2173 by paragraph (c) or paragraph (d) must not be allowed unless the
 2174 assuming insurer agrees in the reinsurance agreements:

2175 1.a. That in the event of the failure of the assuming
 2176 insurer to perform its obligations under the terms of the
 2177 reinsurance agreement, the assuming insurer, at the request of
 2178 the ceding insurer, shall submit to the jurisdiction of any
 2179 court of competent jurisdiction in any state of the United
 2180 States, will comply with all requirements necessary to give the
 2181 court jurisdiction, and will abide by the final decision of the
 2182 court or of any appellate court in the event of an appeal; and

2183 b. To designate the Chief Financial Officer, pursuant to
 2184 s. 48.151, or a designated attorney as its true and lawful

2185 attorney upon whom may be served any lawful process in any
 2186 action, suit, or proceeding instituted by or on behalf of the
 2187 ceding company.

2188 2. This paragraph is not intended to conflict with or
 2189 override the obligation of the parties to a reinsurance
 2190 agreement to arbitrate their disputes, if this obligation is
 2191 created in the agreement.

2192 (g) ~~(f)~~ If the assuming insurer does not meet the
 2193 requirements of paragraph (a) or paragraph (b), the credit
 2194 permitted by paragraph (c) or paragraph (d) is not allowed
 2195 unless the assuming insurer agrees in the trust agreements, in
 2196 substance, to the following conditions:

2197 1. Notwithstanding any other provisions in the trust
 2198 instrument, if the trust fund is inadequate because it contains
 2199 an amount less than the amount required by paragraph (c), or if
 2200 the grantor of the trust has been declared insolvent or placed
 2201 into receivership, rehabilitation, liquidation, or similar
 2202 proceedings under the laws of its state or country of domicile,
 2203 the trustee shall comply with an order of the insurance
 2204 regulator with regulatory oversight over the trust or with an
 2205 order of a United States court of competent jurisdiction
 2206 directing the trustee to transfer to the insurance regulator
 2207 with regulatory oversight all of the assets of the trust fund.

2208 2. The assets must be distributed by and claims must be
 2209 filed with and valued by the insurance regulator with regulatory
 2210 oversight in accordance with the laws of the state in which the
 2211 trust is domiciled which are applicable to the liquidation of
 2212 domestic insurance companies.

2213 3. If the insurance regulator with regulatory oversight
 2214 determines that the assets of the trust fund or any part thereof
 2215 are not necessary to satisfy the claims of the United States
 2216 ceding insurers of the grantor of the trust, the assets or part
 2217 thereof must be returned by the insurance regulator with
 2218 regulatory oversight to the trustee for distribution in
 2219 accordance with the trust agreement.

2220 4. The grantor shall waive any right otherwise available
 2221 to it under United States law which is inconsistent with this
 2222 provision.

2223 Section 16. Paragraph (a) of subsection (3) of section
 2224 626.2815, Florida Statutes, is amended to read:

2225 626.2815 Continuing education required; application;
 2226 exceptions; requirements; penalties.--

2227 (3) (a) Each person subject to the provisions of this
 2228 section must, except as set forth in paragraphs (b), (c), and
 2229 (d), complete a minimum of 24 hours of continuing education
 2230 courses every 2 years in basic or higher-level courses
 2231 prescribed by this section or in other courses approved by the
 2232 department. Each person subject to the provisions of this
 2233 section must complete, as part of his or her required number of
 2234 continuing education hours, 3 hours of continuing education,
 2235 approved by the department, every 2 years on the subject matter
 2236 of ethics. Each licensed general lines agent and customer
 2237 representative subject to this section must complete, as part of
 2238 his or her required number of continuing education hours, 1 hour
 2239 of continuing education, approved by the department, every 2
 2240 years on the subject matter of premium discounts available on

2241 property insurance policies based on various hurricane
 2242 mitigation options and the means for obtaining the discounts.

2243 Section 17. Section 627.0613, Florida Statutes, is amended
 2244 to read:

2245 627.0613 Consumer advocate.--The Chief Financial Officer
 2246 must appoint a consumer advocate who must represent the general
 2247 public of the state before the department and the office. The
 2248 consumer advocate must report directly to the Chief Financial
 2249 Officer, but is not otherwise under the authority of the
 2250 department or of any employee of the department. The consumer
 2251 advocate has such powers as are necessary to carry out the
 2252 duties of the office of consumer advocate, including, but not
 2253 limited to, the powers to:

2254 (1) Recommend to the department or office, by petition,
 2255 the commencement of any proceeding or action; appear in any
 2256 proceeding or action before the department or office; or appear
 2257 in any proceeding before the Division of Administrative Hearings
 2258 or arbitration panel specified in s. 627.062(6) relating to
 2259 subject matter under the jurisdiction of the department or
 2260 office.

2261 (2) Have access to and use of all files, records, and data
 2262 of the department or office.

2263 (3) Examine rate and form filings submitted to the office,
 2264 hire consultants as necessary to aid in the review process, and
 2265 recommend to the department or office any position deemed by the
 2266 consumer advocate to be in the public interest.

2267 (4) Prepare an annual report card for each authorized
 2268 property insurer, on a form and using a letter-grade scale

2269 developed by the commission by rule, which grades each insurer
 2270 based on the following factors:

2271 1. The number and nature of consumer complaints received
 2272 by the department against the insurer.

2273 2. The disposition of all complaints received by the
 2274 department.

2275 3. The average length of time for payment of claims by the
 2276 insurer.

2277 4. Any other factors the commission identifies as
 2278 assisting policyholders in making informed choices about
 2279 homeowner's insurance.

2280 ~~(5)-(4)~~ Prepare an annual budget for presentation to the
 2281 Legislature by the department, which budget must be adequate to
 2282 carry out the duties of the office of consumer advocate.

2283 Section 18. Subsection (2) and paragraph (a) of subsection
 2284 (6) of section 627.062, Florida Statutes, are amended, present
 2285 subsection (9) of that section is redesignated as subsection
 2286 (10), and a new subsection (9) is added to that section, to
 2287 read:

2288 627.062 Rate standards.--

2289 (2) As to all such classes of insurance:

2290 (a) Insurers or rating organizations shall establish and
 2291 use rates, rating schedules, or rating manuals to allow the
 2292 insurer a reasonable rate of return on such classes of insurance
 2293 written in this state. A copy of rates, rating schedules,
 2294 rating manuals, premium credits or discount schedules, and
 2295 surcharge schedules, and changes thereto, shall be filed with
 2296 the office under one of the following procedures except as

2297 provided in subparagraph 3.:

2298 1. If the filing is made at least 90 days before the
2299 proposed effective date and the filing is not implemented during
2300 the office's review of the filing and any proceeding and
2301 judicial review, then such filing shall be considered a "file
2302 and use" filing. In such case, the office shall finalize its
2303 review by issuance of a notice of intent to approve or a notice
2304 of intent to disapprove within 90 days after receipt of the
2305 filing. The notice of intent to approve and the notice of intent
2306 to disapprove constitute agency action for purposes of the
2307 Administrative Procedure Act. Requests for supporting
2308 information, requests for mathematical or mechanical
2309 corrections, or notification to the insurer by the office of its
2310 preliminary findings shall not toll the 90-day period during any
2311 such proceedings and subsequent judicial review. The rate shall
2312 be deemed approved if the office does not issue a notice of
2313 intent to approve or a notice of intent to disapprove within 90
2314 days after receipt of the filing.

2315 2. If the filing is not made in accordance with the
2316 provisions of subparagraph 1., such filing shall be made as soon
2317 as practicable, but no later than 30 days after the effective
2318 date, and shall be considered a "use and file" filing. An
2319 insurer making a "use and file" filing is potentially subject to
2320 an order by the office to return to policyholders portions of
2321 rates found to be excessive, as provided in paragraph (h).

2322 3. For all filings made on or before December 31, 2008, an
2323 insurer seeking a rate that is greater than the rate most
2324 recently approved by the office shall make a "file and use"

2325 filing.

2326 (b) Upon receiving a rate filing, the office shall review
 2327 the rate filing to determine if a rate is excessive, inadequate,
 2328 or unfairly discriminatory. In making that determination, the
 2329 office shall, in accordance with generally accepted and
 2330 reasonable actuarial techniques, consider the following factors:

2331 1. Past and prospective loss experience within and without
 2332 this state.

2333 2. Past and prospective expenses.

2334 3. The degree of competition among insurers for the risk
 2335 insured.

2336 4. Investment income reasonably expected by the insurer,
 2337 consistent with the insurer's investment practices, from
 2338 investable premiums anticipated in the filing, plus any other
 2339 expected income from currently invested assets representing the
 2340 amount expected on unearned premium reserves and loss reserves.

2341 The commission may adopt rules utilizing reasonable techniques
 2342 of actuarial science and economics to specify the manner in
 2343 which insurers shall calculate investment income attributable to
 2344 such classes of insurance written in this state and the manner
 2345 in which such investment income shall be used in the calculation
 2346 of insurance rates. Such manner shall contemplate allowances
 2347 for an underwriting profit factor and full consideration of
 2348 investment income which produce a reasonable rate of return;
 2349 however, investment income from invested surplus shall not be
 2350 considered.

2351 5. The reasonableness of the judgment reflected in the
 2352 filing.

2353 6. Dividends, savings, or unabsorbed premium deposits
 2354 allowed or returned to Florida policyholders, members, or
 2355 subscribers.

2356 7. The adequacy of loss reserves.

2357 8. The cost of reinsurance.

2358 9. Trend factors, including trends in actual losses per
 2359 insured unit for the insurer making the filing.

2360 10. Conflagration and catastrophe hazards, if applicable.

2361 11. A reasonable margin for underwriting profit and
 2362 contingencies. For that portion of the rate covering the risk of
 2363 hurricanes and other catastrophic losses for which the insurer
 2364 has not purchased reinsurance and has exposed its capital and
 2365 surplus to such risk, the office must approve a rating factor
 2366 that provides the insurer a reasonable rate of return that is
 2367 commensurate with such risk.

2368 12. The cost of medical services, if applicable.

2369 13. Other relevant factors which impact upon the frequency
 2370 or severity of claims or upon expenses.

2371 (c) In the case of fire insurance rates, consideration
 2372 shall be given to the availability of water supplies and the
 2373 experience of the fire insurance business during a period of not
 2374 less than the most recent 5-year period for which such
 2375 experience is available.

2376 (d) If conflagration or catastrophe hazards are given
 2377 consideration by an insurer in its rates or rating plan,
 2378 including surcharges and discounts, the insurer shall establish
 2379 a reserve for that portion of the premium allocated to such
 2380 hazard and shall maintain the premium in a catastrophe reserve.

2381 Any removal of such premiums from the reserve for purposes other
 2382 than paying claims associated with a catastrophe or purchasing
 2383 reinsurance for catastrophes shall be subject to approval of the
 2384 office. Any ceding commission received by an insurer purchasing
 2385 reinsurance for catastrophes shall be placed in the catastrophe
 2386 reserve.

2387 (e) After consideration of the rate factors provided in
 2388 paragraphs (b), (c), and (d), a rate may be found by the office
 2389 to be excessive, inadequate, or unfairly discriminatory based
 2390 upon the following standards:

2391 1. Rates shall be deemed excessive if they are likely to
 2392 produce a profit from Florida business that is unreasonably high
 2393 in relation to the risk involved in the class of business or if
 2394 expenses are unreasonably high in relation to services rendered.

2395 2. Rates shall be deemed excessive if, among other things,
 2396 the rate structure established by a stock insurance company
 2397 provides for replenishment of surpluses from premiums, when the
 2398 replenishment is attributable to investment losses.

2399 3. Rates shall be deemed inadequate if they are clearly
 2400 insufficient, together with the investment income attributable
 2401 to them, to sustain projected losses and expenses in the class
 2402 of business to which they apply.

2403 4. A rating plan, including discounts, credits, or
 2404 surcharges, shall be deemed unfairly discriminatory if it fails
 2405 to clearly and equitably reflect consideration of the
 2406 policyholder's participation in a risk management program
 2407 adopted pursuant to s. 627.0625.

2408 5. A rate shall be deemed inadequate as to the premium

2409 | charged to a risk or group of risks if discounts or credits are
2410 | allowed which exceed a reasonable reflection of expense savings
2411 | and reasonably expected loss experience from the risk or group
2412 | of risks.

2413 | 6. A rate shall be deemed unfairly discriminatory as to a
2414 | risk or group of risks if the application of premium discounts,
2415 | credits, or surcharges among such risks does not bear a
2416 | reasonable relationship to the expected loss and expense
2417 | experience among the various risks.

2418 | (f) In reviewing a rate filing, the office may require the
2419 | insurer to provide at the insurer's expense all information
2420 | necessary to evaluate the condition of the company and the
2421 | reasonableness of the filing according to the criteria
2422 | enumerated in this section.

2423 | (g) The office may at any time review a rate, rating
2424 | schedule, rating manual, or rate change; the pertinent records
2425 | of the insurer; and market conditions. If the office finds on a
2426 | preliminary basis that a rate may be excessive, inadequate, or
2427 | unfairly discriminatory, the office shall initiate proceedings
2428 | to disapprove the rate and shall so notify the insurer. However,
2429 | the office may not disapprove as excessive any rate for which it
2430 | has given final approval or which has been deemed approved for a
2431 | period of 1 year after the effective date of the filing unless
2432 | the office finds that a material misrepresentation or material
2433 | error was made by the insurer or was contained in the filing.
2434 | Upon being so notified, the insurer or rating organization
2435 | shall, within 60 days, file with the office all information
2436 | which, in the belief of the insurer or organization, proves the

2437 | reasonableness, adequacy, and fairness of the rate or rate
2438 | change. The office shall issue a notice of intent to approve or
2439 | a notice of intent to disapprove pursuant to the procedures of
2440 | paragraph (a) within 90 days after receipt of the insurer's
2441 | initial response. In such instances and in any administrative
2442 | proceeding relating to the legality of the rate, the insurer or
2443 | rating organization shall carry the burden of proof by a
2444 | preponderance of the evidence to show that the rate is not
2445 | excessive, inadequate, or unfairly discriminatory. After the
2446 | office notifies an insurer that a rate may be excessive,
2447 | inadequate, or unfairly discriminatory, unless the office
2448 | withdraws the notification, the insurer shall not alter the rate
2449 | except to conform with the office's notice until the earlier of
2450 | 120 days after the date the notification was provided or 180
2451 | days after the date of the implementation of the rate. The
2452 | office may, subject to chapter 120, disapprove without the 60-
2453 | day notification any rate increase filed by an insurer within
2454 | the prohibited time period or during the time that the legality
2455 | of the increased rate is being contested.

2456 | (h) In the event the office finds that a rate or rate
2457 | change is excessive, inadequate, or unfairly discriminatory, the
2458 | office shall issue an order of disapproval specifying that a new
2459 | rate or rate schedule which responds to the findings of the
2460 | office be filed by the insurer. The office shall further order,
2461 | for any "use and file" filing made in accordance with
2462 | subparagraph (a)2., that premiums charged each policyholder
2463 | constituting the portion of the rate above that which was
2464 | actuarially justified be returned to such policyholder in the

2465 form of a credit or refund. If the office finds that an
 2466 insurer's rate or rate change is inadequate, the new rate or
 2467 rate schedule filed with the office in response to such a
 2468 finding shall be applicable only to new or renewal business of
 2469 the insurer written on or after the effective date of the
 2470 responsive filing.

2471 (i) Except as otherwise specifically provided in this
 2472 chapter, the office shall not prohibit any insurer, including
 2473 any residual market plan or joint underwriting association, from
 2474 paying acquisition costs based on the full amount of premium, as
 2475 defined in s. 627.403, applicable to any policy, or prohibit any
 2476 such insurer from including the full amount of acquisition costs
 2477 in a rate filing.

2478 (j) With respect to residential property insurance rate
 2479 filings, the rate filing must account for mitigation measures
 2480 undertaken by policyholders to reduce hurricane losses.

2481 ~~(j) Effective July 1, 2007, notwithstanding any other~~
 2482 ~~provision of this section:~~

2483 ~~1. With respect to any residential property insurance~~
 2484 ~~subject to regulation under this section for any area for which~~
 2485 ~~the office determines a reasonable degree of competition exists,~~
 2486 ~~a rate filing, including, but not limited to, any rate changes,~~
 2487 ~~rating factors, territories, classification, discounts, and~~
 2488 ~~credits, with respect to any policy form, including endorsements~~
 2489 ~~issued with the form, that results in an overall average~~
 2490 ~~statewide premium increase or decrease of no more than 5 percent~~
 2491 ~~above or below the premium that would result from the insurer's~~
 2492 ~~rates then in effect shall not be subject to a determination by~~

2493 ~~the office that the rate is excessive or unfairly discriminatory~~
 2494 ~~except as provided in subparagraph 3., or any other provision of~~
 2495 ~~law, provided all changes specified in the filing do not result~~
 2496 ~~in an overall premium increase of more than 10 percent for any~~
 2497 ~~one territory, for reasons related solely to the rate change. As~~
 2498 ~~used in this subparagraph, the term "insurer's rates then in~~
 2499 ~~effect" includes only rates that have been lawfully in effect~~
 2500 ~~under this section or rates that have been determined to be~~
 2501 ~~lawful through administrative proceedings or judicial~~
 2502 ~~proceedings.~~

2503 ~~2. An insurer may not make filings under this paragraph~~
 2504 ~~with respect to any policy form, including endorsements issued~~
 2505 ~~with the form, if the overall premium changes resulting from~~
 2506 ~~such filings exceed the amounts specified in this paragraph in~~
 2507 ~~any 12-month period. An insurer may proceed under other~~
 2508 ~~provisions of this section or other provisions of law if the~~
 2509 ~~insurer seeks to exceed the premium or rate limitations of this~~
 2510 ~~paragraph.~~

2511 ~~3. This paragraph does not affect the authority of the~~
 2512 ~~office to disapprove a rate as inadequate or to disapprove a~~
 2513 ~~filing for the unlawful use of unfairly discriminatory rating~~
 2514 ~~factors that are prohibited by the laws of this state. An~~
 2515 ~~insurer electing to implement a rate change under this paragraph~~
 2516 ~~shall submit a filing to the office at least 40 days prior to~~
 2517 ~~the effective date of the rate change. The office shall have 30~~
 2518 ~~days after the filing's submission to review the filing and~~
 2519 ~~determine if the rate is inadequate or uses unfairly~~
 2520 ~~discriminatory rating factors. Absent a finding by the office~~

2521 ~~within such 30 day period that the rate is inadequate or that~~
2522 ~~the insurer has used unfairly discriminatory rating factors, the~~
2523 ~~filing is deemed approved. If the office finds during the 30 day~~
2524 ~~period that the filing will result in inadequate premiums or~~
2525 ~~otherwise endanger the insurer's solvency, the office shall~~
2526 ~~suspend the rate decrease. If the insurer is implementing an~~
2527 ~~overall rate increase, the results of which continue to produce~~
2528 ~~an inadequate rate, such increase shall proceed pending~~
2529 ~~additional action by the office to ensure the adequacy of the~~
2530 ~~rate.~~

2531 ~~4. This paragraph does not apply to rate filings for any~~
2532 ~~insurance other than residential property insurance.~~

2533
2534 The provisions of this subsection shall not apply to workers'
2535 compensation and employer's liability insurance and to motor
2536 vehicle insurance.

2537
2538 The provisions of this subsection shall not apply to workers'
2539 compensation and employer's liability insurance and to motor
2540 vehicle insurance.

2541 (6) (a) After any action with respect to a rate filing that
2542 constitutes agency action for purposes of the Administrative
2543 Procedure Act, except for a rate filing for medical malpractice,
2544 an insurer may, in lieu of demanding a hearing under s. 120.57,
2545 require arbitration of the rate filing. However, the arbitration
2546 option provision in this subsection does not apply to a rate
2547 filing that is made on or after the effective date of this act
2548 until January 1, 2009. Arbitration shall be conducted by a board

2549 of arbitrators consisting of an arbitrator selected by the
2550 office, an arbitrator selected by the insurer, and an arbitrator
2551 selected jointly by the other two arbitrators. Each arbitrator
2552 must be certified by the American Arbitration Association. A
2553 decision is valid only upon the affirmative vote of at least two
2554 of the arbitrators. No arbitrator may be an employee of any
2555 insurance regulator or regulatory body or of any insurer,
2556 regardless of whether or not the employing insurer does business
2557 in this state. The office and the insurer must treat the
2558 decision of the arbitrators as the final approval of a rate
2559 filing. Costs of arbitration shall be paid by the insurer.

2560 (9) (a) Effective March 1, 2007, the chief executive
2561 officer or chief financial officer of a property insurer and the
2562 chief actuary of a property insurer must certify under oath and
2563 subject to the penalty of perjury, on a form approved by the
2564 commission, the following information, which must accompany a
2565 rate filing:

2566 1. The signing officer and actuary have reviewed the rate
2567 filing;

2568 2. Based on the signing officer's and actuary's knowledge,
2569 the rate filing does not contain any untrue statement of a
2570 material fact or omit to state a material fact necessary in
2571 order to make the statements made, in light of the circumstances
2572 under which such statements were made, not misleading;

2573 3. Based on the signing officer's and actuary's knowledge,
2574 the information and other factors described in s. 627.062(2)(b),
2575 including, but not limited to, investment income, fairly present
2576 in all material respects the basis of the rate filing for the

2577 periods presented in the filing; and

2578 4. Based on the signing officer's and actuary's knowledge,
 2579 the rate filing reflects all premium savings that are reasonably
 2580 expected to result from legislative enactments and are in
 2581 accordance with generally accepted and reasonable actuarial
 2582 techniques.

2583 (b) A signing officer or actuary knowingly making a false
 2584 certification under this subsection commits a violation of s.
 2585 626.9541(1)(e) and is subject to the penalties under s.
 2586 626.9521.

2587 (c) Failure to provide such certification by the officer
 2588 and actuary shall result in the rate filing being disapproved
 2589 without prejudice to be refiled.

2590 (d) The commission may adopt rules and forms pursuant to
 2591 ss. 120.536(1) and 120.54 to administer this subsection.

2592 Section 19. Subsection (1) of section 627.0629, Florida
 2593 Statutes, is amended to read:

2594 627.0629 Residential property insurance; rate filings.--

2595 (1) It is the intent of the Legislature that insurers must
 2596 provide savings to consumers who install or implement windstorm
 2597 damage mitigation techniques, alterations, or solutions to their
 2598 properties to prevent windstorm losses. ~~Effective June 1, 2002,~~

2599 A rate filing for residential property insurance must include
 2600 actuarially reasonable discounts, credits, or other rate
 2601 differentials, or appropriate reductions in deductibles, for
 2602 properties on which fixtures or construction techniques
 2603 demonstrated to reduce the amount of loss in a windstorm have
 2604 been installed or implemented. The fixtures or construction

2605 techniques shall include, but not be limited to, fixtures or
 2606 construction techniques which enhance roof strength, roof
 2607 covering performance, roof-to-wall strength, wall-to-floor-to-
 2608 foundation strength, opening protection, and window, door, and
 2609 skylight strength. Credits, discounts, or other rate
 2610 differentials, or appropriate reductions in deductibles, for
 2611 fixtures and construction techniques which meet the minimum
 2612 requirements of the Florida Building Code must be included in
 2613 the rate filing. All insurance companies must make a rate filing
 2614 which includes the credits, discounts, or other rate
 2615 differentials or reductions in deductibles by February 28, 2003.
 2616 By July 1, 2007, the office shall reevaluate the discounts,
 2617 credits, other rate differentials, and appropriate reductions in
 2618 deductibles for fixtures and construction techniques that meet
 2619 the minimum requirements of the Florida Building Code, based
 2620 upon actual experience or any other loss relativity studies
 2621 available to the office. The office shall determine the
 2622 discounts, credits, other rate differentials, and appropriate
 2623 reductions in deductibles that reflect the full actuarial value
 2624 of such revaluation, which may be used by insurers in rate
 2625 filings.

2626 Section 20. Section 627.0655, Florida Statutes, is created
 2627 to read:

2628 627.0655 Policyholder loss or expense-related premium
 2629 discounts.--An insurer or person authorized to engage in the
 2630 business of insurance in this state may include, in the premium
 2631 charged an insured for any policy, contract, or certificate of
 2632 insurance, a discount based on the fact that another policy,

2633 contract, or certificate of any type has been purchased by the
 2634 insured.

2635 Section 21. Paragraphs (a), (b), (c), (m), (p), and (s) of
 2636 subsection (6) of section 627.351, Florida Statutes, are
 2637 amended, and paragraph (ee) is added to that subsection, to
 2638 read:

2639 627.351 Insurance risk apportionment plans.--

2640 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

2641 (a)1. The Legislature finds that actual and threatened
 2642 catastrophic losses to property in this state from hurricanes
 2643 have caused insurers to be unwilling or unable to provide
 2644 property insurance coverage to the extent sought and needed. It
 2645 is in the public interest and a public purpose to assist in
 2646 assuring that property in the state is insured so as to
 2647 facilitate the remediation, reconstruction, and replacement of
 2648 damaged or destroyed property in order to reduce or avoid the
 2649 negative effects otherwise resulting to the public health,
 2650 safety, and welfare; to the economy of the state; and to the
 2651 revenues of the state and local governments needed to provide
 2652 for the public welfare. It is necessary, therefore, to provide
 2653 property insurance to applicants who are in good faith entitled
 2654 to procure insurance through the voluntary market but are unable
 2655 to do so. The Legislature intends by this subsection that
 2656 property insurance be provided and that it continues, as long as
 2657 necessary, through an entity organized to achieve efficiencies
 2658 and economies, while providing service to policyholders,
 2659 applicants, and agents that is no less than the quality
 2660 generally provided in the voluntary market, all toward the

2661 achievement of the foregoing public purposes. Because it is
2662 essential for the corporation to have the maximum financial
2663 resources to pay claims following a catastrophic hurricane, it
2664 is the intent of the Legislature that the income of the
2665 corporation be exempt from federal income taxation and that
2666 interest on the debt obligations issued by the corporation be
2667 exempt from federal income taxation.

2668 2. The Residential Property and Casualty Joint
2669 Underwriting Association originally created by this statute
2670 shall be known, as of July 1, 2002, as the Citizens Property
2671 Insurance Corporation. The corporation shall provide insurance
2672 for residential and commercial property, for applicants who are
2673 in good faith entitled, but are unable, to procure insurance
2674 through the voluntary market. The corporation shall operate
2675 pursuant to a plan of operation approved by order of the
2676 Financial Services Commission. The plan is subject to continuous
2677 review by the commission. The commission may, by order, withdraw
2678 approval of all or part of a plan if the commission determines
2679 that conditions have changed since approval was granted and that
2680 the purposes of the plan require changes in the plan. The
2681 corporation shall continue to operate pursuant to the plan of
2682 operation approved by the Office of Insurance Regulation until
2683 October 1, 2006. For the purposes of this subsection,
2684 residential coverage includes both personal lines residential
2685 coverage, which consists of the type of coverage provided by
2686 homeowner's, mobile home owner's, dwelling, tenant's,
2687 condominium unit owner's, and similar policies, and commercial
2688 lines residential coverage, which consists of the type of

2689 coverage provided by condominium association, apartment
 2690 building, and similar policies.

2691 3. For the purposes of this subsection, the term
 2692 "homestead property" means:

2693 a. Property that has been granted a homestead exemption
 2694 under chapter 196;

2695 b. Property for which the owner has a current, written
 2696 lease with a renter for a term of at least 7 months and for
 2697 which the dwelling is insured by the corporation for \$200,000 or
 2698 less;

2699 c. An owner-occupied mobile home or manufactured home, as
 2700 defined in s. 320.01, which is permanently affixed to real
 2701 property, is owned by a Florida resident, and has been granted a
 2702 homestead exemption under chapter 196 or, if the owner does not
 2703 own the real property, the owner certifies that the mobile home
 2704 or manufactured home is his or her principal place of
 2705 residence;-

2706 d. Tenant's coverage;

2707 e. Commercial lines residential property; or

2708 f. Any county, district, or municipal hospital; a hospital
 2709 licensed by any not-for-profit corporation qualified under s.
 2710 501(c)(3) of the United States Internal Revenue Code; or a
 2711 continuing care retirement community that is certified under
 2712 chapter 651 and that receives an exemption from ad valorem taxes
 2713 under chapter 196.

2714 4. For the purposes of this subsection, the term
 2715 "nonhomestead property" means property that is not homestead
 2716 property.

2717 5. Effective July 1, 2008, a personal lines residential
2718 structure that has a dwelling replacement cost of \$1 million or
2719 more, or a single condominium unit that has a combined dwelling
2720 and content replacement cost of \$1 million or more is not
2721 eligible for coverage by the corporation. Such dwellings insured
2722 by the corporation on June 30, 2008, may continue to be covered
2723 by the corporation until the end of the policy term. However,
2724 such dwellings that are insured by the corporation and become
2725 ineligible for coverage due to the provisions of this
2726 subparagraph may reapply and obtain coverage in the high-risk
2727 account and be considered "nonhomestead property" if the
2728 property owner provides the corporation with a sworn affidavit
2729 from one or more insurance agents, on a form provided by the
2730 corporation, stating that the agents have made their best
2731 efforts to obtain coverage and that the property has been
2732 rejected for coverage by at least one authorized insurer and at
2733 least three surplus lines insurers. If such conditions are met,
2734 the dwelling may be insured by the corporation for up to 3
2735 years, after which time the dwelling is ineligible for coverage.
2736 The office shall approve the method used by the corporation for
2737 valuing the dwelling replacement cost for the purposes of this
2738 subparagraph. If a policyholder is insured by the corporation
2739 prior to being determined to be ineligible pursuant to this
2740 subparagraph and such policyholder files a lawsuit challenging
2741 the determination, the policyholder may remain insured by the
2742 corporation until the conclusion of the litigation.

2743 6. For properties constructed on or after January 1, 2009,
2744 the corporation may not insure any property located within 2,500

2745 feet landward of the coastal construction control line created
2746 pursuant to s. 161.053 unless the property meets the
2747 requirements of the code-plus building standards developed by
2748 the Florida Building Commission.

2749 ~~6. Effective March 1, 2007, nonhomestead property is not~~
2750 ~~eligible for coverage by the corporation and is not eligible for~~
2751 ~~renewal of such coverage unless the property owner provides the~~
2752 ~~corporation with a sworn affidavit from one or more insurance~~
2753 ~~agents, on a form provided by the corporation, stating that the~~
2754 ~~agents have made their best efforts to obtain coverage and that~~
2755 ~~the property has been rejected for coverage by at least one~~
2756 ~~authorized insurer and at least three surplus lines insurers.~~

2757 7. It is the intent of the Legislature that policyholders,
2758 applicants, and agents of the corporation receive service and
2759 treatment of the highest possible level but never less than that
2760 generally provided in the voluntary market. It also is intended
2761 that the corporation be held to service standards no less than
2762 those applied to insurers in the voluntary market by the office
2763 with respect to responsiveness, timeliness, customer courtesy,
2764 and overall dealings with policyholders, applicants, or agents
2765 of the corporation.

2766 (b)1. All insurers authorized to write one or more subject
2767 lines of business in this state are subject to assessment by the
2768 corporation and, for the purposes of this subsection, are
2769 referred to collectively as "assessable insurers." Insurers
2770 writing one or more subject lines of business in this state
2771 pursuant to part VIII of chapter 626 are not assessable
2772 insurers, but insureds who procure one or more subject lines of

2773 business in this state pursuant to part VIII of chapter 626 are
 2774 subject to assessment by the corporation and are referred to
 2775 collectively as "assessable insureds." An authorized insurer's
 2776 assessment liability shall begin on the first day of the
 2777 calendar year following the year in which the insurer was issued
 2778 a certificate of authority to transact insurance for subject
 2779 lines of business in this state and shall terminate 1 year after
 2780 the end of the first calendar year during which the insurer no
 2781 longer holds a certificate of authority to transact insurance
 2782 for subject lines of business in this state.

2783 2.a. All revenues, assets, liabilities, losses, and
 2784 expenses of the corporation shall be divided into three separate
 2785 accounts as follows:

2786 (I) A personal lines account for personal residential
 2787 policies issued by the corporation or issued by the Residential
 2788 Property and Casualty Joint Underwriting Association and renewed
 2789 by the corporation that provide comprehensive, multiperil
 2790 coverage on risks that are not located in areas eligible for
 2791 coverage in the Florida Windstorm Underwriting Association as
 2792 those areas were defined on January 1, 2002, and for such
 2793 policies that do not provide coverage for the peril of wind on
 2794 risks that are located in such areas;

2795 (II) A commercial lines account for commercial residential
 2796 and commercial nonresidential policies issued by the corporation
 2797 or issued by the Residential Property and Casualty Joint
 2798 Underwriting Association and renewed by the corporation that
 2799 provide coverage for basic property perils on risks that are not
 2800 located in areas eligible for coverage in the Florida Windstorm

2801 Underwriting Association as those areas were defined on January
 2802 1, 2002, and for such policies that do not provide coverage for
 2803 the peril of wind on risks that are located in such areas; and
 2804 (III) A high-risk account for personal residential
 2805 policies and commercial residential and commercial
 2806 nonresidential property policies issued by the corporation or
 2807 transferred to the corporation that provide coverage for the
 2808 peril of wind on risks that are located in areas eligible for
 2809 coverage in the Florida Windstorm Underwriting Association as
 2810 those areas were defined on January 1, 2002. Subject to the
 2811 approval of a business plan by the Financial Services Commission
 2812 and Legislative Budget Commission as provided in this sub-sub-
 2813 subparagraph, but no earlier than March 31, 2007, the
 2814 corporation may offer policies that provide multiperil coverage
 2815 and the corporation shall continue to offer policies that
 2816 provide coverage only for the peril of wind for risks located in
 2817 areas eligible for coverage in the high-risk account. In issuing
 2818 multiperil coverage, the corporation may use its approved policy
 2819 forms and rates for the personal lines account. An applicant or
 2820 insured who is eligible to purchase a multiperil policy from the
 2821 corporation may purchase a multiperil policy from an authorized
 2822 insurer without prejudice to the applicant's or insured's
 2823 eligibility to prospectively purchase a policy that provides
 2824 coverage only for the peril of wind from the corporation. An
 2825 applicant or insured who is eligible for a corporation policy
 2826 that provides coverage only for the peril of wind may elect to
 2827 purchase or retain such policy and also purchase or retain
 2828 coverage excluding wind from an authorized insurer without

2829 prejudice to the applicant's or insured's eligibility to
2830 prospectively purchase a policy that provides multiperil
2831 coverage from the corporation. It is the goal of the Legislature
2832 that there would be an overall average savings of 10 percent or
2833 more for a policyholder who currently has a wind-only policy
2834 with the corporation, and an ex-wind policy with a voluntary
2835 insurer or the corporation, and who then obtains a multiperil
2836 policy from the corporation. It is the intent of the Legislature
2837 that the offer of multiperil coverage in the high-risk account
2838 be made and implemented in a manner that does not adversely
2839 affect the tax-exempt status of the corporation or
2840 creditworthiness of or security for currently outstanding
2841 financing obligations or credit facilities of the high-risk
2842 account, the personal lines account, or the commercial lines
2843 account. By March 1, 2007, the corporation shall prepare and
2844 submit for approval by the Financial Services Commission and
2845 Legislative Budget Commission a report detailing the
2846 corporation's business plan for issuing multiperil coverage in
2847 the high-risk account. The business plan shall be approved or
2848 disapproved within 30 days after receipt, as submitted or
2849 modified and resubmitted by the corporation. The business plan
2850 must include: the impact of such multiperil coverage on the
2851 corporation's financial resources, the impact of such multiperil
2852 coverage on the corporation's tax-exempt status, the manner in
2853 which the corporation plans to implement the processing of
2854 applications and policy forms for new and existing
2855 policyholders, the impact of such multiperil coverage on the
2856 corporation's ability to deliver customer service at the high

2857 level required by this subsection, the ability of the
2858 corporation to process claims, the ability of the corporation to
2859 quote and issue policies, the impact of such multiperil coverage
2860 on the corporation's agents, the impact of such multiperil
2861 coverage on the corporation's existing policyholders, and the
2862 impact of such multiperil coverage on rates and premium. The
2863 high-risk account must also include quota share primary
2864 insurance under subparagraph (c)2. The area eligible for
2865 coverage under the high-risk account also includes the area
2866 within Port Canaveral, which is bordered on the south by the
2867 City of Cape Canaveral, bordered on the west by the Banana
2868 River, and bordered on the north by Federal Government property.
2869 ~~The office may remove territory from the area eligible for wind-~~
2870 ~~only and quota share coverage if, after a public hearing, the~~
2871 ~~office finds that authorized insurers in the voluntary market~~
2872 ~~are willing and able to write sufficient amounts of personal and~~
2873 ~~commercial residential coverage for all perils in the territory,~~
2874 ~~including coverage for the peril of wind, such that risks~~
2875 ~~covered by wind only policies in the removed territory could be~~
2876 ~~issued a policy by the corporation in either the personal lines~~
2877 ~~or commercial lines account without a significant increase in~~
2878 ~~the corporation's probable maximum loss in such account. Removal~~
2879 ~~of territory from the area eligible for wind only or quota share~~
2880 ~~coverage does not alter the assignment of wind coverage written~~
2881 ~~in such areas to the high risk account.~~

2882 b. The three separate accounts must be maintained as long
2883 as financing obligations entered into by the Florida Windstorm
2884 Underwriting Association or Residential Property and Casualty

2885 Joint Underwriting Association are outstanding, in accordance
 2886 with the terms of the corresponding financing documents. When
 2887 the financing obligations are no longer outstanding, in
 2888 accordance with the terms of the corresponding financing
 2889 documents, the corporation may use a single account for all
 2890 revenues, assets, liabilities, losses, and expenses of the
 2891 corporation. Consistent with the requirement of this
 2892 subparagraph and prudent investment policies that minimize the
 2893 cost of carrying debt, the board shall exercise its best efforts
 2894 to retire existing debt or to obtain approval of necessary
 2895 parties to amend the terms of existing debt, so as to structure
 2896 the most efficient plan to consolidate the three separate
 2897 accounts into a single account. By February 1, 2007, the board
 2898 shall submit a report to the Financial Services Commission, the
 2899 President of the Senate, and the Speaker of the House of
 2900 Representatives which includes an analysis of consolidating the
 2901 accounts, the actions the board has taken to minimize the cost
 2902 of carrying debt, and its recommendations for executing the most
 2903 efficient plan.

2904 c. Creditors of the Residential Property and Casualty
 2905 Joint Underwriting Association shall have a claim against, and
 2906 recourse to, the accounts referred to in sub-sub-subparagraphs
 2907 a.(I) and (II) and shall have no claim against, or recourse to,
 2908 the account referred to in sub-sub-subparagraph a.(III).
 2909 Creditors of the Florida Windstorm Underwriting Association
 2910 shall have a claim against, and recourse to, the account
 2911 referred to in sub-sub-subparagraph a.(III) and shall have no
 2912 claim against, or recourse to, the accounts referred to in sub-

2913 sub-subparagraphs a.(I) and (II).

2914 d. Revenues, assets, liabilities, losses, and expenses not
 2915 attributable to particular accounts shall be prorated among the
 2916 accounts.

2917 e. The Legislature finds that the revenues of the
 2918 corporation are revenues that are necessary to meet the
 2919 requirements set forth in documents authorizing the issuance of
 2920 bonds under this subsection.

2921 f. No part of the income of the corporation may inure to
 2922 the benefit of any private person.

2923 3. With respect to a deficit in an account:

2924 a. When the deficit incurred in a particular calendar year
 2925 is not greater than 10 percent of the aggregate statewide direct
 2926 written premium for the subject lines of business for the prior
 2927 calendar year, the entire deficit shall be recovered through
 2928 regular assessments of assessable insurers under paragraph (p)
 2929 and assessable insureds.

2930 b. When the deficit incurred in a particular calendar year
 2931 exceeds 10 percent of the aggregate statewide direct written
 2932 premium for the subject lines of business for the prior calendar
 2933 year, the corporation shall levy regular assessments on
 2934 assessable insurers under paragraph (p) and on assessable
 2935 insureds in an amount equal to the greater of 10 percent of the
 2936 deficit or 10 percent of the aggregate statewide direct written
 2937 premium for the subject lines of business for the prior calendar
 2938 year. Any remaining deficit shall be recovered through emergency
 2939 assessments under sub-subparagraph d.

2940 c. Each assessable insurer's share of the amount being

2941 assessed under sub-subparagraph a. or sub-subparagraph b. shall
2942 be in the proportion that the assessable insurer's direct
2943 written premium for the subject lines of business for the year
2944 preceding the assessment bears to the aggregate statewide direct
2945 written premium for the subject lines of business for that year.
2946 The assessment percentage applicable to each assessable insured
2947 is the ratio of the amount being assessed under sub-subparagraph
2948 a. or sub-subparagraph b. to the aggregate statewide direct
2949 written premium for the subject lines of business for the prior
2950 year. Assessments levied by the corporation on assessable
2951 insurers under sub-subparagraphs a. and b. shall be paid as
2952 required by the corporation's plan of operation and paragraph
2953 (p). Notwithstanding any other provision of this subsection, the
2954 aggregate amount of a regular assessment for a deficit incurred
2955 in a particular calendar year shall be reduced by the estimated
2956 amount to be received by the corporation from the Citizens
2957 policyholder surcharge under subparagraph (c)11. and the amount
2958 collected or estimated to be collected from the assessment on
2959 Citizens policyholders pursuant to sub-subparagraph i.
2960 Assessments levied by the corporation on assessable insureds
2961 under sub-subparagraphs a. and b. shall be collected by the
2962 surplus lines agent at the time the surplus lines agent collects
2963 the surplus lines tax required by s. 626.932 and shall be paid
2964 to the Florida Surplus Lines Service Office at the time the
2965 surplus lines agent pays the surplus lines tax to the Florida
2966 Surplus Lines Service Office. Upon receipt of regular
2967 assessments from surplus lines agents, the Florida Surplus Lines
2968 Service Office shall transfer the assessments directly to the

2969 corporation as determined by the corporation.
 2970 d. Upon a determination by the board of governors that a
 2971 deficit in an account exceeds the amount that will be recovered
 2972 through regular assessments under sub-subparagraph a. or sub-
 2973 subparagraph b., the board shall levy, after verification by the
 2974 office, emergency assessments, for as many years as necessary to
 2975 cover the deficits, to be collected by assessable insurers and
 2976 the corporation and collected from assessable insureds upon
 2977 issuance or renewal of policies for subject lines of business,
 2978 excluding National Flood Insurance policies. The amount of the
 2979 emergency assessment collected in a particular year shall be a
 2980 uniform percentage of that year's direct written premium for
 2981 subject lines of business and all accounts of the corporation,
 2982 excluding National Flood Insurance Program policy premiums, as
 2983 annually determined by the board and verified by the office. The
 2984 office shall verify the arithmetic calculations involved in the
 2985 board's determination within 30 days after receipt of the
 2986 information on which the determination was based.
 2987 Notwithstanding any other provision of law, the corporation and
 2988 each assessable insurer that writes subject lines of business
 2989 shall collect emergency assessments from its policyholders
 2990 without such obligation being affected by any credit,
 2991 limitation, exemption, or deferment. Emergency assessments
 2992 levied by the corporation on assessable insureds shall be
 2993 collected by the surplus lines agent at the time the surplus
 2994 lines agent collects the surplus lines tax required by s.
 2995 626.932 and shall be paid to the Florida Surplus Lines Service
 2996 Office at the time the surplus lines agent pays the surplus

2997 | lines tax to the Florida Surplus Lines Service Office. The
 2998 | emergency assessments so collected shall be transferred directly
 2999 | to the corporation on a periodic basis as determined by the
 3000 | corporation and shall be held by the corporation solely in the
 3001 | applicable account. The aggregate amount of emergency
 3002 | assessments levied for an account under this sub-subparagraph in
 3003 | any calendar year may not exceed the greater of 10 percent of
 3004 | the amount needed to cover the original deficit, plus interest,
 3005 | fees, commissions, required reserves, and other costs associated
 3006 | with financing of the original deficit, or 10 percent of the
 3007 | aggregate statewide direct written premium for subject lines of
 3008 | business and for all accounts of the corporation for the prior
 3009 | year, plus interest, fees, commissions, required reserves, and
 3010 | other costs associated with financing the original deficit.

3011 | e. The corporation may pledge the proceeds of assessments,
 3012 | projected recoveries from the Florida Hurricane Catastrophe
 3013 | Fund, other insurance and reinsurance recoverables, policyholder
 3014 | surcharges and other surcharges, and other funds available to
 3015 | the corporation as the source of revenue for and to secure bonds
 3016 | issued under paragraph (p), bonds or other indebtedness issued
 3017 | under subparagraph (c)3., or lines of credit or other financing
 3018 | mechanisms issued or created under this subsection, or to retire
 3019 | any other debt incurred as a result of deficits or events giving
 3020 | rise to deficits, or in any other way that the board determines
 3021 | will efficiently recover such deficits. The purpose of the lines
 3022 | of credit or other financing mechanisms is to provide additional
 3023 | resources to assist the corporation in covering claims and
 3024 | expenses attributable to a catastrophe. As used in this

3025 subsection, the term "assessments" includes regular assessments
 3026 under sub-subparagraph a., sub-subparagraph b., or subparagraph
 3027 (p)1. and emergency assessments under sub-subparagraph d.
 3028 Emergency assessments collected under sub-subparagraph d. are
 3029 not part of an insurer's rates, are not premium, and are not
 3030 subject to premium tax, fees, or commissions; however, failure
 3031 to pay the emergency assessment shall be treated as failure to
 3032 pay premium. The emergency assessments under sub-subparagraph d.
 3033 shall continue as long as any bonds issued or other indebtedness
 3034 incurred with respect to a deficit for which the assessment was
 3035 imposed remain outstanding, unless adequate provision has been
 3036 made for the payment of such bonds or other indebtedness
 3037 pursuant to the documents governing such bonds or other
 3038 indebtedness.

3039 f. As used in this subsection, the term "subject lines of
 3040 business" means insurance written by assessable insurers or
 3041 procured by assessable insureds for all property and casualty
 3042 lines of business in this state, but not including workers'
 3043 compensation or medical malpractice. As used in the sub-
 3044 subparagraph, the term "property and casualty lines of business"
 3045 includes all lines of business identified on Form 2, Exhibit of
 3046 Premiums and Losses, in the annual statement required of
 3047 authorized insurers by s. 624.424 and any rule adopted under
 3048 this section, except for those lines identified as accident and
 3049 health insurance and except for policies written under the
 3050 National Flood Insurance program or the Federal Crop Insurance
 3051 Program. For purposes of this sub-subparagraph, the term
 3052 "workers' compensation" includes both workers' compensation

3053 ~~insurance and excess workers' compensation insurance. on real or~~
3054 ~~personal property, as defined in s. 624.604, including insurance~~
3055 ~~for fire, industrial fire, allied lines, farmowners multiperil,~~
3056 ~~homeowners multiperil, commercial multiperil, and mobile homes,~~
3057 ~~and including liability coverage on all such insurance, but~~
3058 ~~excluding inland marine as defined in s. 624.607(3) and~~
3059 ~~excluding vehicle insurance as defined in s. 624.605(1) other~~
3060 ~~than insurance on mobile homes used as permanent dwellings.~~

3061 g. The Florida Surplus Lines Service Office shall
3062 determine annually the aggregate statewide written premium in
3063 subject lines of business procured by assessable insureds and
3064 shall report that information to the corporation in a form and
3065 at a time the corporation specifies to ensure that the
3066 corporation can meet the requirements of this subsection and the
3067 corporation's financing obligations.

3068 h. The Florida Surplus Lines Service Office shall verify
3069 the proper application by surplus lines agents of assessment
3070 percentages for regular assessments and emergency assessments
3071 levied under this subparagraph on assessable insureds and shall
3072 assist the corporation in ensuring the accurate, timely
3073 collection and payment of assessments by surplus lines agents as
3074 required by the corporation.

3075 i. If a deficit is incurred in any account in 2008 or
3076 thereafter, the board of governors shall levy an immediate
3077 assessment against the premium of each nonhomestead property
3078 policyholder in all accounts of the corporation, as a uniform
3079 percentage of the premium of the policy of up to 10 percent of
3080 such premium, which funds shall be used to offset the deficit.

3081 If this assessment is insufficient to eliminate the deficit, the
 3082 board of governors shall levy an additional assessment against
 3083 all policyholders of the corporation, which shall be collected
 3084 at the time of issuance or renewal of a policy, as a uniform
 3085 percentage of the premium for the policy of up to 10 percent of
 3086 such premium, which funds shall be used to further offset the
 3087 deficit.

3088 j. The board of governors shall maintain separate
 3089 accounting records that consolidate data for nonhomestead
 3090 properties, including, but not limited to, number of policies,
 3091 insured values, premiums written, and losses. The board of
 3092 governors shall annually report to the office and the
 3093 Legislature a summary of such data.

3094 (c) The plan of operation of the corporation:

3095 1. Must provide for adoption of residential property and
 3096 casualty insurance policy forms and commercial residential and
 3097 nonresidential property insurance forms, which forms must be
 3098 approved by the office prior to use. The corporation shall adopt
 3099 the following policy forms:

3100 a. Standard personal lines policy forms that are
 3101 comprehensive multiperil policies providing full coverage of a
 3102 residential property equivalent to the coverage provided in the
 3103 private insurance market under an HO-3, HO-4, or HO-6 policy.

3104 b. Basic personal lines policy forms that are policies
 3105 similar to an HO-8 policy or a dwelling fire policy that provide
 3106 coverage meeting the requirements of the secondary mortgage
 3107 market, but which coverage is more limited than the coverage
 3108 under a standard policy.

3109 c. Commercial lines residential and nonresidential policy
3110 forms that are generally similar to the basic perils of full
3111 coverage obtainable for commercial residential structures and
3112 commercial nonresidential structures in the admitted voluntary
3113 market.

3114 d. Personal lines and commercial lines residential
3115 property insurance forms that cover the peril of wind only. The
3116 forms are applicable only to residential properties located in
3117 areas eligible for coverage under the high-risk account referred
3118 to in sub-subparagraph (b)2.a.

3119 e. Commercial lines nonresidential property insurance
3120 forms that cover the peril of wind only. The forms are
3121 applicable only to nonresidential properties located in areas
3122 eligible for coverage under the high-risk account referred to in
3123 sub-subparagraph (b)2.a.

3124 f. The corporation may adopt variations of the policy
3125 forms listed in sub-subparagraphs a.-e. that contain more
3126 restrictive coverage.

3127 2.a. Must provide that the corporation adopt a program in
3128 which the corporation and authorized insurers enter into quota
3129 share primary insurance agreements for hurricane coverage, as
3130 defined in s. 627.4025(2)(a), for eligible risks, and adopt
3131 property insurance forms for eligible risks which cover the
3132 peril of wind only. As used in this subsection, the term:

3133 (I) "Quota share primary insurance" means an arrangement
3134 in which the primary hurricane coverage of an eligible risk is
3135 provided in specified percentages by the corporation and an
3136 authorized insurer. The corporation and authorized insurer are

3137 each solely responsible for a specified percentage of hurricane
3138 coverage of an eligible risk as set forth in a quota share
3139 primary insurance agreement between the corporation and an
3140 authorized insurer and the insurance contract. The
3141 responsibility of the corporation or authorized insurer to pay
3142 its specified percentage of hurricane losses of an eligible
3143 risk, as set forth in the quota share primary insurance
3144 agreement, may not be altered by the inability of the other
3145 party to the agreement to pay its specified percentage of
3146 hurricane losses. Eligible risks that are provided hurricane
3147 coverage through a quota share primary insurance arrangement
3148 must be provided policy forms that set forth the obligations of
3149 the corporation and authorized insurer under the arrangement,
3150 clearly specify the percentages of quota share primary insurance
3151 provided by the corporation and authorized insurer, and
3152 conspicuously and clearly state that neither the authorized
3153 insurer nor the corporation may be held responsible beyond its
3154 specified percentage of coverage of hurricane losses.

3155 (II) "Eligible risks" means personal lines residential and
3156 commercial lines residential risks that meet the underwriting
3157 criteria of the corporation and are located in areas that were
3158 eligible for coverage by the Florida Windstorm Underwriting
3159 Association on January 1, 2002.

3160 b. The corporation may enter into quota share primary
3161 insurance agreements with authorized insurers at corporation
3162 coverage levels of 90 percent and 50 percent.

3163 c. If the corporation determines that additional coverage
3164 levels are necessary to maximize participation in quota share

3165 primary insurance agreements by authorized insurers, the
3166 corporation may establish additional coverage levels. However,
3167 the corporation's quota share primary insurance coverage level
3168 may not exceed 90 percent.

3169 d. Any quota share primary insurance agreement entered
3170 into between an authorized insurer and the corporation must
3171 provide for a uniform specified percentage of coverage of
3172 hurricane losses, by county or territory as set forth by the
3173 corporation board, for all eligible risks of the authorized
3174 insurer covered under the quota share primary insurance
3175 agreement.

3176 e. Any quota share primary insurance agreement entered
3177 into between an authorized insurer and the corporation is
3178 subject to review and approval by the office. However, such
3179 agreement shall be authorized only as to insurance contracts
3180 entered into between an authorized insurer and an insured who is
3181 already insured by the corporation for wind coverage.

3182 f. For all eligible risks covered under quota share
3183 primary insurance agreements, the exposure and coverage levels
3184 for both the corporation and authorized insurers shall be
3185 reported by the corporation to the Florida Hurricane Catastrophe
3186 Fund. For all policies of eligible risks covered under quota
3187 share primary insurance agreements, the corporation and the
3188 authorized insurer shall maintain complete and accurate records
3189 for the purpose of exposure and loss reimbursement audits as
3190 required by Florida Hurricane Catastrophe Fund rules. The
3191 corporation and the authorized insurer shall each maintain
3192 duplicate copies of policy declaration pages and supporting

3193 claims documents.

3194 g. The corporation board shall establish in its plan of
3195 operation standards for quota share agreements which ensure that
3196 there is no discriminatory application among insurers as to the
3197 terms of quota share agreements, pricing of quota share
3198 agreements, incentive provisions if any, and consideration paid
3199 for servicing policies or adjusting claims.

3200 h. The quota share primary insurance agreement between the
3201 corporation and an authorized insurer must set forth the
3202 specific terms under which coverage is provided, including, but
3203 not limited to, the sale and servicing of policies issued under
3204 the agreement by the insurance agent of the authorized insurer
3205 producing the business, the reporting of information concerning
3206 eligible risks, the payment of premium to the corporation, and
3207 arrangements for the adjustment and payment of hurricane claims
3208 incurred on eligible risks by the claims adjuster and personnel
3209 of the authorized insurer. Entering into a quota sharing
3210 insurance agreement between the corporation and an authorized
3211 insurer shall be voluntary and at the discretion of the
3212 authorized insurer.

3213 3. May provide that the corporation may employ or
3214 otherwise contract with individuals or other entities to provide
3215 administrative or professional services that may be appropriate
3216 to effectuate the plan. The corporation shall have the power to
3217 borrow funds, by issuing bonds or by incurring other
3218 indebtedness, and shall have other powers reasonably necessary
3219 to effectuate the requirements of this subsection, including,
3220 without limitation, the power to issue bonds and incur other

3221 indebtedness in order to refinance outstanding bonds or other
 3222 indebtedness. The corporation may, but is not required to, seek
 3223 judicial validation of its bonds or other indebtedness under
 3224 chapter 75. The corporation may issue bonds or incur other
 3225 indebtedness, or have bonds issued on its behalf by a unit of
 3226 local government pursuant to subparagraph (g)2., in the absence
 3227 of a hurricane or other weather-related event, upon a
 3228 determination by the corporation, subject to approval by the
 3229 office, that such action would enable it to efficiently meet the
 3230 financial obligations of the corporation and that such
 3231 financings are reasonably necessary to effectuate the
 3232 requirements of this subsection. The corporation is authorized
 3233 to take all actions needed to facilitate tax-free status for any
 3234 such bonds or indebtedness, including formation of trusts or
 3235 other affiliated entities. The corporation shall have the
 3236 authority to pledge assessments, projected recoveries from the
 3237 Florida Hurricane Catastrophe Fund, other reinsurance
 3238 recoverables, market equalization and other surcharges, and
 3239 other funds available to the corporation as security for bonds
 3240 or other indebtedness. In recognition of s. 10, Art. I of the
 3241 State Constitution, prohibiting the impairment of obligations of
 3242 contracts, it is the intent of the Legislature that no action be
 3243 taken whose purpose is to impair any bond indenture or financing
 3244 agreement or any revenue source committed by contract to such
 3245 bond or other indebtedness.

3246 4.a. Must require that the corporation operate subject to
 3247 the supervision and approval of a board of governors consisting
 3248 of eight individuals who are residents of this state, from

3249 different geographical areas of this state. The Governor, the
3250 Chief Financial Officer, the President of the Senate, and the
3251 Speaker of the House of Representatives shall each appoint two
3252 members of the board. At least one of the two members appointed
3253 by each appointing officer must have demonstrated expertise in
3254 insurance. The Chief Financial Officer shall designate one of
3255 the appointees as chair. All board members serve at the pleasure
3256 of the appointing officer. All members of the board of governors
3257 are subject to removal at will by the officers who appointed
3258 them. All board members, including the chair, must be appointed
3259 to serve for 3-year terms beginning annually on a date
3260 designated by the plan. Any board vacancy shall be filled for
3261 the unexpired term by the appointing officer. The Chief
3262 Financial Officer shall appoint a technical advisory group to
3263 provide information and advice to the board of governors in
3264 connection with the board's duties under this subsection. The
3265 executive director and senior managers of the corporation shall
3266 be engaged by the board and serve at the pleasure of the board.
3267 Any executive director appointed on or after July 1, 2006, is
3268 subject to confirmation by the Senate. The executive director is
3269 responsible for employing other staff as the corporation may
3270 require, subject to review and concurrence by the board.

3271 b. The board shall create a Market Accountability Advisory
3272 Committee to assist the corporation in developing awareness of
3273 its rates and its customer and agent service levels in
3274 relationship to the voluntary market insurers writing similar
3275 coverage. The members of the advisory committee shall consist of
3276 the following 11 persons, one of whom must be elected chair by

3277 the members of the committee: four representatives, one
 3278 appointed by the Florida Association of Insurance Agents, one by
 3279 the Florida Association of Insurance and Financial Advisors, one
 3280 by the Professional Insurance Agents of Florida, and one by the
 3281 Latin American Association of Insurance Agencies; three
 3282 representatives appointed by the insurers with the three highest
 3283 voluntary market share of residential property insurance
 3284 business in the state; one representative from the Office of
 3285 Insurance Regulation; one consumer appointed by the board who is
 3286 insured by the corporation at the time of appointment to the
 3287 committee; one representative appointed by the Florida
 3288 Association of Realtors; and one representative appointed by the
 3289 Florida Bankers Association. All members must serve for 3-year
 3290 terms and may serve for consecutive terms. The committee shall
 3291 report to the corporation at each board meeting on insurance
 3292 market issues which may include rates and rate competition with
 3293 the voluntary market; service, including policy issuance, claims
 3294 processing, and general responsiveness to policyholders,
 3295 applicants, and agents; and matters relating to depopulation.

3296 5. Must provide a procedure for determining the
 3297 eligibility of a risk for coverage, as follows:

3298 a. Subject to the provisions of s. 627.3517, with respect
 3299 to personal lines residential risks, if the risk is offered
 3300 coverage from an authorized insurer at the insurer's approved
 3301 rate under either a standard policy including wind coverage or,
 3302 if consistent with the insurer's underwriting rules as filed
 3303 with the office, a basic policy including wind coverage, for a
 3304 new application to the corporation for coverage, the risk is not

3305 eligible for any policy issued by the corporation unless the
 3306 premium for coverage from the authorized insurer is more than 25
 3307 percent greater than the premium for comparable coverage from
 3308 the corporation. If the risk is not able to obtain any such
 3309 offer, the risk is eligible for either a standard policy
 3310 including wind coverage or a basic policy including wind
 3311 coverage issued by the corporation; however, if the risk could
 3312 not be insured under a standard policy including wind coverage
 3313 regardless of market conditions, the risk shall be eligible for
 3314 a basic policy including wind coverage unless rejected under
 3315 subparagraph 8. However, with regard to a policyholder of the
 3316 corporation, the policyholder remains eligible for coverage from
 3317 the corporation regardless of any offer of coverage from an
 3318 authorized insurer or surplus lines insurer. The corporation
 3319 shall determine the type of policy to be provided on the basis
 3320 of objective standards specified in the underwriting manual and
 3321 based on generally accepted underwriting practices.

3322 (I) If the risk accepts an offer of coverage through the
 3323 market assistance plan or an offer of coverage through a
 3324 mechanism established by the corporation before a policy is
 3325 issued to the risk by the corporation or during the first 30
 3326 days of coverage by the corporation, and the producing agent who
 3327 submitted the application to the plan or to the corporation is
 3328 not currently appointed by the insurer, the insurer shall:

3329 (A) Pay to the producing agent of record of the policy,
 3330 for the first year, an amount that is the greater of the
 3331 insurer's usual and customary commission for the type of policy
 3332 written or a fee equal to the usual and customary commission of

3333 the corporation; or

3334 (B) Offer to allow the producing agent of record of the
 3335 policy to continue servicing the policy for a period of not less
 3336 than 1 year and offer to pay the agent the greater of the
 3337 insurer's or the corporation's usual and customary commission
 3338 for the type of policy written.

3339
 3340 If the producing agent is unwilling or unable to accept
 3341 appointment, the new insurer shall pay the agent in accordance
 3342 with sub-sub-sub-subparagraph (A).

3343 (II) When the corporation enters into a contractual
 3344 agreement for a take-out plan, the producing agent of record of
 3345 the corporation policy is entitled to retain any unearned
 3346 commission on the policy, and the insurer shall:

3347 (A) Pay to the producing agent of record of the
 3348 corporation policy, for the first year, an amount that is the
 3349 greater of the insurer's usual and customary commission for the
 3350 type of policy written or a fee equal to the usual and customary
 3351 commission of the corporation; or

3352 (B) Offer to allow the producing agent of record of the
 3353 corporation policy to continue servicing the policy for a period
 3354 of not less than 1 year and offer to pay the agent the greater
 3355 of the insurer's or the corporation's usual and customary
 3356 commission for the type of policy written.

3357
 3358 If the producing agent is unwilling or unable to accept
 3359 appointment, the new insurer shall pay the agent in accordance
 3360 with sub-sub-sub-subparagraph (A).

3361 b. With respect to commercial lines residential risks, for
3362 a new application to the corporation for coverage, if the risk
3363 is offered coverage under a policy including wind coverage from
3364 an authorized insurer at its approved rate, the risk is not
3365 eligible for any policy issued by the corporation unless the
3366 premium for coverage from the authorized insurer is more than 25
3367 percent greater than the premium for comparable coverage from
3368 the corporation. If the risk is not able to obtain any such
3369 offer, the risk is eligible for a policy including wind coverage
3370 issued by the corporation. However, with regard to a
3371 policyholder of the corporation, the policyholder remains
3372 eligible for coverage from the corporation regardless of any
3373 offer of coverage from an authorized insurer or surplus lines
3374 insurer.

3375 (I) If the risk accepts an offer of coverage through the
3376 market assistance plan or an offer of coverage through a
3377 mechanism established by the corporation before a policy is
3378 issued to the risk by the corporation or during the first 30
3379 days of coverage by the corporation, and the producing agent who
3380 submitted the application to the plan or the corporation is not
3381 currently appointed by the insurer, the insurer shall:

3382 (A) Pay to the producing agent of record of the policy,
3383 for the first year, an amount that is the greater of the
3384 insurer's usual and customary commission for the type of policy
3385 written or a fee equal to the usual and customary commission of
3386 the corporation; or

3387 (B) Offer to allow the producing agent of record of the
3388 policy to continue servicing the policy for a period of not less

3389 than 1 year and offer to pay the agent the greater of the
 3390 insurer's or the corporation's usual and customary commission
 3391 for the type of policy written.

3392
 3393 If the producing agent is unwilling or unable to accept
 3394 appointment, the new insurer shall pay the agent in accordance
 3395 with sub-sub-sub-subparagraph (A).

3396 (II) When the corporation enters into a contractual
 3397 agreement for a take-out plan, the producing agent of record of
 3398 the corporation policy is entitled to retain any unearned
 3399 commission on the policy, and the insurer shall:

3400 (A) Pay to the producing agent of record of the
 3401 corporation policy, for the first year, an amount that is the
 3402 greater of the insurer's usual and customary commission for the
 3403 type of policy written or a fee equal to the usual and customary
 3404 commission of the corporation; or

3405 (B) Offer to allow the producing agent of record of the
 3406 corporation policy to continue servicing the policy for a period
 3407 of not less than 1 year and offer to pay the agent the greater
 3408 of the insurer's or the corporation's usual and customary
 3409 commission for the type of policy written.

3410
 3411 If the producing agent is unwilling or unable to accept
 3412 appointment, the new insurer shall pay the agent in accordance
 3413 with sub-sub-sub-subparagraph (A).

3414 6. Must provide by July 1, 2007, that an application for
 3415 coverage for a new policy is subject to a waiting period of 10
 3416 days before coverage is effective, during which time the

3417 corporation shall make such application available for review by
3418 general lines agents and authorized property and casualty
3419 insurers. The board shall ~~may~~ approve an exception ~~exceptions~~
3420 that allows ~~allow~~ for coverage to be effective before the end of
3421 the 10-day waiting period, for coverage issued in conjunction
3422 with a real estate closing. The board may approve, ~~and for~~ such
3423 other exceptions as the board determines are necessary to
3424 prevent lapses in coverage.

3425 7. Must include rules for classifications of risks and
3426 rates therefor.

3427 8. Must provide that if premium and investment income for
3428 an account attributable to a particular calendar year are in
3429 excess of projected losses and expenses for the account
3430 attributable to that year, such excess shall be held in surplus
3431 in the account. Such surplus shall be available to defray
3432 deficits in that account as to future years and shall be used
3433 for that purpose prior to assessing assessable insurers and
3434 assessable insureds as to any calendar year.

3435 9. Must provide objective criteria and procedures to be
3436 uniformly applied for all applicants in determining whether an
3437 individual risk is so hazardous as to be uninsurable. In making
3438 this determination and in establishing the criteria and
3439 procedures, the following shall be considered:

3440 a. Whether the likelihood of a loss for the individual
3441 risk is substantially higher than for other risks of the same
3442 class; and

3443 b. Whether the uncertainty associated with the individual
3444 risk is such that an appropriate premium cannot be determined.

3445
3446 The acceptance or rejection of a risk by the corporation shall
3447 be construed as the private placement of insurance, and the
3448 provisions of chapter 120 shall not apply.

3449 10. Must provide that the corporation shall make its best
3450 efforts to procure catastrophe reinsurance at reasonable rates,
3451 to cover its projected 100-year probable maximum loss as
3452 determined by the board of governors.

3453 11. Must provide that in the event of regular deficit
3454 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
3455 (b)3.b., in the personal lines account, the commercial lines
3456 residential account, or the high-risk account, the corporation
3457 shall levy upon corporation policyholders in its next rate
3458 filing, or by a separate rate filing solely for this purpose, a
3459 Citizens policyholder surcharge arising from a regular
3460 assessment in such account in a percentage equal to the total
3461 amount of such regular assessments divided by the aggregate
3462 statewide direct written premium for subject lines of business
3463 for the prior calendar year. For purposes of calculating the
3464 Citizens policyholder surcharge to be levied under this
3465 subparagraph, the total amount of the regular assessment to
3466 which this surcharge is related shall be determined as set forth
3467 in subparagraph (b)3., without deducting the estimated Citizens
3468 policyholder surcharge. Citizens policyholder surcharges under
3469 this subparagraph are not considered premium and are not subject
3470 to commissions, fees, or premium taxes; however, failure to pay
3471 a market equalization surcharge shall be treated as failure to
3472 pay premium.

3473 12. The policies issued by the corporation must provide
3474 that, if the corporation or the market assistance plan obtains
3475 an offer from an authorized insurer to cover the risk at its
3476 approved rates, the risk is no longer eligible for renewal
3477 through the corporation, except as otherwise provided in this
3478 subsection.

3479 13. Corporation policies and applications must include a
3480 notice that the corporation policy could, under this section, be
3481 replaced with a policy issued by an authorized insurer that does
3482 not provide coverage identical to the coverage provided by the
3483 corporation. The notice shall also specify that acceptance of
3484 corporation coverage creates a conclusive presumption that the
3485 applicant or policyholder is aware of this potential.

3486 14. May establish, subject to approval by the office,
3487 different eligibility requirements and operational procedures
3488 for any line or type of coverage for any specified county or
3489 area if the board determines that such changes to the
3490 eligibility requirements and operational procedures are
3491 justified due to the voluntary market being sufficiently stable
3492 and competitive in such area or for such line or type of
3493 coverage and that consumers who, in good faith, are unable to
3494 obtain insurance through the voluntary market through ordinary
3495 methods would continue to have access to coverage from the
3496 corporation. When coverage is sought in connection with a real
3497 property transfer, such requirements and procedures shall not
3498 provide for an effective date of coverage later than the date of
3499 the closing of the transfer as established by the transferor,
3500 the transferee, and, if applicable, the lender.

3501 15. Must provide that, with respect to the high-risk
3502 account, any assessable insurer with a surplus as to
3503 policyholders of \$25 million or less writing 25 percent or more
3504 of its total countrywide property insurance premiums in this
3505 state may petition the office, within the first 90 days of each
3506 calendar year, to qualify as a limited apportionment company. A
3507 regular assessment levied by the corporation on a limited
3508 apportionment company for a deficit incurred by the corporation
3509 for the high-risk account in 2006 or thereafter may be paid to
3510 the corporation on a monthly basis as the assessments are
3511 collected by the limited apportionment company from its insureds
3512 pursuant to s. 627.3512, but the regular assessment must be paid
3513 in full within 12 months after being levied by the corporation.
3514 A limited apportionment company shall collect from its
3515 policyholders any emergency assessment imposed under sub-
3516 subparagraph (b)3.d. The plan shall provide that, if the office
3517 determines that any regular assessment will result in an
3518 impairment of the surplus of a limited apportionment company,
3519 the office may direct that all or part of such assessment be
3520 deferred as provided in subparagraph (g)4. However, there shall
3521 be no limitation or deferment of an emergency assessment to be
3522 collected from policyholders under sub-subparagraph (b)3.d.

3523 16. Must provide that the corporation appoint as its
3524 licensed agents only those agents who also hold an appointment
3525 as defined in s. 626.015(3) with an insurer who at the time of
3526 the agent's initial appointment by the corporation is authorized
3527 to write and is actually writing personal lines residential
3528 property coverage, commercial residential property coverage, or

3529 commercial nonresidential property coverage within the state.

3530 17. Must provide, by July 1, 2007, a premium payment plan
 3531 option to its policyholders which allows for quarterly and
 3532 semiannual payment of premiums.

3533 18. Must provide, effective June 1, 2007, that the
 3534 corporation contract with each insurer providing the non-wind
 3535 coverage for risks insured by the corporation in the high-risk
 3536 account, requiring that the insurer provide claims adjusting
 3537 services for the wind coverage provided by the corporation for
 3538 such risks. An insurer is required to enter into this contract
 3539 as a condition of providing non-wind coverage for a risk that is
 3540 insured by the corporation in the high-risk account unless the
 3541 board finds, after a hearing, that the insurer is not capable of
 3542 providing adjusting services at an acceptable level of quality
 3543 to corporation policyholders. The terms and conditions of such
 3544 contracts must be substantially the same as the contracts that
 3545 the corporation executed with insurers under the "adjust-your-
 3546 own" program in 2006, except as may be mutually agreed to by the
 3547 parties and except for such changes that the board determines
 3548 are necessary to ensure that claims are adjusted appropriately.
 3549 The corporation shall provide a process for neutral arbitration
 3550 of any dispute between the corporation and the insurer regarding
 3551 the terms of the contract. The corporation shall review and
 3552 monitor the performance of insurers under these contracts.

3553 19. Must limit coverage on mobile homes or manufactured
 3554 homes built prior to 1994 to actual cash value of the dwelling
 3555 rather than replacement costs of the dwelling.

3556 20. May provide such limits of coverage as the board

3557 determines, consistent with the requirements of this subsection.

3558 21. May require commercial property to meet specified
 3559 hurricane mitigation construction features as a condition of
 3560 eligibility for coverage.

3561 (m) 1.

3562 a. Rates for coverage provided by the corporation shall be
 3563 actuarially sound and subject to the requirements of s. 627.062,
 3564 except as otherwise provided in this paragraph. The corporation
 3565 shall file its recommended rates with the office at least
 3566 annually. The corporation shall provide any additional
 3567 information regarding the rates which the office requires. The
 3568 office shall consider the recommendations of the board and issue
 3569 a final order establishing the rates for the corporation within
 3570 45 days after the recommended rates are filed. The corporation
 3571 may not pursue an administrative challenge or judicial review of
 3572 the final order of the office. ~~not competitive with approved~~
 3573 ~~rates charged in the admitted voluntary market, so that the~~
 3574 ~~corporation functions as a residual market mechanism to provide~~
 3575 ~~insurance only when the insurance cannot be procured in the~~
 3576 ~~voluntary market. Rates shall include an appropriate catastrophe~~
 3577 ~~loading factor that reflects the actual catastrophic exposure of~~
 3578 ~~the corporation. For policies in the personal lines account and~~
 3579 ~~the commercial lines account issued or renewed on or after March~~
 3580 ~~1, 2007, a rate is deemed inadequate if the rate, including~~
 3581 ~~investment income, is not sufficient to provide for the~~
 3582 ~~procurement of coverage under the Florida Hurricane Catastrophe~~
 3583 ~~Fund and private reinsurance costs, whether or not reinsurance~~
 3584 ~~is procured, and to pay all claims and expenses reasonably~~

CS/HB 1A, Engrossed 1/c

2007

3585 ~~expected to result from a 100 year probable maximum loss event~~
3586 ~~without resort to any regular or emergency assessments, long-~~
3587 ~~term debt, state revenues, or other funding sources. For~~
3588 ~~policies in the high risk account issued or renewed on or after~~
3589 ~~March 1, 2007, a rate is deemed inadequate if the rate,~~
3590 ~~including investment income, is not sufficient to provide for~~
3591 ~~the procurement of coverage under the Florida Hurricane~~
3592 ~~Catastrophe Fund and private reinsurance costs, whether or not~~
3593 ~~reinsurance is procured, and to pay all claims and expenses~~
3594 ~~reasonably expected to result from a 70 year probable maximum~~
3595 ~~loss event with resort to any regular or emergency assessments,~~
3596 ~~long term debt, state revenues, or other funding sources. For~~
3597 ~~policies in the high risk account issued or renewed in 2008 and~~
3598 ~~2009, the rate must be based upon an 85 year and 100 year~~
3599 ~~probable maximum loss event, respectively.~~

3600 ~~b. It is the intent of the Legislature to reaffirm the~~
3601 ~~requirement of rate adequacy in the residual market. Recognizing~~
3602 ~~that rates may comply with the intent expressed in sub-~~
3603 ~~subparagraph a. and yet be inadequate and recognizing the public~~
3604 ~~need to limit subsidies within the residual market, it is the~~
3605 ~~further intent of the Legislature to establish statutory~~
3606 ~~standards for rate adequacy. Such standards are intended to~~
3607 ~~supplement the standard specified in s. 627.062(2)(c)3.,~~
3608 ~~providing that rates are inadequate if they are clearly~~
3609 ~~insufficient to sustain projected losses and expenses in the~~
3610 ~~class of business to which they apply.~~

3611 ~~2. For each county, the average rates of the corporation~~
3612 ~~for each line of business for personal lines residential~~

3613 ~~policies excluding rates for wind only policies shall be no~~
3614 ~~lower than the average rates charged by the insurer that had the~~
3615 ~~highest average rate in that county among the 20 insurers with~~
3616 ~~the greatest total direct written premium in the state for that~~
3617 ~~line of business in the preceding year, except that with respect~~
3618 ~~to mobile home coverages, the average rates of the corporation~~
3619 ~~shall be no lower than the average rates charged by the insurer~~
3620 ~~that had the highest average rate in that county among the 5~~
3621 ~~insurers with the greatest total written premium for mobile home~~
3622 ~~owner's policies in the state in the preceding year.~~

3623 ~~3. Rates for personal lines residential wind only policies~~
3624 ~~must be actuarially sound and not competitive with approved~~
3625 ~~rates charged by authorized insurers. If the filing under this~~
3626 ~~subparagraph is made at least 90 days before the proposed~~
3627 ~~effective date and the filing is not implemented during the~~
3628 ~~office's review of the filing and any proceeding and judicial~~
3629 ~~review, such filing shall be considered a "file and use" filing.~~
3630 ~~In such case, the office shall finalize its review by issuance~~
3631 ~~of a notice of intent to approve or a notice of intent to~~
3632 ~~disapprove within 90 days after receipt of the filing. The~~
3633 ~~notice of intent to approve and the notice of intent to~~
3634 ~~disapprove constitute agency action for purposes of the~~
3635 ~~Administrative Procedure Act. Requests for supporting~~
3636 ~~information, requests for mathematical or mechanical~~
3637 ~~corrections, or notification to the insurer by the office of its~~
3638 ~~preliminary findings shall not toll the 90-day period during any~~
3639 ~~such proceedings and subsequent judicial review. The rate shall~~
3640 ~~be deemed approved if the office does not issue a notice of~~

3641 ~~intent to approve or a notice of intent to disapprove within 90~~
3642 ~~days after receipt of the filing. Corporation rate manuals shall~~
3643 ~~include a rate surcharge for seasonal occupancy. To ensure that~~
3644 ~~personal lines residential wind only rates are not competitive~~
3645 ~~with approved rates charged by authorized insurers, the~~
3646 ~~corporation, in conjunction with the office, shall develop a~~
3647 ~~wind only ratemaking methodology, which methodology shall be~~
3648 ~~contained in each rate filing made by the corporation with the~~
3649 ~~office. If the office determines that the wind only rates or~~
3650 ~~rating factors filed by the corporation fail to comply with the~~
3651 ~~wind only ratemaking methodology provided for in this~~
3652 ~~subsection, it shall so notify the corporation and require the~~
3653 ~~corporation to amend its rates or rating factors to come into~~
3654 ~~compliance within 90 days of notice from the office.~~

3655 ~~4. The requirements of this paragraph that rates not be~~
3656 ~~competitive with approved rates charged by authorized insurers~~
3657 ~~do not apply in a county or area for which the office determines~~
3658 ~~that no authorized insurer is offering coverage. The corporation~~
3659 ~~shall amend its rates or rating factors for the affected county~~
3660 ~~or area in conjunction with its next rate filing after such~~
3661 ~~determination is made.~~

3662 ~~5. For the purposes of establishing a pilot program to~~
3663 ~~evaluate issues relating to the availability and affordability~~
3664 ~~of insurance in an area where historically there has been little~~
3665 ~~market competition, the provisions of subparagraph 2. do not~~
3666 ~~apply to coverage provided by the corporation in Monroe County~~
3667 ~~if the office determines that a reasonable degree of competition~~
3668 ~~does not exist for personal lines residential policies. The~~

3669 ~~provisions of subparagraph 3. do not apply to coverage provided~~
3670 ~~by the corporation in Monroe County if the office determines~~
3671 ~~that a reasonable degree of competition does not exist for~~
3672 ~~personal lines residential policies in the area of that county~~
3673 ~~which is eligible for wind-only coverage. In this county, the~~
3674 ~~rates for personal lines residential coverage shall be~~
3675 ~~actuarially sound and not excessive, inadequate, or unfairly~~
3676 ~~discriminatory and are subject to the other provisions of the~~
3677 ~~paragraph and s. 627.062. The commission shall adopt rules~~
3678 ~~establishing the criteria for determining whether a reasonable~~
3679 ~~degree of competition exists for personal lines residential~~
3680 ~~policies in Monroe County. By March 1, 2006, the office shall~~
3681 ~~submit a report to the Legislature providing an evaluation of~~
3682 ~~the implementation of the pilot program affecting Monroe County.~~

3683 ~~6. Rates for commercial lines coverage shall not be~~
3684 ~~subject to the requirements of subparagraph 2., but shall be~~
3685 ~~subject to all other requirements of this paragraph and s.~~
3686 ~~627.062.~~

3687 ~~7. Nothing in this paragraph shall require or allow the~~
3688 ~~corporation to adopt a rate that is inadequate under s. 627.062.~~

3689 ~~8. The corporation shall certify to the office at least~~
3690 ~~twice annually that its personal lines rates comply with the~~
3691 ~~requirements of subparagraphs 1., 2., and 3. If any adjustment~~
3692 ~~in the rates or rating factors of the corporation is necessary~~
3693 ~~to ensure such compliance, the corporation shall make and~~
3694 ~~implement such adjustments and file its revised rates and rating~~
3695 ~~factors with the office. If the office thereafter determines~~
3696 ~~that the revised rates and rating factors fail to comply with~~

3697 ~~the provisions of subparagraphs 1., 2., and 3., it shall notify~~
3698 ~~the corporation and require the corporation to amend its rates~~
3699 ~~or rating factors in conjunction with its next rate filing. The~~
3700 ~~office must notify the corporation by electronic means of any~~
3701 ~~rate filing it approves for any insurer among the insurers~~
3702 ~~referred to in subparagraph 2.~~

3703 2.9. In addition to the rates otherwise determined
3704 pursuant to this paragraph, the corporation shall impose and
3705 collect an amount equal to the premium tax provided for in s.
3706 624.509 to augment the financial resources of the corporation.

3707 ~~10. The corporation shall develop a notice to~~
3708 ~~policyholders or applicants that the rates of Citizens Property~~
3709 ~~Insurance Corporation are intended to be higher than the rates~~
3710 ~~of any admitted carrier and providing other information the~~
3711 ~~corporation deems necessary to assist consumers in finding other~~
3712 ~~voluntary admitted insurers willing to insure their property.~~

3713 3.11. After the public hurricane loss-projection model
3714 under s. 627.06281 has been found to be accurate and reliable by
3715 the Florida Commission on Hurricane Loss Projection Methodology,
3716 that model shall serve as the minimum benchmark for determining
3717 the windstorm portion of the corporation's rates. This
3718 subparagraph does not require or allow the corporation to adopt
3719 rates lower than the rates otherwise required or allowed by this
3720 paragraph.

3721 4. The rate filings for the corporation which were
3722 approved by the office and which took effect January 1, 2007,
3723 are rescinded, except for those rates that were lowered. As soon
3724 as possible, the corporation shall begin using the lower rates

3725 that were in effect on December 31, 2006, and shall provide
3726 refunds to policyholders who have paid higher rates as a result
3727 of that rate filing. The rates in effect on December 31, 2006,
3728 shall remain in effect for the 2007 calendar year except for any
3729 rate change that results in a lower rate. The next rate change
3730 that may increase rates shall take effect January 1, 2008,
3731 pursuant to a new rate filing recommended by the corporation and
3732 established by the office, subject to the requirements of this
3733 paragraph.

3734 (p)1. The corporation shall certify to the office its
3735 needs for annual assessments as to a particular calendar year,
3736 and for any interim assessments that it deems to be necessary to
3737 sustain operations as to a particular year pending the receipt
3738 of annual assessments. Upon verification, the office shall
3739 approve such certification, and the corporation shall levy such
3740 annual or interim assessments. Such assessments shall be
3741 prorated as provided in paragraph (b). The corporation shall
3742 take all reasonable and prudent steps necessary to collect the
3743 amount of assessment due from each assessable insurer,
3744 including, if prudent, filing suit to collect such assessment.
3745 If the corporation is unable to collect an assessment from any
3746 assessable insurer, the uncollected assessments shall be levied
3747 as an additional assessment against the assessable insurers and
3748 any assessable insurer required to pay an additional assessment
3749 as a result of such failure to pay shall have a cause of action
3750 against such nonpaying assessable insurer. Assessments shall be
3751 included as an appropriate factor in the making of rates. The
3752 failure of a surplus lines agent to collect and remit any

3753 regular or emergency assessment levied by the corporation is
3754 considered to be a violation of s. 626.936 and subjects the
3755 surplus lines agent to the penalties provided in that section.

3756 2. The governing body of any unit of local government, any
3757 residents of which are insured by the corporation, may issue
3758 bonds as defined in s. 125.013 or s. 166.101 from time to time
3759 to fund an assistance program, in conjunction with the
3760 corporation, for the purpose of defraying deficits of the
3761 corporation. In order to avoid needless and indiscriminate
3762 proliferation, duplication, and fragmentation of such assistance
3763 programs, any unit of local government, any residents of which
3764 are insured by the corporation, may provide for the payment of
3765 losses, regardless of whether or not the losses occurred within
3766 or outside of the territorial jurisdiction of the local
3767 government. Revenue bonds under this subparagraph may not be
3768 issued until validated pursuant to chapter 75, unless a state of
3769 emergency is declared by executive order or proclamation of the
3770 Governor pursuant to s. 252.36 making such findings as are
3771 necessary to determine that it is in the best interests of, and
3772 necessary for, the protection of the public health, safety, and
3773 general welfare of residents of this state and declaring it an
3774 essential public purpose to permit certain municipalities or
3775 counties to issue such bonds as will permit relief to claimants
3776 and policyholders of the corporation. Any such unit of local
3777 government may enter into such contracts with the corporation
3778 and with any other entity created pursuant to this subsection as
3779 are necessary to carry out this paragraph. Any bonds issued
3780 under this subparagraph shall be payable from and secured by

3781 moneys received by the corporation from emergency assessments
3782 under sub-subparagraph (b)3.d., and assigned and pledged to or
3783 on behalf of the unit of local government for the benefit of the
3784 holders of such bonds. The funds, credit, property, and taxing
3785 power of the state or of the unit of local government shall not
3786 be pledged for the payment of such bonds. If any of the bonds
3787 remain unsold 60 days after issuance, the office shall require
3788 all insurers subject to assessment to purchase the bonds, which
3789 shall be treated as admitted assets; each insurer shall be
3790 required to purchase that percentage of the unsold portion of
3791 the bond issue that equals the insurer's relative share of
3792 assessment liability under this subsection. An insurer shall not
3793 be required to purchase the bonds to the extent that the office
3794 determines that the purchase would endanger or impair the
3795 solvency of the insurer.

3796 3.a. The corporation shall adopt one or more programs
3797 subject to approval by the office for the reduction of both new
3798 and renewal writings in the corporation. Beginning January 1,
3799 2008, any program the corporation adopts for the payment of
3800 bonuses to an insurer for each risk the insurer removes from the
3801 corporation shall comply with s. 627.3511(2) and may not exceed
3802 the amount referenced in s. 627.3511(2) for each risk removed.
3803 The corporation may consider any prudent and not unfairly
3804 discriminatory approach to reducing corporation writings, and
3805 may adopt a credit against assessment liability or other
3806 liability that provides an incentive for insurers to take risks
3807 out of the corporation and to keep risks out of the corporation
3808 by maintaining or increasing voluntary writings in counties or

3809 areas in which corporation risks are highly concentrated and a
3810 program to provide a formula under which an insurer voluntarily
3811 taking risks out of the corporation by maintaining or increasing
3812 voluntary writings will be relieved wholly or partially from
3813 assessments under sub-subparagraphs (b)3.a. and b. However, any
3814 "take-out bonus" or payment to an insurer must be conditioned on
3815 the property being insured for at least 5 years by the insurer,
3816 unless canceled or nonrenewed by the policyholder. If the policy
3817 is canceled or nonrenewed by the policyholder before the end of
3818 the 5-year period, the amount of the take-out bonus must be
3819 prorated for the time period the policy was insured. When the
3820 corporation enters into a contractual agreement for a take-out
3821 plan, the producing agent of record of the corporation policy is
3822 entitled to retain any unearned commission on such policy, and
3823 the insurer shall either:

3824 (I) Pay to the producing agent of record of the policy,
3825 for the first year, an amount which is the greater of the
3826 insurer's usual and customary commission for the type of policy
3827 written or a policy fee equal to the usual and customary
3828 commission of the corporation; or

3829 (II) Offer to allow the producing agent of record of the
3830 policy to continue servicing the policy for a period of not less
3831 than 1 year and offer to pay the agent the insurer's usual and
3832 customary commission for the type of policy written. If the
3833 producing agent is unwilling or unable to accept appointment by
3834 the new insurer, the new insurer shall pay the agent in
3835 accordance with sub-sub-subparagraph (I).

3836 b. Any credit or exemption from regular assessments

3837 adopted under this subparagraph shall last no longer than the 3
3838 years following the cancellation or expiration of the policy by
3839 the corporation. With the approval of the office, the board may
3840 extend such credits for an additional year if the insurer
3841 guarantees an additional year of renewability for all policies
3842 removed from the corporation, or for 2 additional years if the
3843 insurer guarantees 2 additional years of renewability for all
3844 policies so removed.

3845 c. There shall be no credit, limitation, exemption, or
3846 deferment from emergency assessments to be collected from
3847 policyholders pursuant to sub-subparagraph (b)3.d.

3848 4. The plan shall provide for the deferment, in whole or
3849 in part, of the assessment of an assessable insurer, other than
3850 an emergency assessment collected from policyholders pursuant to
3851 sub-subparagraph (b)3.d., if the office finds that payment of
3852 the assessment would endanger or impair the solvency of the
3853 insurer. In the event an assessment against an assessable
3854 insurer is deferred in whole or in part, the amount by which
3855 such assessment is deferred may be assessed against the other
3856 assessable insurers in a manner consistent with the basis for
3857 assessments set forth in paragraph (b).

3858 5. Effective July 1, 2007, in order to evaluate the costs
3859 and benefits of approved take-out plans, if the corporation pays
3860 a bonus or other payment to an insurer for an approved take-out
3861 plan, it shall maintain a record of the address or such other
3862 identifying information on the property or risk removed in order
3863 to track if and when the property or risk is later insured by
3864 the corporation.

3865 6. Any policy taken out, assumed, or removed from the
3866 corporation is, as of the effective date of the take-out,
3867 assumption, or removal, direct insurance issued by the insurer
3868 and not by the corporation, even if the corporation continues to
3869 service the policies. This subparagraph applies to policies of
3870 the corporation and not policies taken out, assumed, or removed
3871 from any other entity.

3872 (s) For the purposes of s. 199.183(1), the corporation
3873 shall be considered a political subdivision of the state and
3874 shall be exempt from the corporate income tax. The premiums,
3875 assessments, investment income, and other revenue of the
3876 corporation are funds received for providing property insurance
3877 coverage as required by this subsection, paying claims for
3878 Florida citizens insured by the corporation, securing and
3879 repaying debt obligations issued by the corporation, and
3880 conducting all other activities of the corporation, and shall
3881 not be considered taxes, fees, licenses, or charges for services
3882 imposed by the Legislature on individuals, businesses, or
3883 agencies outside state government. Bonds and other debt
3884 obligations issued by or on behalf of the corporation are not to
3885 be considered "state bonds" within the meaning of s. 215.58(8).
3886 The corporation is not subject to the procurement provisions of
3887 chapter 287, and policies and decisions of the corporation
3888 relating to incurring debt, levying of assessments and the sale,
3889 issuance, continuation, terms and claims under corporation
3890 policies, and all services relating thereto, are not subject to
3891 the provisions of chapter 120. The corporation is not required
3892 to obtain or to hold a certificate of authority issued by the

3893 office, nor is it required to participate as a member insurer of
 3894 the Florida Insurance Guaranty Association. However, the
 3895 corporation is required to pay, in the same manner as an
 3896 authorized insurer, assessments levied ~~pledged~~ by the Florida
 3897 Insurance Guaranty Association ~~to secure bonds issued or other~~
 3898 ~~indebtedness incurred to pay covered claims arising from insurer~~
 3899 ~~insolvencies caused by, or proximately related to, hurricane~~
 3900 ~~losses~~. It is the intent of the Legislature that the tax
 3901 exemptions provided in this paragraph will augment the financial
 3902 resources of the corporation to better enable the corporation to
 3903 fulfill its public purposes. Any debt obligations issued by the
 3904 corporation, their transfer, and the income therefrom, including
 3905 any profit made on the sale thereof, shall at all times be free
 3906 from taxation of every kind by the state and any political
 3907 subdivision or local unit or other instrumentality thereof;
 3908 however, this exemption does not apply to any tax imposed by
 3909 chapter 220 on interest, income, or profits on debt obligations
 3910 owned by corporations other than the corporation.

3911 (ee) The assets of the corporation may be invested and
 3912 managed by the State Board of Administration.

3913 Section 22. It is the intent of the Legislature that
 3914 commercial nonresidential property insurance coverage be made
 3915 available from Citizens Property Insurance Corporation
 3916 (Citizens), under s. 627.351(6), Florida Statutes, as amended by
 3917 this act, rather than from the Property and Casualty Joint
 3918 Underwriting Association (PCJUA), under s. 627.351(5), Florida
 3919 Statutes. As soon as it is reasonably able to do so, Citizens
 3920 shall adopt, subject to approval of the Office of Insurance

3921 Regulation, a plan providing for the transition of such coverage
 3922 from the PCJUA to Citizens under such forms, rates, terms, and
 3923 conditions as the board of Citizens considers appropriate. The
 3924 plan shall include any contractual agreements between Citizens
 3925 and the PCJUA which are required to effect the transition. In
 3926 the transition plan, Citizens may assume policies or otherwise
 3927 provide coverage for the commercial nonresidential policyholders
 3928 of the PCJUA and may also provide for allocating to the
 3929 appropriate account or accounts of Citizens the revenues,
 3930 assets, liabilities, losses, and expenses associated with
 3931 policies of the PCJUA which are assumed or otherwise covered by
 3932 Citizens. It is the intent of the Legislature that the
 3933 transition plan be implemented in a manner that does not
 3934 adversely affect the creditworthiness of or security for
 3935 currently outstanding financing obligations or credit facilities
 3936 of the high-risk account, the personal lines account, or the
 3937 commercial lines account. The order issued by the Office of
 3938 Insurance Regulation may allow the PCJUA to continue to issue
 3939 such coverage until the time that Citizens begins issuing such
 3940 coverage.

3941 Section 23. Subsection (3) is added to section 627.3515,
 3942 Florida Statutes, to read:

3943 627.3515 Market assistance plan; property and casualty
 3944 risks.--

3945 (3) (a) The plan and the corporation shall develop a
 3946 business plan and present it to the Financial Services
 3947 Commission for approval by September 1, 2007, to provide for the
 3948 implementation of an electronic database for the purpose of

3949 confirming eligibility pursuant to s. 627.351(6).

3950 (b) There shall be no liability on the part of, and no
 3951 cause of action of any nature shall arise against, any
 3952 authorized insurer acting within the scope of its authority
 3953 under this subsection or its agents or employees for any action
 3954 taken by them in the performance of their duties or
 3955 responsibilities under this subsection.

3956 Section 24. Subsection (1) of section 627.4035, Florida
 3957 Statutes, is amended to read:

3958 627.4035 Cash payment of premiums; claims.--

3959 (1) The premiums for insurance contracts issued in this
 3960 state or covering risk located in this state shall be paid in
 3961 cash consisting of coins, currency, checks, or money orders or
 3962 by using a debit card, credit card, automatic electronic funds
 3963 transfer, or payroll deduction plan. By July 1, 2007, insurers
 3964 issuing personal lines residential and commercial property
 3965 policies shall provide a premium payment plan option to their
 3966 policyholders which allows for quarterly and semiannual payment
 3967 of premiums. Insurers issuing such policies must submit their
 3968 premium payment plan option to the office for approval before
 3969 use.

3970 Section 25. Paragraph (b) of subsection (2) of section
 3971 627.4133, Florida Statutes, is amended to read:

3972 627.4133 Notice of cancellation, nonrenewal, or renewal
 3973 premium.--

3974 (2) With respect to any personal lines or commercial
 3975 residential property insurance policy, including, but not
 3976 limited to, any homeowner's, mobile home owner's, farmowner's,

3977 condominium association, condominium unit owner's, apartment
 3978 building, or other policy covering a residential structure or
 3979 its contents:

3980 (b) The insurer shall give the named insured written
 3981 notice of nonrenewal, cancellation, or termination at least 100
 3982 ~~90~~ days prior to the effective date of the nonrenewal,
 3983 cancellation, or termination. However, the insurer shall give at
 3984 least 100 days' written notice, or written notice by June 1,
 3985 whichever is earlier, for any nonrenewal, cancellation, or
 3986 termination that would be effective between June 1 and November
 3987 30. The notice must include the reason or reasons for the
 3988 nonrenewal, cancellation, or termination, except that:

3989 1. When cancellation is for nonpayment of premium, at
 3990 least 10 days' written notice of cancellation accompanied by the
 3991 reason therefor shall be given. As used in this subparagraph,
 3992 the term "nonpayment of premium" means failure of the named
 3993 insured to discharge when due any of her or his obligations in
 3994 connection with the payment of premiums on a policy or any
 3995 installment of such premium, whether the premium is payable
 3996 directly to the insurer or its agent or indirectly under any
 3997 premium finance plan or extension of credit, or failure to
 3998 maintain membership in an organization if such membership is a
 3999 condition precedent to insurance coverage. "Nonpayment of
 4000 premium" also means the failure of a financial institution to
 4001 honor an insurance applicant's check after delivery to a
 4002 licensed agent for payment of a premium, even if the agent has
 4003 previously delivered or transferred the premium to the insurer.
 4004 If a dishonored check represents the initial premium payment,

4005 the contract and all contractual obligations shall be void ab
 4006 initio unless the nonpayment is cured within the earlier of 5
 4007 days after actual notice by certified mail is received by the
 4008 applicant or 15 days after notice is sent to the applicant by
 4009 certified mail or registered mail, and if the contract is void,
 4010 any premium received by the insurer from a third party shall be
 4011 refunded to that party in full.

4012 2. When such cancellation or termination occurs during the
 4013 first 90 days during which the insurance is in force and the
 4014 insurance is canceled or terminated for reasons other than
 4015 nonpayment of premium, at least 20 days' written notice of
 4016 cancellation or termination accompanied by the reason therefor
 4017 shall be given except where there has been a material
 4018 misstatement or misrepresentation or failure to comply with the
 4019 underwriting requirements established by the insurer.

4020
 4021 After the policy has been in effect for 90 days, the policy
 4022 shall not be canceled by the insurer except when there has been
 4023 a material misstatement, a nonpayment of premium, a failure to
 4024 comply with underwriting requirements established by the insurer
 4025 within 90 days of the date of effectuation of coverage, or a
 4026 substantial change in the risk covered by the policy or when the
 4027 cancellation is for all insureds under such policies for a given
 4028 class of insureds. This paragraph does not apply to individually
 4029 rated risks having a policy term of less than 90 days.

4030 Section 26. A residential property insurer shall return
 4031 all excess profits to policyholders except as otherwise directed
 4032 by the Office of Insurance Regulation. A residential property

4033 insurer shall be deemed to have earned an excess profit if its
 4034 surplus exceeds its direct probable maximum loss for a 1-in-250-
 4035 year return period and it has earned a net underwriting gain in
 4036 Florida in excess of 10 percent of earned premiums above its
 4037 anticipated underwriting profit over the most recent 10-year
 4038 period.

4039 Section 27. Section 627.4261, Florida Statutes, is
 4040 transferred and renumbered as section 627.70131, Florida
 4041 Statutes, and subsection (5) is added to that section, to read:

4042 627.70131 ~~627.4261~~ Insurer's duty to acknowledge
 4043 communications regarding claims; investigation.--

4044 (5) Within 90 days after an insurer receives notice of a
 4045 property insurance claim from a policyholder, the insurer shall
 4046 pay or deny such claim unless the failure to pay such claim is
 4047 caused by factors beyond the control of the insurer which
 4048 reasonably prevent such payment. Failure to comply with this
 4049 subsection constitutes a violation of this code.

4050 Section 28. Subsections (3), (4), and (9) of section
 4051 627.701, Florida Statutes, are amended to read:

4052 627.701 Liability of insureds; coinsurance; deductibles.--

4053 ~~(3)(a) A policy of residential property insurance shall~~
 4054 ~~include a deductible amount applicable to hurricane losses no~~
 4055 ~~lower than \$500 and no higher than 2 percent of the policy~~
 4056 ~~dwelling limits with respect to personal lines residential~~
 4057 ~~risks, and no higher than 3 percent of the policy limits with~~
 4058 ~~respect to commercial lines residential risks; however, if a~~
 4059 ~~risk was covered on August 24, 1992, under a policy having a~~
 4060 ~~higher deductible than the deductibles allowed by this~~

4061 ~~paragraph, a policy covering such risk may include a deductible~~
4062 ~~no higher than the deductible in effect on August 24, 1992.~~
4063 ~~Notwithstanding the other provisions of this paragraph, a~~
4064 ~~personal lines residential policy covering a risk valued at~~
4065 ~~\$50,000 or less may include a deductible amount attributable to~~
4066 ~~hurricane losses no lower than \$250, and a personal lines~~
4067 ~~residential policy covering a risk valued at \$100,000 or more~~
4068 ~~may include a deductible amount attributable to hurricane losses~~
4069 ~~no higher than 10 percent of the policy limits unless subject to~~
4070 ~~a higher deductible on August 24, 1992; however, no maximum~~
4071 ~~deductible is required with respect to a personal lines~~
4072 ~~residential policy covering a risk valued at more than \$500,000.~~
4073 ~~An insurer may require a higher deductible, provided such~~
4074 ~~deductible is the same as or similar to a deductible program~~
4075 ~~lawfully in effect on June 14, 1995. In addition to the~~
4076 ~~deductible amounts authorized by this paragraph, an insurer may~~
4077 ~~also offer policies with a copayment provision under which,~~
4078 ~~after exhaustion of the deductible, the policyholder is~~
4079 ~~responsible for 10 percent of the next \$10,000 of insured~~
4080 ~~hurricane losses.~~

4081 ~~(a) (b) 1.~~ Except as otherwise provided in this subsection
4082 ~~paragraph,~~ prior to issuing a personal lines residential
4083 property insurance policy ~~on or after January 1, 2006, or prior~~
4084 ~~to the first renewal of a residential property insurance policy~~
4085 ~~on or after January 1, 2006,~~ the insurer must offer alternative
4086 deductible amounts applicable to hurricane losses equal to \$500,
4087 2 percent, 5 percent, and 10 percent of the policy dwelling
4088 limits, unless the specific percentage deductible is less than

4089 \$500. The written notice of the offer shall specify the
 4090 hurricane or wind deductible to be applied in the event that the
 4091 applicant or policyholder fails to affirmatively choose a
 4092 hurricane deductible. The insurer must provide such policyholder
 4093 with notice of the availability of the deductible amounts
 4094 specified in this paragraph in a form approved by the office in
 4095 conjunction with each renewal of the policy. The failure to
 4096 provide such notice constitutes a violation of this code but
 4097 does not affect the coverage provided under the policy.

4098 (b)2- This subsection ~~paragraph~~ does not apply with
 4099 respect to a deductible program lawfully in effect on June 14,
 4100 1995, or to any similar deductible program, if the deductible
 4101 program requires a minimum deductible amount of no less than 2
 4102 percent of the policy limits.

4103 (c)3- With respect to a policy covering a risk with
 4104 dwelling limits of at least \$100,000, but less than \$250,000,
 4105 the insurer may, in lieu of offering a policy with a \$500
 4106 hurricane or wind deductible as required by paragraph (a)
 4107 ~~subparagraph 1-~~, offer a policy that the insurer guarantees it
 4108 will not nonrenew for reasons of reducing hurricane loss for one
 4109 renewal period and that contains up to a 2 percent hurricane or
 4110 wind deductible as required by paragraph (a) ~~subparagraph 1-~~.

4111 (d)4- With respect to a policy covering a risk with
 4112 dwelling limits of \$250,000 or more, the insurer need not offer
 4113 the \$500 hurricane deductible as required by paragraph (a)
 4114 ~~subparagraph 1-~~, but must, except as otherwise provided in this
 4115 subsection, offer the other hurricane deductibles as required by
 4116 paragraph (a) ~~subparagraph 1-~~.

4117 (4) (a) Any policy that contains a separate hurricane
 4118 deductible must on its face include in boldfaced type no smaller
 4119 than 18 points the following statement: "THIS POLICY CONTAINS A
 4120 SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN
 4121 HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a
 4122 coinsurance provision applicable to hurricane losses must on its
 4123 face include in boldfaced type no smaller than 18 points the
 4124 following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION
 4125 THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

4126 (b) ~~Beginning October 1, 2005,~~ For any personal lines
 4127 residential property insurance policy containing a separate
 4128 hurricane deductible, the insurer shall compute and prominently
 4129 display the actual dollar value of the hurricane deductible on
 4130 the declarations page of the policy at issuance and, for
 4131 renewal, on the renewal declarations page of the policy or on
 4132 the premium renewal notice.

4133 (c) ~~Beginning October 1, 2005,~~ For any personal lines
 4134 residential property insurance policy containing an inflation
 4135 guard rider, the insurer shall compute and prominently display
 4136 the actual dollar value of the hurricane deductible on the
 4137 declarations page of the policy at issuance and, for renewal, on
 4138 the renewal declarations page of the policy or on the premium
 4139 renewal notice. In addition, ~~beginning October 1, 2005,~~ for any
 4140 personal lines residential property insurance policy containing
 4141 an inflation guard rider, the insurer shall notify the
 4142 policyholder of the possibility that the hurricane deductible
 4143 may be higher than indicated when loss occurs due to application
 4144 of the inflation guard rider. Such notification shall be made on

4145 the declarations page of the policy at issuance and, for
 4146 renewal, on the renewal declarations page of the policy or on
 4147 the premium renewal notice.

4148 (d)1. A personal lines residential property insurance
 4149 policy covering a risk valued at less than \$500,000 may not have
 4150 a hurricane deductible in excess of 10 percent of the policy
 4151 dwelling limits, unless the following conditions are met:

4152 a. The policyholder must personally write and provide to
 4153 the insurer the following statement in his or her own
 4154 handwriting and signs his or her name, which must also be signed
 4155 by every other named insured on the policy, and dated: "I do not
 4156 want the insurance on my home to pay for the first (specify
 4157 dollar value) of damage from hurricanes. I will pay those costs.
 4158 My insurance will not."

4159 b. If the structure insured by the policy is subject to a
 4160 mortgage or lien, the policyholder must provide the insurer with
 4161 a written statement from the mortgageholder or lienholder
 4162 indicating that the mortgageholder or lienholder approves the
 4163 policyholder electing to have the specified deductible.

4164 2. A deductible subject to the requirements of this
 4165 paragraph applies for the term of the policy and for each
 4166 renewal unless the policyholder elects otherwise.

4167 3. An insurer shall keep the original copy of the signed
 4168 statement required by this paragraph and provide a copy to the
 4169 policyholder providing the signed statement. A signed statement
 4170 meeting the requirements of this paragraph creates a presumption
 4171 that there was an informed, knowing election of coverage.

4172 4. The commission shall adopt rules providing appropriate

4173 alternative methods for providing the statements required by
 4174 this section for policyholders who have a handicapping or
 4175 disabling condition that prevents them from providing a
 4176 handwritten statement.

4177 (9) With respect to hurricane coverage provided in a
 4178 policy of residential coverage, when the policyholder has taken
 4179 appropriate hurricane mitigation measures regarding the
 4180 residence covered under the policy, the insurer shall ~~may~~
 4181 provide the insured the option of selecting an appropriate
 4182 reduction in the policy's hurricane deductible or ~~in lieu of~~
 4183 selecting the appropriate discount credit or other rate
 4184 differential as provided in s. 627.0629. ~~If made available by~~
 4185 ~~the insurer,~~ The insurer must provide the policyholder with
 4186 notice of the options available under this subsection on a form
 4187 approved by the office.

4188 Section 29. Effective April 1, 2007, section 627.7018,
 4189 Florida Statutes, is created to read:

4190 627.7018 Standards for determining risk of coverage.--In
 4191 determining the risk of providing property insurance coverage,
 4192 an insurer may not deny coverage solely on the basis of the age
 4193 of the structure and shall consider the wind resistance of the
 4194 structure and measures undertaken by the owner to protect the
 4195 structure against hurricane loss.

4196 Section 30. Section 627.706, Florida Statutes, is amended
 4197 to read:

4198 627.706 Sinkhole insurance; catastrophic ground cover
 4199 collapse; definitions.--

4200 (1) Every insurer authorized to transact property

4201 insurance in this state shall provide coverage for a
 4202 catastrophic ground cover collapse and shall make available, for
 4203 an appropriate additional premium, coverage for ~~insurable~~
 4204 sinkhole losses on any structure, including contents of personal
 4205 property contained therein, to the extent provided in the form
 4206 to which the ~~sinkhole~~ coverage attaches. A policy for
 4207 residential property insurance may include a deductible amount
 4208 applicable to sinkhole losses equal to 1 percent, 2 percent, 5
 4209 percent, or 10 percent of the policy dwelling limits, with
 4210 appropriate premium discounts offered with each deductible
 4211 amount.

4212 (2) As used in ss. 627.706-627.7074, and as used in
 4213 connection with any policy providing coverage for a catastrophic
 4214 ground cover collapse or for sinkhole losses:

4215 (a) "Catastrophic ground cover collapse" means geological
 4216 activity that results in all the following:

- 4217 1. The abrupt collapse of the ground cover;
- 4218 2. A depression in the ground cover clearly visible to the
 4219 naked eye;
- 4220 3. Structural damage to the building, including the
 4221 foundation; and
- 4222 4. The insured structure being condemned and ordered to be
 4223 vacated by the governmental agency authorized by law to issue
 4224 such an order for that structure.

4225
 4226 Contents coverage applies if there is a loss resulting from a
 4227 catastrophic ground cover collapse. Structural damage consisting
 4228 merely of the settling or cracking of a foundation, structure,

4229 or building does not constitute a loss resulting from a
 4230 catastrophic ground cover collapse.

4231 (b)~~(a)~~ "Sinkhole" means a landform created by subsidence
 4232 of soil, sediment, or rock as underlying strata are dissolved by
 4233 groundwater. A sinkhole may form by collapse into subterranean
 4234 voids created by dissolution of limestone or dolostone or by
 4235 subsidence as these strata are dissolved.

4236 (c)~~(b)~~ "Sinkhole loss" means structural damage to the
 4237 building, including the foundation, caused by sinkhole activity.
 4238 Contents coverage shall apply only if there is structural damage
 4239 to the building caused by sinkhole activity.

4240 (d)~~(e)~~ "Sinkhole activity" means settlement or systematic
 4241 weakening of the earth supporting such property only when such
 4242 settlement or systematic weakening results from movement or
 4243 raveling of soils, sediments, or rock materials into
 4244 subterranean voids created by the effect of water on a limestone
 4245 or similar rock formation.

4246 (e)~~(d)~~ "Professional engineer" means a person, as defined
 4247 in s. 471.005, who has a bachelor's degree or higher in
 4248 engineering with a specialty in the geotechnical engineering
 4249 field. A professional engineer must have geotechnical experience
 4250 and expertise in the identification of sinkhole activity as well
 4251 as other potential causes of damage to the structure.

4252 (f)~~(e)~~ "Professional geologist" means a person, as defined
 4253 by s. 492.102, who has a bachelor's degree or higher in geology
 4254 or related earth science with expertise in the geology of
 4255 Florida. A professional geologist must have geological
 4256 experience and expertise in the identification of sinkhole

4257 activity as well as other potential geologic causes of damage to
 4258 the structure.

4259 (3) On or before June 1, 2007, every insurer authorized to
 4260 transact property insurance in this state shall make a proper
 4261 filing with the office for the purpose of extending the
 4262 appropriate forms of property insurance to include coverage for
 4263 catastrophic ground cover collapse or for sinkhole losses.
 4264 Coverage for catastrophic ground cover collapse may not go into
 4265 effect until the effective date provided for in the filing
 4266 approved by the office.

4267 (4) Insurers offering policies that exclude coverage for
 4268 sinkhole losses shall inform policyholders in bold type of not
 4269 less than 14 points as follows: "YOUR POLICY PROVIDES COVERAGE
 4270 FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS IN THE
 4271 PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE, YOUR
 4272 POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU MAY
 4273 PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN
 4274 ADDITIONAL PREMIUM."

4275 Section 31. Effective March 1, 2007, section 627.711,
 4276 Florida Statutes, is amended to read:

4277 627.711 Notice of premium discounts for hurricane loss
 4278 mitigation; uniform mitigation verification inspection form.--

4279 (1) Using a form prescribed by the Office of Insurance
 4280 Regulation, the insurer shall clearly notify the applicant or
 4281 policyholder of any personal lines residential property
 4282 insurance policy, at the time of the issuance of the policy and
 4283 at each renewal, of the availability and the range of each
 4284 premium discount, credit, other rate differential, or reduction

4285 in deductibles, and combinations of discounts, credits, rate
 4286 differentials, or reductions in deductibles, for properties on
 4287 which fixtures or construction techniques demonstrated to reduce
 4288 the amount of loss in a windstorm can be or have been installed
 4289 or implemented. The prescribed form shall describe generally
 4290 what actions the policyholders may be able to take to reduce
 4291 their windstorm premium. The prescribed form and a list of such
 4292 ranges approved by the office for each insurer licensed in the
 4293 state and providing such discounts, credits, other rate
 4294 differentials, or reductions in deductibles for properties
 4295 described in this subsection shall be available for electronic
 4296 viewing and download from the Department of Financial Services'
 4297 or the Office of Insurance Regulation's Internet website. The
 4298 Financial Services Commission may adopt rules to implement this
 4299 subsection.

4300 (2) By July 1, 2007, the Financial Services Commission
 4301 shall develop by rule a uniform mitigation verification
 4302 inspection form that shall be used by all insurers when
 4303 factoring discounts for wind insurance. In developing the form,
 4304 the commission shall seek input from insurance, construction,
 4305 and building code representatives. Further, the commission shall
 4306 provide guidance as to the length of time the inspection results
 4307 are valid.

4308 Section 32. Effective July 1, 2007, section 627.712,
 4309 Florida Statutes, is created to read:

4310 627.712 Residential hurricane coverage required;
 4311 availability of exclusions for windstorm or contents.--

4312 (1) An insurer issuing a residential property insurance

4313 policy must provide hurricane or windstorm coverage as defined
4314 in s. 627.4025. This subsection does not apply with respect to
4315 risks that are eligible for wind-only coverage from Citizens
4316 Property Insurance Corporation under s. 627.351(6).

4317 (2) An insurer that is subject to subsection (1) must make
4318 available, at the option of the policyholder, an exclusion of
4319 hurricane coverage or windstorm coverage. The coverage may be
4320 excluded only if:

4321 (a) The policyholder personally writes and provides to the
4322 insurer the following statement in his or her own handwriting
4323 and signs his or her name, which must also be signed by every
4324 other named insured on the policy, and dated: "I do not want the
4325 insurance on my (home / mobile home / condominium unit) to pay
4326 for damage from windstorms or hurricanes. I will pay those
4327 costs. My insurance will not."

4328 (b) If the structure insured by the policy is subject to a
4329 mortgage or lien, the policyholder must provide the insurer with
4330 a written statement from the mortgageholder or lienholder
4331 indicating that the mortgageholder or lienholder approves the
4332 policyholder electing to exclude windstorm coverage or hurricane
4333 coverage from his or her residential property insurance policy.

4334 (3) An insurer issuing a residential property insurance
4335 policy, except for a condominium unit owner's policy, must make
4336 available, at the option of the policyholder, an exclusion of
4337 coverage for the contents. The coverage may be excluded only if
4338 the policyholder personally writes and provides to the insurer
4339 the following statement in his or her own handwriting and signs
4340 his or her signature, which must also be signed by every other

4341 named insured on the policy, and dated: "I do not want the
4342 insurance on my (home / mobile home) to pay for the costs to
4343 repair or replace any contents that are damaged. I will pay
4344 those costs. My insurance will not."

4345 (4) An insurer shall keep the original copy of a signed
4346 statement required by this section and provide a copy to the
4347 policyholder providing the signed statement. A signed statement
4348 meeting the requirements of this section creates a presumption
4349 that there was an informed, knowing rejection of coverage.

4350 (5) The exclusions authorized by this section are valid
4351 for the term of the contract and for each renewal unless the
4352 policyholder elects otherwise.

4353 (6) The commission shall adopt rules providing appropriate
4354 alternative methods for providing the statements required by
4355 this section for policyholders who have a handicapping or
4356 disabling condition that prevents them from providing a
4357 handwritten statement.

4358 (7) This section is effective July 1, 2007, but the office
4359 may delay application of this section until a date no later than
4360 October 1, 2007, upon approval by the Financial Services
4361 Commission.

4362 Section 33. Section 627.713, Florida Statutes, is created
4363 to read:

4364 627.713 Report of hurricane loss data.--The office may
4365 require property insurers to report data regarding hurricane
4366 claims and underwriting costs, including, but not limited to:

4367 (1) Number of claims.

4368 (2) Amount of claim payments made.

- 4369 (3) Number and amount of total-loss claims.
- 4370 (4) Amount and percentage of losses covered by reinsurance
- 4371 or other loss-transfer agreements.
- 4372 (5) Amount of losses covered under specified deductibles.
- 4373 (6) Claims and payments for specified insured values.
- 4374 (7) Claims and payments for specified dollar values.
- 4375 (8) Claims and payments for specified types of
- 4376 construction or mitigation features.
- 4377 (9) Claims and payments for policies under specified
- 4378 underwriting criteria.
- 4379 (10) Claims and payments for contents, additional living
- 4380 expense, and other specified coverages.
- 4381 (11) Claims and payments by county for the information
- 4382 specified in this section.
- 4383 (12) Any other data that the office requires.

4384 Section 34. Effective August 1, 2007, section 627.7277,
 4385 Florida Statutes, is amended to read:

4386 627.7277 Notice of renewal premium.--

- 4387 (1) As used in this section, the terms "policy" and
- 4388 "renewal" have the meaning ascribed in s. 627.728.
- 4389 (2) An insurer shall mail or deliver to its policyholder
- 4390 at least 30 days' advance written notice of the renewal premium
- 4391 for the policy.
- 4392 (3) If the insurer fails to provide the 30 days' notice of
- 4393 a renewal premium that results in a premium increase, the
- 4394 coverage under the policy remains in effect at the existing
- 4395 rates until 30 days after the notice is given or until the
- 4396 effective date of replacement coverage obtained by the insured,

4397 whichever occurs first.

4398 (4) Every notice of renewal premium must specify:

4399 (a) The dollar amounts recouped for assessments by the
 4400 Florida Hurricane Catastrophe Fund, the Citizens Property
 4401 Insurance Corporation, and the Florida Insurance Guaranty
 4402 Association. The actual names of the entities must appear next
 4403 to the dollar amounts.

4404 (b) The dollar amount of any premium increase that is due
 4405 to a rate increase and the dollar amounts that are due to
 4406 coverage changes.

4407 (5) The Financial Services Commission may adopt rules
 4408 pursuant to ss. 120.536(1) and 120.54 to implement this section.

4409 Section 35. Paragraph (e) of subsection (3) and subsection
 4410 (4) of section 631.57, Florida Statutes, are amended to read:
 4411 631.57 Powers and duties of the association.--

4412 (3)

4413 (e)1.a. In addition to assessments otherwise authorized in
 4414 paragraph (a) and to the extent necessary to secure the funds
 4415 for the account specified in s. 631.55(2)(c) for the direct
 4416 payment of covered claims of insolvent homeowners insurers and
 4417 to pay the reasonable costs to administer such claims, or to
 4418 retire indebtedness, including, without limitation, the
 4419 principal, redemption premium, if any, and interest on, and
 4420 related costs of issuance of, bonds issued under s. 631.695 and
 4421 the funding of any reserves and other payments required under
 4422 the bond resolution or trust indenture pursuant to which such
 4423 bonds have been issued, the office, upon certification of the
 4424 board of directors, shall levy emergency assessments upon

4425 insurers holding a certificate of authority. The emergency
 4426 assessments payable under this paragraph by any insurer shall
 4427 not exceed in any single year more than 2 percent of that
 4428 insurer's direct written premiums, net of refunds, in this state
 4429 during the preceding calendar year for the kinds of insurance
 4430 within the account specified in s. 631.55(2)(c).

4431 b. Any emergency assessments authorized under this
 4432 paragraph shall be levied by the office upon insurers referred
 4433 to in sub-subparagraph a., upon certification as to the need for
 4434 such assessments by the board of directors. In the event the
 4435 board of directors participates in the issuance of bonds in
 4436 accordance with s. 631.695, emergency assessments shall be
 4437 levied, in each year that bonds issued under s. 631.695 and
 4438 secured by such emergency assessments are outstanding, in such
 4439 amounts up to such 2-percent limit as required in order to
 4440 provide for the full and timely payment of the principal of,
 4441 redemption premium, if any, and interest on, and related costs
 4442 of issuance of, such bonds. The emergency assessments provided
 4443 for in this paragraph are assigned and pledged to the
 4444 municipality, county, or legal entity issuing bonds under s.
 4445 631.695 for the benefit of the holders of such bonds, in order
 4446 to enable such municipality, county, or legal entity to provide
 4447 for the payment of the principal of, redemption premium, if any,
 4448 and interest on such bonds, the cost of issuance of such bonds,
 4449 and the funding of any reserves and other payments required
 4450 under the bond resolution or trust indenture pursuant to which
 4451 such bonds have been issued, without the necessity of any
 4452 further action by the association, the office, or any other

4453 party. To the extent bonds are issued under s. 631.695 and the
 4454 association determines to secure such bonds by a pledge of
 4455 revenues received from the emergency assessments, such bonds,
 4456 upon such pledge of revenues, shall be secured by and payable
 4457 from the proceeds of such emergency assessments, and the
 4458 proceeds of emergency assessments levied under this paragraph
 4459 shall be remitted directly to and administered by the trustee or
 4460 custodian appointed for such bonds.

4461 c. Emergency assessments under this paragraph may be
 4462 payable in a single payment or, at the option of the
 4463 association, may be payable in 12 monthly installments with the
 4464 first installment being due and payable at the end of the month
 4465 after an emergency assessment is levied and subsequent
 4466 installments being due not later than the end of each succeeding
 4467 month.

4468 d. If emergency assessments are imposed, the report
 4469 required by s. 631.695(7) shall include an analysis of the
 4470 revenues generated from the emergency assessments imposed under
 4471 this paragraph.

4472 e. If emergency assessments are imposed, the references in
 4473 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
 4474 assessments levied under paragraph (a) shall include emergency
 4475 assessments imposed under this paragraph.

4476 2. In order to ensure that insurers paying emergency
 4477 assessments levied under this paragraph continue to charge rates
 4478 that are neither inadequate nor excessive, within 90 days after
 4479 being notified of such assessments, each insurer that is to be
 4480 assessed pursuant to this paragraph shall submit a rate filing

4481 for coverage included within the account specified in s.
4482 631.55(2)(c) and for which rates are required to be filed under
4483 s. 627.062. If the filing reflects a rate change that, as a
4484 percentage, is equal to the difference between the rate of such
4485 assessment and the rate of the previous year's assessment under
4486 this paragraph, the filing shall consist of a certification so
4487 stating and shall be deemed approved when made. Any rate change
4488 of a different percentage shall be subject to the standards and
4489 procedures of s. 627.062.

4490 3. In the event the board of directors participates in the
4491 issuance of bonds in accordance with s. 631.695, an annual
4492 assessment under this paragraph shall continue while the bonds
4493 issued with respect to which the assessment was imposed are
4494 outstanding, including any bonds the proceeds of which were used
4495 to refund bonds issued pursuant to s. 631.695, unless adequate
4496 provision has been made for the payment of the bonds in the
4497 documents authorizing the issuance of such bonds.

4498 4. Emergency assessments under this paragraph are not
4499 premium and are not subject to the premium tax, to any fees, or
4500 to any commissions. An insurer is liable for all emergency
4501 assessments that the insurer collects and shall treat the
4502 failure of an insured to pay an emergency assessment as a
4503 failure to pay the premium. An insurer is not liable for
4504 uncollectible emergency assessments.

4505 (4) The department may exempt any insurer from any regular
4506 or emergency ~~an~~ assessment if an assessment would result in such
4507 insurer's financial statement reflecting an amount of capital or
4508 surplus less than the sum of the minimum amount required by any

4509 jurisdiction in which the insurer is authorized to transact
 4510 insurance.

4511 Section 36. It is the intent of the Legislature that the
 4512 amendments to s. 631.57, Florida Statutes, by s. 34, chapter
 4513 2006-12, Laws of Florida, authorized the Florida Insurance
 4514 Guaranty Association to certify, and the Office of Insurance
 4515 Regulation to levy, an emergency assessment of up to 2 percent
 4516 to directly pay the covered claims out of the account specified
 4517 in s. 631.55(2)(c), Florida Statutes, or use such emergency
 4518 assessment proceeds to retire the indebtedness and costs of
 4519 bonds issued to pay such claims and reasonable claims
 4520 administration costs.

4521 Section 37. Subsection (11) of section 718.111, Florida
 4522 Statutes, is amended to read:

4523 718.111 The association.--

4524 (11) INSURANCE.--In order to protect the safety, health,
 4525 and welfare of the people of the State of Florida and to ensure
 4526 consistency in the provision of insurance coverage to
 4527 condominiums and their unit owners, paragraphs (b) and (c) are
 4528 deemed to apply to every residential condominium in the state,
 4529 regardless of the date of its declaration of condominium. It is
 4530 the intent of the Legislature to encourage lower or stable
 4531 insurance premiums for associations described in this section.
 4532 Therefore, the Legislature requires a report to be prepared by
 4533 the Office of Insurance Regulation of the Department of
 4534 Financial Services for publication 18 months from the effective
 4535 date of this act, evaluating premium increases or decreases for
 4536 associations, unit owner premium increases or decreases,

4537 recommended changes to better define common areas, or any other
4538 information the Office of Insurance Regulation deems
4539 appropriate.

4540 (a) A unit-owner controlled association operating a
4541 residential condominium shall use its best efforts to obtain and
4542 maintain adequate insurance to protect the association, the
4543 association property, the common elements, and the condominium
4544 property required to be insured by the association pursuant to
4545 paragraph (b). If the association is developer controlled, the
4546 association shall exercise due diligence to obtain and maintain
4547 such insurance. Failure to obtain and maintain adequate
4548 insurance during any period of developer control shall
4549 constitute a breach of fiduciary responsibility by the
4550 developer-appointed members of the board of directors of the
4551 association, unless said members can show that despite such
4552 failure, they have exercised due diligence. The declaration of
4553 condominium as originally recorded, or amended pursuant to
4554 procedures provided therein, may require that condominium
4555 property consisting of freestanding buildings where there is no
4556 more than one building in or on such unit need not be insured by
4557 the association if the declaration requires the unit owner to
4558 obtain adequate insurance for the condominium property. An
4559 association may also obtain and maintain liability insurance for
4560 directors and officers, insurance for the benefit of association
4561 employees, and flood insurance for common elements, association
4562 property, and units. Adequate insurance, regardless of any
4563 requirement in the declaration of condominium for coverage by
4564 the association for "full insurable value," "replacement cost,"

4565 or the like, may include reasonable deductibles as determined by
 4566 the board based upon available funds or predetermined assessment
 4567 authority at the time that the insurance is obtained.

4568 1. Windstorm insurance coverage for a group of no fewer
 4569 than three communities created and operating under chapter 718,
 4570 chapter 719, chapter 720, or chapter 721 may be obtained and
 4571 maintained for the communities if the insurance coverage is
 4572 sufficient to cover an amount equal to the probable maximum loss
 4573 for the communities for a 250-year windstorm event. Such
 4574 probable maximum loss must be determined through the use of a
 4575 competent model that has been accepted by the Florida Commission
 4576 on Hurricane Loss Project Methodology. Such insurance coverage
 4577 is deemed adequate windstorm insurance for the purposes of this
 4578 section.

4579 2. An association or group of associations may self-insure
 4580 against claims against the association, the association
 4581 property, and the condominium property required to be insured by
 4582 an association, upon compliance with the applicable provisions
 4583 of ss. 624.460-624.488, which shall be considered adequate
 4584 insurance for the purposes of this section. A copy of each
 4585 policy of insurance in effect shall be made available for
 4586 inspection by unit owners at reasonable times.

4587 (b) Every hazard insurance policy issued or renewed on or
 4588 after January 1, 2004, to protect the condominium shall provide
 4589 primary coverage for:

4590 1. All portions of the condominium property located
 4591 outside the units;

4592 2. The condominium property located inside the units as

4593 such property was initially installed, or replacements thereof
4594 of like kind and quality and in accordance with the original
4595 plans and specifications or, if the original plans and
4596 specifications are not available, as they existed at the time
4597 the unit was initially conveyed; and

4598 3. All portions of the condominium property for which the
4599 declaration of condominium requires coverage by the association.

4600

4601 Anything to the contrary notwithstanding, the terms "condominium
4602 property," "building," "improvements," "insurable improvements,"
4603 "common elements," "association property," or any other term
4604 found in the declaration of condominium which defines the scope
4605 of property or casualty insurance that a condominium association
4606 must obtain shall exclude all floor, wall, and ceiling
4607 coverings, electrical fixtures, appliances, air conditioner or
4608 heating equipment, water heaters, water filters, built-in
4609 cabinets and countertops, and window treatments, including
4610 curtains, drapes, blinds, hardware, and similar window treatment
4611 components, or replacements of any of the foregoing which are
4612 located within the boundaries of a unit and serve only one unit
4613 and all air conditioning compressors that service only an
4614 individual unit, whether or not located within the unit
4615 boundaries. The foregoing is intended to establish the property
4616 or casualty insuring responsibilities of the association and
4617 those of the individual unit owner and do not serve to broaden
4618 or extend the perils of coverage afforded by any insurance
4619 contract provided to the individual unit owner. Beginning
4620 January 1, 2004, the association shall have the authority to

4621 amend the declaration of condominium, without regard to any
 4622 requirement for mortgagee approval of amendments affecting
 4623 insurance requirements, to conform the declaration of
 4624 condominium to the coverage requirements of this section.

4625 (c) Every hazard insurance policy issued or renewed on or
 4626 after January 1, 2004, to an individual unit owner shall provide
 4627 that the coverage afforded by such policy is excess over the
 4628 amount recoverable under any other policy covering the same
 4629 property. Each insurance policy issued to an individual unit
 4630 owner providing such coverage shall be without rights of
 4631 subrogation against the condominium association that operates
 4632 the condominium in which such unit owner's unit is located. All
 4633 real or personal property located within the boundaries of the
 4634 unit owner's unit which is excluded from the coverage to be
 4635 provided by the association as set forth in paragraph (b) shall
 4636 be insured by the individual unit owner.

4637 (d) The association shall obtain and maintain adequate
 4638 insurance or fidelity bonding of all persons who control or
 4639 disburse funds of the association. The insurance policy or
 4640 fidelity bond must cover the maximum funds that will be in the
 4641 custody of the association or its management agent at any one
 4642 time. As used in this paragraph, the term "persons who control
 4643 or disburse funds of the association" includes, but is not
 4644 limited to, those individuals authorized to sign checks and the
 4645 president, secretary, and treasurer of the association. The
 4646 association shall bear the cost of bonding.

4647 Section 38. Task Force on Citizens Property Insurance
 4648 Claims Handling and Resolution.--

4649 (1) TASK FORCE CREATED.--There is created the Task Force
4650 on Citizens Property Insurance Claims Handling and Resolution.

4651 (2) ADMINISTRATION.--The task force shall be
4652 administratively housed within the Office of the Chief Financial
4653 Officer but shall operate independently of any state officer or
4654 agency. The Office of the Chief Financial Officer shall provide
4655 such administrative support as the task force deems necessary to
4656 accomplish its mission and shall provide necessary funding for
4657 the task force within its existing resources. The Executive
4658 Office of the Governor, the Department of Financial Services,
4659 and the Office of Insurance Regulation shall provide substantive
4660 staff support for the task force.

4661 (3) MEMBERSHIP.--The members of the task force shall be
4662 appointed as follows:

4663 (a) The Governor shall appoint one member who is a
4664 representative of insurance consumers.

4665 (b) The Chief Financial Officer shall appoint one member
4666 who has expertise in claims handling.

4667 (c) The President of the Senate shall appoint one member.

4668 (d) The Speaker of the House of Representatives shall
4669 appoint one member.

4670 (e) The Commissioner of Insurance Regulation, or his or
4671 her designee, shall serve as an ex officio voting member of the
4672 task force.

4673 (f) The Insurance Consumer Advocate, or his or her
4674 designee, shall serve as an ex officio voting member of the task
4675 force.

4676 (g) The Executive Director of Citizens Property Insurance

4677 Corporation, or his or her designee, shall serve as an ex
 4678 officio voting member of the task force.

4679
 4680 Members of the task force shall serve without compensation but
 4681 are entitled to receive reimbursement for per diem and travel
 4682 expenses as provided in s. 112.061, Florida Statutes.

4683 (4) PURPOSE AND INTENT.--The Legislature recognizes that
 4684 policyholders and applicants of Citizens Property Insurance
 4685 Corporation should receive the highest possible level of service
 4686 and treatment. This level should never be less than the private
 4687 market. The Legislature further recognizes that Citizens
 4688 Property Insurance Corporation's service standards should be no
 4689 less than those applied to insurers in the voluntary market with
 4690 respect to responsiveness, timeliness, customer courtesy, and
 4691 overall dealings with policyholders and applicants. The purpose
 4692 of the task force is to make recommendations to the legislative
 4693 and executive branches of this state's government relating to
 4694 the handling, service, and resolution of claims by Citizens
 4695 Property Insurance Corporation that are sufficient to ensure
 4696 that all Citizens' policyholders and applicants in this state
 4697 are able to obtain appropriate handling, service, and resolution
 4698 of claims, as further described in this section.

4699 (5) SPECIFIC ISSUES.--The task force shall conduct such
 4700 research and hearings as it deems necessary to achieve the
 4701 purposes specified in subsection (4) and shall develop
 4702 information on relevant issues, including, but not limited to,
 4703 the following:

4704 (a) How Citizens Property Insurance Corporation can

4705 improve its customer service.

4706 (b) How Citizens Property Insurance Corporation can
 4707 improve its adjuster response time after a hurricane.

4708 (c) How Citizens Property Insurance Corporation can
 4709 efficiently use its available adjusting sources for claims.

4710 (d) How Citizens Property Insurance Corporation can
 4711 improve the time it takes to conduct damage assessments.

4712 (e) How Citizens Property Insurance Corporation can
 4713 dispose of and settle claims remaining from the 2004 and 2005
 4714 hurricane seasons and can improve the time it takes to dispose
 4715 of and settle claims remaining from the 2004 and 2005 hurricane
 4716 seasons.

4717 (f) How Citizens Property Insurance Corporation can
 4718 improve the time it takes to dispose of and settle claims.

4719 (g) Whether Citizens Property Insurance Corporation has
 4720 hired an adequate level of permanent claims and adjusting staff
 4721 in addition to outsourcing its claims-adjusting functions to
 4722 independent adjusting firms.

4723 (6) REPORTS AND RECOMMENDATIONS.--By July 1, 2007, the
 4724 task force shall provide a report containing recommendations
 4725 regarding the process Citizens Property Insurance Corporation
 4726 should use to dispose of the claims remaining open from the 2004
 4727 and 2005 hurricane seasons. By July 1, 2008, the task force
 4728 shall provide a report containing findings relating to the
 4729 issues identified in subsection (5) and recommendations
 4730 consistent with the purposes of this section and also consistent
 4731 with such findings. The report shall include recommendations
 4732 regarding the process Citizens Property Insurance Corporation

4733 should use to dispose of claims. The task force shall submit the
 4734 reports to the Governor, the Chief Financial Officer, the
 4735 President of the Senate, and the Speaker of the House of
 4736 Representatives. The task force may also submit such interim
 4737 reports as it deems appropriate.

4738 (7) ADDITIONAL ACTIVITIES.--The task force shall monitor
 4739 the implementation of the provisions of chapter 2006-12, Laws of
 4740 Florida, relating to the creation of the Office of Internal
 4741 Auditor in Citizens Property Insurance Corporation and shall
 4742 make such additional recommendations as it deems appropriate for
 4743 further legislative action during the 2006-2008 legislative
 4744 biennium.

4745 (8) EXPIRATION.--The task force shall expire at the end of
 4746 the 2006-2008 legislative biennium.

4747 Section 39. Windstorm Mitigation Study Committee.--

4748 (1) (a) The Windstorm Mitigation Study Committee is created
 4749 and shall be composed of eight members as follows:

4750 1. Two members shall be appointed by the Governor, with
 4751 one designated by the Governor to serve as chair.

4752 2. Two members shall be appointed by the Chief Financial
 4753 Officer.

4754 3. Two members shall be appointed by the President of the
 4755 Senate.

4756 4. Two members shall be appointed by the Speaker of the
 4757 House of Representatives.

4758 (b) Each member must be knowledgeable of issues concerning
 4759 the mitigation of the effects of windstorms on structures in
 4760 this state and at least one member must represent primarily the

4761 interests of homeowners.

4762 (2) (a) The members of the committee shall serve without
4763 compensation, but are entitled to reimbursement for all
4764 necessary expenses incurred in performing their duties,
4765 including travel expenses, in accordance with s. 112.061,
4766 Florida Statutes. Reimbursements for travel shall be paid by the
4767 appointing entity.

4768 (b) The committee shall meet as necessary, at the call of
4769 the chair, and at the time and place designated by the chair.
4770 The committee may conduct its meetings through teleconferences
4771 or other similar means. The first meeting of the committee shall
4772 occur no later than February 9, 2007.

4773 (3) The Department of Financial Services, the Office of
4774 Insurance Regulation, the Citizens Property Insurance
4775 Corporation, and other agencies of this state shall supply any
4776 information, assistance, and facilities that are considered
4777 necessary by the committee to carry out its duties under this
4778 section. The department shall provide staff assistance as
4779 necessary in order to carry out the required clerical and
4780 administrative functions of the committee.

4781 (4) The committee shall analyze those solutions and
4782 programs that address the state's acute need to mitigate the
4783 effects of windstorms on structures, especially residential
4784 property that is located in areas at greatest risk of windstorm
4785 damage, including programs or proposals that provide for:

4786 (a) The availability of home inspections for windstorm
4787 resistance.

4788 (b) Grants to assist homeowners, and possibly other groups

4789 of property owners, to harden their property against windstorm
4790 damage.

4791 (c) The full actuarial value to be reflected in premium
4792 credits for windstorm mitigation.

4793 (d) The most effective way to inform policyholders of the
4794 availability of and means by which to obtain premium credits for
4795 windstorm mitigation.

4796 (e) Coordination among federal, local, and private
4797 initiatives.

4798 (f) Streamlining or strengthening applicable state,
4799 regional, and local regulations.

4800 (g) The stimulation of public and private efforts to
4801 mitigate against windstorm injury and damage.

4802 (h) The discovery and assessment of funding sources for
4803 windstorm mitigation.

4804 (i) Tax incentives for windstorm mitigation.

4805 (j) Consumer information concerning the benefits of
4806 windstorm mitigation, including personal safety as well as
4807 property security.

4808 (k) Research on windstorm mitigation.

4809

4810 The committee may develop any other solutions and programs that
4811 it considers appropriate.

4812 (5) In performing its analysis, the committee shall
4813 consider both the safety of the residents of this state and the
4814 protection of real property, especially residential. In
4815 addition, the committee shall consider both short-term and long-
4816 term solutions and programs.

4817 (6) The committee shall review, evaluate, and make
4818 recommendations regarding existing and proposed programs and
4819 initiatives for mitigating windstorm damage.

4820 (7) The committee shall provide recommendations, including
4821 proposed legislation, to the Governor, the President of the
4822 Senate, the Speaker of the House of Representatives, the Chief
4823 Financial Officer, and the Commissioner of Insurance Regulation
4824 by March 6, 2007.

4825 (8) The committee shall expire on May 15, 2007.

4826 Section 40. The Financial Services Commission shall adopt
4827 a uniform home grading scale to grade the ability of a home to
4828 withstand the wind load from a sustained severe tropical storm
4829 or hurricane. The commission shall coordinate with the Office of
4830 Insurance Regulation, the Department of Financial Services, and
4831 the Department of Community Affairs in developing the grading
4832 scale, which must be based upon and consistent with the rating
4833 system required by chapter 2006-12, Laws of Florida. The
4834 commission shall adopt the uniform grading scale by rule no
4835 later than June 30, 2007.

4836 Section 41. Florida Disaster Recovery Program.--

4837 (1) The Department of Community Affairs shall implement
4838 the 2006 Disaster Recovery Program from funds provided through
4839 the Emergency Supplemental Appropriations Act for Defense, the
4840 Global War on Terror, and Hurricane Recovery, 2006, for the
4841 purpose of assisting local governments in satisfying disaster-
4842 recovery needs in the areas of low-income housing and
4843 infrastructure, with a primary focus on the hardening of single-
4844 family and multifamily housing units, not only to ensure that

4845 affordable housing can withstand the effects of hurricane-force
4846 winds, but also to mitigate the increasing costs of insurance,
4847 which may ultimately render existing affordable homes
4848 unaffordable or uninsurable. This section does not create an
4849 entitlement for local governments or property owners or obligate
4850 the state in any way to fund disaster-recovery needs.

4851 (2) Entitlement and nonentitlement counties identified
4852 under the Federal Disaster Declaration (FEMA-1609-DR), federally
4853 recognized Indian tribes, and nonprofit organizations are
4854 eligible to apply for funding.

4855 (3) Up to 78 percent of these funds may be used to
4856 complement the grants awarded by the Department of Financial
4857 Services under s. 215.5586, Florida Statutes, and fund other
4858 eligible disaster-related activities supporting housing
4859 rehabilitation, hardening, mitigation, and infrastructure
4860 improvements at the request of the local governments in order to
4861 assist the State of Florida in better serving low-income
4862 homeowners in single-family housing units, including, but not
4863 limited to, condominiums. Up to 20 percent of the funds may be
4864 used to provide inspections and mitigation improvements to
4865 multifamily units receiving rental assistance under projects of
4866 the United States Department of Housing and Urban Development or
4867 the Rural Development Division of the United States Department
4868 of Agriculture.

4869 (4) For the 2006-2007 fiscal year, the sum of \$100,066,518
4870 is appropriated in a Grant in Aid - Fixed Capital Outlay
4871 appropriation category from the Florida Small Cities Community
4872 Development Block Grant Program Fund to the Department of

4873 Community Affairs for the purpose of implementing the provisions
 4874 of this section. These funds shall be used in a manner
 4875 consistent with Federal Register, Vol. 71, No. 209, Docket No.
 4876 FR-5089-N-01, and the State of Florida Action Plan for Disaster
 4877 Recovery as approved by the United States Department of Housing
 4878 and Urban Development.

4879 Section 42. Effective January 1, 2008, no insurer writing
 4880 private passenger automobile insurance in this state may
 4881 continue to write such insurance if the insurer writes
 4882 homeowners' insurance in another state but not in this state
 4883 unless the insurer writing private passenger automobile
 4884 insurance in this state is affiliated with an insurer writing
 4885 homeowners' insurance in this state.

4886 Section 43. It is the intent of the Legislature to create
 4887 during the 2007 Legislative Session a grant program to assist
 4888 persons whose income does not exceed that of "low-income
 4889 persons" as defined in s. 420.602(8), Florida Statutes, for the
 4890 purpose of purchasing property insurance to protect their
 4891 homestead property.

4892 Section 44. Effective July 1, 2007, subsection (6) of
 4893 section 627.0629, Florida Statutes, is repealed.

4894 Section 45. For the 2006-2007 fiscal year, there is
 4895 appropriated \$2 million from the Department of Financial
 4896 Services' Insurance Regulatory Trust Fund to the Department of
 4897 Financial Services for the purposes of implementing section 40
 4898 of this act.

4899 Section 46. Effective February 1, 2007, the sum of
 4900 \$105,000 is appropriated from the Insurance Regulatory Trust

CS/HB 1A, Engrossed 1/c

2007

4901 Fund and 193,000 in associated rate is provided to the Office of
4902 Insurance Regulation for the purpose of granting competitive pay
4903 adjustments for actuaries employed within the office.
4904 Adjustments shall be provided at the discretion of the
4905 Commissioner of Insurance Regulation.

4906 Section 47. If any provision of this act or its
4907 application to any person or circumstance is held invalid, the
4908 invalidity does not affect other provisions or applications of
4909 the act which can be given effect without the invalid provision
4910 or application, and to this end the provisions of this act are
4911 severable.

4912 Section 48. Except as otherwise expressly provided in this
4913 act, this act shall take effect upon becoming a law.