

1 A bill to be entitled

2 An act relating to hurricane preparedness and residential  
3 property insurance; amending s. 553.73, F.S.; prohibiting  
4 the Florida Building Commission from modifying certain  
5 foundation codes relating to wind resistance or the  
6 prevention of water intrusion unless the modification  
7 enhances such provisions; amending s. 553.775, F.S.;  
8 conforming a cross-reference; requiring jurisdictions  
9 having authority to enforce the Florida Building Code to  
10 require wind-borne-debris protection according to  
11 specified requirements; requiring that the Florida  
12 Building Commission amend the Florida Building Code to  
13 reflect the requirements of the act and eliminate certain  
14 less stringent requirements; providing an exception;  
15 requiring an amendment to the code with respect to certain  
16 provisions governing new residential construction;  
17 requiring the commission to develop voluntary guidelines  
18 for increasing the hurricane resistance of buildings;  
19 requiring that the guidelines be included in the  
20 commission's report to the 2008 Legislature; amending s.  
21 624.404, F.S.; prohibiting an insurer from transacting  
22 business in this state if it fails to offer a line of  
23 business in this state that is offered in another state;  
24 providing an exception; amending s. 627.0613, F.S.;  
25 providing for approval of residential property rate  
26 filings by the insurance consumer advocate; amending s.  
27 627.062, F.S.; requiring that insurance rate increases be  
28 "reasonable" rather than "not excessive"; exempting

29 residential property rate filings from "use and file"  
30 provisions; excluding reinsurance costs paid to affiliated  
31 companies from consideration in residential property rate  
32 filings; requiring the full worldwide profits of insurers  
33 to be considered as a factor in residential property rate  
34 filings; deleting provisions allowing certain residential  
35 property rate changes in areas in which a reasonable  
36 degree of competition exists; exempting residential  
37 property rate filings from provisions allowing arbitration  
38 concerning rate filings in certain circumstances;  
39 requiring that an insurer include specified attestations  
40 of accuracy with residential property rate filings;  
41 amending s. 627.0629, F.S.; providing for development of a  
42 uniform statewide rating scale and inspection system for  
43 properties; requiring use of such a scale rather than  
44 location of properties for rate setting; amending s.  
45 627.351, F.S.; deleting requirements that a windstorm risk  
46 apportionment plan be limited to certain geographic areas;  
47 revising provisions to authorize Citizens Property  
48 Insurance Corporation to be competitive in the voluntary  
49 market; deleting provisions requiring the corporation's  
50 rates to be no lower than certain rates; deleting an  
51 obsolete provision; amending s. 627.4133, F.S.; limiting  
52 cancellation or nonrenewal of certain residential policies  
53 to certain times of the year; providing an exception;  
54 providing that certain residential policies in force for a  
55 specified period and meeting certain requirements cannot  
56 be canceled or nonrenewed except for nonpayment of

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57 premium; creating specified pilot programs using sales tax  
58 revenues; providing for annual reports; providing for  
59 future repeal; providing effective dates.

60

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

62

63 Section 1. Subsections (2) and (3), paragraph (b) of  
64 subsection (4), and subsections (6) and (7) of section 553.73,  
65 Florida Statutes, are amended, and subsections (8) through (11)  
66 of that section are renumbered as subsections (9) through (12),  
67 respectively, to read:

68 553.73 Florida Building Code.--

69 (2) The Florida Building Code shall contain provisions or  
70 requirements for public and private buildings, structures, and  
71 facilities relative to structural, mechanical, electrical,  
72 plumbing, energy, and gas systems, existing buildings,  
73 historical buildings, manufactured buildings, elevators, coastal  
74 construction, lodging facilities, food sales and food service  
75 facilities, health care facilities, including assisted living  
76 facilities, adult day care facilities, hospice residential and  
77 inpatient facilities and units, and facilities for the control  
78 of radiation hazards, public or private educational facilities,  
79 swimming pools, and correctional facilities and enforcement of  
80 and compliance with such provisions or requirements. Further,  
81 the Florida Building Code must provide for uniform  
82 implementation of ss. 515.25, 515.27, and 515.29 by including  
83 standards and criteria for residential swimming pool barriers,  
84 pool covers, latching devices, door and window exit alarms, and

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85 other equipment required therein, which are consistent with the  
86 intent of s. 515.23. Technical provisions to be contained within  
87 the Florida Building Code are restricted to requirements related  
88 to the types of materials used and construction methods and  
89 standards employed in order to meet criteria specified in the  
90 Florida Building Code. Provisions relating to the personnel,  
91 supervision or training of personnel, or any other professional  
92 qualification requirements relating to contractors or their  
93 workforce may not be included within the Florida Building Code,  
94 and subsections (4), (5), (6), ~~and (7)~~, and (8) are not to be  
95 construed to allow the inclusion of such provisions within the  
96 Florida Building Code by amendment. This restriction applies to  
97 both initial development and amendment of the Florida Building  
98 Code.

99 (3) The commission shall select from available national or  
100 international model building codes, or other available building  
101 codes and standards currently recognized by the laws of this  
102 state, to form the foundation for the Florida Building Code. The  
103 commission may modify the selected model codes and standards as  
104 needed to accommodate the specific needs of this state.  
105 Standards or criteria referenced by the selected model codes  
106 shall be similarly incorporated by reference. If a referenced  
107 standard or criterion requires amplification or modification to  
108 be appropriate for use in this state, only the amplification or  
109 modification shall be specifically set forth in the Florida  
110 Building Code. The Florida Building Commission may approve  
111 technical amendments to the code, subject to the requirements of

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112 subsections (7) and(8) after the amendments have been subject to  
113 the following conditions:

114 (a) The proposed amendment has been published on the  
115 commission's website for a minimum of 45 days and all the  
116 associated documentation has been made available to any  
117 interested party before any consideration by any Technical  
118 Advisory Committee;

119 (b) In order for a Technical Advisory Committee to make a  
120 favorable recommendation to the commission, the proposal must  
121 receive a three-fourths vote of the members present at the  
122 Technical Advisory Committee meeting and at least half of the  
123 regular members must be present in order to conduct a meeting;

124 (c) After Technical Advisory Committee consideration and a  
125 recommendation for approval of any proposed amendment, the  
126 proposal must be published on the commission's website for not  
127 less than 45 days before any consideration by the commission;  
128 and

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

132  
133 The commission shall incorporate within sections of the Florida  
134 Building Code provisions which address regional and local  
135 concerns and variations. The commission shall make every effort  
136 to minimize conflicts between the Florida Building Code, the  
137 Florida Fire Prevention Code, and the Life Safety Code.

138 (4)

139 (b) Local governments may, subject to the limitations of  
140 this section, adopt amendments to the technical provisions of  
141 the Florida Building Code which apply solely within the  
142 jurisdiction of such government and which provide for more  
143 stringent requirements than those specified in the Florida  
144 Building Code, not more than once every 6 months. A local  
145 government may adopt technical amendments that address local  
146 needs if:

147 1. The local governing body determines, following a public  
148 hearing which has been advertised in a newspaper of general  
149 circulation at least 10 days before the hearing, that there is a  
150 need to strengthen the requirements of the Florida Building  
151 Code. The determination must be based upon a review of local  
152 conditions by the local governing body, which review  
153 demonstrates by evidence or data that the geographical  
154 jurisdiction governed by the local governing body exhibits a  
155 local need to strengthen the Florida Building Code beyond the  
156 needs or regional variation addressed by the Florida Building  
157 Code, that the local need is addressed by the proposed local  
158 amendment, and that the amendment is no more stringent than  
159 necessary to address the local need.

160 2. Such additional requirements are not discriminatory  
161 against materials, products, or construction techniques of  
162 demonstrated capabilities.

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

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

167           5. Any amendment to the Florida Building Code shall be  
168 transmitted within 30 days by the adopting local government to  
169 the commission. The commission shall maintain copies of all such  
170 amendments in a format that is usable and obtainable by the  
171 public. Local technical amendments shall not become effective  
172 until 30 days after the amendment has been received and  
173 published by the commission.

174           6. Any amendment to the Florida Building Code adopted by a  
175 local government pursuant to this paragraph shall be effective  
176 only until the adoption by the commission of the new edition of  
177 the Florida Building Code every third year. At such time, the  
178 commission shall review such amendment for consistency with the  
179 criteria in paragraph (8)~~(7)~~(a) and adopt such amendment as part  
180 of the Florida Building Code or rescind the amendment. The  
181 commission shall immediately notify the respective local  
182 government of the rescission of any amendment. After receiving  
183 such notice, the respective local government may readopt the  
184 rescinded amendment pursuant to the provisions of this  
185 paragraph.

186           7. Each county and municipality desiring to make local  
187 technical amendments to the Florida Building Code shall by  
188 interlocal agreement establish a countywide compliance review  
189 board to review any amendment to the Florida Building Code,  
190 adopted by a local government within the county pursuant to this  
191 paragraph, that is challenged by any substantially affected  
192 party for purposes of determining the amendment's compliance  
193 with this paragraph. If challenged, the local technical  
194 amendments shall not become effective until time for filing an

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195 appeal pursuant to subparagraph 8. has expired or, if there is  
196 an appeal, until the commission issues its final order  
197 determining the adopted amendment is in compliance with this  
198 subsection.

199 8. If the compliance review board determines such  
200 amendment is not in compliance with this paragraph, the  
201 compliance review board shall notify such local government of  
202 the noncompliance and that the amendment is invalid and  
203 unenforceable until the local government corrects the amendment  
204 to bring it into compliance. The local government may appeal the  
205 decision of the compliance review board to the commission. If  
206 the compliance review board determines such amendment to be in  
207 compliance with this paragraph, any substantially affected party  
208 may appeal such determination to the commission. Any such appeal  
209 shall be filed with the commission within 14 days of the board's  
210 written determination. The commission shall promptly refer the  
211 appeal to the Division of Administrative Hearings for the  
212 assignment of an administrative law judge. The administrative  
213 law judge shall conduct the required hearing within 30 days, and  
214 shall enter a recommended order within 30 days of the conclusion  
215 of such hearing. The commission shall enter a final order within  
216 30 days thereafter. The provisions of chapter 120 and the  
217 uniform rules of procedure shall apply to such proceedings. The  
218 local government adopting the amendment that is subject to  
219 challenge has the burden of proving that the amendment complies  
220 with this paragraph in proceedings before the compliance review  
221 board and the commission, as applicable. Actions of the  
222 commission are subject to judicial review pursuant to s. 120.68.



223 The compliance review board shall determine whether its  
 224 decisions apply to a respective local jurisdiction or apply  
 225 countywide.

226 9. An amendment adopted under this paragraph shall include  
 227 a fiscal impact statement which documents the costs and benefits  
 228 of the proposed amendment. Criteria for the fiscal impact  
 229 statement shall include the impact to local government relative  
 230 to enforcement, the impact to property and building owners, as  
 231 well as to industry, relative to the cost of compliance. The  
 232 fiscal impact statement may not be used as a basis for  
 233 challenging the amendment for compliance.

234 10. In addition to subparagraphs 7. and 9., the commission  
 235 may review any amendments adopted pursuant to this subsection  
 236 and make nonbinding recommendations related to compliance of  
 237 such amendments with this subsection.

238 (6) (a) The commission, by rule adopted pursuant to ss.  
 239 120.536(1) and 120.54, shall update the Florida Building Code  
 240 every 3 years. When updating the Florida Building Code, the  
 241 commission shall select the most current version of the  
 242 International Building Code, the International Fuel Gas Code,  
 243 the International Mechanical Code, the International Plumbing  
 244 Code, and the International Residential Code, all of which are  
 245 adopted by the International Code Council, and the National  
 246 Electrical Code, which is adopted by the National Fire  
 247 Protection Association, to form the foundation codes of the  
 248 updated Florida Building Code, if the version has been adopted  
 249 by the applicable model code entity and made available to the

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250 public at least 6 months prior to its selection by the  
251 commission.

252 (b) Codes regarding noise contour lines shall be reviewed  
253 annually, and the most current federal guidelines shall be  
254 adopted.

255 (c) The commission may modify any portion of the  
256 foundation codes only as needed to accommodate the specific  
257 needs of this state, maintaining Florida-specific amendments  
258 previously adopted by the commission and not addressed by the  
259 updated foundation code. Standards or criteria referenced by the  
260 codes shall be incorporated by reference. If a referenced  
261 standard or criterion requires amplification or modification to  
262 be appropriate for use in this state, only the amplification or  
263 modification shall be set forth in the Florida Building Code.  
264 The commission may approve technical amendments to the updated  
265 Florida Building Code after the amendments have been subject to  
266 the conditions set forth in paragraphs (3)(a)-(d). Amendments to  
267 the foundation codes which are adopted in accordance with this  
268 subsection shall be clearly marked in printed versions of the  
269 Florida Building Code so that the fact that the provisions are  
270 Florida-specific amendments to the foundation codes is readily  
271 apparent.

272 (d) The commission shall further consider the commission's  
273 own interpretations, declaratory statements, appellate  
274 decisions, and approved statewide and local technical amendments  
275 and shall incorporate such interpretations, statements,  
276 decisions, and amendments into the updated Florida Building Code  
277 only to the extent that they are needed to modify the foundation

278 codes to accommodate the specific needs of the state. A change  
 279 made by an institute or standards organization to any standard  
 280 or criterion that is adopted by reference in the Florida  
 281 Building Code does not become effective statewide until it has  
 282 been adopted by the commission. Furthermore, the edition of the  
 283 Florida Building Code which is in effect on the date of  
 284 application for any permit authorized by the code governs the  
 285 permitted work for the life of the permit and any extension  
 286 granted to the permit.

287 (e) A rule updating the Florida Building Code in  
 288 accordance with this subsection shall take effect no sooner than  
 289 6 months after publication of the updated code. Any amendment to  
 290 the Florida Building Code which is adopted upon a finding by the  
 291 commission that the amendment is necessary to protect the public  
 292 from immediate threat of harm takes effect immediately.

293 (f) Provisions of the foundation codes, including those  
 294 contained in referenced standards and criteria, relating to wind  
 295 resistance or the prevention of water intrusion may not be  
 296 modified to diminish those construction requirements; however,  
 297 the commission may, subject to conditions in this subsection,  
 298 modify the provisions to enhance those construction  
 299 requirements.

300 (7) ~~(f)~~ Upon the conclusion of a triennial update to the  
 301 Florida Building Code, notwithstanding the provisions of ~~this~~  
 302 ~~subsection or~~ subsection (3) or subsection (6), the commission  
 303 may address issues identified in this subsection ~~paragraph~~ by  
 304 amending the code pursuant only to the rule adoption procedures  
 305 contained in chapter 120. Provisions of the Florida Building

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306 Code, including those contained in referenced standards and  
307 criteria, relating to wind resistance or the prevention of water  
308 intrusion may not be amended pursuant to this subsection to  
309 diminish those construction requirements; however, the  
310 commission may, subject to conditions in this subsection, amend  
311 the provisions to enhance those construction requirements.

312 Following the approval of any amendments to the Florida Building  
313 Code by the commission and publication of the amendments on the  
314 commission's website, authorities having jurisdiction to enforce  
315 the Florida Building Code may enforce the amendments. The  
316 commission may approve amendments that are needed to address:

317 (a)1- Conflicts within the updated code;

318 (b)2- Conflicts between the updated code and the Florida  
319 Fire Prevention Code adopted pursuant to chapter 633;

320 (c)3- The omission of previously adopted Florida-specific  
321 amendments to the updated code if such omission is not supported  
322 by a specific recommendation of a technical advisory committee  
323 or particular action by the commission; or

324 (d)4- Unintended results from the integration of  
325 previously adopted Florida-specific amendments with the model  
326 code.

327 (8)(7)-(a) The commission may approve technical amendments  
328 to the Florida Building Code once each year for statewide or  
329 regional application upon a finding that the amendment:

330 1. Is needed in order to accommodate the specific needs of  
331 this state.

332 2. Has a reasonable and substantial connection with the  
333 health, safety, and welfare of the general public.

334           3. Strengthens or improves the Florida Building Code, or  
335 in the case of innovation or new technology, will provide  
336 equivalent or better products or methods or systems of  
337 construction.

338           4. Does not discriminate against materials, products,  
339 methods, or systems of construction of demonstrated  
340 capabilities.

341           5. Does not degrade the effectiveness of the Florida  
342 Building Code.

343  
344 Furthermore, the Florida Building Commission may approve  
345 technical amendments to the code once each year to incorporate  
346 into the Florida Building Code its own interpretations of the  
347 code which are embodied in its opinions, final orders,  
348 declaratory statements, and interpretations of hearing officer  
349 panels under s. 553.775(3)(c), but shall do so only to the  
350 extent that incorporation of interpretations is needed to modify  
351 the foundation codes to accommodate the specific needs of this  
352 state. Amendments approved under this paragraph shall be adopted  
353 by rule pursuant to ss. 120.536(1) and 120.54, after the  
354 amendments have been subjected to the provisions of subsection  
355 (3).

356           (b) A proposed amendment shall include a fiscal impact  
357 statement which documents the costs and benefits of the proposed  
358 amendment. Criteria for the fiscal impact statement shall be  
359 established by rule by the commission and shall include the  
360 impact to local government relative to enforcement, the impact

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361 to property and building owners, as well as to industry,  
362 relative to the cost of compliance.

363 (c) The commission may not approve any proposed amendment  
364 that does not accurately and completely address all requirements  
365 for amendment which are set forth in this section. The  
366 commission shall require all proposed amendments and information  
367 submitted with proposed amendments to be reviewed by commission  
368 staff prior to consideration by any technical advisory  
369 committee. These reviews shall be for sufficiency only and are  
370 not intended to be qualitative in nature. Staff members shall  
371 reject any proposed amendment that fails to include a fiscal  
372 impact statement. Proposed amendments rejected by members of the  
373 staff may not be considered by the commission or any technical  
374 advisory committee.

375 (d) Provisions of the Florida Building Code, including  
376 those contained in referenced standards and criteria, relating  
377 to wind resistance or the prevention of water intrusion may not  
378 be amended pursuant to this subsection to diminish those  
379 construction requirements; however, the commission may, subject  
380 to conditions in this subsection, amend the provisions to  
381 enhance those construction requirements.

382 Section 2. Subsection (2) of section 553.775, Florida  
383 Statutes, is amended to read:

384 553.775 Interpretations.--

385 (2) Local enforcement agencies, local building officials,  
386 state agencies, and the commission shall interpret provisions of  
387 the Florida Building Code in a manner that is consistent with  
388 declaratory statements and interpretations entered by the

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389 commission, except that conflicts between the Florida Fire  
390 Prevention Code and the Florida Building Code shall be resolved  
391 in accordance with s. 553.73~~(10)~~~~(9)~~(c) and (d).

392 Section 3. Upon the effective date of this act, each  
393 jurisdiction having authority to enforce the Florida Building  
394 Code shall, at a minimum, require wind-borne-debris protection  
395 in accordance with s. 1609.1, International Building Code (2006)  
396 within the "wind-borne-debris region" as that term is defined in  
397 s. 1609.2, International Building Code (2006).

398 Section 4. (1) The Florida Building Commission shall  
399 amend the Florida Building Code to reflect the application of  
400 provisions identified in section 553.73, Florida Statutes, and  
401 to eliminate all exceptions that provide less stringent  
402 requirements. The amendments by the commission shall apply  
403 throughout the state with the exception of the High Velocity  
404 Hurricane Zone, which shall be governed as currently provided  
405 within the Florida Building Code. The commission shall, in  
406 addition, amend the code to require that, at a minimum, in areas  
407 where the applicable design wind speed is less than 120 miles  
408 per hour, all new residences are designed and constructed to  
409 withstand internal pressures. The commission shall fulfill these  
410 obligations before July 1, 2007, pursuant only to the provisions  
411 of chapter 120, Florida Statutes.

412 (2) The Florida Building Commission shall develop  
413 voluntary "Code Plus" guidelines for increasing the hurricane  
414 resistance of buildings. The guidelines must be modeled on the  
415 requirements for the High Velocity Hurricane Zone and must  
416 identify products, systems, and methods of construction that the

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417 commission anticipates could result in stronger construction.  
418 The commission shall include these guidelines in its report to  
419 the 2008 Legislature.

420 (3) This section shall take effect upon this act becoming  
421 a law.

422 Section 5. Subsection (8) is added to section 624.404,  
423 Florida Statutes, to read:

424 624.404 General eligibility of insurers for certificate of  
425 authority.--To qualify for and hold authority to transact  
426 insurance in this state, an insurer must be otherwise in  
427 compliance with this code and with its charter powers and must  
428 be an incorporated stock insurer, an incorporated mutual  
429 insurer, or a reciprocal insurer, of the same general type as  
430 may be formed as a domestic insurer under this code; except  
431 that:

432 (8) No insurer shall be authorized to transact business in  
433 this state if it fails to offer in this state a line of business  
434 offered in any other state. The office may waive this  
435 requirement to the extent necessary to allow an insurer to offer  
436 in this state a product or service not otherwise readily  
437 available to the consumers of this state.

438 Section 6. Subsection (5) is added to section 627.0613,  
439 Florida Statutes, to read:

440 627.0613 Consumer advocate.--The Chief Financial Officer  
441 must appoint a consumer advocate who must represent the general  
442 public of the state before the department and the office. The  
443 consumer advocate must report directly to the Chief Financial  
444 Officer, but is not otherwise under the authority of the



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445 department or of any employee of the department. The consumer  
446 advocate has such powers as are necessary to carry out the  
447 duties of the office of consumer advocate, including, but not  
448 limited to, the powers to:

449 (5) Approve all residential property rate filings as  
450 reasonable before they shall take effect.

451 Section 7. Subsection (1), paragraphs (a), (b), and (j) of  
452 subsection (2), paragraph (a) of subsection (6), and subsection  
453 (9) of section 627.062, Florida Statutes, are amended to read:

454 627.062 Rate standards.--

455 (1) The rates for all classes of insurance to which the  
456 provisions of this part are applicable shall be reasonable and  
457 shall not be ~~excessive~~, inadequate, or unfairly discriminatory.

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

459 (a) Insurers or rating organizations shall establish and  
460 use rates, rating schedules, or rating manuals to allow the  
461 insurer a reasonable rate of return on such classes of insurance  
462 written in this state. A copy of rates, rating schedules, rating  
463 manuals, premium credits or discount schedules, and surcharge  
464 schedules, and changes thereto, shall be filed with the office  
465 under one of the following procedures:

466 1. If the filing is made at least 90 days before the  
467 proposed effective date and the filing is not implemented during  
468 the office's review of the filing and any proceeding and  
469 judicial review, then such filing shall be considered a "file  
470 and use" filing. In such case, the office shall finalize its  
471 review by issuance of a notice of intent to approve or a notice  
472 of intent to disapprove within 90 days after receipt of the

473 filing. The notice of intent to approve and the notice of intent  
 474 to disapprove constitute agency action for purposes of the  
 475 Administrative Procedure Act. Requests for supporting  
 476 information, requests for mathematical or mechanical  
 477 corrections, or notification to the insurer by the office of its  
 478 preliminary findings shall not toll the 90-day period during any  
 479 such proceedings and subsequent judicial review. The rate shall  
 480 be deemed approved if the office does not issue a notice of  
 481 intent to approve or a notice of intent to disapprove within 90  
 482 days after receipt of the filing.

483 2. If the filing is not made in accordance with the  
 484 provisions of subparagraph 1., such filing shall be made as soon  
 485 as practicable, but no later than 30 days after the effective  
 486 date, and shall be considered a "use and file" filing. An  
 487 insurer making a "use and file" filing is potentially subject to  
 488 an order by the office to return to policyholders portions of  
 489 rates found to be excessive, as provided in paragraph (h). This  
 490 subparagraph does not apply to residential property insurance.

491 (b) Upon receiving a rate filing, the office shall review  
 492 the rate filing to determine if a rate is reasonable ~~excessive~~,  
 493 inadequate, or unfairly discriminatory. In making that  
 494 determination, the office shall, in accordance with generally  
 495 accepted and reasonable actuarial techniques, consider the  
 496 following factors:

- 497 1. Past and prospective loss experience within and without  
 498 this state.
- 499 2. Past and prospective expenses.

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500           3. The degree of competition among insurers for the risk  
501 insured.

502           4. Investment income reasonably expected by the insurer,  
503 consistent with the insurer's investment practices, from  
504 investable premiums anticipated in the filing, plus any other  
505 expected income from currently invested assets representing the  
506 amount expected on unearned premium reserves and loss reserves.  
507 The commission may adopt rules utilizing reasonable techniques  
508 of actuarial science and economics to specify the manner in  
509 which insurers shall calculate investment income attributable to  
510 such classes of insurance written in this state and the manner  
511 in which such investment income shall be used in the calculation  
512 of insurance rates. Such manner shall contemplate allowances for  
513 an underwriting profit factor and full consideration of  
514 investment income which produce a reasonable rate of return;  
515 however, investment income from invested surplus shall not be  
516 considered.

517           5. The reasonableness of the judgment reflected in the  
518 filing.

519           6. Dividends, savings, or unabsorbed premium deposits  
520 allowed or returned to Florida policyholders, members, or  
521 subscribers.

522           7. The adequacy of loss reserves.

523           8. The cost of reinsurance. A residential property insurer  
524 shall not include costs of reinsurance obtained from an  
525 affiliated company.

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

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528 10. Conflagration and catastrophe hazards, if applicable.

529 11. A reasonable margin for underwriting profit and  
530 contingencies. For that portion of the rate covering the risk of  
531 hurricanes and other catastrophic losses for which the insurer  
532 has not purchased reinsurance and has exposed its capital and  
533 surplus to such risk, the office must approve a rating factor  
534 that provides the insurer a reasonable rate of return that is  
535 commensurate with such risk. For residential property insurers,  
536 the full worldwide profit of the insurer shall be considered as  
537 a factor in addition to profit from within this state.

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

539 13. Other relevant factors which impact upon the frequency  
540 or severity of claims or upon expenses.

541 (j) Notwithstanding any other provision of law, a  
542 residential property rate filing shall not take effect until  
543 approved by the consumer advocate as provided under s.  
544 627.0613(5). Effective July 1, 2007, notwithstanding any other  
545 provision of this section:

546 ~~1. With respect to any residential property insurance~~  
547 ~~subject to regulation under this section for any area for which~~  
548 ~~the office determines a reasonable degree of competition exists,~~  
549 ~~a rate filing, including, but not limited to, any rate changes,~~  
550 ~~rating factors, territories, classification, discounts, and~~  
551 ~~credits, with respect to any policy form, including endorsements~~  
552 ~~issued with the form, that results in an overall average~~  
553 ~~statewide premium increase or decrease of no more than 5 percent~~  
554 ~~above or below the premium that would result from the insurer's~~  
555 ~~rates then in effect shall not be subject to a determination by~~

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556 ~~the office that the rate is excessive or unfairly discriminatory~~  
557 ~~except as provided in subparagraph 3., or any other provision of~~  
558 ~~law, provided all changes specified in the filing do not result~~  
559 ~~in an overall premium increase of more than 10 percent for any~~  
560 ~~one territory, for reasons related solely to the rate change. As~~  
561 ~~used in this subparagraph, the term "insurer's rates then in~~  
562 ~~effect" includes only rates that have been lawfully in effect~~  
563 ~~under this section or rates that have been determined to be~~  
564 ~~lawful through administrative proceedings or judicial~~  
565 ~~proceedings.~~

566 ~~2. An insurer may not make filings under this paragraph~~  
567 ~~with respect to any policy form, including endorsements issued~~  
568 ~~with the form, if the overall premium changes resulting from~~  
569 ~~such filings exceed the amounts specified in this paragraph in~~  
570 ~~any 12-month period. An insurer may proceed under other~~  
571 ~~provisions of this section or other provisions of law if the~~  
572 ~~insurer seeks to exceed the premium or rate limitations of this~~  
573 ~~paragraph.~~

574 ~~3. This paragraph does not affect the authority of the~~  
575 ~~office to disapprove a rate as inadequate or to disapprove a~~  
576 ~~filing for the unlawful use of unfairly discriminatory rating~~  
577 ~~factors that are prohibited by the laws of this state. An~~  
578 ~~insurer electing to implement a rate change under this paragraph~~  
579 ~~shall submit a filing to the office at least 40 days prior to~~  
580 ~~the effective date of the rate change. The office shall have 30~~  
581 ~~days after the filing's submission to review the filing and~~  
582 ~~determine if the rate is inadequate or uses unfairly~~  
583 ~~discriminatory rating factors. Absent a finding by the office~~

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584 ~~within such 30 day period that the rate is inadequate or that~~  
585 ~~the insurer has used unfairly discriminatory rating factors, the~~  
586 ~~filing is deemed approved. If the office finds during the 30 day~~  
587 ~~period that the filing will result in inadequate premiums or~~  
588 ~~otherwise endanger the insurer's solvency, the office shall~~  
589 ~~suspend the rate decrease. If the insurer is implementing an~~  
590 ~~overall rate increase, the results of which continue to produce~~  
591 ~~an inadequate rate, such increase shall proceed pending~~  
592 ~~additional action by the office to ensure the adequacy of the~~  
593 ~~rate.~~

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

596

597 The provisions of this subsection shall not apply to workers'  
598 compensation and employer's liability insurance and to motor  
599 vehicle insurance.

600 (6) (a) After any action with respect to a rate filing that  
601 constitutes agency action for purposes of the Administrative  
602 Procedure Act, except for a rate filing for medical malpractice  
603 or residential property insurance, an insurer may, in lieu of  
604 demanding a hearing under s. 120.57, require arbitration of the  
605 rate filing. Arbitration shall be conducted by a board of  
606 arbitrators consisting of an arbitrator selected by the office,  
607 an arbitrator selected by the insurer, and an arbitrator  
608 selected jointly by the other two arbitrators. Each arbitrator  
609 must be certified by the American Arbitration Association. A  
610 decision is valid only upon the affirmative vote of at least two  
611 of the arbitrators. No arbitrator may be an employee of any

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612 insurance regulator or regulatory body or of any insurer,  
613 regardless of whether or not the employing insurer does business  
614 in this state. The office and the insurer must treat the  
615 decision of the arbitrators as the final approval of a rate  
616 filing. Costs of arbitration shall be paid by the insurer.

617 (9) An insurer making a rate filing for residential  
618 property insurance must include a certification under oath, on a  
619 form approved by the office, that the information contained in  
620 the filing is accurate and consistent with accepted actuarial  
621 principles. The certification must be signed by the chief  
622 actuary and a senior officer of the insurer. ~~The burden is on~~  
623 ~~the office to establish that rates are excessive for personal~~  
624 ~~lines residential coverage with a dwelling replacement cost of~~  
625 ~~\$1 million or more or for a single condominium unit with a~~  
626 ~~combined dwelling and contents replacement cost of \$1 million or~~  
627 ~~more. Upon request of the office, the insurer shall provide to~~  
628 ~~the office such loss and expense information as the office~~  
629 ~~reasonably needs to meet this burden.~~

630 Section 8. Subsection (11) is added to section 627.0629,  
631 Florida Statutes, to read:

632 627.0629 Residential property insurance; rate filings.--

633 (11) The department shall develop a uniform statewide  
634 rating scale and inspection system for residential properties to  
635 be used as the basis for rates. Upon adoption of such a system,  
636 all rate filings shall thereafter be based upon the ratings of  
637 individual properties rather than upon the location of the  
638 properties.

639 Section 9. Subsection (2) and paragraph (m) of subsection  
640 (6) of section 627.351, Florida Statutes, are amended to read:

641 627.351 Insurance risk apportionment plans.--

642 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

643 (a) Agreements may be made among property insurers with  
644 respect to the equitable apportionment among them of insurance  
645 which may be afforded applicants who are in good faith entitled  
646 to, but are unable to procure, such insurance through ordinary  
647 methods; and such insurers may agree among themselves on the use  
648 of reasonable rate modifications for such insurance. Such  
649 agreements and rate modifications shall be subject to the  
650 applicable provisions of this chapter.

651 (b) The department shall require all insurers holding a  
652 certificate of authority to transact property insurance on a  
653 direct basis in this state, other than joint underwriting  
654 associations and other entities formed pursuant to this section,  
655 to provide windstorm coverage to applicants ~~from areas~~  
656 ~~determined to be eligible pursuant to paragraph (c)~~ who in good  
657 faith are entitled to, but are unable to procure, such coverage  
658 through ordinary means; or it shall adopt a reasonable plan or  
659 plans for the equitable apportionment or sharing among such  
660 insurers of windstorm coverage, which may include formation of  
661 an association for this purpose. As used in this subsection, the  
662 term "property insurance" means insurance on real or personal  
663 property, as defined in s. 624.604, including insurance for  
664 fire, industrial fire, allied lines, farmowners multiperil,  
665 homeowners' multiperil, commercial multiperil, and mobile homes,  
666 and including liability coverages on all such insurance, but



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667 excluding inland marine as defined in s. 624.607(3) and  
668 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
669 than insurance on mobile homes used as permanent dwellings. The  
670 department shall adopt rules that provide a formula for the  
671 recovery and repayment of any deferred assessments.

672 1. For the purpose of this section, properties eligible  
673 for such windstorm coverage are defined as dwellings, buildings,  
674 and other structures, including mobile homes which are used as  
675 dwellings and which are tied down in compliance with mobile home  
676 tie-down requirements prescribed by the Department of Highway  
677 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
678 contents of all such properties. An applicant or policyholder is  
679 eligible for coverage only if an offer of coverage cannot be  
680 obtained by or for the applicant or policyholder from an  
681 admitted insurer at approved rates.

682 2.a.(I) All insurers required to be members of such  
683 association shall participate in its writings, expenses, and  
684 losses. Surplus of the association shall be retained for the  
685 payment of claims and shall not be distributed to the member  
686 insurers. Such participation by member insurers shall be in the  
687 proportion that the net direct premiums of each member insurer  
688 written for property insurance in this state during the  
689 preceding calendar year bear to the aggregate net direct  
690 premiums for property insurance of all member insurers, as  
691 reduced by any credits for voluntary writings, in this state  
692 during the preceding calendar year. For the purposes of this  
693 subsection, the term "net direct premiums" means direct written  
694 premiums for property insurance, reduced by premium for

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695 liability coverage and for the following if included in allied  
696 lines: rain and hail on growing crops; livestock; association  
697 direct premiums booked; National Flood Insurance Program direct  
698 premiums; and similar deductions specifically authorized by the  
699 plan of operation and approved by the department. A member's  
700 participation shall begin on the first day of the calendar year  
701 following the year in which it is issued a certificate of  
702 authority to transact property insurance in the state and shall  
703 terminate 1 year after the end of the calendar year during which  
704 it no longer holds a certificate of authority to transact  
705 property insurance in the state. The commissioner, after review  
706 of annual statements, other reports, and any other statistics  
707 that the commissioner deems necessary, shall certify to the  
708 association the aggregate direct premiums written for property  
709 insurance in this state by all member insurers.

710 (II) ~~Effective July 1, 2002,~~ The association shall operate  
711 subject to the supervision and approval of a board of governors  
712 who are the same individuals that have been appointed by the  
713 Treasurer to serve on the board of governors of the Citizens  
714 Property Insurance Corporation.

715 (III) The plan of operation shall provide a formula  
716 whereby a company voluntarily providing windstorm coverage in  
717 affected areas will be relieved wholly or partially from  
718 apportionment of a regular assessment pursuant to sub-sub-  
719 subparagraph d.(I) or sub-sub-subparagraph d.(II).

720 (IV) A company which is a member of a group of companies  
721 under common management may elect to have its credits applied on

722 a group basis, and any company or group may elect to have its  
723 credits applied to any other company or group.

724 (V) There shall be no credits or relief from apportionment  
725 to a company for emergency assessments collected from its  
726 policyholders under sub-sub-subparagraph d.(III).

727 (VI) The plan of operation may also provide for the award  
728 of credits, for a period not to exceed 3 years, from a regular  
729 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
730 subparagraph d.(II) as an incentive for taking policies out of  
731 the Residential Property and Casualty Joint Underwriting  
732 Association. In order to qualify for the exemption under this  
733 sub-sub-subparagraph, the take-out plan must provide that at  
734 least 40 percent of the policies removed from the Residential  
735 Property and Casualty Joint Underwriting Association cover risks  
736 located in Dade, Broward, and Palm Beach Counties or at least 30  
737 percent of the policies so removed cover risks located in Dade,  
738 Broward, and Palm Beach Counties and an additional 50 percent of  
739 the policies so removed cover risks located in other coastal  
740 counties, and must also provide that no more than 15 percent of  
741 the policies so removed may exclude windstorm coverage. With the  
742 approval of the department, the association may waive these  
743 geographic criteria for a take-out plan that removes at least  
744 the lesser of 100,000 Residential Property and Casualty Joint  
745 Underwriting Association policies or 15 percent of the total  
746 number of Residential Property and Casualty Joint Underwriting  
747 Association policies, provided the governing board of the  
748 Residential Property and Casualty Joint Underwriting Association  
749 certifies that the take-out plan will materially reduce the

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750 Residential Property and Casualty Joint Underwriting  
751 Association's 100-year probable maximum loss from hurricanes.  
752 With the approval of the department, the board may extend such  
753 credits for an additional year if the insurer guarantees an  
754 additional year of renewability for all policies removed from  
755 the Residential Property and Casualty Joint Underwriting  
756 Association, or for 2 additional years if the insurer guarantees  
757 2 additional years of renewability for all policies removed from  
758 the Residential Property and Casualty Joint Underwriting  
759 Association.

760 b. Assessments to pay deficits in the association under  
761 this subparagraph shall be included as an appropriate factor in  
762 the making of rates as provided in s. 627.3512.

763 c. The Legislature finds that the potential for unlimited  
764 deficit assessments under this subparagraph may induce insurers  
765 to attempt to reduce their writings in the voluntary market, and  
766 that such actions would worsen the availability problems that  
767 the association was created to remedy. It is the intent of the  
768 Legislature that insurers remain fully responsible for paying  
769 regular assessments and collecting emergency assessments for any  
770 deficits of the association; however, it is also the intent of  
771 the Legislature to provide a means by which assessment  
772 liabilities may be amortized over a period of years.

773 d.(I) When the deficit incurred in a particular calendar  
774 year is 10 percent or less of the aggregate statewide direct  
775 written premium for property insurance for the prior calendar  
776 year for all member insurers, the association shall levy an  
777 assessment on member insurers in an amount equal to the deficit.

778           (II) When the deficit incurred in a particular calendar  
779 year exceeds 10 percent of the aggregate statewide direct  
780 written premium for property insurance for the prior calendar  
781 year for all member insurers, the association shall levy an  
782 assessment on member insurers in an amount equal to the greater  
783 of 10 percent of the deficit or 10 percent of the aggregate  
784 statewide direct written premium for property insurance for the  
785 prior calendar year for member insurers. Any remaining deficit  
786 shall be recovered through emergency assessments under sub-sub-  
787 subparagraph (III).

788           (III) Upon a determination by the board of directors that  
789 a deficit exceeds the amount that will be recovered through  
790 regular assessments on member insurers, pursuant to sub-sub-  
791 subparagraph (I) or sub-sub-subparagraph (II), the board shall  
792 levy, after verification by the department, emergency  
793 assessments to be collected by member insurers and by  
794 underwriting associations created pursuant to this section which  
795 write property insurance, upon issuance or renewal of property  
796 insurance policies other than National Flood Insurance policies  
797 in the year or years following levy of the regular assessments.  
798 The amount of the emergency assessment collected in a particular  
799 year shall be a uniform percentage of that year's direct written  
800 premium for property insurance for all member insurers and  
801 underwriting associations, excluding National Flood Insurance  
802 policy premiums, as annually determined by the board and  
803 verified by the department. The department shall verify the  
804 arithmetic calculations involved in the board's determination  
805 within 30 days after receipt of the information on which the

806 determination was based. Notwithstanding any other provision of  
807 law, each member insurer and each underwriting association  
808 created pursuant to this section shall collect emergency  
809 assessments from its policyholders without such obligation being  
810 affected by any credit, limitation, exemption, or deferment. The  
811 emergency assessments so collected shall be transferred directly  
812 to the association on a periodic basis as determined by the  
813 association. The aggregate amount of emergency assessments  
814 levied under this sub-sub-subparagraph in any calendar year may  
815 not exceed the greater of 10 percent of the amount needed to  
816 cover the original deficit, plus interest, fees, commissions,  
817 required reserves, and other costs associated with financing of  
818 the original deficit, or 10 percent of the aggregate statewide  
819 direct written premium for property insurance written by member  
820 insurers and underwriting associations for the prior year, plus  
821 interest, fees, commissions, required reserves, and other costs  
822 associated with financing the original deficit. The board may  
823 pledge the proceeds of the emergency assessments under this sub-  
824 sub-subparagraph as the source of revenue for bonds, to retire  
825 any other debt incurred as a result of the deficit or events  
826 giving rise to the deficit, or in any other way that the board  
827 determines will efficiently recover the deficit. The emergency  
828 assessments under this sub-sub-subparagraph shall continue as  
829 long as any bonds issued or other indebtedness incurred with  
830 respect to a deficit for which the assessment was imposed remain  
831 outstanding, unless adequate provision has been made for the  
832 payment of such bonds or other indebtedness pursuant to the  
833 document governing such bonds or other indebtedness. Emergency

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834 assessments collected under this sub-sub-subparagraph are not  
835 part of an insurer's rates, are not premium, and are not subject  
836 to premium tax, fees, or commissions; however, failure to pay  
837 the emergency assessment shall be treated as failure to pay  
838 premium.

839 (IV) Each member insurer's share of the total regular  
840 assessments under sub-sub-subparagraph (I) or sub-sub-  
841 subparagraph (II) shall be in the proportion that the insurer's  
842 net direct premium for property insurance in this state, for the  
843 year preceding the assessment bears to the aggregate statewide  
844 net direct premium for property insurance of all member  
845 insurers, as reduced by any credits for voluntary writings for  
846 that year.

847 (V) If regular deficit assessments are made under sub-sub-  
848 subparagraph (I) or sub-sub-subparagraph (II), or by the  
849 Residential Property and Casualty Joint Underwriting Association  
850 under sub-subparagraph (6)(b)3.a. or sub-subparagraph  
851 (6)(b)3.b., the association shall levy upon the association's  
852 policyholders, as part of its next rate filing, or by a separate  
853 rate filing solely for this purpose, a market equalization  
854 surcharge in a percentage equal to the total amount of such  
855 regular assessments divided by the aggregate statewide direct  
856 written premium for property insurance for member insurers for  
857 the prior calendar year. Market equalization surcharges under  
858 this sub-sub-subparagraph are not considered premium and are not  
859 subject to commissions, fees, or premium taxes; however, failure  
860 to pay a market equalization surcharge shall be treated as  
861 failure to pay premium.

862 e. The governing body of any unit of local government, any  
863 residents of which are insured under the plan, may issue bonds  
864 as defined in s. 125.013 or s. 166.101 to fund an assistance  
865 program, in conjunction with the association, for the purpose of  
866 defraying deficits of the association. In order to avoid  
867 needless and indiscriminate proliferation, duplication, and  
868 fragmentation of such assistance programs, any unit of local  
869 government, any residents of which are insured by the  
870 association, may provide for the payment of losses, regardless  
871 of whether or not the losses occurred within or outside of the  
872 territorial jurisdiction of the local government. Revenue bonds  
873 may not be issued until validated pursuant to chapter 75, unless  
874 a state of emergency is declared by executive order or  
875 proclamation of the Governor pursuant to s. 252.36 making such  
876 findings as are necessary to determine that it is in the best  
877 interests of, and necessary for, the protection of the public  
878 health, safety, and general welfare of residents of this state  
879 and the protection and preservation of the economic stability of  
880 insurers operating in this state, and declaring it an essential  
881 public purpose to permit certain municipalities or counties to  
882 issue bonds as will provide relief to claimants and  
883 policyholders of the association and insurers responsible for  
884 apportionment of plan losses. Any such unit of local government  
885 may enter into such contracts with the association and with any  
886 other entity created pursuant to this subsection as are  
887 necessary to carry out this paragraph. Any bonds issued under  
888 this sub-subparagraph shall be payable from and secured by  
889 moneys received by the association from assessments under this



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890 subparagraph, and assigned and pledged to or on behalf of the  
891 unit of local government for the benefit of the holders of such  
892 bonds. The funds, credit, property, and taxing power of the  
893 state or of the unit of local government shall not be pledged  
894 for the payment of such bonds. If any of the bonds remain unsold  
895 60 days after issuance, the department shall require all  
896 insurers subject to assessment to purchase the bonds, which  
897 shall be treated as admitted assets; each insurer shall be  
898 required to purchase that percentage of the unsold portion of  
899 the bond issue that equals the insurer's relative share of  
900 assessment liability under this subsection. An insurer shall not  
901 be required to purchase the bonds to the extent that the  
902 department determines that the purchase would endanger or impair  
903 the solvency of the insurer. The authority granted by this sub-  
904 subparagraph is additional to any bonding authority granted by  
905 subparagraph 6.

906 3. The plan shall also provide that any member with a  
907 surplus as to policyholders of \$20 million or less writing 25  
908 percent or more of its total countrywide property insurance  
909 premiums in this state may petition the department, within the  
910 first 90 days of each calendar year, to qualify as a limited  
911 apportionment company. The apportionment of such a member  
912 company in any calendar year for which it is qualified shall not  
913 exceed its gross participation, which shall not be affected by  
914 the formula for voluntary writings. In no event shall a limited  
915 apportionment company be required to participate in any  
916 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
917 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds

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918 \$50 million after payment of available plan funds in any  
919 calendar year. However, a limited apportionment company shall  
920 collect from its policyholders any emergency assessment imposed  
921 under sub-sub-subparagraph 2.d.(III). The plan shall provide  
922 that, if the department determines that any regular assessment  
923 will result in an impairment of the surplus of a limited  
924 apportionment company, the department may direct that all or  
925 part of such assessment be deferred. However, there shall be no  
926 limitation or deferment of an emergency assessment to be  
927 collected from policyholders under sub-sub-subparagraph  
928 2.d.(III).

929 4. The plan shall provide for the deferment, in whole or  
930 in part, of a regular assessment of a member insurer under sub-  
931 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but  
932 not for an emergency assessment collected from policyholders  
933 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
934 commissioner, payment of such regular assessment would endanger  
935 or impair the solvency of the member insurer. In the event a  
936 regular assessment against a member insurer is deferred in whole  
937 or in part, the amount by which such assessment is deferred may  
938 be assessed against the other member insurers in a manner  
939 consistent with the basis for assessments set forth in sub-sub-  
940 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

941 5.a. The plan of operation may include deductibles and  
942 rules for classification of risks and rate modifications  
943 consistent with the objective of providing and maintaining funds  
944 sufficient to pay catastrophe losses.

945           b. The association may require arbitration of a rate  
 946 filing under s. 627.062(6). It is the intent of the Legislature  
 947 that the rates for coverage provided by the association be  
 948 actuarially sound and ~~not competitive with approved rates~~  
 949 ~~charged in the admitted voluntary market such that the~~  
 950 ~~association functions as a residual market mechanism to provide~~  
 951 ~~insurance only when the insurance cannot be procured in the~~  
 952 ~~voluntary market.~~ The plan of operation shall provide a  
 953 mechanism to assure that, ~~beginning no later than January 1,~~  
 954 ~~1999,~~ the rates charged by the association for each line of  
 955 business are reflective of approved rates in the voluntary  
 956 market for hurricane coverage for each line of business ~~in the~~  
 957 ~~various areas eligible for association coverage.~~

958           c. The association shall provide for windstorm coverage on  
 959 residential properties in limits up to \$10 million for  
 960 commercial lines residential risks and up to \$1 million for  
 961 personal lines residential risks. If coverage with the  
 962 association is sought for a residential risk valued in excess of  
 963 these limits, coverage shall be available to the risk up to the  
 964 replacement cost or actual cash value of the property, at the  
 965 option of the insured, if coverage for the risk cannot be  
 966 located in the authorized market. The association must accept a  
 967 commercial lines residential risk with limits above \$10 million  
 968 or a personal lines residential risk with limits above \$1  
 969 million if coverage is not available in the authorized market.  
 970 The association may write coverage above the limits specified in  
 971 this subparagraph with or without facultative or other  
 972 reinsurance coverage, as the association determines appropriate.

973 d. The plan of operation must provide objective criteria  
 974 and procedures, approved by the department, to be uniformly  
 975 applied for all applicants in determining whether an individual  
 976 risk is so hazardous as to be uninsurable. In making this  
 977 determination and in establishing the criteria and procedures,  
 978 the following shall be considered:

979 (I) Whether the likelihood of a loss for the individual  
 980 risk is substantially higher than for other risks of the same  
 981 class; and

982 (II) Whether the uncertainty associated with the  
 983 individual risk is such that an appropriate premium cannot be  
 984 determined.

985  
 986 The acceptance or rejection of a risk by the association  
 987 pursuant to such criteria and procedures must be construed as  
 988 the private placement of insurance, and the provisions of  
 989 chapter 120 do not apply.

990 e. If the risk accepts an offer of coverage through the  
 991 market assistance program or through a mechanism established by  
 992 the association, either before the policy is issued by the  
 993 association or during the first 30 days of coverage by the  
 994 association, and the producing agent who submitted the  
 995 application to the association is not currently appointed by the  
 996 insurer, the insurer shall:

997 (I) Pay to the producing agent of record of the policy,  
 998 for the first year, an amount that is the greater of the  
 999 insurer's usual and customary commission for the type of policy

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1000 written or a fee equal to the usual and customary commission of  
 1001 the association; or

1002 (II) Offer to allow the producing agent of record of the  
 1003 policy to continue servicing the policy for a period of not less  
 1004 than 1 year and offer to pay the agent the greater of the  
 1005 insurer's or the association's usual and customary commission  
 1006 for the type of policy written.

1007  
 1008 If the producing agent is unwilling or unable to accept  
 1009 appointment, the new insurer shall pay the agent in accordance  
 1010 with sub-sub-subparagraph (I). Subject to the provisions of s.  
 1011 627.3517, the policies issued by the association must provide  
 1012 that if the association obtains an offer from an authorized  
 1013 insurer to cover the risk at its approved rates under either a  
 1014 standard policy including wind coverage or, if consistent with  
 1015 the insurer's underwriting rules as filed with the department, a  
 1016 basic policy including wind coverage, the risk is no longer  
 1017 eligible for coverage through the association. Upon termination  
 1018 of eligibility, the association shall provide written notice to  
 1019 the policyholder and agent of record stating that the  
 1020 association policy must be canceled as of 60 days after the date  
 1021 of the notice because of the offer of coverage from an  
 1022 authorized insurer. Other provisions of the insurance code  
 1023 relating to cancellation and notice of cancellation do not apply  
 1024 to actions under this sub-subparagraph.

1025 f. When the association enters into a contractual  
 1026 agreement for a take-out plan, the producing agent of record of

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1027 the association policy is entitled to retain any unearned  
 1028 commission on the policy, and the insurer shall:

1029 (I) Pay to the producing agent of record of the  
 1030 association policy, for the first year, an amount that is the  
 1031 greater of the insurer's usual and customary commission for the  
 1032 type of policy written or a fee equal to the usual and customary  
 1033 commission of the association; or

1034 (II) Offer to allow the producing agent of record of the  
 1035 association policy to continue servicing the policy for a period  
 1036 of not less than 1 year and offer to pay the agent the greater  
 1037 of the insurer's or the association's usual and customary  
 1038 commission for the type of policy written.

1039  
 1040 If the producing agent is unwilling or unable to accept  
 1041 appointment, the new insurer shall pay the agent in accordance  
 1042 with sub-sub-subparagraph (I).

1043 6.a. The plan of operation may authorize the formation of  
 1044 a private nonprofit corporation, a private nonprofit  
 1045 unincorporated association, a partnership, a trust, a limited  
 1046 liability company, or a nonprofit mutual company which may be  
 1047 empowered, among other things, to borrow money by issuing bonds  
 1048 or by incurring other indebtedness and to accumulate reserves or  
 1049 funds to be used for the payment of insured catastrophe losses.  
 1050 The plan may authorize all actions necessary to facilitate the  
 1051 issuance of bonds, including the pledging of assessments or  
 1052 other revenues.

1053 b. Any entity created under this subsection, or any entity  
 1054 formed for the purposes of this subsection, may sue and be sued,

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1055 may borrow money; issue bonds, notes, or debt instruments;  
 1056 pledge or sell assessments, market equalization surcharges and  
 1057 other surcharges, rights, premiums, contractual rights,  
 1058 projected recoveries from the Florida Hurricane Catastrophe  
 1059 Fund, other reinsurance recoverables, and other assets as  
 1060 security for such bonds, notes, or debt instruments; enter into  
 1061 any contracts or agreements necessary or proper to accomplish  
 1062 such borrowings; and take other actions necessary to carry out  
 1063 the purposes of this subsection. The association may issue bonds  
 1064 or incur other indebtedness, or have bonds issued on its behalf  
 1065 by a unit of local government pursuant to subparagraph (6)(g)2.,  
 1066 in the absence of a hurricane or other weather-related event,  
 1067 upon a determination by the association subject to approval by  
 1068 the department that such action would enable it to efficiently  
 1069 meet the financial obligations of the association and that such  
 1070 financings are reasonably necessary to effectuate the  
 1071 requirements of this subsection. Any such entity may accumulate  
 1072 reserves and retain surpluses as of the end of any association  
 1073 year to provide for the payment of losses incurred by the  
 1074 association during that year or any future year. The association  
 1075 shall incorporate and continue the plan of operation and  
 1076 articles of agreement in effect on the effective date of chapter  
 1077 76-96, Laws of Florida, to the extent that it is not  
 1078 inconsistent with chapter 76-96, and as subsequently modified  
 1079 consistent with chapter 76-96. The board of directors and  
 1080 officers currently serving shall continue to serve until their  
 1081 successors are duly qualified as provided under the plan. The  
 1082 assets and obligations of the plan in effect immediately prior

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1083 to the effective date of chapter 76-96 shall be construed to be  
 1084 the assets and obligations of the successor plan created herein.

1085 c. In recognition of s. 10, Art. I of the State  
 1086 Constitution, prohibiting the impairment of obligations of  
 1087 contracts, it is the intent of the Legislature that no action be  
 1088 taken whose purpose is to impair any bond indenture or financing  
 1089 agreement or any revenue source committed by contract to such  
 1090 bond or other indebtedness issued or incurred by the association  
 1091 or any other entity created under this subsection.

1092 7. On such coverage, an agent's remuneration shall be that  
 1093 amount of money payable to the agent by the terms of his or her  
 1094 contract with the company with which the business is placed.  
 1095 However, no commission will be paid on that portion of the  
 1096 premium which is in excess of the standard premium of that  
 1097 company.

1098 8. Subject to approval by the department, the association  
 1099 may establish different eligibility requirements and operational  
 1100 procedures for any line or type of coverage ~~for any specified~~  
 1101 ~~eligible area or portion of an eligible area~~ if the board  
 1102 determines that such changes to the eligibility requirements and  
 1103 operational procedures are justified due to the voluntary market  
 1104 being sufficiently stable and competitive ~~in such area or~~ for  
 1105 such line or type of coverage and that consumers who, in good  
 1106 faith, are unable to obtain insurance through the voluntary  
 1107 market through ordinary methods would continue to have access to  
 1108 coverage from the association. When coverage is sought in  
 1109 connection with a real property transfer, such requirements and  
 1110 procedures shall not provide for an effective date of coverage



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1111 later than the date of the closing of the transfer as  
 1112 established by the transferor, the transferee, and, if  
 1113 applicable, the lender.

1114 9. Notwithstanding any other provision of law:

1115 a. The pledge or sale of, the lien upon, and the security  
 1116 interest in any rights, revenues, or other assets of the  
 1117 association created or purported to be created pursuant to any  
 1118 financing documents to secure any bonds or other indebtedness of  
 1119 the association shall be and remain valid and enforceable,  
 1120 notwithstanding the commencement of and during the continuation  
 1121 of, and after, any rehabilitation, insolvency, liquidation,  
 1122 bankruptcy, receivership, conservatorship, reorganization, or  
 1123 similar proceeding against the association under the laws of  
 1124 this state or any other applicable laws.

1125 b. No such proceeding shall relieve the association of its  
 1126 obligation, or otherwise affect its ability to perform its  
 1127 obligation, to continue to collect, or levy and collect,  
 1128 assessments, market equalization or other surcharges, projected  
 1129 recoveries from the Florida Hurricane Catastrophe Fund,  
 1130 reinsurance recoverables, or any other rights, revenues, or  
 1131 other assets of the association pledged.

1132 c. Each such pledge or sale of, lien upon, and security  
 1133 interest in, including the priority of such pledge, lien, or  
 1134 security interest, any such assessments, emergency assessments,  
 1135 market equalization or renewal surcharges, projected recoveries  
 1136 from the Florida Hurricane Catastrophe Fund, reinsurance  
 1137 recoverables, or other rights, revenues, or other assets which  
 1138 are collected, or levied and collected, after the commencement

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1139 of and during the pendency of or after any such proceeding shall  
1140 continue unaffected by such proceeding.

1141 d. As used in this subsection, the term "financing  
1142 documents" means any agreement, instrument, or other document  
1143 now existing or hereafter created evidencing any bonds or other  
1144 indebtedness of the association or pursuant to which any such  
1145 bonds or other indebtedness has been or may be issued and  
1146 pursuant to which any rights, revenues, or other assets of the  
1147 association are pledged or sold to secure the repayment of such  
1148 bonds or indebtedness, together with the payment of interest on  
1149 such bonds or such indebtedness, or the payment of any other  
1150 obligation of the association related to such bonds or  
1151 indebtedness.

1152 e. Any such pledge or sale of assessments, revenues,  
1153 contract rights or other rights or assets of the association  
1154 shall constitute a lien and security interest, or sale, as the  
1155 case may be, that is immediately effective and attaches to such  
1156 assessments, revenues, contract, or other rights or assets,  
1157 whether or not imposed or collected at the time the pledge or  
1158 sale is made. Any such pledge or sale is effective, valid,  
1159 binding, and enforceable against the association or other entity  
1160 making such pledge or sale, and valid and binding against and  
1161 superior to any competing claims or obligations owed to any  
1162 other person or entity, including policyholders in this state,  
1163 asserting rights in any such assessments, revenues, contract, or  
1164 other rights or assets to the extent set forth in and in  
1165 accordance with the terms of the pledge or sale contained in the  
1166 applicable financing documents, whether or not any such person

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1167 or entity has notice of such pledge or sale and without the need  
1168 for any physical delivery, recordation, filing, or other action.

1169 f. There shall be no liability on the part of, and no  
1170 cause of action of any nature shall arise against, any member  
1171 insurer or its agents or employees, agents or employees of the  
1172 association, members of the board of directors of the  
1173 association, or the department or its representatives, for any  
1174 action taken by them in the performance of their duties or  
1175 responsibilities under this subsection. Such immunity does not  
1176 apply to actions for breach of any contract or agreement  
1177 pertaining to insurance, or any willful tort.

1178 ~~(c) The provisions of paragraph (b) are applicable only~~  
1179 ~~with respect to:~~

1180 ~~1. Those areas that were eligible for coverage under this~~  
1181 ~~subsection on April 9, 1993; or~~

1182 ~~2. Any county or area as to which the department, after~~  
1183 ~~public hearing, finds that the following criteria exist:~~

1184 ~~a. Due to the lack of windstorm insurance coverage in the~~  
1185 ~~county or area so affected, economic growth and development is~~  
1186 ~~being deterred or otherwise stifled in such county or area,~~  
1187 ~~mortgages are in default, and financial institutions are unable~~  
1188 ~~to make loans;~~

1189 ~~b. The county or area so affected is enforcing the~~  
1190 ~~structural requirements of the Florida Building Code, as defined~~  
1191 ~~in s. 553.73, for new construction and has included adequate~~  
1192 ~~minimum floor elevation requirements for structures in areas~~  
1193 ~~subject to inundation; and~~

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1194 ~~e. Extending windstorm insurance coverage to such county~~  
1195 ~~or area is consistent with and will implement and further the~~  
1196 ~~policies and objectives set forth in applicable state laws,~~  
1197 ~~rules, and regulations governing coastal management, coastal~~  
1198 ~~construction, comprehensive planning, beach and shore~~  
1199 ~~preservation, barrier island preservation, coastal zone~~  
1200 ~~protection, and the Coastal Zone Protection Act of 1985.~~

1201  
1202 ~~The department shall consider reports of the Florida Building~~  
1203 ~~Commission when evaluating building code enforcement. Any time~~  
1204 ~~after the department has determined that the criteria referred~~  
1205 ~~to in this subparagraph do not exist with respect to any county~~  
1206 ~~or area of the state, it may, after a subsequent public hearing,~~  
1207 ~~declare that such county or area is no longer eligible for~~  
1208 ~~windstorm coverage through the plan.~~

1209 ~~(d) For the purpose of evaluating whether the criteria of~~  
1210 ~~paragraph (c) are met, such criteria shall be applied as the~~  
1211 ~~situation would exist if policies had not been written by the~~  
1212 ~~Florida Residential Property and Casualty Joint Underwriting~~  
1213 ~~Association and property insurance for such policyholders was~~  
1214 ~~not available.~~

1215 ~~(c)1. Notwithstanding the provisions of subparagraph (c)2.~~  
1216 ~~or paragraph (d), eligibility shall not be extended to any area~~  
1217 ~~that was not eligible on March 1, 1997, except that the~~  
1218 ~~department may act with respect to any petition on which a~~  
1219 ~~hearing was held prior to May 9, 1997.~~

1220 ~~2. Notwithstanding the provisions of subparagraph 1., the~~  
1221 ~~following area is eligible for coverage under this subsection~~

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1222 ~~effective July 1, 2002: the area within Port Canaveral which is~~  
 1223 ~~bordered on the south by the City of Cape Canaveral, bordered on~~  
 1224 ~~the west by the Banana River, and bordered on the north by~~  
 1225 ~~United States Government property.~~

1226 (c) ~~(f)~~ As used in this subsection, the term "department"  
 1227 means the former Department of Insurance.

1228 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1229 (m)1.a. Rates for coverage provided by the corporation  
 1230 shall be actuarially sound and may be ~~not~~ competitive with  
 1231 approved rates charged in the admitted voluntary market, ~~so that~~  
 1232 ~~the corporation functions as a residual market mechanism to~~  
 1233 ~~provide insurance only when the insurance cannot be procured in~~  
 1234 ~~the voluntary market.~~ Rates shall include an appropriate  
 1235 catastrophe loading factor that reflects the actual catastrophic  
 1236 exposure of the corporation. For policies in the personal lines  
 1237 account and the commercial lines account issued or renewed on or  
 1238 after March 1, 2007, a rate is deemed inadequate if the rate,  
 1239 including investment income, is not sufficient to provide for  
 1240 the procurement of coverage under the Florida Hurricane  
 1241 Catastrophe Fund and private reinsurance costs, whether or not  
 1242 reinsurance is procured, and to pay all claims and expenses  
 1243 reasonably expected to result from a 100-year probable maximum  
 1244 loss event without resort to any regular or emergency  
 1245 assessments, long-term debt, state revenues, or other funding  
 1246 sources. For policies in the high-risk account issued or renewed  
 1247 on or after March 1, 2007, a rate is deemed inadequate if the  
 1248 rate, including investment income, is not sufficient to provide  
 1249 for the procurement of coverage under the Florida Hurricane

1250 Catastrophe Fund and private reinsurance costs, whether or not  
 1251 reinsurance is procured, and to pay all claims and expenses  
 1252 reasonably expected to result from a 70-year probable maximum  
 1253 loss event with resort to any regular or emergency assessments,  
 1254 long-term debt, state revenues, or other funding sources. For  
 1255 policies in the high-risk account issued or renewed in 2008 and  
 1256 2009, the rate must be based upon an 85-year and 100-year  
 1257 probable maximum loss event, respectively.

1258         b. It is the intent of the Legislature to reaffirm the  
 1259 requirement of rate adequacy in the residual market. Recognizing  
 1260 that rates may comply with the intent expressed in sub-  
 1261 subparagraph a. and yet be inadequate and recognizing the public  
 1262 need to limit subsidies within the residual market, it is the  
 1263 further intent of the Legislature to establish statutory  
 1264 standards for rate adequacy. Such standards are intended to  
 1265 supplement the standard specified in s. 627.062(2)(e)3.,  
 1266 providing that rates are inadequate if they are clearly  
 1267 insufficient to sustain projected losses and expenses in the  
 1268 class of business to which they apply.

1269         ~~2. For each county, the average rates of the corporation~~  
 1270 ~~for each line of business for personal lines residential~~  
 1271 ~~policies excluding rates for wind only policies shall be no~~  
 1272 ~~lower than the average rates charged by the insurer that had the~~  
 1273 ~~highest average rate in that county among the 20 insurers with~~  
 1274 ~~the greatest total direct written premium in the state for that~~  
 1275 ~~line of business in the preceding year, except that with respect~~  
 1276 ~~to mobile home coverages, the average rates of the corporation~~  
 1277 ~~shall be no lower than the average rates charged by the insurer~~

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1278 ~~that had the highest average rate in that county among the 5~~  
1279 ~~insurers with the greatest total written premium for mobile home~~  
1280 ~~owner's policies in the state in the preceding year.~~

1281 2.3- Rates for personal lines residential wind-only  
1282 policies must be actuarially sound and may be ~~not~~ competitive  
1283 with approved rates charged by authorized insurers. If the  
1284 filing under this subparagraph is made at least 90 days before  
1285 the proposed effective date and the filing is not implemented  
1286 during the office's review of the filing and any proceeding and  
1287 judicial review, such filing shall be considered a "file and  
1288 use" filing. In such case, the office shall finalize its review  
1289 by issuance of a notice of intent to approve or a notice of  
1290 intent to disapprove within 90 days after receipt of the filing.  
1291 The notice of intent to approve and the notice of intent to  
1292 disapprove constitute agency action for purposes of the  
1293 Administrative Procedure Act. Requests for supporting  
1294 information, requests for mathematical or mechanical  
1295 corrections, or notification to the insurer by the office of its  
1296 preliminary findings shall not toll the 90-day period during any  
1297 such proceedings and subsequent judicial review. The rate shall  
1298 be deemed approved if the office does not issue a notice of  
1299 intent to approve or a notice of intent to disapprove within 90  
1300 days after receipt of the filing. Corporation rate manuals shall  
1301 include a rate surcharge for seasonal occupancy. To ensure that  
1302 personal lines residential wind-only rates may be ~~are not~~  
1303 competitive with approved rates charged by authorized insurers,  
1304 the corporation, in conjunction with the office, shall develop a  
1305 wind-only ratemaking methodology, which methodology shall be

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1306 contained in each rate filing made by the corporation with the  
1307 office. If the office determines that the wind-only rates or  
1308 rating factors filed by the corporation fail to comply with the  
1309 wind-only ratemaking methodology provided for in this  
1310 subsection, it shall so notify the corporation and require the  
1311 corporation to amend its rates or rating factors to come into  
1312 compliance within 90 days of notice from the office.

1313 ~~4. The requirements of this paragraph that rates not be~~  
1314 ~~competitive with approved rates charged by authorized insurers~~  
1315 ~~do not apply in a county or area for which the office determines~~  
1316 ~~that no authorized insurer is offering coverage. The corporation~~  
1317 ~~shall amend its rates or rating factors for the affected county~~  
1318 ~~or area in conjunction with its next rate filing after such~~  
1319 ~~determination is made.~~

1320 ~~3.5. For the purposes of establishing a pilot program to~~  
1321 ~~evaluate issues relating to the availability and affordability~~  
1322 ~~of insurance in an area where historically there has been little~~  
1323 ~~market competition, the provisions of subparagraph 2. do not~~  
1324 ~~apply to coverage provided by the corporation in Monroe County~~  
1325 ~~if the office determines that a reasonable degree of competition~~  
1326 ~~does not exist for personal lines residential policies. The~~  
1327 ~~provisions of subparagraph 2. ~~3.~~ do not apply to coverage~~  
1328 ~~provided by the corporation in Monroe County if the office~~  
1329 ~~determines that a reasonable degree of competition does not~~  
1330 ~~exist for personal lines residential policies in the area of~~  
1331 ~~that county which is eligible for wind-only coverage. In this~~  
1332 ~~county, the rates for personal lines residential coverage shall~~  
1333 ~~be actuarially sound and not excessive, inadequate, or unfairly~~



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1334 discriminatory and are subject to the other provisions of the  
1335 paragraph and s. 627.062. The commission shall adopt rules  
1336 establishing the criteria for determining whether a reasonable  
1337 degree of competition exists for personal lines residential  
1338 policies in Monroe County. ~~By March 1, 2006, the office shall~~  
1339 ~~submit a report to the Legislature providing an evaluation of~~  
1340 ~~the implementation of the pilot program affecting Monroe County.~~

1341 4.6. Rates for commercial lines coverage shall ~~not be~~  
1342 ~~subject to the requirements of subparagraph 2., but shall be~~  
1343 subject to all ~~other~~ requirements of this paragraph and s.  
1344 627.062.

1345 5.7. Nothing in this paragraph shall require or allow the  
1346 corporation to adopt a rate that is inadequate under s. 627.062.

1347 6.8. The corporation shall certify to the office at least  
1348 twice annually that its personal lines rates comply with the  
1349 requirements of subparagraphs 1. and, ~~2., and 3.~~ If any  
1350 adjustment in the rates or rating factors of the corporation is  
1351 necessary to ensure such compliance, the corporation shall make  
1352 and implement such adjustments and file its revised rates and  
1353 rating factors with the office. If the office thereafter  
1354 determines that the revised rates and rating factors fail to  
1355 comply with the provisions of subparagraphs 1. and, ~~2., and 3.,~~  
1356 it shall notify the corporation and require the corporation to  
1357 amend its rates or rating factors in conjunction with its next  
1358 rate filing. ~~The office must notify the corporation by~~  
1359 ~~electronic means of any rate filing it approves for any insurer~~  
1360 ~~among the insurers referred to in subparagraph 2.~~

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1361        ~~7.9.~~ In addition to the rates otherwise determined  
1362 pursuant to this paragraph, the corporation shall impose and  
1363 collect an amount equal to the premium tax provided for in s.  
1364 624.509 to augment the financial resources of the corporation.

1365        ~~8.10.~~ The corporation shall develop a notice to  
1366 policyholders or applicants that the rates of Citizens Property  
1367 Insurance Corporation are intended to be higher than the rates  
1368 of any admitted carrier and providing other information the  
1369 corporation deems necessary to assist consumers in finding other  
1370 voluntary admitted insurers willing to insure their property.

1371        ~~9.11.~~ After the public hurricane loss-projection model  
1372 under s. 627.06281 has been found to be accurate and reliable by  
1373 the Florida Commission on Hurricane Loss Projection Methodology,  
1374 that model shall serve as the minimum benchmark for determining  
1375 the windstorm portion of the corporation's rates. This  
1376 subparagraph does not require or allow the corporation to adopt  
1377 rates lower than the rates otherwise required or allowed by this  
1378 paragraph.

1379        Section 10. Paragraphs (f) and (g) are added to subsection  
1380 (2) of section 627.4133, Florida Statutes, to read:

1381        627.4133 Notice of cancellation, nonrenewal, or renewal  
1382 premium.--

1383        (2) With respect to any personal lines or commercial  
1384 residential property insurance policy, including, but not  
1385 limited to, any homeowner's, mobile home owner's, farmowner's,  
1386 condominium association, condominium unit owner's, apartment  
1387 building, or other policy covering a residential structure or  
1388 its contents:

1389       (f) No policy governed by this subsection may be canceled  
 1390 or nonrenewed for any reason other than nonpayment of premium  
 1391 between April 1 and February 1.

1392       (g) A policy governed by this subsection that has been in  
 1393 force for 5 years or longer and for which all payments have been  
 1394 timely made may not be canceled or nonrenewed for any reason  
 1395 other than nonpayment of premium while the insurer or an  
 1396 affiliated company continues to offer new policies in any line  
 1397 of business in this state.

1398       Section 11. Pilot programs using sales tax revenues.--

1399       (1) FINDINGS AND INTENT.--The Legislature finds that there  
 1400 is a growing economic crisis in insurance that requires bold  
 1401 action. Statewide, 1 cent of the sales tax generates  
 1402 approximately \$3 billion to \$4 billion a year; this amount could  
 1403 be applied to various insurance sectors to bring fairness and  
 1404 dependable rates to Floridians. To allow for the private sector  
 1405 to offer lower rates for insurance coverage, deductibles need to  
 1406 be higher. The raise in deductibles must be done while  
 1407 protecting the consumer and the financial obligations from  
 1408 overexposure. The Legislature intends a two-pronged approach  
 1409 using an existing 1 cent of Florida sales tax to be specifically  
 1410 designated to the insurance crisis until the pump is primed on a  
 1411 fix and critical catch-up items are achieved. The first prong is  
 1412 the creation of the wind deductible reimbursement co-op pilot  
 1413 program for named storms. The second prong uses sales tax  
 1414 revenue to expand the Hurricane Catastrophe Fund and reinsurance  
 1415 programs for the industry to lower its rates.

1416       (2) DEFINITIONS.--As used in this section, the term:

1417        (a) "Department" means the Department of Financial  
 1418 Services.

1419        (b) "Pilot region" means the counties of Brevard, Duval,  
 1420 Lake, Orange, and Seminole.

1421        (c) "Sales tax revenue" means the general sales and use  
 1422 tax collected under s. 212.05, Florida Statutes, exclusive of  
 1423 any discretionary local tax.

1424        (3) WIND DEDUCTIBLE REIMBURSEMENT CO-OP.--

1425        (a) Notwithstanding any other law, the Department of  
 1426 Revenue shall make available to the department one-twelfth of  
 1427 the sales tax revenue generated annually in the pilot region.

1428        (b) The department shall use this money in the pilot  
 1429 region to fund a public-private cooperative called the  
 1430 Deductible Recovery Coop, Inc.. This nonprofit cooperative is to  
 1431 facilitate the offer of deductible coverage for the consumer in  
 1432 the pilot region that keeps the state's exposure down and helps  
 1433 the private sector to be able to provide lower consumer rates.

1434        (4) OTHER PROGRAMS IN THE PILOT REGION.--Notwithstanding  
 1435 any other law, the Department of Revenue shall make available to  
 1436 the department one-twelfth of the sales tax revenue generated  
 1437 annually in the pilot region for other programs that benefit  
 1438 residential property insurance customers. The Legislature shall  
 1439 annually direct the expenditure of these funds to benefit the  
 1440 pilot region through such funding to programs as the Hurricane  
 1441 Catastrophe Fund and the Citizens Property Insurance  
 1442 Corporation, providing matching dollars for property upgrades  
 1443 and assisting programs for hurricane loss mitigation.

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1444        (5) REPORT.--The department shall report annually by  
 1445        December 31 of each year to the Governor, the President of the  
 1446        Senate, and the Speaker of the House of Representatives  
 1447        concerning the activities and expenditures of the programs under  
 1448        this section.

1449        (6) REPEAL.--This section expires December 31, 2012.

1450        Section 12. Except as otherwise provided in this act, this  
 1451        act shall take effect July 1, 2007.