

Bill No. CS/CS/HB 3-A (c2)

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	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	A1/RC/2R
2		.	01/18/2007 10:46:36
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4	01/18/2007 09:14 AM	.	
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11 Senator Posey moved the following amendment:

12

13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15

16 and insert:

17 Section 1. Paragraphs (m) and (n) of subsection (2) of  
18 section 20.121, Florida Statutes, aed to read:

19 20.121 Department of Financial Services.--There is  
20 created a Department of Financial Services.

21 (2) DIVISIONS.--The Department of Financial Services  
22 shall consist of the following divisions:

23 ~~(m) The Office of Insurance Consumer Advocate.~~

24 ~~(m)(n)~~ The Division of Funeral, Cemetery, and Consumer  
25 Services.

26 Section 2. All of the powers, duties, functions,  
27 records, personnel, and property; unexpended balances of  
28 appropriations, allocations, and other funds; administrative  
29 authority; administrative rules; pending issues; and existing  
30 contracts of the consumer advocate and the Office of Insurance  
31 Consumer Advocate are transferred by a type two transfer,

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1 pursuant to s. 20.06(2), Florida Statutes, from the Chief  
 2 Financial Officer and the Department of Financial Services to  
 3 the Public Counsel. Funds shall be transferred by the  
 4 Department of Financial Services from the Insurance Regulatory  
 5 Trust Fund to the Grants and Donations Trust Fund in the  
 6 legislative branch for the purpose of funding the Office of  
 7 Insurance Consumer Advocate. The transfer amount for the  
 8 2006-2007 fiscal year is equal to the remaining unobligated  
 9 approved operating budget for the Office of Insurance Consumer  
 10 Advocate within the Department of Financial Services.

11 Section 3. Paragraph (b) of subsection (3) and  
 12 paragraph (e) of subsection (7) of section 163.01, Florida  
 13 Statutes, are amended, and paragraph (h) is added to  
 14 subsection (7) of that section, to read:

15 163.01 Florida Interlocal Cooperation Act of 1969.--

16 (3) As used in this section:

17 (b) "Public agency" means a political subdivision,  
 18 agency, or officer of this state or of any state of the United  
 19 States, including, but not limited to, state government,  
 20 county, city, school district, single and multipurpose special  
 21 district, single and multipurpose public authority,  
 22 metropolitan or consolidated government, a separate legal  
 23 entity or administrative entity created under subsection (7),  
 24 an independently elected county officer, any agency of the  
 25 United States Government, a federally recognized Native  
 26 American tribe, and any similar entity of any other state of  
 27 the United States.

28 (7)

29 (e)1. Notwithstanding the provisions of paragraph (c),  
 30 any separate legal entity, created pursuant to the provisions  
 31 of this section and controlled by counties or municipalities

1 of this state, the membership of which consists or is to  
 2 consist only of public agencies of this state, may, for the  
 3 purpose of financing the provision or acquisition of liability  
 4 or property coverage contracts for or from one or more local  
 5 government liability or property pools to provide liability or  
 6 property coverage for counties, municipalities, or other  
 7 public agencies of this state, exercise all powers in  
 8 connection with the authorization, issuance, and sale of  
 9 bonds. All of the privileges, benefits, powers, and terms of  
 10 s. 125.01 relating to counties and s. 166.021 relating to  
 11 municipalities shall be fully applicable to such entity and  
 12 such entity shall be considered a unit of local government for  
 13 all of the privileges, benefits, powers, and terms of part I  
 14 of chapter 159. Bonds issued by such entity shall be deemed  
 15 issued on behalf of counties, municipalities, or public  
 16 agencies which enter into loan agreements with such entity as  
 17 provided in this paragraph. Proceeds of bonds issued by such  
 18 entity may be loaned to counties, municipalities, or other  
 19 public agencies of this state, whether or not such counties,  
 20 municipalities, or other public agencies are also members of  
 21 the entity issuing the bonds, and such counties,  
 22 municipalities, or other public agencies may in turn deposit  
 23 such loan proceeds with a separate local government liability  
 24 or property pool for purposes of providing or acquiring  
 25 liability or property coverage contracts.

26         2. Counties or municipalities of this state are  
 27 authorized pursuant to this section, in addition to the  
 28 authority provided by s. 125.01, part II of chapter 166, and  
 29 other applicable law, to issue bonds for the purpose of  
 30 acquiring liability coverage contracts from a local government  
 31 liability pool. Any individual county or municipality may, by

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1 entering into interlocal agreements with other counties,  
2 municipalities, or public agencies of this state, issue bonds  
3 on behalf of itself and other counties, municipalities, or  
4 other public agencies, for purposes of acquiring a liability  
5 coverage contract or contracts from a local government  
6 liability pool. Counties, municipalities, or other public  
7 agencies are also authorized to enter into loan agreements  
8 with any entity created pursuant to subparagraph 1., or with  
9 any county or municipality issuing bonds pursuant to this  
10 subparagraph, for the purpose of obtaining bond proceeds with  
11 which to acquire liability coverage contracts from a local  
12 government liability pool. No county, municipality, or other  
13 public agency shall at any time have more than one loan  
14 agreement outstanding for the purpose of obtaining bond  
15 proceeds with which to acquire liability coverage contracts  
16 from a local government liability pool. Obligations of any  
17 county, municipality, or other public agency of this state  
18 pursuant to a loan agreement as described above may be  
19 validated as provided in chapter 75. Prior to the issuance of  
20 any bonds pursuant to subparagraph 1. or this subparagraph for  
21 the purpose of acquiring liability coverage contracts from a  
22 local government liability pool, the reciprocal insurer or the  
23 manager of any self-insurance program shall demonstrate to the  
24 satisfaction of the Office of Insurance Regulation of the  
25 Financial Services Commission that excess liability coverage  
26 for counties, municipalities, or other public agencies is  
27 reasonably unobtainable in the amounts provided by such pool  
28 or that the liability coverage obtained through acquiring  
29 contracts from a local government liability pool, after taking  
30 into account costs of issuance of bonds and any other  
31 administrative fees, is less expensive to counties,

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1 municipalities, or special districts than similar commercial  
2 coverage then reasonably available.

3           3. Any entity created pursuant to this section or any  
4 county or municipality may also issue bond anticipation notes,  
5 as provided by s. 215.431, in connection with the  
6 authorization, issuance, and sale of such bonds. In addition,  
7 the governing body of such legal entity or the governing body  
8 of such county or municipality may also authorize bonds to be  
9 issued and sold from time to time and may delegate, to such  
10 officer, official, or agent of such legal entity as the  
11 governing body of such legal entity may select, the power to  
12 determine the time; manner of sale, public or private;  
13 maturities; rate or rates of interest, which may be fixed or  
14 may vary at such time or times and in accordance with a  
15 specified formula or method of determination; and other terms  
16 and conditions as may be deemed appropriate by the officer,  
17 official, or agent so designated by the governing body of such  
18 legal entity. However, the amounts and maturities of such  
19 bonds and the interest rate or rates of such bonds shall be  
20 within the limits prescribed by the governing body of such  
21 legal entity and its resolution delegating to such officer,  
22 official, or agent the power to authorize the issuance and  
23 sale of such bonds. Any series of bonds issued pursuant to  
24 this paragraph for liability coverage shall mature no later  
25 than 7 years following the date of issuance ~~thereof~~. Any  
26 series of bonds issued pursuant to this paragraph for property  
27 coverage shall mature no later than 30 years following the  
28 date of issuance.

29           4. Bonds issued pursuant to subparagraph 1. may be  
30 validated as provided in chapter 75. The complaint in any  
31 action to validate such bonds shall be filed only in the

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1 Circuit Court for Leon County. The notice required to be  
2 published by s. 75.06 shall be published in Leon County and in  
3 each county which is an owner of the entity issuing the bonds,  
4 or in which a member of the entity is located, and the  
5 complaint and order of the circuit court shall be served only  
6 on the State Attorney of the Second Judicial Circuit and on  
7 the state attorney of each circuit in each county or  
8 municipality which is an owner of the entity issuing the bonds  
9 or in which a member of the entity is located.

10 5. Bonds issued pursuant to subparagraph 2. may be  
11 validated as provided in chapter 75. The complaint in any  
12 action to validate such bonds shall be filed in the circuit  
13 court of the county or municipality which will issue the  
14 bonds. The notice required to be published by s. 75.06 shall  
15 be published only in the county where the complaint is filed,  
16 and the complaint and order of the circuit court shall be  
17 served only on the state attorney of the circuit in the county  
18 or municipality which will issue the bonds.

19 6. The participation by any county, municipality, or  
20 other public agency of this state in a local government  
21 liability pool shall not be deemed a waiver of immunity to the  
22 extent of liability coverage, nor shall any contract entered  
23 regarding such a local government liability pool be required  
24 to contain any provision for waiver.

25 (h)1. Notwithstanding the provisions of paragraph (c),  
26 any separate legal entity consisting of an alliance, as  
27 defined in s. 395.1060(2)(a), which is created pursuant to  
28 this paragraph and controlled by and whose members consist of  
29 the following eligible entities: special districts created  
30 pursuant to a special act and having the authority to own or  
31 operate one or more Florida-licensed hospitals, or

1 Florida-licensed hospitals that are owned, operated, or funded  
 2 by a county or municipality, may, for the purpose of providing  
 3 property insurance coverage as defined in s. 395.1060(2)(c),  
 4 for such eligible entities, exercise all powers under this  
 5 subsection in connection with borrowing funds for such  
 6 purposes, including, without limitation, the authorization,  
 7 issuance, and sale of bonds, notes, or other obligations of  
 8 indebtedness. Borrowed funds, including bonds issued by such  
 9 alliance, shall be deemed issued on behalf of such eligible  
 10 entities that enter into loan agreements with such separate  
 11 entity as provided in this paragraph.

12 2. Any such separate entity shall have all the powers  
 13 that are provided by the interlocal agreement under which it  
 14 is created or that are necessary to finance, operate, or  
 15 manage the alliance's property insurance coverage program.  
 16 Proceeds of bonds, notes, or other obligations issued by such  
 17 an entity may be loaned to any one or more eligible entities.  
 18 Eligible entities are authorized to enter into loan agreements  
 19 with any separate entity created pursuant to this paragraph  
 20 for the purpose of obtaining moneys with which to finance  
 21 property insurance coverage or claims. Obligations of any  
 22 eligible entity pursuant to a loan agreement as described in  
 23 this paragraph may be validated as provided in chapter 75.

24 3. Any bonds, notes, or other obligations to be issued  
 25 or incurred by a separate entity created pursuant to this  
 26 paragraph shall be authorized by resolution of the governing  
 27 body of such entity and bear the date or dates; mature at the  
 28 time or times, not exceeding 30 years from their respective  
 29 dates; bear interest at the rate or rates, which may be fixed  
 30 or vary at such time or times and in accordance with a  
 31 specified formula or method of determination; be payable at

1 the time or times; be in the denomination; be in the form;  
2 carry the registration privileges; be executed in the manner;  
3 be payable from the sources and in the medium of payment and  
4 at the place; and be subject to redemption, including  
5 redemption prior to maturity, as the resolution may provide.  
6 The bonds, notes, or other obligations may be sold at public  
7 or private sale for such price as the governing body of the  
8 separate entity shall determine. The bonds may be secured by  
9 such credit enhancement, if any, as the governing body of the  
10 separate entity deems appropriate. The bonds may be secured by  
11 an indenture of trust or trust agreement. In addition, the  
12 governing body of the separate entity may delegate, to such  
13 officer or official of such entity as the governing body may  
14 select, the power to determine the time; manner of sale,  
15 public or private; maturities; rate or rates of interest,  
16 which may be fixed or may vary at such time or times and in  
17 accordance with a specified formula or method of  
18 determination; and other terms and conditions as may be deemed  
19 appropriate by the officer or official so designated by the  
20 governing body of such separate entity. However, the amounts  
21 and maturities of such bonds, the interest rate or rates, and  
22 the purchase price of such bonds shall be within the limits  
23 prescribed by the governing body of such separate entity in  
24 its resolution delegating to such officer or official the  
25 power to authorize the issuance and sale of such bonds.

26 4. Bonds issued pursuant to this paragraph may be  
27 validated as provided in chapter 75. The complaint in any  
28 action to validate such bonds shall be filed only in the  
29 Circuit Court for Leon County. The notice required to be  
30 published by s. 75.06 shall be published in Leon County and in  
31 each county in which an eligible entity that is a member of an



1 alliance is located. The complaint and order of the circuit  
 2 court shall be served only on the state attorney of the Second  
 3 Judicial Circuit and on the state attorney of each circuit in  
 4 each county in which an eligible entity receiving bond  
 5 proceeds is located.

6       5. The accomplishment of the authorized purposes of a  
 7 separate entity created under this paragraph is in all  
 8 respects for the benefit of the people of the state, for the  
 9 increase of their commerce and prosperity, and for the  
 10 improvement of their health and living conditions. Since the  
 11 separate entity will perform essential public functions in  
 12 accomplishing its purposes, the separate entity is not  
 13 required to pay any taxes or assessments of any kind  
 14 whatsoever upon any property acquired or used by it for such  
 15 purposes or upon any revenues at any time received by it. The  
 16 bonds, notes, and other obligations of such separate entity,  
 17 their transfer, and the income therefrom, including any  
 18 profits made on the sale thereof, are at all times free from  
 19 taxation of any kind of the state or by any political  
 20 subdivision or other agency or instrumentality thereof. The  
 21 exemption granted in this paragraph is not applicable to any  
 22 tax imposed by chapter 220 on interest, income, or profits on  
 23 debt obligations owned by corporations.

24       6. The participation by any eligible entity in an  
 25 alliance or a separate entity created pursuant to this  
 26 paragraph may not be deemed a waiver of immunity to the extent  
 27 of liability or any other coverage, and a contract entered  
 28 regarding such alliance is not required to contain any  
 29 provision for waiver.

30       Section 4. Paragraph (c) of subsection (4), subsection  
 31 (6), and paragraph (a) of present subsection (7) of section

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1 | 215.555, Florida Statutes, are amended, present subsections  
 2 | (7) through (15) of that section are redesignated as  
 3 | subsections (8) through (16), respectively, a new subsection  
 4 | (7) is added to that section, and subsections (17), (18), and  
 5 | (19) are added to that section, to read:

6 |       215.555 Florida Hurricane Catastrophe Fund.--

7 |       (4) REIMBURSEMENT CONTRACTS.--

8 |       (c)1. The contract shall also provide that the  
 9 | obligation of the board with respect to all contracts covering  
 10 | a particular contract year shall not exceed the actual  
 11 | claims-paying capacity of the fund up to a limit of \$15  
 12 | billion for that contract year adjusted based upon the  
 13 | reported exposure from the prior contract year to reflect the  
 14 | percentage growth in exposure to the fund for covered policies  
 15 | since 2003, provided the dollar growth in the limit may not  
 16 | increase in any year by an amount greater than the dollar  
 17 | growth of the balance of the fund as of December 31, less any  
 18 | premiums or interest attributable to optional coverage  
 19 | selected by insurers pursuant to subsection (17) or subsection  
 20 | (18), as defined by rule which occurred over the prior  
 21 | calendar year.

22 |       2. In May before the start of the upcoming contract  
 23 | year and in October during the contract year, the board shall  
 24 | publish in the Florida Administrative Weekly a statement of  
 25 | the fund's estimated borrowing capacity and the projected  
 26 | balance of the fund as of December 31. After the end of each  
 27 | calendar year, the board shall notify insurers of the  
 28 | estimated borrowing capacity and the balance of the fund as of  
 29 | December 31 to provide insurers with data necessary to assist  
 30 | them in determining their retention and projected payout from  
 31 | the fund for loss reimbursement purposes. In conjunction with

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1 the development of the premium formula, as provided for in  
 2 subsection (5), the board shall publish factors or multiples  
 3 that assist insurers in determining their retention and  
 4 projected payout for the next contract year. For all  
 5 regulatory and reinsurance purposes, an insurer may calculate  
 6 its projected payout from the fund as its share of the total  
 7 fund premium for the current contract year multiplied by the  
 8 sum of the projected balance of the fund as of December 31 and  
 9 the estimated borrowing capacity for that contract year as  
 10 reported under this subparagraph.

11 (6) REVENUE BONDS FOR FUNDING OBLIGATIONS OF THE  
 12 FLORIDA HURRICANE CATASTROPHE FUND.--

13 (a) General provisions.--

14 1. Upon the occurrence of a hurricane and a  
 15 determination that the moneys in the fund are or will be  
 16 insufficient to pay reimbursement at the levels promised in  
 17 the reimbursement contracts, the board may take the necessary  
 18 steps under paragraph (c) or paragraph (d) for the issuance of  
 19 revenue bonds for the benefit of the fund. The proceeds of  
 20 such revenue bonds may be used to make reimbursement payments  
 21 under reimbursement contracts; to refinance or replace  
 22 previously existing borrowings or financial arrangements; to  
 23 pay interest on bonds; to fund reserves for the bonds; to pay  
 24 expenses incident to the issuance or sale of any bond issued  
 25 under this section, including costs of validating, printing,  
 26 and delivering the bonds, costs of printing the official  
 27 statement, costs of publishing notices of sale of the bonds,  
 28 and related administrative expenses; or for such other  
 29 purposes related to the financial obligations of the fund as  
 30 the board may determine. The term of the bonds may not exceed  
 31 30 years. The board may pledge or authorize the corporation to

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1 | pledge all or a portion of all revenues under subsection (5)  
 2 | and under paragraph (b) to secure such revenue bonds and the  
 3 | board may execute such agreements between the board and the  
 4 | issuer of any revenue bonds and providers of other financing  
 5 | arrangements under paragraph(8)(b) ~~(7)(b)~~ as the board deems  
 6 | necessary to evidence, secure, preserve, and protect such  
 7 | pledge. If reimbursement premiums received under subsection  
 8 | (5) or earnings on such premiums are used to pay debt service  
 9 | on revenue bonds, such premiums and earnings shall be used  
 10 | only after the use of the moneys derived from assessments  
 11 | under paragraph (b). The funds, credit, property, or taxing  
 12 | power of the state or political subdivisions of the state  
 13 | shall not be pledged for the payment of such bonds. The board  
 14 | may also enter into agreements under paragraph (c) or  
 15 | paragraph (d) for the purpose of issuing revenue bonds in the  
 16 | absence of a hurricane upon a determination that such action  
 17 | would maximize the ability of the fund to meet future  
 18 | obligations.

19 |         2. The Legislature finds and declares that the  
 20 | issuance of bonds under this subsection is for the public  
 21 | purpose of paying the proceeds of the bonds to insurers,  
 22 | thereby enabling insurers to pay the claims of policyholders  
 23 | to assure that policyholders are able to pay the cost of  
 24 | construction, reconstruction, repair, restoration, and other  
 25 | costs associated with damage to property of policyholders of  
 26 | covered policies after the occurrence of a hurricane.

27 |         (b) Emergency assessments.--

28 |         1. If the board determines that the amount of revenue  
 29 | produced under subsection (5) is insufficient to fund the  
 30 | obligations, costs, and expenses of the fund and the  
 31 | corporation, including repayment of revenue bonds and that

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1 | portion of the debt service coverage not met by reimbursement  
2 | premiums, the board shall direct the Office of Insurance  
3 | Regulation to levy, by order, an emergency assessment on  
4 | direct premiums for all property and casualty lines of  
5 | business in this state, including property and casualty  
6 | business of surplus lines insurers regulated under part VIII  
7 | of chapter 626, but not including any workers' compensation  
8 | premiums or medical malpractice premiums. As used in this  
9 | subsection, the term "property and casualty business" includes  
10 | all lines of business identified on Form 2, Exhibit of  
11 | Premiums and Losses, in the annual statement required of  
12 | authorized insurers by s. 624.424 and any rule adopted under  
13 | this section, except for those lines identified as accident  
14 | and health insurance and except for policies written under the  
15 | National Flood Insurance Program. The assessment shall be  
16 | specified as a percentage of direct written premium and is  
17 | subject to annual adjustments by the board in order to meet  
18 | debt obligations. The same percentage shall apply to all  
19 | policies in lines of business subject to the assessment issued  
20 | or renewed during the 12-month period beginning on the  
21 | effective date of the assessment.

22 |         2. A premium is not subject to an annual assessment  
23 | under this paragraph in excess of 6 percent of premium with  
24 | respect to obligations arising out of losses attributable to  
25 | any one contract year, and a premium is not subject to an  
26 | aggregate annual assessment under this paragraph in excess of  
27 | 10 percent of premium. An annual assessment under this  
28 | paragraph shall continue as long as the revenue bonds issued  
29 | with respect to which the assessment was imposed are  
30 | outstanding, including any bonds the proceeds of which were  
31 | used to refund the revenue bonds, unless adequate provision

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1 has been made for the payment of the bonds under the documents  
2 authorizing issuance of the bonds.

3           3. Emergency assessments shall be collected from  
4 policyholders. Emergency assessments shall be remitted by  
5 insurers as a percentage of direct written premium for the  
6 preceding calendar quarter as specified in the order from the  
7 Office of Insurance Regulation. The office shall verify the  
8 accurate and timely collection and remittance of emergency  
9 assessments and shall report the information to the board in a  
10 form and at a time specified by the board. Each insurer  
11 collecting assessments shall provide the information with  
12 respect to premiums and collections as may be required by the  
13 office to enable the office to monitor and verify compliance  
14 with this paragraph.

15           4. With respect to assessments of surplus lines  
16 premiums, each surplus lines agent shall collect the  
17 assessment at the same time as the agent collects the surplus  
18 lines tax required by s. 626.932, and the surplus lines agent  
19 shall remit the assessment to the Florida Surplus Lines  
20 Service Office created by s. 626.921 at the same time as the  
21 agent remits the surplus lines tax to the Florida Surplus  
22 Lines Service Office. The emergency assessment on each insured  
23 procuring coverage and filing under s. 626.938 shall be  
24 remitted by the insured to the Florida Surplus Lines Service  
25 Office at the time the insured pays the surplus lines tax to  
26 the Florida Surplus Lines Service Office. The Florida Surplus  
27 Lines Service Office shall remit the collected assessments to  
28 the fund or corporation as provided in the order levied by the  
29 Office of Insurance Regulation. The Florida Surplus Lines  
30 Service Office shall verify the proper application of such  
31 emergency assessments and shall assist the board in ensuring

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1 the accurate and timely collection and remittance of  
 2 assessments as required by the board. The Florida Surplus  
 3 Lines Service Office shall annually calculate the aggregate  
 4 written premium on property and casualty business, other than  
 5 workers' compensation and medical malpractice, procured  
 6 through surplus lines agents and insureds procuring coverage  
 7 and filing under s. 626.938 and shall report the information  
 8 to the board in a form and at a time specified by the board.

9         5. Any assessment authority not used for a particular  
 10 contract year may be used for a subsequent contract year. If,  
 11 for a subsequent contract year, the board determines that the  
 12 amount of revenue produced under subsection (5) is  
 13 insufficient to fund the obligations, costs, and expenses of  
 14 the fund and the corporation, including repayment of revenue  
 15 bonds and that portion of the debt service coverage not met by  
 16 reimbursement premiums, the board shall direct the Office of  
 17 Insurance Regulation to levy an emergency assessment up to an  
 18 amount not exceeding the amount of unused assessment authority  
 19 from a previous contract year or years, plus an additional 4  
 20 percent provided that the assessments in the aggregate do not  
 21 exceed the limits specified in subparagraph 2.

22         6. The assessments otherwise payable to the  
 23 corporation under this paragraph shall be paid to the fund  
 24 unless and until the Office of Insurance Regulation and the  
 25 Florida Surplus Lines Service Office have received from the  
 26 corporation and the fund a notice, which shall be conclusive  
 27 and upon which they may rely without further inquiry, that the  
 28 corporation has issued bonds and the fund has no agreements in  
 29 effect with local governments under paragraph (c). On or after  
 30 the date of the notice and until the date the corporation has  
 31 no bonds outstanding, the fund shall have no right, title, or

1 interest in or to the assessments, except as provided in the  
2 fund's agreement with the corporation.

3           7. Emergency assessments are not premium and are not  
4 subject to the premium tax, to the surplus lines tax, to any  
5 fees, or to any commissions. An insurer is liable for all  
6 assessments that it collects and must treat the failure of an  
7 insured to pay an assessment as a failure to pay the premium.  
8 An insurer is not liable for uncollectible assessments.

9           8. When an insurer is required to return an unearned  
10 premium, it shall also return any collected assessment  
11 attributable to the unearned premium. A credit adjustment to  
12 the collected assessment may be made by the insurer with  
13 regard to future remittances that are payable to the fund or  
14 corporation, but the insurer is not entitled to a refund.

15           9. When a surplus lines insured or an insured who has  
16 procured coverage and filed under s. 626.938 is entitled to  
17 the return of an unearned premium, the Florida Surplus Lines  
18 Service Office shall provide a credit or refund to the agent  
19 or such insured for the collected assessment attributable to  
20 the unearned premium prior to remitting the emergency  
21 assessment collected to the fund or corporation.

22           10. The exemption of medical malpractice insurance  
23 premiums from emergency assessments under this paragraph is  
24 repealed May 31, 2007, and medical malpractice insurance  
25 premiums shall be subject to emergency assessments  
26 attributable to loss events occurring in the contract years  
27 commencing on June 1, 2007.

28           (c) Revenue bond issuance through counties or  
29 municipalities.--

30           1. If the board elects to enter into agreements with  
31 local governments for the issuance of revenue bonds for the



1 benefit of the fund, the board shall enter into such contracts  
 2 with one or more local governments, including agreements  
 3 providing for the pledge of revenues, as are necessary to  
 4 effect such issuance. The governing body of a county or  
 5 municipality is authorized to issue bonds as defined in s.  
 6 125.013 or s. 166.101 from time to time to fund an assistance  
 7 program, in conjunction with the Florida Hurricane Catastrophe  
 8 Fund, for the purposes set forth in this section or for the  
 9 purpose of paying the costs of construction, reconstruction,  
 10 repair, restoration, and other costs associated with damage to  
 11 properties of policyholders of covered policies due to the  
 12 occurrence of a hurricane by assuring that policyholders  
 13 located in this state are able to recover claims under  
 14 property insurance policies after a covered event.

15         2. In order to avoid needless and indiscriminate  
 16 proliferation, duplication, and fragmentation of such  
 17 assistance programs, any local government may provide for the  
 18 payment of fund reimbursements, regardless of whether or not  
 19 the losses for which reimbursement is made occurred within or  
 20 outside of the territorial jurisdiction of the local  
 21 government.

22         3. The state hereby covenants with holders of bonds  
 23 issued under this paragraph that the state will not repeal or  
 24 abrogate the power of the board to direct the Office of  
 25 Insurance Regulation to levy the assessments and to collect  
 26 the proceeds of the revenues pledged to the payment of such  
 27 bonds as long as any such bonds remain outstanding unless  
 28 adequate provision has been made for the payment of such bonds  
 29 pursuant to the documents authorizing the issuance of such  
 30 bonds.

31         4. There shall be no liability on the part of, and no

1 cause of action shall arise against any members or employees  
2 of the governing body of a local government for any actions  
3 taken by them in the performance of their duties under this  
4 paragraph.

5 (d) Florida Hurricane Catastrophe Fund Finance  
6 Corporation.--

7 1. In addition to the findings and declarations in  
8 subsection (1), the Legislature also finds and declares that:

9 a. The public benefits corporation created under this  
10 paragraph will provide a mechanism necessary for the  
11 cost-effective and efficient issuance of bonds. This mechanism  
12 will eliminate unnecessary costs in the bond issuance process,  
13 thereby increasing the amounts available to pay reimbursement  
14 for losses to property sustained as a result of hurricane  
15 damage.

16 b. The purpose of such bonds is to fund reimbursements  
17 through the Florida Hurricane Catastrophe Fund to pay for the  
18 costs of construction, reconstruction, repair, restoration,  
19 and other costs associated with damage to properties of  
20 policyholders of covered policies due to the occurrence of a  
21 hurricane.

22 c. The efficacy of the financing mechanism will be  
23 enhanced by the corporation's ownership of the assessments, by  
24 the insulation of the assessments from possible bankruptcy  
25 proceedings, and by covenants of the state with the  
26 corporation's bondholders.

27 2.a. There is created a public benefits corporation,  
28 which is an instrumentality of the state, to be known as the  
29 Florida Hurricane Catastrophe Fund Finance Corporation.

30 b. The corporation shall operate under a five-member  
31 board of directors consisting of the Governor or a designee,

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1 the Chief Financial Officer or a designee, the Attorney  
 2 General or a designee, the director of the Division of Bond  
 3 Finance of the State Board of Administration, and the senior  
 4 employee of the State Board of Administration responsible for  
 5 operations of the Florida Hurricane Catastrophe Fund.

6 c. The corporation has all of the powers of  
 7 corporations under chapter 607 and under chapter 617, subject  
 8 only to the provisions of this subsection.

9 d. The corporation may issue bonds and engage in such  
 10 other financial transactions as are necessary to provide  
 11 sufficient funds to achieve the purposes of this section.

12 e. The corporation may invest in any of the  
 13 investments authorized under s. 215.47.

14 f. There shall be no liability on the part of, and no  
 15 cause of action shall arise against, any board members or  
 16 employees of the corporation for any actions taken by them in  
 17 the performance of their duties under this paragraph.

18 3.a. In actions under chapter 75 to validate any bonds  
 19 issued by the corporation, the notice required by s. 75.06  
 20 shall be published only in Leon County and in two newspapers  
 21 of general circulation in the state, and the complaint and  
 22 order of the court shall be served only on the State Attorney  
 23 of the Second Judicial Circuit.

24 b. The state hereby covenants with holders of bonds of  
 25 the corporation that the state will not repeal or abrogate the  
 26 power of the board to direct the Office of Insurance  
 27 Regulation to levy the assessments and to collect the proceeds  
 28 of the revenues pledged to the payment of such bonds as long  
 29 as any such bonds remain outstanding unless adequate provision  
 30 has been made for the payment of such bonds pursuant to the  
 31 documents authorizing the issuance of such bonds.

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1           4. The bonds of the corporation are not a debt of the  
 2 state or of any political subdivision, and neither the state  
 3 nor any political subdivision is liable on such bonds. The  
 4 corporation does not have the power to pledge the credit, the  
 5 revenues, or the taxing power of the state or of any political  
 6 subdivision. The credit, revenues, or taxing power of the  
 7 state or of any political subdivision shall not be deemed to  
 8 be pledged to the payment of any bonds of the corporation.

9           5.a. The property, revenues, and other assets of the  
 10 corporation; the transactions and operations of the  
 11 corporation and the income from such transactions and  
 12 operations; and all bonds issued under this paragraph and  
 13 interest on such bonds are exempt from taxation by the state  
 14 and any political subdivision, including the intangibles tax  
 15 under chapter 199 and the income tax under chapter 220. This  
 16 exemption does not apply to any tax imposed by chapter 220 on  
 17 interest, income, or profits on debt obligations owned by  
 18 corporations other than the Florida Hurricane Catastrophe Fund  
 19 Finance Corporation.

20           b. All bonds of the corporation shall be and  
 21 constitute legal investments without limitation for all public  
 22 bodies of this state; for all banks, trust companies, savings  
 23 banks, savings associations, savings and loan associations,  
 24 and investment companies; for all administrators, executors,  
 25 trustees, and other fiduciaries; for all insurance companies  
 26 and associations and other persons carrying on an insurance  
 27 business; and for all other persons who are now or may  
 28 hereafter be authorized to invest in bonds or other  
 29 obligations of the state and shall be and constitute eligible  
 30 securities to be deposited as collateral for the security of  
 31 any state, county, municipal, or other public funds. This

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1 sub-subparagraph shall be considered as additional and  
2 supplemental authority and shall not be limited without  
3 specific reference to this sub-subparagraph.

4           6. The corporation and its corporate existence shall  
5 continue until terminated by law; however, no such law shall  
6 take effect as long as the corporation has bonds outstanding  
7 unless adequate provision has been made for the payment of  
8 such bonds pursuant to the documents authorizing the issuance  
9 of such bonds. Upon termination of the existence of the  
10 corporation, all of its rights and properties in excess of its  
11 obligations shall pass to and be vested in the state.

12           (e) Protection of bondholders.--

13           1. As long as the corporation has any bonds  
14 outstanding, neither the fund nor the corporation shall have  
15 the authority to file a voluntary petition under chapter 9 of  
16 the federal Bankruptcy Code or such corresponding chapter or  
17 sections as may be in effect, from time to time, and neither  
18 any public officer nor any organization, entity, or other  
19 person shall authorize the fund or the corporation to be or  
20 become a debtor under chapter 9 of the federal Bankruptcy Code  
21 or such corresponding chapter or sections as may be in effect,  
22 from time to time, during any such period.

23           2. The state hereby covenants with holders of bonds of  
24 the corporation that the state will not limit or alter the  
25 denial of authority under this paragraph or the rights under  
26 this section vested in the fund or the corporation to fulfill  
27 the terms of any agreements made with such bondholders or in  
28 any way impair the rights and remedies of such bondholders as  
29 long as any such bonds remain outstanding unless adequate  
30 provision has been made for the payment of such bonds pursuant  
31 to the documents authorizing the issuance of such bonds.

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1           3. Notwithstanding any other provision of law, any  
2 pledge of or other security interest in revenue, money,  
3 accounts, contract rights, general intangibles, or other  
4 personal property made or created by the fund or the  
5 corporation shall be valid, binding, and perfected from the  
6 time such pledge is made or other security interest attaches  
7 without any physical delivery of the collateral or further act  
8 and the lien of any such pledge or other security interest  
9 shall be valid, binding, and perfected against all parties  
10 having claims of any kind in tort, contract, or otherwise  
11 against the fund or the corporation irrespective of whether or  
12 not such parties have notice of such claims. No instrument by  
13 which such a pledge or security interest is created nor any  
14 financing statement need be recorded or filed.

15           (f) Limitation.--The Florida Hurricane Fund Finance  
16 Corporation may not be used to fund obligations under  
17 subsection (19).

18           (7) REVENUE BONDS FOR FUNDING OBLIGATIONS OF THE  
19 FLORIDA HURRICANE EXCESS LOSS PROGRAM.--

20           (a) General provisions.--

21           1. Upon a determination by law that any moneys  
22 dedicated or otherwise available to the Florida Hurricane  
23 Excess Loss Program (FHELP) are or will be insufficient to pay  
24 for the amount of the state's liability for losses under the  
25 FHELP, and a designation by law of a source of revenue from  
26 which appropriations will be made to satisfy loan obligations  
27 or to secure bonds, the board may take the necessary steps  
28 under paragraph (b) to authorize the Florida Hurricane Excess  
29 Loss Program Finance Corporation to satisfy loan obligations  
30 or to issue bonds for the payment of such losses. The proceeds  
31 of such bonds may be used to make payments for such losses; to

1 refinance or replace previously existing borrowings or  
2 financial arrangements; to pay interest on bonds; to fund  
3 reserves for the bonds; to pay expenses incident to the  
4 issuance or sale of any bond issued under this paragraph,  
5 including costs of validating, printing, and delivering the  
6 bonds, costs of printing the official statement, costs of  
7 publishing notices of sale of the bonds, and related  
8 administrative expenses; or for such other purposes related to  
9 the financial obligations of the FHELP as the board may  
10 determine. The term of the bonds may not exceed 30 years. The  
11 board and the Florida Hurricane Excess Loss Program Finance  
12 Corporation may pledge all or a portion of all revenues  
13 available from appropriations from the source designated by  
14 law to secure such bonds and the board may execute such  
15 agreements between the board and such corporation as the board  
16 considers necessary to evidence, secure, preserve, and protect  
17 such pledge. The credit, property, or taxing power of the  
18 state or political subdivisions of the state may not be  
19 pledged for the payment of such bonds. The bonds shall be  
20 payable only from revenues specifically appropriated for such  
21 purpose or from any other funds or revenues of the Florida  
22 Hurricane Excess Loss Program Finance Corporation which are  
23 pledged for such purpose. It is the intent of the Legislature  
24 that initial funding for the FHELP shall be provided from up  
25 to 10 percent of state revenues, which may include covenants  
26 to appropriate and budget, as may be necessary.

27 2. The Legislature finds and declares that the  
28 issuance of bonds under this subsection is for the public  
29 purpose of paying the proceeds of the bonds to insured  
30 policyholders and to ensure that such policyholders are able  
31 to pay the cost of construction, reconstruction, repair,

1 restoration, and other costs associated with damage to their  
 2 residential property after the occurrence of a hurricane, and  
 3 that the issuance of the bonds is essential to protect the  
 4 health, safety, and welfare of citizens of the state.

5 (b) Florida Hurricane Excess Loss Program Finance  
 6 Corporation.--

7 1. In addition to the findings and declarations in  
 8 paragraph (a) and subsection (19), the Legislature also finds  
 9 and declares that:

10 a. The public benefits corporation created under this  
 11 paragraph will provide a mechanism necessary for the  
 12 cost-effective and efficient issuance of bonds. This mechanism  
 13 will eliminate unnecessary costs in the bond-issuance process,  
 14 thereby increasing the amounts available to pay reimbursement  
 15 for losses to property sustained as a result of hurricane  
 16 damage.

17 b. The purpose of such bonds is to fund reimbursements  
 18 through the FHELP to pay for the costs of construction,  
 19 reconstruction, repair, restoration, and other costs  
 20 associated with damage to properties of policyholders of  
 21 covered policies due to the occurrence of a hurricane.

22 c. The efficacy of the financing mechanism will be  
 23 enhanced by the corporation's ownership of the assessments, by  
 24 the insulation of the assessments from possible bankruptcy  
 25 proceedings, and by covenants of the state with the  
 26 corporation's bondholders.

27 2.a. There is created a public benefits corporation,  
 28 which is an instrumentality of the state, to be known as the  
 29 Florida Hurricane Excess Loss Program Finance Corporation.

30 b. The corporation shall operate under a five-member  
 31 board of directors consisting of the Governor or a designee,



1 the Chief Financial Officer or a designee, the Attorney  
 2 General or a designee, the director of the Division of Bond  
 3 Finance of the Florida Board of Administration, and the senior  
 4 employee of the Florida Board of Administration responsible  
 5 for operations of the Florida Hurricane Catastrophe Fund.

6 c. The corporation has all of the powers of  
 7 corporations under chapter 607 and under chapter 617, subject  
 8 only to the provisions of this subsection.

9 d. The corporation may issue bonds and engage in such  
 10 other financial transactions as are necessary to provide  
 11 sufficient funds to achieve the purposes of this section.

12 e. The corporation may invest in any of the  
 13 investments authorized under s. 215.47.

14 f. There shall be no liability on the part of, and no  
 15 cause of action shall arise against, any board members or  
 16 employees of the corporation for any actions taken by them in  
 17 the performance of their duties under this paragraph.

18 3.a. In actions under chapter 75 to validate any bonds  
 19 issued by the corporation, the notice required by s. 75.06  
 20 shall be published only in Leon County and in two newspapers  
 21 of general circulation in the state, and the complaint and  
 22 order of the court shall be served only on the State Attorney  
 23 of the Second Judicial Circuit.

24 b. The state hereby covenants with holders of bonds of  
 25 the corporation that the state will not repeal or abrogate the  
 26 power of the board to collect the proceeds of the revenues  
 27 pledged to the payment of such bonds as long as any such bonds  
 28 remain outstanding unless adequate provision has been made for  
 29 the payment of such bonds pursuant to the documents  
 30 authorizing the issuance of such bonds.

31 4. The bonds of the corporation are not a debt of the

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1 state or of any political subdivision, and neither the state  
 2 nor any political subdivision is liable on such bonds. The  
 3 corporation does not have the power to pledge the credit, the  
 4 revenues, or the taxing power of the state or of any political  
 5 subdivision. The credit, revenues, or taxing power of the  
 6 state or of any political subdivision shall not be deemed to  
 7 be pledged to the payment of any bonds of the corporation.

8       5.a. The property, revenues, and other assets of the  
 9 corporation, the transactions and operations of the  
 10 corporation and the income from such transactions and  
 11 operations, and all bonds issued under this paragraph and  
 12 interest on such bonds are exempt from taxation by the state  
 13 and any political subdivision, including the intangibles tax  
 14 under chapter 199 and the income tax under chapter 220. This  
 15 exemption does not apply to any tax imposed by chapter 220 on  
 16 interest, income, or profits on debt obligations owned by  
 17 corporations other than the Florida Hurricane Excess Loss  
 18 Program Finance Corporation.

19       b. All bonds of the corporation shall be and  
 20 constitute legal investments without limitation for all public  
 21 bodies of this state; for all banks, trust companies, savings  
 22 banks, savings associations, savings and loan associations,  
 23 and investment companies; for all administrators, executors,  
 24 trustees, and other fiduciaries; for all insurance companies  
 25 and associations and other persons carrying on an insurance  
 26 business; and for all other persons who are now or may  
 27 hereafter be authorized to invest in bonds or other  
 28 obligations of the state and shall be and constitute eligible  
 29 securities to be deposited as collateral for the security of  
 30 any state, county, municipal, or other public funds. This  
 31 sub-subparagraph shall be considered as additional and

1 supplemental authority and may not be limited without specific  
2 reference to this sub-subparagraph.

3 6. The corporation and its corporate existence shall  
4 continue until terminated by law; however, such law may not  
5 take effect as long as the corporation has bonds outstanding  
6 unless adequate provision has been made for the payment of  
7 such bonds pursuant to the documents authorizing the issuance  
8 of such bonds. Upon termination of the existence of the  
9 corporation, all of its rights and properties in excess of its  
10 obligations shall pass to and be vested in the state.

11 (c) Protection of bondholders.--

12 1. As long as the corporation has any bonds  
13 outstanding, neither the fund nor the corporation shall have  
14 the authority to file a voluntary petition under chapter 9 of  
15 the federal Bankruptcy Code or such corresponding chapter or  
16 sections as may be in effect, from time to time, and neither  
17 any public officer nor any organization, entity, or other  
18 person shall authorize the fund or the corporation to be or  
19 become a debtor under chapter 9 of the federal Bankruptcy Code  
20 or such corresponding chapter or sections as may be in effect,  
21 from time to time, during any such period.

22 2. The state hereby covenants with holders of bonds of  
23 the corporation that the state will not limit or alter the  
24 denial of authority under this paragraph or the rights under  
25 this section vested in the fund or the corporation to fulfill  
26 the terms of any agreements made with such bondholders or in  
27 any way impair the rights and remedies of such bondholders as  
28 long as any such bonds remain outstanding unless adequate  
29 provision has been made for the payment of such bonds pursuant  
30 to the documents authorizing the issuance of such bonds.

31 3. Notwithstanding any other provision of law, any

1 pledge of or other security interest in revenue, money,  
 2 accounts, contract rights, general intangibles, or other  
 3 personal property made or created by the fund or the  
 4 corporation shall be valid, binding, and perfected from the  
 5 time such pledge is made or other security interest attaches  
 6 without any physical delivery of the collateral or further act  
 7 and the lien of any such pledge or other security interest  
 8 shall be valid, binding, and perfected against all parties  
 9 having claims of any kind in tort, contract, or otherwise  
 10 against the fund or the corporation irrespective of whether or  
 11 not such parties have notice of such claims. No instrument by  
 12 which such a pledge or security interest is created nor any  
 13 financing statement need be recorded or filed.

14 (d) The Florida Hurricane Excess Loss Program Finance  
 15 Corporation may not be used to fund obligations that are  
 16 incurred by the coverage afforded under the Florida Hurricane  
 17 Catastrophe Fund, including any retention levels or  
 18 copayments, whether for mandatory coverage or optional  
 19 coverages.

20 (8)(7) ADDITIONAL POWERS AND DUTIES.--

21 (a) The board may procure reinsurance from reinsurers  
 22 acceptable to the Office of Insurance Regulation for the  
 23 purpose of maximizing the capacity of the fund and may enter  
 24 into capital market transactions, including, but not limited  
 25 to, industry loss warranties, catastrophe bonds, side car  
 26 arrangements, or financial contracts permissible for the  
 27 board's usage under s. 215.47(10) and (11), consistent with  
 28 prudent management of the fund.

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

30 (a) Findings and intent.--

31 1. The Legislature finds that:

1       a. Because of temporary disruptions in the market for  
 2 catastrophic reinsurance, many property insurers were unable  
 3 to procure sufficient amounts of such reinsurance for the 2006  
 4 hurricane season or were able to procure such reinsurance only  
 5 by incurring substantially higher costs than in prior years.

6       b. The reinsurance market problems were responsible,  
 7 at least in part, for substantial premium increases to many  
 8 consumers and increases in the number of policies issued by  
 9 Citizens Property Insurance Corporation.

10       c. It is likely that the reinsurance market  
 11 disruptions will not significantly abate prior to the 2007  
 12 hurricane season.

13       2. It is the intent of the Legislature to create  
 14 options for insurers to purchase a temporary increased  
 15 coverage limit above the statutorily determined limit in  
 16 subparagraph (4)(c)1., applicable for the 2007 and 2008  
 17 hurricane seasons, to address market disruptions and enable  
 18 insurers, at their option, to procure additional coverage from  
 19 the Florida Hurricane Catastrophe Fund. It is the further  
 20 intent of the Legislature to structure this coverage in a  
 21 manner that requires insurers to pay premiums that are  
 22 comparable to the premiums the insurer would have paid for  
 23 comparable reinsurance coverage but for the current emergency  
 24 in the reinsurance market and also in a manner that minimizes  
 25 subsidies from the general public over the long run by  
 26 providing the optional increase in coverage limit for 2 years.

27       (b) Applicability of other provisions of this  
 28 section.--All provisions of this section and the rules adopted  
 29 under this section apply to the coverage created by this  
 30 subsection unless specifically superseded by provisions in  
 31 this subsection.

1       (c) Additional definitions.--As used in this  
2 subsection, the term:

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

4           2. "FHCF reimbursement premium" means the premium paid  
5 by an insurer for its coverage as a mandatory participant in  
6 the FHCF, but does not include additional premiums for  
7 optional coverages.

8           3. "Payout multiple" means defined as the number or  
9 multiple created by dividing the statutorily defined  
10 claims-paying capacity as determined in subparagraph (4)(c)1.  
11 by the aggregate reimbursement premiums paid by all insurers  
12 estimated or projected as of calendar year-end.

13           4. "TICL" means the temporary increase in coverage  
14 limit.

15           5. "TICL options" means the temporary increase in  
16 coverage options created under this subsection.

17           6. "TICL insurer" means an insurer that has opted to  
18 obtain coverage under the TICL options addendum in addition to  
19 the coverage provided to the insurer under its FHCF  
20 reimbursement contract.

21           7. "TICL reimbursement premium" means the premium  
22 charged by the fund for coverage provided under the TICL  
23 option.

24           8. "TICL coverage multiple" means the coverage  
25 multiple when multiplied by an insurer's reimbursement premium  
26 that defines the temporary increase in coverage limit.

27           9. "TICL coverage" means the coverage for an insurer's  
28 losses above the insurer's statutorily determined  
29 claims-paying capacity based on the claims-paying limit in  
30 subparagraph (4)(c)1., which an insurer selects as its  
31 temporary increase in coverage from the fund under the TICL

1 options selected. A TICL insurer's increased coverage limit  
2 options shall be calculated as follows:

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

11 b. The TICL insurer's increased coverage shall be the  
12 FHCF reimbursement premium multiplied by the TICL coverage  
13 multiple. In order to determine an insurer's total limit of  
14 coverage, an insurer shall add its TICL coverage multiple to  
15 its payout multiple. The total shall represent a number that,  
16 when multiplied by an insurer's FHCF reimbursement premium for  
17 a given reimbursement contract year, defines an insurer's  
18 total limit of FHCF reimbursement coverage for that  
19 reimbursement contract year.

20 10. "TICL options addendum" means an addendum to the  
21 reimbursement contract reflecting the obligations of the fund  
22 and insurers selecting an option to increase an insurer's FHCF  
23 coverage limit.

24 (d) TICL options addendum.--

25 1. The TICL options addendum shall provide for  
26 reimbursement of TICL insurers for covered events occurring  
27 between June 1, 2007, and May 31, 2008, and between June 1,  
28 2008, and May 31, 2009, in exchange for the TICL reimbursement  
29 premium paid into the fund under paragraph (e). Any insurer  
30 writing covered policies has the option of selecting an  
31 increased limit of coverage under the TICL options addendum

1 and shall select such coverage at the time that it executes  
2 the FHCF reimbursement contract.

3 2. The TICL addendum shall contain a promise by the  
4 board to reimburse the TICL insurer for 45 percent, 75  
5 percent, or 90 percent of its losses from each covered event  
6 in excess of the insurer's retention, plus 5 percent of the  
7 reimbursed losses to cover loss adjustment expenses. The  
8 percentage shall be the same as the coverage level selected by  
9 the insurer under paragraph (4)(b).

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

13 4. The priorities, schedule, and method of  
14 reimbursements under the TICL addendum shall be the same as  
15 provided under subsection (4).

16 (e) TICL reimbursement premiums.--

17 1. Each TICL insurer shall pay to the fund, in the  
18 manner and at the time provided in the reimbursement contract  
19 for payment of reimbursement premiums, a TICL reimbursement  
20 premium calculated as specified in this paragraph.

21 2. Each insurer's TICL premium shall be calculated  
22 based on the additional limit of increased coverage that it  
23 selects. Such limit is determined by multiplying the TICL  
24 multiple associated with one of the three options times the  
25 insurer's FHCF reimbursement premium. For the amount of  
26 increased coverage based on the option of using \$1 billion to  
27 derive the TICL multiple, the rate-on-line for such coverage  
28 shall be 20 percent. For the option using \$2 billion, the  
29 rate-on-line shall be 17.5 percent and for the option using \$3  
30 billion, the rate-on-line shall be 15 percent.

31 (f) Effect on claims-paying capacity of the fund.--For



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1 the contract terms commencing June 1, 2007, and April 1, 2008,  
2 the program created by this subsection shall increase the  
3 claims-paying capacity of the fund as provided in subparagraph  
4 (4)(c)1. by an amount not to exceed \$3 billion dollars and  
5 shall depend on the TICL coverage options selected and the  
6 number of insurers that select the TICL optional coverage. The  
7 additional capacity shall apply only to the additional  
8 coverage provided under the TICL options and shall not  
9 otherwise affect any insurer's reimbursement from the fund if  
10 the insurer chooses not to select the temporary option to  
11 increase its limit of coverage under the FHCF.

12 (18) FLORIDA HURRICANE EXCESS LOSS PROGRAM.--

13 (a) The Legislature finds and declares as follows:

14 1. There is a compelling state interest in maintaining  
15 a viable and orderly private-sector market for property  
16 insurance in this state and ensuring that premiums for  
17 property insurance are affordable. Increased premiums and  
18 assessments may force policyholders to sell their homes and  
19 even leave the state, which poses a serious threat to the  
20 economy of the state and the essential economic value of home  
21 ownership.

22 2. As a result of unprecedented levels of catastrophic  
23 insured losses in recent years, and especially as a result of  
24 Hurricanes Charlie, Jeanne, Francis, Ivan, Dennis, Katrina,  
25 Rita, and Wilma, insurers are facing increased demands from  
26 regulators, rating agencies, and investors to obtain  
27 reinsurance to cover multiple catastrophic events at a time  
28 when reinsurance availability has been limited, reinsurance  
29 costs have substantially increased, and hurricane  
30 loss-projection models are reportedly being revised to  
31 increase expected hurricane losses, all causing further

1 disruption in the reinsurance and property insurance market.

2       3. Providing a limitation of liability on property  
3 insurers above amounts that are covered by the Florida  
4 Hurricane Catastrophe Fund and assuming state liability for  
5 such amounts will enable insurers to limit its purchase of  
6 reinsurance and limit their exposure to losses under such  
7 amounts, with corresponding premium savings to residential  
8 property insurance policyholders in the state.

9       (b) All provisions of this section and rules adopted  
10 under this section apply to the program created by this  
11 subsection, except as otherwise provided in this section or as  
12 superseded by this subsection.

13       (c) As used in this subsection, the term:

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

15       2. "FHELP" means Florida Hurricane Excess Loss  
16 Program.

17       3. "FHELP retention" means the sum of the insurer's  
18 FHCF retention as defined in paragraph (2)(e), plus the  
19 insurer's limit of FHCF coverage as determined in subparagraph  
20 (4)(c)2., plus the insurer's copayments associated with the  
21 coverage selected as provided for in paragraph (4)(b),  
22 including the maximum limits of coverage available to the  
23 insurer under the Temporary Increased Coverage Limit (TICL)  
24 option pursuant to subsection (18), whether or not selected by  
25 the insurer, but only for those years when the TICL option is  
26 available.

27       4. "FHELP payout multiple" means the factor or number  
28 derived by dividing the difference in the industry FHELP  
29 coverage limit and the industry FHELP retention by the  
30 estimated aggregate FHCF premium paid by all insurers for the  
31 mandatory FHCF coverage for the contract year calculated at

1 the time the premium formula is determined.

2 (d) There is created the Florida Hurricane Excess Loss  
3 Program to be administered by the State Board of  
4 Administration. The board may adopt such rules as are  
5 reasonable and necessary to administer this subsection and  
6 provide for the operation of the FHELP. The board may employ  
7 or contract with such staff and professionals as the board  
8 considers necessary for the administration of the FHELP. The  
9 board shall administer the FHELP in conjunction with the FHCF;  
10 however, in all other respects, the operation, accounts,  
11 assets, liabilities, rights, and obligations of the FHELP  
12 shall be segregated from those of the FHCF and shall not in  
13 any way affect the operation, accounts, assets, liabilities,  
14 rights, and obligations of the FHCF. Any moneys attributable  
15 to the FHELP shall be subject to the same limitations and  
16 investment restrictions as provide for under subsection (3).

17 (e)1. Beginning with the FHCF reimbursement contract  
18 year on June 1, 2007, the board shall require a contract  
19 addendum be executed by each FHCF participating insurer that  
20 obligates the state to provide FHELP coverage in exchange for  
21 the insurer's obligation to pay and service all claims covered  
22 by FHELP. The execution of the addendum shall be a requirement  
23 and a condition of doing business in this state for all  
24 insurers writing covered policies.

25 2. The FHELP addendum shall require that the state  
26 assume liability under the FHELP for 90 percent of losses  
27 under a covered policy from each covered event in excess of  
28 the insurer's FHELP retention up to the insurer's FHELP limit.  
29 The insurer's FHELP limit is determined by multiplying the  
30 insurer's FHCF reimbursement premium by the FHELP payout  
31 multiple. The FHELP addendum shall also require that the state

1 reimburse the insurer for 5 percent of the reimbursed losses  
2 to cover loss-adjustment expenses.

3 3. The FHELP addendum shall also provide that the  
4 obligation of the board with respect to all contracts covering  
5 a particular contract year shall not exceed the industry FHELP  
6 coverage limit. For the 2007 contract year, the industry FHELP  
7 coverage limit is \$23 billion in excess of the industry FHELP  
8 retention. The industry FHELP coverage limit shall be adjusted  
9 each year based upon the reported exposure from the prior  
10 contract year to reflect the percentage growth in exposure to  
11 the fund.

12 4. The FHELP addendum shall provide that reimbursement  
13 amounts shall not be reduced by reinsurance paid or payable to  
14 the insurer from other sources.

15 5. The priorities, schedule, and method of  
16 reimbursements under the FHELP addendum shall be the same as  
17 provided under subsection (4).

18 (f) Insurers are not be required to pay premiums for  
19 FHELP coverage, which shall be funded pursuant to subsection  
20 (7). Such coverage shall be funded separately and apart from  
21 the obligations of the Florida Hurricane Catastrophe Fund and  
22 any revenue bonds issued by the Florida Hurricane Catastrophe  
23 Fund Finance Corporation.

24 Section 5. (1) An insurer that elects the TEACO or  
25 TICL coverage options offered by the Florida Hurricane  
26 Catastrophe Fund, as required to be offered by this act, must  
27 make a rate filing with the Office of Insurance Regulation,  
28 pursuant to the "file and use" provisions of s.  
29 627.062(2)(a)1., Florida Statutes, which reflects any savings  
30 or reduction in loss exposure to the insurer. An insurer may  
31 not obtain a rate increase due to the election of the TEACO or

1 TICL coverage options.

2       (2) All residential property insurers must make a rate  
3 filing with the Office of Insurance Regulation, pursuant to  
4 the "file and use" provisions of s. 627.062(2)(a)1., Florida  
5 Statutes, to decrease rates to reflect the reduction in loss  
6 exposure due to the state assumption of liability for  
7 hurricane losses pursuant to the Florida Hurricane Excess Loss  
8 Program, as created by this act.

9       (3) The office shall specify, by order, the date or  
10 dates on which the rate filings required by this section must  
11 be made and be effective in order to provide rate relief to  
12 policyholders as soon as practicable.

13       (4) An insurer may not implement a rate change under  
14 the "use and file" rate procedures of s. 627.062(2)(a)2.,  
15 Florida Statutes, for a period of 1 year after the effective  
16 date of a rate filing required by this section for a policy  
17 that is subject to such a rate filing.

18       (5) By March 15, 2007, the Office of Insurance  
19 Regulation shall calculate a presumed factor to be used in the  
20 rate filings required by this section to reflect the impact to  
21 rates of the changes made by section 4 and this section.

22       (6) In determining the presumed factor, the Office of  
23 Insurance Regulation shall use generally accepted actuarial  
24 techniques and standards in determining the expected impact on  
25 losses, expenses, and investment income of insurers.

26       (7) The office may contract with an appropriate vendor  
27 to determine the presumed factor.

28       (8) Each residential property insurer shall reflect a  
29 rate change that takes into account the presumed factor  
30 determined under subsection (5) for any policy written or  
31 renewed on or after June 1, 2007.

1           (9) The sum of \$250,000 in nonrecurring funds is  
 2 appropriated from the Insurance Regulatory Trust Fund in the  
 3 Department of Financial Services to the Office of Insurance  
 4 Regulation for the 2006-2007 fiscal year for the purpose of  
 5 implementing this section.

6           Section 6. Subsection (2) of section 215.5586, Florida  
 7 Statutes, is amended to read:

8           215.5586 Florida Comprehensive Hurricane Damage  
 9 Mitigation Program.--There is established within the  
 10 Department of Financial Services the Florida Comprehensive  
 11 Hurricane Damage Mitigation Program. This section does not  
 12 create an entitlement for property owners or obligate the  
 13 state in any way to fund the inspection or retrofitting of  
 14 residential property in this state. Implementation of this  
 15 program is subject to annual legislative appropriations. The  
 16 program shall be administered by an individual with prior  
 17 executive experience in the private sector in the areas of  
 18 insurance, business, or construction. The program shall  
 19 develop and implement a comprehensive and coordinated approach  
 20 for hurricane damage mitigation that shall include the  
 21 following:

22           (2) GRANTS.--Financial grants shall be used to  
 23 encourage single-family, site-built, owner-occupied,  
 24 residential property owners to protect ~~retrofit~~ their  
 25 properties to make them less vulnerable to hurricane damage.

26           (a) To be eligible for a grant, a residential property  
 27 must:

28           1. Have been granted a homestead exemption under  
 29 chapter 196.

30           2. Be a dwelling with an insured value of \$500,000 or  
 31 less.

1           3. Have undergone an acceptable wind certification and  
 2 hurricane mitigation inspection or use hurricane-protection  
 3 products tested by the International Hurricane Research Center  
 4 at Florida International University.

5  
 6 A residential property which is part of a multifamily  
 7 residential unit may receive a grant only if all homeowners  
 8 participate and the total number of units does not exceed  
 9 four.

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

13           (c) The program shall create a process in which  
 14 mitigation contractors agree to participate and seek  
 15 reimbursement from the state and homeowners select from a list  
 16 of participating contractors. All mitigation must be based  
 17 upon the securing of all required local permits and  
 18 inspections. Mitigation projects are subject to random  
 19 reinspection of up to at least 10 percent of all projects.

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

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

- 25           1. Roof deck attachment;
- 26           2. Secondary water barrier;
- 27           3. Roof covering, including a weighted roof-protection  
 28 system that may be installed by an approved contractor or  
 29 homeowner;

- 30           4. Brace gable ends;
- 31           5. Reinforce roof-to-wall connections;

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1           6. Opening protection; and  
 2           7. Exterior doors, including garage doors.  
 3           (f) Low-income homeowners, as defined in s.  
 4 420.0004(9), who otherwise meet the requirements of paragraphs  
 5 (a) and (c) are eligible for a grant of up to \$5,000 and are  
 6 not required to provide a matching amount to receive the  
 7 grant. Such grants shall be used to retrofit single-family,  
 8 site-built, owner-occupied, residential properties in order to  
 9 make them less vulnerable to hurricane damage.

10           Section 7. Paragraph (a) of subsection (3) of section  
 11 215.559, Florida Statutes, is amended to read:

12           215.559 Hurricane Loss Mitigation Program.--

13           (3)(a) Forty percent of the total appropriation in  
 14 paragraph (2)(a) shall be used to inspect and improve  
 15 tie-downs or other securing fixtures for mobile homes.

16           Section 8. Section 350.012, Florida Statutes, is  
 17 amended to read:

18           350.012 Committee on Public Service Commission and  
 19 Insurance Oversight; creation; membership; powers and  
 20 duties.--

21           (1) There is created a standing joint committee of the  
 22 Legislature, designated the Committee on Public Service  
 23 Commission and Insurance Oversight, and composed of 12 members  
 24 appointed as follows: six members of the Senate appointed by  
 25 the President of the Senate, two of whom must be members of  
 26 the minority party; and six members of the House of  
 27 Representatives appointed by the Speaker of the House of  
 28 Representatives, two of whom must be members of the minority  
 29 party. The terms of members shall be for 2 years and shall run  
 30 from the organization of one Legislature to the organization  
 31 of the next Legislature. The President shall appoint the chair



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1 of the committee in even-numbered years and the vice chair in  
 2 odd-numbered years, and the Speaker of the House of  
 3 Representatives shall appoint the chair of the committee in  
 4 odd-numbered years and the vice chair in even-numbered years,  
 5 from among the committee membership. Vacancies shall be filled  
 6 in the same manner as the original appointment. Members shall  
 7 serve without additional compensation, but shall be reimbursed  
 8 for expenses.

9 (2) The committee shall:

10 (a) Recommend to the Governor nominees to fill a  
 11 vacancy on the Public Service Commission, as provided by  
 12 general law; ~~and~~

13 (b) Appoint a Public Counsel as provided by general  
 14 law; ~~and~~

15 (c) Confirm or reject the appointment by the Chief  
 16 Financial Officer of the Insurance Consumer Advocate, as  
 17 provided in s. 350.0615.

18 (3) The committee is authorized to file a complaint  
 19 with the Commission on Ethics alleging a violation of this  
 20 chapter by a commissioner, former commissioner, former  
 21 commission employee, or member of the Public Service  
 22 Commission Nominating Council.

23 (4) The committee will not have a permanent staff, but  
 24 the President of the Senate and the Speaker of the House of  
 25 Representatives shall select staff members from among existing  
 26 legislative staff, when and as needed.

27 Section 9. Section 350.0611, Florida Statutes, is  
 28 amended to read:

29 350.0611 Public Counsel; duties and powers.--It shall  
 30 be the duty of the Public Counsel to provide legal  
 31 representation for the people of the state in proceedings

1 before the commission and in proceedings before counties  
 2 pursuant to s. 367.171(8). The Public Counsel shall have such  
 3 powers as are necessary to carry out the duties of his or her  
 4 office, including, but not limited to, the following specific  
 5 powers:

6           (1) To recommend to the commission or the counties, by  
 7 petition, the commencement of any proceeding or action or to  
 8 appear, in the name of the state or its citizens, in any  
 9 proceeding or action before the commission or the counties and  
 10 urge therein any position which he or she deems to be in the  
 11 public interest, whether consistent or inconsistent with  
 12 positions previously adopted by the commission or the  
 13 counties, and utilize therein all forms of discovery available  
 14 to attorneys in civil actions generally, subject to protective  
 15 orders of the commission or the counties which shall be  
 16 reviewable by summary procedure in the circuit courts of this  
 17 state;

18           (2) To have access to and use of all files, records,  
 19 and data of the commission or the counties available to any  
 20 other attorney representing parties in a proceeding before the  
 21 commission or the counties;

22           (3) In any proceeding in which he or she has  
 23 participated as a party, to seek review of any determination,  
 24 finding, or order of the commission or the counties, or of any  
 25 hearing examiner designated by the commission or the counties,  
 26 in the name of the state or its citizens;

27           (4) To prepare and issue reports, recommendations, and  
 28 proposed orders to the commission, the Governor, and the  
 29 Legislature on any matter or subject within the jurisdiction  
 30 of the commission, and to make such recommendations as he or  
 31 she deems appropriate for legislation relative to commission

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1 | procedures, rules, jurisdiction, personnel, and functions; ~~and~~

2 |       (5) To appear before other state agencies, federal  
3 | agencies, and state and federal courts in connection with  
4 | matters under the jurisdiction of the commission, in the name  
5 | of the state or its citizens; and-

6 |       (6) To represent, through the Insurance Consumer  
7 | Advocate, the general public of the state on matters related  
8 | to the regulation of insurance before the Office of Insurance  
9 | Regulation, the Department of Financial Services, and the  
10 | Financial Services Commission, as provided in s. 350.0615.

11 |       Section 10. Section 350.0613, Florida Statutes, is  
12 | amended to read:

13 |       350.0613 Public Counsel; employees; receipt of  
14 | pleadings.--The committee may authorize the Public Counsel to  
15 | employ clerical and technical assistants whose qualifications,  
16 | duties, and responsibilities the committee shall from time to  
17 | time prescribe. The committee may from time to time authorize  
18 | retention of the services of additional attorneys, actuaries,  
19 | economists, or experts to the extent that the best interests  
20 | of the people of the state will be better served thereby,  
21 | including the retention of expert witnesses and other  
22 | technical personnel for participation in contested proceedings  
23 | before the Public Service Commission, the Office of Insurance  
24 | Regulation, the Department of Financial Services, or the  
25 | Financial Services Commission. The Public Service Commission  
26 | shall furnish the Public Counsel with copies of the initial  
27 | pleadings in all proceedings before the commission. The Office  
28 | of Insurance Regulation, the Financial Services Commission,  
29 | and the Department of Financial Services shall furnish the  
30 | Public Counsel with copies of all filings, as requested by the  
31 | Public Counsel or under such criteria as requested by the

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1 Public Counsel, which relate to the jurisdiction of the  
 2 Insurance Consumer Advocate pursuant to s. 350.0615., and If  
 3 the Public Counsel or Insurance Consumer Advocate intervenes  
 4 as a party in any proceeding he or she shall be served with  
 5 copies of all subsequent pleadings, exhibits, and prepared  
 6 testimony, if used. Upon filing notice of intervention, the  
 7 Public Counsel or Insurance Consumer Advocate shall serve all  
 8 interested parties with copies of such notice and all of his  
 9 or her subsequent pleadings and exhibits.

10 Section 11. Section 350.0615, Florida Statutes, is  
 11 created to read:

12 350.0615 Insurance Consumer Advocate.--The Chief  
 13 Financial Officer shall appoint the Insurance Consumer  
 14 Advocate, who shall be subject to confirmation by the  
 15 Committee on Public Service Commission and Insurance  
 16 Oversight. The Insurance Consumer Advocate shall represent the  
 17 general public of the state on matters related to the  
 18 regulation of insurance before the Office of Insurance  
 19 Regulation, the Department of Financial Services, and the  
 20 Financial Services Commission. The Insurance Consumer Advocate  
 21 shall report directly to and be engaged as an employee of the  
 22 Public Counsel as a Deputy Public Counsel. The Public Counsel  
 23 shall provide administrative and staff support to the  
 24 Insurance Consumer Advocate. The Insurance Consumer Advocate  
 25 has all powers that are necessary to carry out his or her  
 26 duties, including, but not limited to, the powers to:

- 27 (1) Recommend to the office, department, or  
 28 commission, by petition, the commencement of any proceeding or  
 29 action; to appear in any proceeding or action before the  
 30 office, department, or commission; and to appear in any  
 31 proceeding before the Division of Administrative Hearings

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1 relating to insurance matters under the jurisdiction of the  
2 office, department, or commission.

3 (2) Have access to and use of all files, records, and  
4 data of the office, department, or commission.

5 (3) Examine all rate and form filings submitted to the  
6 office, hire consultants as necessary to aid in the review  
7 process, and recommend to the office, department, commission,  
8 or Legislature any position considered by the Insurance  
9 Consumer Advocate to be in the public interest.

10 Section 12. Section 395.1060, Florida Statutes, is  
11 created to read:

12 395.1060 Risk pooling by certain hospitals and  
13 hospital systems.--

14 (1) Notwithstanding any other provision of law, any  
15 two or more Florida-licensed hospitals located in this state  
16 may form an alliance for the purpose of pooling and spreading  
17 liabilities of its members relative to property exposure or  
18 securing such property insurance coverage for the benefit of  
19 its members, provided the alliance that is created must:

20 (a) Have annual premiums in excess of \$3 million;

21 (b) Maintain a continuing program of premium  
22 calculation and evaluation and reserve evaluation to protect  
23 the financial stability of the alliance in an amount and  
24 manner determined by consultants using catastrophic (CAT)  
25 modeling criteria or other risk-estimating methodologies,  
26 including those used by qualified and independent actuaries;

27 (c) Cause to be prepared annually a fiscal year-end  
28 financial statement in accordance with generally accepted  
29 accounting principles and audited by an independent certified  
30 public accountant within 6 months after the end of the fiscal  
31 year; and

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1       (d) Have a governing body comprised entirely of member  
2 entities whose representatives on such governing body are  
3 specified by the organizational documents of the alliance.

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

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

8       (b) "Property coverage" means coverage provided by  
9 self-insurance or insurance for real or personal property of  
10 every kind and every interest in such property against loss or  
11 damage from any hazard or cause and against any loss  
12 consequential to such loss or damage.

13       (3) An alliance that meets the requirements of this  
14 section is not subject to any provision of the Florida  
15 Insurance Code.

16       (4) An alliance that meets the requirements of this  
17 section is not an insurer for purposes of participation in or  
18 coverage by the Florida Insurance Guaranty Association  
19 established in part II of chapter 631. Alliance self-insured  
20 coverage is not subject to insurance premium tax, nor shall  
21 any such alliance pursuant to this section be assessed for  
22 purposes of s. 627.351 or s. 215.555.

23       Section 13. Section 553.73, Florida Statutes, is  
24 amended to read:

25       553.73 Florida Building Code.--

26       (1)(a) The commission shall adopt, by rule pursuant to  
27 ss. 120.536(1) and 120.54, the Florida Building Code which  
28 shall contain or incorporate by reference all laws and rules  
29 which pertain to and govern the design, construction,  
30 erection, alteration, modification, repair, and demolition of  
31 public and private buildings, structures, and facilities and

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1 enforcement of such laws and rules, except as otherwise  
2 provided in this section.

3           (b) The technical portions of the Florida  
4 Accessibility Code for Building Construction shall be  
5 contained in their entirety in the Florida Building Code. The  
6 civil rights portions and the technical portions of the  
7 accessibility laws of this state shall remain as currently  
8 provided by law. Any revision or amendments to the Florida  
9 Accessibility Code for Building Construction pursuant to part  
10 II shall be considered adopted by the commission as part of  
11 the Florida Building Code. Neither the commission nor any  
12 local government shall revise or amend any standard of the  
13 Florida Accessibility Code for Building Construction except as  
14 provided for in part II.

15           (c) The Florida Fire Prevention Code and the Life  
16 Safety Code shall be referenced in the Florida Building Code,  
17 but shall be adopted, modified, revised, or amended,  
18 interpreted, and maintained by the Department of Financial  
19 Services by rule adopted pursuant to ss. 120.536(1) and  
20 120.54. The Florida Building Commission may not adopt a fire  
21 prevention or lifesafety code, and nothing in the Florida  
22 Building Code shall affect the statutory powers, duties, and  
23 responsibilities of any fire official or the Department of  
24 Financial Services.

25           (d) Conflicting requirements between the Florida  
26 Building Code and the Florida Fire Prevention Code and Life  
27 Safety Code of the state established pursuant to ss. 633.022  
28 and 633.025 shall be resolved by agreement between the  
29 commission and the State Fire Marshal in favor of the  
30 requirement that offers the greatest degree of lifesafety or  
31 alternatives that would provide an equivalent degree of

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1 | lifesafety and an equivalent method of construction. If the  
 2 | commission and State Fire Marshal are unable to agree on a  
 3 | resolution, the question shall be referred to a mediator,  
 4 | mutually agreeable to both parties, to resolve the conflict in  
 5 | favor of the provision that offers the greatest lifesafety, or  
 6 | alternatives that would provide an equivalent degree of  
 7 | lifesafety and an equivalent method of construction.

8 |         (e) Subject to the provisions of this act,  
 9 | responsibility for enforcement, interpretation, and regulation  
 10 | of the Florida Building Code shall be vested in a specified  
 11 | local board or agency, and the words "local government" and  
 12 | "local governing body" as used in this part shall be construed  
 13 | to refer exclusively to such local board or agency.

14 |         (2) The Florida Building Code shall contain provisions  
 15 | or requirements for public and private buildings, structures,  
 16 | and facilities relative to structural, mechanical, electrical,  
 17 | plumbing, energy, and gas systems, existing buildings,  
 18 | historical buildings, manufactured buildings, elevators,  
 19 | coastal construction, lodging facilities, food sales and food  
 20 | service facilities, health care facilities, including assisted  
 21 | living facilities, adult day care facilities, hospice  
 22 | residential and inpatient facilities and units, and facilities  
 23 | for the control of radiation hazards, public or private  
 24 | educational facilities, swimming pools, and correctional  
 25 | facilities and enforcement of and compliance with such  
 26 | provisions or requirements. Further, the Florida Building Code  
 27 | must provide for uniform implementation of ss. 515.25, 515.27,  
 28 | and 515.29 by including standards and criteria for residential  
 29 | swimming pool barriers, pool covers, latching devices, door  
 30 | and window exit alarms, and other equipment required therein,  
 31 | which are consistent with the intent of s. 515.23. Technical



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1 provisions to be contained within the Florida Building Code  
2 are restricted to requirements related to the types of  
3 materials used and construction methods and standards employed  
4 in order to meet criteria specified in the Florida Building  
5 Code. Provisions relating to the personnel, supervision or  
6 training of personnel, or any other professional qualification  
7 requirements relating to contractors or their workforce may  
8 not be included within the Florida Building Code, and  
9 subsections (4), (5), (6), ~~and (7)~~, and (8) are not to be  
10 construed to allow the inclusion of such provisions within the  
11 Florida Building Code by amendment. This restriction applies  
12 to both initial development and amendment of the Florida  
13 Building Code.

14 (3) The commission shall select from available  
15 national or international model building codes, or other  
16 available building codes and standards currently recognized by  
17 the laws of this state, to form the foundation for the Florida  
18 Building Code. The commission may modify the selected model  
19 codes and standards as needed to accommodate the specific  
20 needs of this state. Standards or criteria referenced by the  
21 selected model codes shall be similarly incorporated by  
22 reference. If a referenced standard or criterion requires  
23 amplification or modification to be appropriate for use in  
24 this state, only the amplification or modification shall be  
25 specifically set forth in the Florida Building Code. The  
26 Florida Building Commission may approve technical amendments  
27 to the code, subject to the requirements of subsections (7)  
28 and (8), after the amendments have been subject to the  
29 following conditions:

30 (a) The proposed amendment has been published on the  
31 commission's website for a minimum of 45 days and all the

1 associated documentation has been made available to any  
2 interested party before any consideration by any Technical  
3 Advisory Committee;

4 (b) In order for a Technical Advisory Committee to  
5 make a favorable recommendation to the commission, the  
6 proposal must receive a three-fourths vote of the members  
7 present at the Technical Advisory Committee meeting and at  
8 least half of the regular members must be present in order to  
9 conduct a meeting;

10 (c) After Technical Advisory Committee consideration  
11 and a recommendation for approval of any proposed amendment,  
12 the proposal must be published on the commission's website for  
13 not less than 45 days before any consideration by the  
14 commission; and

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

18

19 The commission shall incorporate within sections of the  
20 Florida Building Code provisions which address regional and  
21 local concerns and variations. The commission shall make every  
22 effort to minimize conflicts between the Florida Building  
23 Code, the Florida Fire Prevention Code, and the Life Safety  
24 Code.

25 (4)(a) All entities authorized to enforce the Florida  
26 Building Code pursuant to s. 553.80 shall comply with  
27 applicable standards for issuance of mandatory certificates of  
28 occupancy, minimum types of inspections, and procedures for  
29 plans review and inspections as established by the commission  
30 by rule. Local governments may adopt amendments to the  
31 administrative provisions of the Florida Building Code,

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1 subject to the limitations of this paragraph. Local amendments  
2 shall be more stringent than the minimum standards described  
3 herein and shall be transmitted to the commission within 30  
4 days after enactment. The local government shall make such  
5 amendments available to the general public in a usable format.  
6 The State Fire Marshal is responsible for establishing the  
7 standards and procedures required in this paragraph for  
8 governmental entities with respect to applying the Florida  
9 Fire Prevention Code and the Life Safety Code.

10 (b) Local governments may, subject to the limitations  
11 of this section, adopt amendments to the technical provisions  
12 of the Florida Building Code which apply solely within the  
13 jurisdiction of such government and which provide for more  
14 stringent requirements than those specified in the Florida  
15 Building Code, not more than once every 6 months. A local  
16 government may adopt technical amendments that address local  
17 needs if:

18 1. The local governing body determines, following a  
19 public hearing which has been advertised in a newspaper of  
20 general circulation at least 10 days before the hearing, that  
21 there is a need to strengthen the requirements of the Florida  
22 Building Code. The determination must be based upon a review  
23 of local conditions by the local governing body, which review  
24 demonstrates by evidence or data that the geographical  
25 jurisdiction governed by the local governing body exhibits a  
26 local need to strengthen the Florida Building Code beyond the  
27 needs or regional variation addressed by the Florida Building  
28 Code, that the local need is addressed by the proposed local  
29 amendment, and that the amendment is no more stringent than  
30 necessary to address the local need.

31 2. Such additional requirements are not discriminatory

1 against materials, products, or construction techniques of  
2 demonstrated capabilities.

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

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

8           5. Any amendment to the Florida Building Code shall be  
9 transmitted within 30 days by the adopting local government to  
10 the commission. The commission shall maintain copies of all  
11 such amendments in a format that is usable and obtainable by  
12 the public. Local technical amendments shall not become  
13 effective until 30 days after the amendment has been received  
14 and published by the commission.

15           6. Any amendment to the Florida Building Code adopted  
16 by a local government pursuant to this paragraph shall be  
17 effective only until the adoption by the commission of the new  
18 edition of the Florida Building Code every third year. At such  
19 time, the commission shall review such amendment for  
20 consistency with the criteria in paragraph(8)(a) ~~(7)(a)~~ and  
21 adopt such amendment as part of the Florida Building Code or  
22 rescind the amendment. The commission shall immediately notify  
23 the respective local government of the rescission of any  
24 amendment. After receiving such notice, the respective local  
25 government may readopt the rescinded amendment pursuant to the  
26 provisions of this paragraph.

27           7. Each county and municipality desiring to make local  
28 technical amendments to the Florida Building Code shall by  
29 interlocal agreement establish a countywide compliance review  
30 board to review any amendment to the Florida Building Code,  
31 adopted by a local government within the county pursuant to

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1 this paragraph, that is challenged by any substantially  
 2 affected party for purposes of determining the amendment's  
 3 compliance with this paragraph. If challenged, the local  
 4 technical amendments shall not become effective until time for  
 5 filing an appeal pursuant to subparagraph 8. has expired or,  
 6 if there is an appeal, until the commission issues its final  
 7 order determining the adopted amendment is in compliance with  
 8 this subsection.

9           8. If the compliance review board determines such  
 10 amendment is not in compliance with this paragraph, the  
 11 compliance review board shall notify such local government of  
 12 the noncompliance and that the amendment is invalid and  
 13 unenforceable until the local government corrects the  
 14 amendment to bring it into compliance. The local government  
 15 may appeal the decision of the compliance review board to the  
 16 commission. If the compliance review board determines such  
 17 amendment to be in compliance with this paragraph, any  
 18 substantially affected party may appeal such determination to  
 19 the commission. Any such appeal shall be filed with the  
 20 commission within 14 days of the board's written  
 21 determination. The commission shall promptly refer the appeal  
 22 to the Division of Administrative Hearings for the assignment  
 23 of an administrative law judge. The administrative law judge  
 24 shall conduct the required hearing within 30 days, and shall  
 25 enter a recommended order within 30 days of the conclusion of  
 26 such hearing. The commission shall enter a final order within  
 27 30 days thereafter. The provisions of chapter 120 and the  
 28 uniform rules of procedure shall apply to such proceedings.  
 29 The local government adopting the amendment that is subject to  
 30 challenge has the burden of proving that the amendment  
 31 complies with this paragraph in proceedings before the

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1 compliance review board and the commission, as applicable.  
 2 Actions of the commission are subject to judicial review  
 3 pursuant to s. 120.68. The compliance review board shall  
 4 determine whether its decisions apply to a respective local  
 5 jurisdiction or apply countywide.

6           9. An amendment adopted under this paragraph shall  
 7 include a fiscal impact statement which documents the costs  
 8 and benefits of the proposed amendment. Criteria for the  
 9 fiscal impact statement shall include the impact to local  
 10 government relative to enforcement, the impact to property and  
 11 building owners, as well as to industry, relative to the cost  
 12 of compliance. The fiscal impact statement may not be used as  
 13 a basis for challenging the amendment for compliance.

14           10. In addition to subparagraphs 7. and 9., the  
 15 commission may review any amendments adopted pursuant to this  
 16 subsection and make nonbinding recommendations related to  
 17 compliance of such amendments with this subsection.

18           (c) Any amendment adopted by a local enforcing agency  
 19 pursuant to this subsection shall not apply to state or school  
 20 district owned buildings, manufactured buildings or  
 21 factory-built school buildings approved by the commission, or  
 22 prototype buildings approved pursuant to s. 553.77(3). The  
 23 respective responsible entities shall consider the physical  
 24 performance parameters substantiating such amendments when  
 25 designing, specifying, and constructing such exempt buildings.

26           (5) The initial adoption of, and any subsequent update  
 27 or amendment to, the Florida Building Code by the commission  
 28 is deemed adopted for use statewide without adoptions by local  
 29 government. For a building permit for which an application is  
 30 submitted prior to the effective date of the Florida Building  
 31 Code, the state minimum building code in effect in the

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1 | permitting jurisdiction on the date of the application governs  
2 | the permitted work for the life of the permit and any  
3 | extension granted to the permit.

4 |         (6)(a) The commission, by rule adopted pursuant to ss.  
5 | 120.536(1) and 120.54, shall update the Florida Building Code  
6 | every 3 years. When updating the Florida Building Code, the  
7 | commission shall select the most current version of the  
8 | International Building Code, the International Fuel Gas Code,  
9 | the International Mechanical Code, the International Plumbing  
10 | Code, and the International Residential Code, all of which are  
11 | adopted by the International Code Council, and the National  
12 | Electrical Code, which is adopted by the National Fire  
13 | Protection Association, to form the foundation codes of the  
14 | updated Florida Building Code, if the version has been adopted  
15 | by the applicable model code entity and made available to the  
16 | public at least 6 months prior to its selection by the  
17 | commission.

18 |         (b) Codes regarding noise contour lines shall be  
19 | reviewed annually, and the most current federal guidelines  
20 | shall be adopted.

21 |         (c) The commission may modify any portion of the  
22 | foundation codes only as needed to accommodate the specific  
23 | needs of this state, maintaining Florida-specific amendments  
24 | previously adopted by the commission and not addressed by the  
25 | updated foundation code. Standards or criteria referenced by  
26 | the codes shall be incorporated by reference. If a referenced  
27 | standard or criterion requires amplification or modification  
28 | to be appropriate for use in this state, only the  
29 | amplification or modification shall be set forth in the  
30 | Florida Building Code. The commission may approve technical  
31 | amendments to the updated Florida Building Code after the

1 amendments have been subject to the conditions set forth in  
 2 paragraphs (3)(a)-(d). Amendments to the foundation codes  
 3 which are adopted in accordance with this subsection shall be  
 4 clearly marked in printed versions of the Florida Building  
 5 Code so that the fact that the provisions are Florida-specific  
 6 amendments to the foundation codes is readily apparent.

7           (d) The commission shall further consider the  
 8 commission's own interpretations, declaratory statements,  
 9 appellate decisions, and approved statewide and local  
 10 technical amendments and shall incorporate such  
 11 interpretations, statements, decisions, and amendments into  
 12 the updated Florida Building Code only to the extent that they  
 13 are needed to modify the foundation codes to accommodate the  
 14 specific needs of the state. A change made by an institute or  
 15 standards organization to any standard or criterion that is  
 16 adopted by reference in the Florida Building Code does not  
 17 become effective statewide until it has been adopted by the  
 18 commission. Furthermore, the edition of the Florida Building  
 19 Code which is in effect on the date of application for any  
 20 permit authorized by the code governs the permitted work for  
 21 the life of the permit and any extension granted to the  
 22 permit.

23           (e) A rule updating the Florida Building Code in  
 24 accordance with this subsection shall take effect no sooner  
 25 than 6 months after publication of the updated code. Any  
 26 amendment to the Florida Building Code which is adopted upon a  
 27 finding by the commission that the amendment is necessary to  
 28 protect the public from immediate threat of harm takes effect  
 29 immediately.

30           (f) Provisions of the foundation codes, including  
 31 those contained in referenced standards and criteria, relating



1 to wind resistance or the prevention of water intrusion may  
 2 not be modified to diminish those construction requirements;  
 3 however, the commission may, subject to conditions in this  
 4 subsection, modify the provisions to enhance those  
 5 construction requirements.

6       ~~(7)(f)~~ Upon the conclusion of a triennial update to  
 7 the Florida Building Code, notwithstanding the provisions of  
 8 ~~this subsection or subsection (3) or subsection (6)~~, the  
 9 commission may address issues identified in this subsection  
 10 ~~paragraph~~ by amending the code pursuant only to the rule  
 11 adoption procedures contained in chapter 120. Provisions of  
 12 the Florida Building Code, including those contained in  
 13 referenced standards and criteria, relating to wind resistance  
 14 or the prevention of water intrusion may not be amended  
 15 pursuant to this subsection to diminish those construction  
 16 requirements; however, the commission may, subject to  
 17 conditions in this subsection, amend the provisions to enhance  
 18 those construction requirements. Following the approval of any  
 19 amendments to the Florida Building Code by the commission and  
 20 publication of the amendments on the commission's website,  
 21 authorities having jurisdiction to enforce the Florida  
 22 Building Code may enforce the amendments. The commission may  
 23 approve amendments that are needed to address:

- 24       ~~(a)1.~~ Conflicts within the updated code;
- 25       ~~(b)2.~~ Conflicts between the updated code and the  
 26 Florida Fire Prevention Code adopted pursuant to chapter 633;
- 27       ~~(c)3.~~ The omission of previously adopted  
 28 Florida-specific amendments to the updated code if such  
 29 omission is not supported by a specific recommendation of a  
 30 technical advisory committee or particular action by the  
 31 commission; or

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1           ~~(d)4.~~ Unintended results from the integration of  
2 previously adopted Florida-specific amendments with the model  
3 code.

4           ~~(8)(7)~~(a) The commission may approve technical  
5 amendments to the Florida Building Code once each year for  
6 statewide or regional application upon a finding that the  
7 amendment:

8           1. Is needed in order to accommodate the specific  
9 needs of this state.

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

12           3. Strengthens or improves the Florida Building Code,  
13 or in the case of innovation or new technology, will provide  
14 equivalent or better products or methods or systems of  
15 construction.

16           4. Does not discriminate against materials, products,  
17 methods, or systems of construction of demonstrated  
18 capabilities.

19           5. Does not degrade the effectiveness of the Florida  
20 Building Code.

21  
22 Furthermore, the Florida Building Commission may approve  
23 technical amendments to the code once each year to incorporate  
24 into the Florida Building Code its own interpretations of the  
25 code which are embodied in its opinions, final orders,  
26 declaratory statements, and interpretations of hearing officer  
27 panels under s. 553.775(3)(c), but shall do so only to the  
28 extent that incorporation of interpretations is needed to  
29 modify the foundation codes to accommodate the specific needs  
30 of this state. Amendments approved under this paragraph shall  
31 be adopted by rule pursuant to ss. 120.536(1) and 120.54,

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1 after the amendments have been subjected to the provisions of  
2 subsection (3).

3 (b) A proposed amendment shall include a fiscal impact  
4 statement which documents the costs and benefits of the  
5 proposed amendment. Criteria for the fiscal impact statement  
6 shall be established by rule by the commission and shall  
7 include the impact to local government relative to  
8 enforcement, the impact to property and building owners, as  
9 well as to industry, relative to the cost of compliance.

10 (c) The commission may not approve any proposed  
11 amendment that does not accurately and completely address all  
12 requirements for amendment which are set forth in this  
13 section. The commission shall require all proposed amendments  
14 and information submitted with proposed amendments to be  
15 reviewed by commission staff prior to consideration by any  
16 technical advisory committee. These reviews shall be for  
17 sufficiency only and are not intended to be qualitative in  
18 nature. Staff members shall reject any proposed amendment that  
19 fails to include a fiscal impact statement. Proposed  
20 amendments rejected by members of the staff may not be  
21 considered by the commission or any technical advisory  
22 committee.

23 (d) Provisions of the Florida Building Code, including  
24 those contained in referenced standards and criteria, relating  
25 to wind resistance or the prevention of water intrusion may  
26 not be amended pursuant to this subsection to diminish those  
27 construction requirements; however, the commission may,  
28 subject to conditions in this subsection, amend the provisions  
29 to enhance those construction requirements.

30 ~~(9)(8)~~ The following buildings, structures, and  
31 facilities are exempt from the Florida Building Code as

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1 provided by law, and any further exemptions shall be as  
2 determined by the Legislature and provided by law:

3 (a) Buildings and structures specifically regulated  
4 and preempted by the Federal Government.

5 (b) Railroads and ancillary facilities associated with  
6 the railroad.

7 (c) Nonresidential farm buildings on farms.

8 (d) Temporary buildings or sheds used exclusively for  
9 construction purposes.

10 (e) Mobile or modular structures used as temporary  
11 offices, except that the provisions of part II relating to  
12 accessibility by persons with disabilities shall apply to such  
13 mobile or modular structures.

14 (f) Those structures or facilities of electric  
15 utilities, as defined in s. 366.02, which are directly  
16 involved in the generation, transmission, or distribution of  
17 electricity.

18 (g) Temporary sets, assemblies, or structures used in  
19 commercial motion picture or television production, or any  
20 sound-recording equipment used in such production, on or off  
21 the premises.

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

27 (i) Chickees constructed by the Miccosukee Tribe of  
28 Indians of Florida or the Seminole Tribe of Florida. As used  
29 in this paragraph, the term "chickee" means an open-sided  
30 wooden hut that has a thatched roof of palm or palmetto or  
31 other traditional materials, and that does not incorporate any

1 electrical, plumbing, or other nonwood features.

2

3 With the exception of paragraphs (a), (b), (c), and (f), in  
 4 order to preserve the health, safety, and welfare of the  
 5 public, the Florida Building Commission may, by rule adopted  
 6 pursuant to chapter 120, provide for exceptions to the broad  
 7 categories of buildings exempted in this section, including  
 8 exceptions for application of specific sections of the code or  
 9 standards adopted therein. The Department of Agriculture and  
 10 Consumer Services shall have exclusive authority to adopt by  
 11 rule, pursuant to chapter 120, exceptions to nonresidential  
 12 farm buildings exempted in paragraph (c) when reasonably  
 13 necessary to preserve public health, safety, and welfare. The  
 14 exceptions must be based upon specific criteria, such as  
 15 under-roof floor area, aggregate electrical service capacity,  
 16 HVAC system capacity, or other building requirements. Further,  
 17 the commission may recommend to the Legislature additional  
 18 categories of buildings, structures, or facilities which  
 19 should be exempted from the Florida Building Code, to be  
 20 provided by law.

21 (10)~~(9)~~(a) In the event of a conflict between the  
 22 Florida Building Code and the Florida Fire Prevention Code and  
 23 the Life Safety Code as applied to a specific project, the  
 24 conflict shall be resolved by agreement between the local  
 25 building code enforcement official and the local fire code  
 26 enforcement official in favor of the requirement of the code  
 27 which offers the greatest degree of lifesafety or alternatives  
 28 which would provide an equivalent degree of lifesafety and an  
 29 equivalent method of construction.

30 (b) Any decision made by the local fire official and  
 31 the local building official may be appealed to a local

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1 administrative board designated by the municipality, county,  
 2 or special district having firesafety responsibilities. If the  
 3 decision of the local fire official and the local building  
 4 official is to apply the provisions of either the Florida  
 5 Building Code or the Florida Fire Prevention Code and the Life  
 6 Safety Code, the board may not alter the decision unless the  
 7 board determines that the application of such code is not  
 8 reasonable. If the decision of the local fire official and  
 9 the local building official is to adopt an alternative to the  
 10 codes, the local administrative board shall give due regard to  
 11 the decision rendered by the local officials and may modify  
 12 that decision if the administrative board adopts a better  
 13 alternative, taking into consideration all relevant  
 14 circumstances. In any case in which the local administrative  
 15 board adopts alternatives to the decision rendered by the  
 16 local fire official and the local building official, such  
 17 alternatives shall provide an equivalent degree of lifesafety  
 18 and an equivalent method of construction as the decision  
 19 rendered by the local officials.

20 (c) If the local building official and the local fire  
 21 official are unable to agree on a resolution of the conflict  
 22 between the Florida Building Code and the Florida Fire  
 23 Prevention Code and the Life Safety Code, the local  
 24 administrative board shall resolve the conflict in favor of  
 25 the code which offers the greatest degree of lifesafety or  
 26 alternatives which would provide an equivalent degree of  
 27 lifesafety and an equivalent method of construction.

28 (d) All decisions of the local administrative board,  
 29 or if none exists, the decisions of the local building  
 30 official and the local fire official, are subject to review by  
 31 a joint committee composed of members of the Florida Building

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1 Commission and the Fire Code Advisory Council. If the joint  
2 committee is unable to resolve conflicts between the codes as  
3 applied to a specific project, the matter shall be resolved  
4 pursuant to the provisions of paragraph (1)(d).

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

8 (f) All decisions of the local building official and  
9 local fire official and all decisions of the administrative  
10 board shall be in writing and shall be binding upon all  
11 persons but shall not limit the authority of the State Fire  
12 Marshal or the Florida Building Commission pursuant to  
13 paragraph (1)(d) and ss. 663.01 and 633.161. Decisions of  
14 general application shall be indexed by building and fire code  
15 sections and shall be available for inspection during normal  
16 business hours.

17 ~~(11)(10)~~ Except within coastal building zones as  
18 defined in s. 161.54, specification standards developed by  
19 nationally recognized code promulgation organizations to  
20 determine compliance with engineering criteria of the Florida  
21 Building Code for wind load design shall not apply to one or  
22 two family dwellings which are two stories or less in height  
23 unless approved by the commission for use or unless expressly  
24 made subject to said standards and criteria by local ordinance  
25 adopted in accordance with the provisions of subsection (4).

26 ~~(12)(11)~~ The Florida Building Code does not apply to,  
27 and no code enforcement action shall be brought with respect  
28 to, zoning requirements, land use requirements, and owner  
29 specifications or programmatic requirements which do not  
30 pertain to and govern the design, construction, erection,  
31 alteration, modification, repair, or demolition of public or

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1 private buildings, structures, or facilities or to  
 2 programmatic requirements that do not pertain to enforcement  
 3 of the Florida Building Code. Additionally, a local code  
 4 enforcement agency may not administer or enforce the Florida  
 5 Building Code to prevent the siting of any publicly owned  
 6 facility, including, but not limited to, correctional  
 7 facilities, juvenile justice facilities, or state  
 8 universities, community colleges, or public education  
 9 facilities, as provided by law.

10 Section 14. Subsection (2) of section 553.775, Florida  
 11 Statutes, is amended to read:

12 553.775 Interpretations.--

13 (2) Local enforcement agencies, local building  
 14 officials, state agencies, and the commission shall interpret  
 15 provisions of the Florida Building Code in a manner that is  
 16 consistent with declaratory statements and interpretations  
 17 entered by the commission, except that conflicts between the  
 18 Florida Fire Prevention Code and the Florida Building Code  
 19 shall be resolved in accordance with s. 553.73(10)(c) and (d)  
 20 ~~s. 553.73(9)(c) and (d)~~.

21 Section 15. Upon the effective date of this act, each  
 22 jurisdiction having authority to enforce the Florida Building  
 23 Code shall, at a minimum, require wind-borne-debris protection  
 24 in accordance with s. 1609.1, International Building Code  
 25 (2006) and the International Residential Code (2006) within  
 26 the "wind-borne-debris region" as that term is defined in s.  
 27 1609.2, International Building Code (2006), and s. R301.2,  
 28 International Residential Code (2006).

29 Section 16. (1) The Florida Building Commission shall  
 30 amend the Florida Building Code to reflect the application of  
 31 provisions identified in section 553.73, Florida Statutes, and



1 to eliminate all exceptions that provide less stringent  
 2 requirements. The amendments by the commission shall apply  
 3 throughout the state with the exception of the High Velocity  
 4 Hurricane Zone, which shall be governed as currently provided  
 5 within the Florida Building Code. The commission shall, in  
 6 addition, amend the code to require that, at a minimum, in  
 7 areas where the applicable design wind speed is less than 120  
 8 miles per hour, all new residences are designed and  
 9 constructed to withstand internal pressures. The commission  
 10 shall fulfill these obligations before July 1, 2007, pursuant  
 11 only to the provisions of chapter 120, Florida Statutes.

12 (2) The Florida Building Commission shall develop  
 13 voluntary "Code Plus" guidelines for increasing the hurricane  
 14 resistance of buildings. The guidelines must be modeled on the  
 15 requirements for the High Velocity Hurricane Zone and must  
 16 identify products, systems, and methods of construction that  
 17 the commission anticipates could result in stronger  
 18 construction. The commission shall include these guidelines in  
 19 its report to the 2008 Legislature.

20 Section 17. Paragraph (b) of subsection (3) of section  
 21 624.319, Florida Statutes, is amended to read:

22 624.319 Examination and investigation reports.--

23 (3)

24 (b) Workpapers and other information held by the  
 25 department or office, and workpapers and other information  
 26 received from another governmental entity or the National  
 27 Association of Insurance Commissioners, for the department's  
 28 or office's use in the performance of its examination or  
 29 investigation duties pursuant to this section and ss. 624.316,  
 30 624.3161, 624.317, and 624.318 are confidential and exempt  
 31 from the provisions of s. 119.07(1) and s. 24(a), Art. I of

1 the State Constitution. This exemption applies to workpapers  
2 and other information held by the department or office before,  
3 on, or after the effective date of this exemption. Such  
4 confidential and exempt information may be disclosed to  
5 another governmental entity, if disclosure is necessary for  
6 the receiving entity to perform its duties and  
7 responsibilities, and may be disclosed to the National  
8 Association of Insurance Commissioners. The Public Counsel and  
9 the Insurance Consumer Advocate shall have access to such  
10 confidential and exempt information pertaining to insurance at  
11 any time. The receiving governmental entity or the association  
12 must maintain the confidential and exempt status of the  
13 information. The information made confidential and exempt by  
14 this paragraph may be used in a criminal, civil, or  
15 administrative proceeding so long as the confidential and  
16 exempt status of such information is maintained. This  
17 paragraph is subject to the Open Government Sunset Review Act  
18 of 1995 in accordance with s. 119.15 and shall stand repealed  
19 on October 2, 2007, unless reviewed and saved from repeal  
20 through reenactment by the Legislature.

21 Section 18. Paragraph (a) of subsection (2) of section  
22 624.462, Florida Statutes, is amended to read:

23 624.462 Commercial self-insurance funds.--

24 (2) As used in ss. 624.460-624.488, "commercial  
25 self-insurance fund" or "fund" means a group of members,  
26 operating individually and collectively through a trust or  
27 corporation, that must be:

28 (a) Established by:

29 1. A not-for-profit trade association, industry  
30 association, or professional association of employers or  
31 professionals which has a constitution or bylaws, which is

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1 incorporated under the laws of this state, and which has been  
2 organized for purposes other than that of obtaining or  
3 providing insurance and operated in good faith for a  
4 continuous period of 1 year;

5         2. A self-insurance trust fund organized pursuant to  
6 s. 627.357 and maintained in good faith for a continuous  
7 period of 1 year for purposes other than that of obtaining or  
8 providing insurance pursuant to this section. Each member of a  
9 commercial self-insurance trust fund established pursuant to  
10 this subsection must maintain membership in the self-insurance  
11 trust fund organized pursuant to s. 627.357;

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

15         4. A not-for-profit group comprised of no fewer ~~less~~  
16 than 10 community condominium associations, or a  
17 not-for-profit group comprised of one or more community  
18 associations having at least 50 residential properties  
19 cumulatively valued at over \$25 million, created and operating  
20 under chapter 718, chapter 719, chapter 720, chapter 721, or  
21 chapter 723 ~~as defined in s. 718.103(2), which is incorporated~~  
22 ~~under the laws of this state,~~ which restricts its membership  
23 to community condominium associations only, and which has been  
24 organized and maintained in good faith for the purpose of  
25 pooling and spreading the liabilities of its group members  
26 relating to property or casualty risk or surety insurance ~~a~~  
27 ~~continuous period of 1 year for purposes other than that of~~  
28 ~~obtaining or providing insurance.~~

29         Section 19. Subsection (1) of section 624.4622,  
30 Florida Statutes, is amended to read:

31         624.4622 Local government self-insurance funds.--

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1           (1) Any two or more local governmental entities may  
 2 enter into interlocal agreements for the purpose of securing  
 3 the payment of benefits under chapter 440, or insuring or  
 4 self-insuring real or personal property of every kind and  
 5 every interest in such property against loss or damage from  
 6 any hazard or cause and against any loss consequential to such  
 7 loss or damage, provided the local government self-insurance  
 8 fund that is created must:

9           (a) Have annual normal premiums in excess of \$5  
 10 million;

11           (b) Maintain a continuing program of excess insurance  
 12 coverage and reserve evaluation to protect the financial  
 13 stability of the fund in an amount and manner determined by a  
 14 qualified and independent actuary;

15           (c) Submit annually an audited fiscal year-end  
 16 financial statement by an independent certified public  
 17 accountant within 6 months after the end of the fiscal year to  
 18 the office; and

19           (d) Have a governing body which is comprised entirely  
 20 of local elected officials.

21           Section 20. Section 624.4625, Florida Statutes, is  
 22 created to read:

23           624.4625 Corporation not-for-profit self-insurance  
 24 funds.--

25           (1) Notwithstanding any other provision of law, any  
 26 two or more corporations not for profit located in and  
 27 organized under the laws of this state may form a  
 28 self-insurance fund for the purpose of pooling and spreading  
 29 liabilities of its group members in any one or combination of  
 30 property or casualty risk, provided the corporation not for  
 31 profit self-insurance fund that is created:

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

3       (b) Requires for qualification that each participating  
4 member receive at least 75 percent of its revenues from local,  
5 state, or federal governmental sources or a combination of  
6 such sources.

7       (c) Uses a qualified actuary to determine rates using  
8 accepted actuarial principles and annually submits to the  
9 office a certification by the actuary that the rates are  
10 actuarially sound and are not inadequate, as defined in s.  
11 627.062.

12       (d) Uses a qualified actuary to establish reserves for  
13 loss and loss adjustment expenses and annually submits to the  
14 office a certification by the actuary that the loss and loss  
15 adjustment expense reserves are adequate. If the actuary  
16 determines that reserves are not adequate, the fund shall file  
17 with the office a remedial plan for increasing the reserves or  
18 otherwise addressing the financial condition of the fund,  
19 subject to a determination by the office that the fund will  
20 operate on an actuarially sound basis and the fund does not  
21 pose a significant risk of insolvency.

22       (e) Maintains a continuing program of excess insurance  
23 coverage and reserve evaluation to protect the financial  
24 stability of the fund in an amount and manner determined by a  
25 qualified actuary. At a minimum, this program must:

26           1. Purchase excess insurance from authorized insurance  
27 carriers.

28           2. Retain a per-loss occurrence that does not exceed  
29 \$350,000.

30       (f) Submits to the office annually an audited fiscal  
31 year-end financial statement by an independent certified

1 public accountant within 6 months after the end of the fiscal  
2 year.

3 (g) Has a governing body that is comprised entirely of  
4 officials from corporations not for profit that are members of  
5 the corporation not-for-profit self-insurance fund.

6 (h) Uses knowledgeable persons or business entities to  
7 administer or service the fund in the areas of claims  
8 administration, claims adjusting, underwriting, risk  
9 management, loss control, policy administration, financial  
10 audit, and legal areas. Such persons must meet all applicable  
11 requirements of law for state licensure and must have at least  
12 5 years' experience with commercial self-insurance funds  
13 formed under s. 624.462, self-insurance funds formed under s.  
14 624.4622, or domestic insurers.

15 (i) Submits to the office copies of contracts used for  
16 its members that clearly establish the liability of each  
17 member for the obligations of the fund.

18 (j) Annually submits to the office a certification by  
19 the governing body of the fund that, to the best of its  
20 knowledge, the requirements of this section are met.

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

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

26 (a) An insurer for purposes of participation in or  
27 coverage by any insurance guaranty association established by  
28 chapter 631; or

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

1 s. 624.4621.

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

7 (5) If any of the requirements of subsection (1) are  
8 not met, a corporation not-for-profit self-insurance fund is  
9 subject to the requirements of s. 624.4621 if the fund  
10 provides only workers' compensation coverage or is subject to  
11 the requirements of ss. 624.460-624.488 if the fund provides  
12 coverage for other property, casualty, or surety risks.

13 Section 21. Subsection (3) of section 624.610, Florida  
14 Statutes, is amended to read:

15 624.610 Reinsurance.--

16 (3)(a) Credit must be allowed when the reinsurance is  
17 ceded to an assuming insurer that is authorized to transact  
18 insurance or reinsurance in this state.

19 (b)1. Credit must be allowed when the reinsurance is  
20 ceded to an assuming insurer that is accredited as a reinsurer  
21 in this state. An accredited reinsurer is one that:

22 a. Files with the office evidence of its submission to  
23 this state's jurisdiction;

24 b. Submits to this state's authority to examine its  
25 books and records;

26 c. Is licensed or authorized to transact insurance or  
27 reinsurance in at least one state or, in the case of a United  
28 States branch of an alien assuming insurer, is entered  
29 through, licensed, or authorized to transact insurance or  
30 reinsurance in at least one state;

31 d. Files annually with the office a copy of its annual

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1 statement filed with the insurance department of its state of  
 2 domicile any quarterly statements if required by its state of  
 3 domicile or such quarterly statements if specifically  
 4 requested by the office, and a copy of its most recent audited  
 5 financial statement; and

6 (I) Maintains a surplus as regards policyholders in an  
 7 amount not less than \$20 million and whose accreditation has  
 8 not been denied by the office within 90 days after its  
 9 submission; or

10 (II) Maintains a surplus as regards policyholders in  
 11 an amount not less than \$20 million and whose accreditation  
 12 has been approved by the office.

13 2. The office may deny or revoke an assuming insurer's  
 14 accreditation if the assuming insurer does not submit the  
 15 required documentation pursuant to subparagraph 1., if the  
 16 assuming insurer fails to meet all of the standards required  
 17 of an accredited reinsurer, or if the assuming insurer's  
 18 accreditation would be hazardous to the policyholders of this  
 19 state. In determining whether to deny or revoke accreditation,  
 20 the office may consider the qualifications of the assuming  
 21 insurer with respect to all the following subjects:

- 22 a. Its financial stability;
- 23 b. The lawfulness and quality of its investments;
- 24 c. The competency, character, and integrity of its  
 25 management;
- 26 d. The competency, character, and integrity of persons  
 27 who own or have a controlling interest in the assuming  
 28 insurer; and
- 29 e. Whether claims under its contracts are promptly and  
 30 fairly adjusted and are promptly and fairly paid in accordance  
 31 with the law and the terms of the contracts.



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

4           4. The actual costs and expenses incurred by the  
5 office to review a reinsurer's request for accreditation and  
6 subsequent reviews must be charged to and collected from the  
7 requesting reinsurer. If the reinsurer fails to pay the actual  
8 costs and expenses promptly when due, the office may refuse to  
9 accredit the reinsurer or may revoke the reinsurer's  
10 accreditation.

11           (c)1. Credit must be allowed when the reinsurance is  
12 ceded to an assuming insurer that maintains a trust fund in a  
13 qualified United States financial institution, as defined in  
14 paragraph (5)(b), for the payment of the valid claims of its  
15 United States ceding insurers and their assigns and successors  
16 in interest. To enable the office to determine the sufficiency  
17 of the trust fund, the assuming insurer shall report annually  
18 to the office information substantially the same as that  
19 required to be reported on the NAIC Annual Statement form by  
20 authorized insurers. The assuming insurer shall submit to  
21 examination of its books and records by the office and bear  
22 the expense of examination.

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

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

28           (II) The insurance regulator of another state who,  
29 pursuant to the terms of the trust instrument, has accepted  
30 principal regulatory oversight of the trust.

31           b. The form of the trust and any trust amendments must

1 | be filed with the insurance regulator of every state in which  
 2 | the ceding insurer beneficiaries of the trust are domiciled.  
 3 | The trust instrument must provide that contested claims are  
 4 | valid and enforceable upon the final order of any court of  
 5 | competent jurisdiction in the United States. The trust must  
 6 | vest legal title to its assets in its trustees for the benefit  
 7 | of the assuming insurer's United States ceding insurers and  
 8 | their assigns and successors in interest. The trust and the  
 9 | assuming insurer are subject to examination as determined by  
 10 | the insurance regulator.

11 |       c. The trust remains in effect for as long as the  
 12 | assuming insurer has outstanding obligations due under the  
 13 | reinsurance agreements subject to the trust. No later than  
 14 | February 28 of each year, the trustee of the trust shall  
 15 | report to the insurance regulator in writing the balance of  
 16 | the trust and list the trust's investments at the preceding  
 17 | year end, and shall certify that the trust will not expire  
 18 | prior to the following December 31.

19 |       3. The following requirements apply to the following  
 20 | categories of assuming insurer:

21 |       a. The trust fund for a single assuming insurer  
 22 | consists of funds in trust in an amount not less than the  
 23 | assuming insurer's liabilities attributable to reinsurance  
 24 | ceded by United States ceding insurers, and, in addition, the  
 25 | assuming insurer shall maintain a trusteed surplus of not less  
 26 | than \$20 million. Not less than 50 percent of the funds in the  
 27 | trust covering the assuming insurer's liabilities attributable  
 28 | to reinsurance ceded by United States ceding insurers and  
 29 | trusteed surplus shall consist of assets of a quality  
 30 | substantially similar to that required in part II of chapter  
 31 | 625. Clean, irrevocable, unconditional, and evergreen letters

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1 of credit, issued or confirmed by a qualified United States  
 2 financial institution, as defined in paragraph (5)(a),  
 3 effective no later than December 31 of the year for which the  
 4 filing is made and in the possession of the trust on or before  
 5 the filing date of its annual statement, may be used to fund  
 6 the remainder of the trust and trusteed surplus.

7           b.(I) In the case of a group including incorporated  
 8 and individual unincorporated underwriters:

9           (A) For reinsurance ceded under reinsurance agreements  
 10 with an inception, amendment, or renewal date on or after  
 11 August 1, 1995, the trust consists of a trusteed account in an  
 12 amount not less than the group's several liabilities  
 13 attributable to business ceded by United States domiciled  
 14 ceding insurers to any member of the group;

15           (B) For reinsurance ceded under reinsurance agreements  
 16 with an inception date on or before July 31, 1995, and not  
 17 amended or renewed after that date, notwithstanding the other  
 18 provisions of this section, the trust consists of a trusteed  
 19 account in an amount not less than the group's several  
 20 insurance and reinsurance liabilities attributable to business  
 21 written in the United States; and

22           (C) In addition to these trusts, the group shall  
 23 maintain in trust a trusteed surplus of which \$100 million  
 24 must be held jointly for the benefit of the United States  
 25 domiciled ceding insurers of any member of the group for all  
 26 years of account.

27           (II) The incorporated members of the group must not be  
 28 engaged in any business other than underwriting of a member of  
 29 the group, and are subject to the same level of regulation and  
 30 solvency control by the group's domiciliary regulator as the  
 31 unincorporated members.

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1 (III) Within 90 days after its financial statements  
 2 are due to be filed with the group's domiciliary regulator,  
 3 the group shall provide to the insurance regulator an annual  
 4 certification by the group's domiciliary regulator of the  
 5 solvency of each underwriter member or, if a certification is  
 6 unavailable, financial statements, prepared by independent  
 7 public accountants, of each underwriter member of the group.

8 (d) Credit must be allowed when the reinsurance is  
 9 ceded to an assuming insurer not meeting the requirements of  
 10 paragraph (a), paragraph (b), or paragraph (c), but only as to  
 11 the insurance of risks located in jurisdictions in which the  
 12 reinsurance is required to be purchased by a particular entity  
 13 by applicable law or regulation of that jurisdiction.

14 (e) If the reinsurance is ceded to an assuming insurer  
 15 not meeting the requirements of paragraph (a), paragraph (b),  
 16 paragraph (c), or paragraph (d), the office may allow credit,  
 17 but only if the assuming insurer holds surplus in excess of  
 18 \$100 million and has a secure financial strength rating from  
 19 at least two nationally recognized statistical rating  
 20 organizations deemed acceptable by the commissioner. In  
 21 determining whether credit should be allowed, the office shall  
 22 consider the following:

23 1. The domiciliary regulatory jurisdiction of the  
 24 assuming insurer;

25 2. The structure and authority of the domiciliary  
 26 regulator with regard to solvency regulation requirements and  
 27 the financial surveillance of the reinsurer;

28 3. The substance of financial and operating standards  
 29 for reinsurers in the domiciliary jurisdiction;

30 4. The form and substance of financial reports  
 31 required to be filed by the reinsurers in the domiciliary

1 jurisdiction or other public financial statements filed in  
2 accordance with generally accepted accounting principles;

3 5. The domiciliary regulator's willingness to  
4 cooperate with United States regulators in general and the  
5 office in particular;

6 6. The history of performance by reinsurers in the  
7 domiciliary jurisdiction;

8 7. Any documented evidence of substantial problems  
9 with the enforcement of valid United States judgments in the  
10 domiciliary jurisdiction; and

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

17 (f)(e) If the assuming insurer is not authorized or  
18 accredited to transact insurance or reinsurance in this state  
19 pursuant to paragraph (a) or paragraph (b), the credit  
20 permitted by paragraph (c) or paragraph (d) must not be  
21 allowed unless the assuming insurer agrees in the reinsurance  
22 agreements:

23 1.a. That in the event of the failure of the assuming  
24 insurer to perform its obligations under the terms of the  
25 reinsurance agreement, the assuming insurer, at the request of  
26 the ceding insurer, shall submit to the jurisdiction of any  
27 court of competent jurisdiction in any state of the United  
28 States, will comply with all requirements necessary to give  
29 the court jurisdiction, and will abide by the final decision  
30 of the court or of any appellate court in the event of an  
31 appeal; and

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1           b. To designate the Chief Financial Officer, pursuant  
 2 to s. 48.151, or a designated attorney as its true and lawful  
 3 attorney upon whom may be served any lawful process in any  
 4 action, suit, or proceeding instituted by or on behalf of the  
 5 ceding company.

6           2. This paragraph is not intended to conflict with or  
 7 override the obligation of the parties to a reinsurance  
 8 agreement to arbitrate their disputes, if this obligation is  
 9 created in the agreement.

10           ~~(g)(f)~~ If the assuming insurer does not meet the  
 11 requirements of paragraph (a) or paragraph (b), the credit  
 12 permitted by paragraph (c) or paragraph (d) is not allowed  
 13 unless the assuming insurer agrees in the trust agreements, in  
 14 substance, to the following conditions:

15           1. Notwithstanding any other provisions in the trust  
 16 instrument, if the trust fund is inadequate because it  
 17 contains an amount less than the amount required by paragraph  
 18 (c), or if the grantor of the trust has been declared  
 19 insolvent or placed into receivership, rehabilitation,  
 20 liquidation, or similar proceedings under the laws of its  
 21 state or country of domicile, the trustee shall comply with an  
 22 order of the insurance regulator with regulatory oversight  
 23 over the trust or with an order of a United States court of  
 24 competent jurisdiction directing the trustee to transfer to  
 25 the insurance regulator with regulatory oversight all of the  
 26 assets of the trust fund.

27           2. The assets must be distributed by and claims must  
 28 be filed with and valued by the insurance regulator with  
 29 regulatory oversight in accordance with the laws of the state  
 30 in which the trust is domiciled which are applicable to the  
 31 liquidation of domestic insurance companies.

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1           3. If the insurance regulator with regulatory  
2 oversight determines that the assets of the trust fund or any  
3 part thereof are not necessary to satisfy the claims of the  
4 United States ceding insurers of the grantor of the trust, the  
5 assets or part thereof must be returned by the insurance  
6 regulator with regulatory oversight to the trustee for  
7 distribution in accordance with the trust agreement.

8           4. The grantor shall waive any right otherwise  
9 available to it under United States law which is inconsistent  
10 with this provision.

11           Section 22. Section 627.0613, Florida Statutes, is  
12 repealed.

13           Section 23. Section 627.062, Florida Statutes, is  
14 amended to read:

15           627.062 Rate standards.--

16           (1) The rates for all classes of insurance to which  
17 the provisions of this part are applicable shall not be  
18 excessive, inadequate, or unfairly discriminatory.

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

20           (a) Insurers or rating organizations shall establish  
21 and use rates, rating schedules, or rating manuals to allow  
22 the insurer a reasonable rate of return on such classes of  
23 insurance written in this state. A copy of rates, rating  
24 schedules, rating manuals, premium credits or discount  
25 schedules, and surcharge schedules, and changes thereto, shall  
26 be filed with the office ~~under one of the following~~  
27 ~~procedures:~~

28           ~~1. If the filing is made~~ at least 90 days before the  
29 proposed effective date and the filing may not be ~~is not~~  
30 implemented during the office's review of the filing and any  
31 proceeding and judicial review, ~~then such filing shall be~~

1 ~~considered a "file and use" filing. In such case,~~ The office  
 2 shall finalize its review by issuance of a notice of intent to  
 3 approve or a notice of intent to disapprove within 90 days  
 4 after receipt of the filing. The notice of intent to approve  
 5 and the notice of intent to disapprove constitute agency  
 6 action for purposes of the Administrative Procedure Act.  
 7 Requests for supporting information, requests for mathematical  
 8 or mechanical corrections, or notification to the insurer by  
 9 the office of its preliminary findings shall not toll the  
 10 90-day period during any such proceedings and subsequent  
 11 judicial review. The rate shall be deemed approved if the  
 12 office does not issue a notice of intent to approve or a  
 13 notice of intent to disapprove within 90 days after receipt of  
 14 the filing.

15 ~~2. If the filing is not made in accordance with the~~  
 16 ~~provisions of subparagraph 1., such filing shall be made as~~  
 17 ~~soon as practicable, but no later than 30 days after the~~  
 18 ~~effective date, and shall be considered a "use and file"~~  
 19 ~~filing. An insurer making a "use and file" filing is~~  
 20 ~~potentially subject to an order by the office to return to~~  
 21 ~~policyholders portions of rates found to be excessive, as~~  
 22 ~~provided in paragraph (h).~~

23 (b) Upon receiving a rate filing, the office shall  
 24 review the rate filing to determine if a rate is excessive,  
 25 inadequate, or unfairly discriminatory. In making that  
 26 determination, the office shall, in accordance with generally  
 27 accepted and reasonable actuarial techniques, consider the  
 28 following factors:

29 1. Past and prospective loss experience within and  
 30 without this state.

31 2. Past and prospective expenses.



1           3. The degree of competition among insurers for the  
2 risk insured.

3           4. Investment income reasonably expected by the  
4 insurer, consistent with the insurer's investment practices,  
5 from investable premiums anticipated in the filing, plus any  
6 other expected income from currently invested assets  
7 representing the amount expected on unearned premium reserves  
8 and loss reserves. The commission may adopt rules utilizing  
9 reasonable techniques of actuarial science and economics to  
10 specify the manner in which insurers shall calculate  
11 investment income attributable to such classes of insurance  
12 written in this state and the manner in which such investment  
13 income shall be used in the calculation of insurance rates.  
14 Such manner shall contemplate allowances for an underwriting  
15 profit factor and full consideration of investment income  
16 which produce a reasonable rate of return; however, investment  
17 income from invested surplus shall not be considered.

18           5. The reasonableness of the judgment reflected in the  
19 filing.

20           6. Dividends, savings, or unabsorbed premium deposits  
21 allowed or returned to Florida policyholders, members, or  
22 subscribers.

23           7. The adequacy of loss reserves.

24           8. The cost of reinsurance.

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

27           10. Conflagration and catastrophe hazards, if  
28 applicable.

29           11. A reasonable margin for underwriting profit and  
30 contingencies. For that portion of the rate covering the risk  
31 of hurricanes and other catastrophic losses for which the

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1 insurer has not purchased reinsurance and has exposed its  
2 capital and surplus to such risk, the office must approve a  
3 rating factor that provides the insurer a reasonable rate of  
4 return that is commensurate with such risk.

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

6           13. Other relevant factors which impact upon the  
7 frequency or severity of claims or upon expenses.

8           (c) In the case of fire insurance rates, consideration  
9 shall be given to the availability of water supplies and the  
10 experience of the fire insurance business during a period of  
11 not less than the most recent 5-year period for which such  
12 experience is available.

13           (d) If conflagration or catastrophe hazards are given  
14 consideration by an insurer in its rates or rating plan,  
15 including surcharges and discounts, the insurer shall  
16 establish a reserve for that portion of the premium allocated  
17 to such hazard and shall maintain the premium in a catastrophe  
18 reserve. Any removal of such premiums from the reserve for  
19 purposes other than paying claims associated with a  
20 catastrophe or purchasing reinsurance for catastrophes shall  
21 be subject to approval of the office. Any ceding commission  
22 received by an insurer purchasing reinsurance for catastrophes  
23 shall be placed in the catastrophe reserve.

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

28           1. Rates shall be deemed excessive if they are likely  
29 to produce a profit from Florida business that is unreasonably  
30 high in relation to the risk involved in the class of business  
31 or if expenses are unreasonably high in relation to services

1 rendered.

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

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

10           4. A rating plan, including discounts, credits, or  
11 surcharges, shall be deemed unfairly discriminatory if it  
12 fails to clearly and equitably reflect consideration of the  
13 policyholder's participation in a risk management program  
14 adopted pursuant to s. 627.0625.

15           5. A rate shall be deemed inadequate as to the premium  
16 charged to a risk or group of risks if discounts or credits  
17 are allowed which exceed a reasonable reflection of expense  
18 savings and reasonably expected loss experience from the risk  
19 or group of risks.

20           6. A rate shall be deemed unfairly discriminatory as  
21 to a risk or group of risks if the application of premium  
22 discounts, credits, or surcharges among such risks does not  
23 bear a reasonable relationship to the expected loss and  
24 expense experience among the various risks.

25           (f) In reviewing a rate filing, the office may require  
26 the insurer to provide at the insurer's expense all  
27 information necessary to evaluate the condition of the company  
28 and the reasonableness of the filing according to the criteria  
29 enumerated in this section.

30           (g) The office may at any time review a rate, rating  
31 schedule, rating manual, or rate change; the pertinent records

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1 of the insurer; and market conditions. If the office finds on  
2 a preliminary basis that a rate may be excessive, inadequate,  
3 or unfairly discriminatory, the office shall initiate  
4 proceedings to disapprove the rate and shall so notify the  
5 insurer. However, the office may not disapprove as excessive  
6 any rate for which it has given final approval or which has  
7 been deemed approved for a period of 1 year after the  
8 effective date of the filing unless the office finds that a  
9 material misrepresentation or material error was made by the  
10 insurer or was contained in the filing. Upon being so  
11 notified, the insurer or rating organization shall, within 60  
12 days, file with the office all information which, in the  
13 belief of the insurer or organization, proves the  
14 reasonableness, adequacy, and fairness of the rate or rate  
15 change. The office shall issue a notice of intent to approve  
16 or a notice of intent to disapprove pursuant to the procedures  
17 of paragraph (a) within 90 days after receipt of the insurer's  
18 initial response. In such instances and in any administrative  
19 proceeding relating to the legality of the rate, the insurer  
20 or rating organization shall carry the burden of proof by a  
21 preponderance of the evidence to show that the rate is not  
22 excessive, inadequate, or unfairly discriminatory. After the  
23 office notifies an insurer that a rate may be excessive,  
24 inadequate, or unfairly discriminatory, unless the office  
25 withdraws the notification, the insurer shall not alter the  
26 rate except to conform with the office's notice until the  
27 earlier of 120 days after the date the notification was  
28 provided or 180 days after the date of the implementation of  
29 the rate. The office may, subject to chapter 120, disapprove  
30 without the 60-day notification any rate increase filed by an  
31 insurer within the prohibited time period or during the time

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1 that the legality of the increased rate is being contested.

2 (h) In the event the office finds that a rate or rate  
 3 change is excessive, inadequate, or unfairly discriminatory,  
 4 the office shall issue an order of disapproval specifying that  
 5 a new rate or rate schedule which responds to the findings of  
 6 the office be filed by the insurer. ~~The office shall further~~  
 7 ~~order, for any "use and file" filing made in accordance with~~  
 8 ~~subparagraph (a)2., that premiums charged each policyholder~~  
 9 ~~constituting the portion of the rate above that which was~~  
 10 ~~actuarially justified be returned to such policyholder in the~~  
 11 ~~form of a credit or refund. If the office finds that an~~  
 12 ~~insurer's rate or rate change is inadequate, the new rate or~~  
 13 ~~rate schedule filed with the office in response to such a~~  
 14 ~~finding shall be applicable only to new or renewal business of~~  
 15 ~~the insurer written on or after the effective date of the~~  
 16 ~~responsive filing.~~

17 (i) Except as otherwise specifically provided in this  
 18 chapter, the office shall not prohibit any insurer, including  
 19 any residual market plan or joint underwriting association,  
 20 from paying acquisition costs based on the full amount of  
 21 premium, as defined in s. 627.403, applicable to any policy,  
 22 or prohibit any such insurer from including the full amount of  
 23 acquisition costs in a rate filing.

24 (j) Within 24 months after an insurer receives  
 25 approval of a rate increase of 10 percent or more, the insurer  
 26 must file and the office must review the insurer's rate based  
 27 on a rate filing that addresses all elements of the current  
 28 rate. ~~Effective July 1, 2007, notwithstanding any other~~  
 29 ~~provision of this section:~~

30 1. ~~With respect to any residential property insurance~~  
 31 ~~subject to regulation under this section for any area for~~

1 ~~which the office determines a reasonable degree of competition~~  
2 ~~exists, a rate filing, including, but not limited to, any rate~~  
3 ~~changes, rating factors, territories, classification,~~  
4 ~~discounts, and credits, with respect to any policy form,~~  
5 ~~including endorsements issued with the form, that results in~~  
6 ~~an overall average statewide premium increase or decrease of~~  
7 ~~no more than 5 percent above or below the premium that would~~  
8 ~~result from the insurer's rates then in effect shall not be~~  
9 ~~subject to a determination by the office that the rate is~~  
10 ~~excessive or unfairly discriminatory except as provided in~~  
11 ~~subparagraph 3., or any other provision of law, provided all~~  
12 ~~changes specified in the filing do not result in an overall~~  
13 ~~premium increase of more than 10 percent for any one~~  
14 ~~territory, for reasons related solely to the rate change. As~~  
15 ~~used in this subparagraph, the term "insurer's rates then in~~  
16 ~~effect" includes only rates that have been lawfully in effect~~  
17 ~~under this section or rates that have been determined to be~~  
18 ~~lawful through administrative proceedings or judicial~~  
19 ~~proceedings.~~

20       ~~2. An insurer may not make filings under this~~  
21 ~~paragraph with respect to any policy form, including~~  
22 ~~endorsements issued with the form, if the overall premium~~  
23 ~~changes resulting from such filings exceed the amounts~~  
24 ~~specified in this paragraph in any 12-month period. An insurer~~  
25 ~~may proceed under other provisions of this section or other~~  
26 ~~provisions of law if the insurer seeks to exceed the premium~~  
27 ~~or rate limitations of this paragraph.~~

28       ~~3. This paragraph does not affect the authority of the~~  
29 ~~office to disapprove a rate as inadequate or to disapprove a~~  
30 ~~filing for the unlawful use of unfairly discriminatory rating~~  
31 ~~factors that are prohibited by the laws of this state. An~~

1 ~~insurer electing to implement a rate change under this~~  
2 ~~paragraph shall submit a filing to the office at least 40 days~~  
3 ~~prior to the effective date of the rate change. The office~~  
4 ~~shall have 30 days after the filing's submission to review the~~  
5 ~~filing and determine if the rate is inadequate or uses~~  
6 ~~unfairly discriminatory rating factors. Absent a finding by~~  
7 ~~the office within such 30-day period that the rate is~~  
8 ~~inadequate or that the insurer has used unfairly~~  
9 ~~discriminatory rating factors, the filing is deemed approved.~~  
10 ~~If the office finds during the 30-day period that the filing~~  
11 ~~will result in inadequate premiums or otherwise endanger the~~  
12 ~~insurer's solvency, the office shall suspend the rate~~  
13 ~~decrease. If the insurer is implementing an overall rate~~  
14 ~~increase, the results of which continue to produce an~~  
15 ~~inadequate rate, such increase shall proceed pending~~  
16 ~~additional action by the office to ensure the adequacy of the~~  
17 ~~rate.~~

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

21 The provisions of this subsection shall not apply to workers'  
22 compensation and employer's liability insurance and to motor  
23 vehicle insurance.

24           (3)(a) For individual risks that are not rated in  
25 accordance with the insurer's rates, rating schedules, rating  
26 manuals, and underwriting rules filed with the office and  
27 which have been submitted to the insurer for individual  
28 rating, the insurer must maintain documentation on each risk  
29 subject to individual risk rating. The documentation must  
30 identify the named insured and specify the characteristics and  
31 classification of the risk supporting the reason for the risk

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1 | being individually risk rated, including any modifications to  
2 | existing approved forms to be used on the risk. The insurer  
3 | must maintain these records for a period of at least 5 years  
4 | after the effective date of the policy.

5 |         (b) Individual risk rates and modifications to  
6 | existing approved forms are not subject to this part or part  
7 | II, except for paragraph (a) and ss. 627.402, 627.403,  
8 | 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085,  
9 | 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417,  
10 | 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but  
11 | are subject to all other applicable provisions of this code  
12 | and rules adopted thereunder.

13 |         (c) This subsection does not apply to private  
14 | passenger motor vehicle insurance.

15 |         (4) The establishment of any rate, rating  
16 | classification, rating plan or schedule, or variation thereof  
17 | in violation of part IX of chapter 626 is also in violation of  
18 | this section. In order to enhance the ability of consumers to  
19 | compare premiums and to increase the accuracy and usefulness  
20 | of rate-comparison information provided by the office to the  
21 | public, the office shall develop a proposed standard rating  
22 | territory plan to be used by all authorized property and  
23 | casualty insurers for residential property insurance. In  
24 | adopting the proposed plan, the office may consider  
25 | geographical characteristics relevant to risk, county lines,  
26 | major roadways, existing rating territories used by a  
27 | significant segment of the market, and other relevant factors.  
28 | Such plan shall be submitted to the President of the Senate  
29 | and the Speaker of the House of Representatives by January 15,  
30 | 2006. The plan may not be implemented unless authorized by  
31 | further act of the Legislature.



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1           (5) With respect to a rate filing involving coverage  
2 of the type for which the insurer is required to pay a  
3 reimbursement premium to the Florida Hurricane Catastrophe  
4 Fund, the insurer may fully recoup in its property insurance  
5 premiums any reimbursement premiums paid to the Florida  
6 Hurricane Catastrophe Fund, together with reasonable costs of  
7 other reinsurance, but may not recoup reinsurance costs that  
8 duplicate coverage provided by the Florida Hurricane  
9 Catastrophe Fund. An insurer may not recoup more than 1 year  
10 of reimbursement premium at a time. Any under-recoupment from  
11 the prior year may be added to the following year's  
12 reimbursement premium and any over-recoupment shall be  
13 subtracted from the following year's reimbursement premium.

14           ~~(6)(a) After any action with respect to a rate filing~~  
15 ~~that constitutes agency action for purposes of the~~  
16 ~~Administrative Procedure Act, except for a rate filing for~~  
17 ~~medical malpractice, an insurer may, in lieu of demanding a~~  
18 ~~hearing under s. 120.57, require arbitration of the rate~~  
19 ~~filing. Arbitration shall be conducted by a board of~~  
20 ~~arbitrators consisting of an arbitrator selected by the~~  
21 ~~office, an arbitrator selected by the insurer, and an~~  
22 ~~arbitrator selected jointly by the other two arbitrators. Each~~  
23 ~~arbitrator must be certified by the American Arbitration~~  
24 ~~Association. A decision is valid only upon the affirmative~~  
25 ~~vote of at least two of the arbitrators. No arbitrator may be~~  
26 ~~an employee of any insurance regulator or regulatory body or~~  
27 ~~of any insurer, regardless of whether or not the employing~~  
28 ~~insurer does business in this state. The office and the~~  
29 ~~insurer must treat the decision of the arbitrators as the~~  
30 ~~final approval of a rate filing. Costs of arbitration shall be~~  
31 ~~paid by the insurer.~~

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1           ~~(b) Arbitration under this subsection shall be~~  
2 ~~conducted pursuant to the procedures specified in ss.~~  
3 ~~682.06-682.10. Either party may apply to the circuit court to~~  
4 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~  
5 ~~682.14. The commission shall adopt rules for arbitration under~~  
6 ~~this subsection, which rules may not be inconsistent with the~~  
7 ~~arbitration rules of the American Arbitration Association as~~  
8 ~~of January 1, 1996.~~

9           ~~(c) Upon initiation of the arbitration process, the~~  
10 ~~insurer waives all rights to challenge the action of the~~  
11 ~~office under the Administrative Procedure Act or any other~~  
12 ~~provision of law; however, such rights are restored to the~~  
13 ~~insurer if the arbitrators fail to render a decision within 90~~  
14 ~~days after initiation of the arbitration process.~~

15           ~~(6)(7)(a)~~ (a) The provisions of this subsection apply only  
16 with respect to rates for medical malpractice insurance and  
17 shall control to the extent of any conflict with other  
18 provisions of this section.

19           (b) Any portion of a judgment entered or settlement  
20 paid as a result of a statutory or common-law bad faith action  
21 and any portion of a judgment entered which awards punitive  
22 damages against an insurer may not be included in the  
23 insurer's rate base, and shall not be used to justify a rate  
24 or rate change. Any common-law bad faith action identified as  
25 such, any portion of a settlement entered as a result of a  
26 statutory or common-law action, or any portion of a settlement  
27 wherein an insurer agrees to pay specific punitive damages may  
28 not be used to justify a rate or rate change. The portion of  
29 the taxable costs and attorney's fees which is identified as  
30 being related to the bad faith and punitive damages in these  
31 judgments and settlements may not be included in the insurer's

1 rate base and may not be utilized to justify a rate or rate  
2 change.

3 (c) Upon reviewing a rate filing and determining  
4 whether the rate is excessive, inadequate, or unfairly  
5 discriminatory, the office shall consider, in accordance with  
6 generally accepted and reasonable actuarial techniques, past  
7 and present prospective loss experience, either using loss  
8 experience solely for this state or giving greater credibility  
9 to this state's loss data after applying actuarially sound  
10 methods of assigning credibility to such data.

11 (d) Rates shall be deemed excessive if, among other  
12 standards established by this section, the rate structure  
13 provides for replenishment of reserves or surpluses from  
14 premiums when the replenishment is attributable to investment  
15 losses.

16 (e) The insurer must apply a discount or surcharge  
17 based on the health care provider's loss experience or shall  
18 establish an alternative method giving due consideration to  
19 the provider's loss experience. The insurer must include in  
20 the filing a copy of the surcharge or discount schedule or a  
21 description of the alternative method used, and must provide a  
22 copy of such schedule or description, as approved by the  
23 office, to policyholders at the time of renewal and to  
24 prospective policyholders at the time of application for  
25 coverage.

26 (f) Each medical malpractice insurer must make a rate  
27 filing under this section, sworn to by at least two executive  
28 officers of the insurer, at least once each calendar year.

29 (7)~~(8)~~(a)1. No later than 60 days after the effective  
30 date of medical malpractice legislation enacted during the  
31 2003 Special Session D of the Florida Legislature, the office

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1 shall calculate a presumed factor that reflects the impact  
 2 that the changes contained in such legislation will have on  
 3 rates for medical malpractice insurance and shall issue a  
 4 notice informing all insurers writing medical malpractice  
 5 coverage of such presumed factor. In determining the presumed  
 6 factor, the office shall use generally accepted actuarial  
 7 techniques and standards provided in this section in  
 8 determining the expected impact on losses, expenses, and  
 9 investment income of the insurer. To the extent that the  
 10 operation of a provision of medical malpractice legislation  
 11 enacted during the 2003 Special Session D of the Florida  
 12 Legislature is stayed pending a constitutional challenge, the  
 13 impact of that provision shall not be included in the  
 14 calculation of a presumed factor under this subparagraph.

15         2. No later than 60 days after the office issues its  
 16 notice of the presumed rate change factor under subparagraph  
 17 1., each insurer writing medical malpractice coverage in this  
 18 state shall submit to the office a rate filing for medical  
 19 malpractice insurance, which will take effect no later than  
 20 January 1, 2004, and apply retroactively to policies issued or  
 21 renewed on or after the effective date of medical malpractice  
 22 legislation enacted during the 2003 Special Session D of the  
 23 Florida Legislature. Except as authorized under paragraph (b),  
 24 the filing shall reflect an overall rate reduction at least as  
 25 great as the presumed factor determined under subparagraph 1.  
 26 With respect to policies issued on or after the effective date  
 27 of such legislation and prior to the effective date of the  
 28 rate filing required by this subsection, the office shall  
 29 order the insurer to make a refund of the amount that was  
 30 charged in excess of the rate that is approved.

31         (b) Any insurer or rating organization that contends

1 that the rate provided for in paragraph (a) is excessive,  
 2 inadequate, or unfairly discriminatory shall separately state  
 3 in its filing the rate it contends is appropriate and shall  
 4 state with specificity the factors or data that it contends  
 5 should be considered in order to produce such appropriate  
 6 rate. The insurer or rating organization shall be permitted to  
 7 use all of the generally accepted actuarial techniques  
 8 provided in this section in making any filing pursuant to this  
 9 subsection. The office shall review each such exception and  
 10 approve or disapprove it prior to use. It shall be the  
 11 insurer's burden to actuarially justify any deviations from  
 12 the rates required to be filed under paragraph (a). The  
 13 insurer making a filing under this paragraph shall include in  
 14 the filing the expected impact of medical malpractice  
 15 legislation enacted during the 2003 Special Session D of the  
 16 Florida Legislature on losses, expenses, and rates.

17 (c) If any provision of medical malpractice  
 18 legislation enacted during the 2003 Special Session D of the  
 19 Florida Legislature is held invalid by a court of competent  
 20 jurisdiction, the office shall permit an adjustment of all  
 21 medical malpractice rates filed under this section to reflect  
 22 the impact of such holding on such rates so as to ensure that  
 23 the rates are not excessive, inadequate, or unfairly  
 24 discriminatory.

25 (d) Rates approved on or before July 1, 2003, for  
 26 medical malpractice insurance shall remain in effect until the  
 27 effective date of a new rate filing approved under this  
 28 subsection.

29 (e) The calculation and notice by the office of the  
 30 presumed factor pursuant to paragraph (a) is not an order or  
 31 rule that is subject to chapter 120. If the office enters into

1 a contract with an independent consultant to assist the office  
 2 in calculating the presumed factor, such contract shall not be  
 3 subject to the competitive solicitation requirements of s.  
 4 287.057.

5 (8)(a) The chief executive officer or chief financial  
 6 officer of a property insurer and the chief actuary of a  
 7 property insurer must certify under oath and subject to the  
 8 penalty of perjury, on a form approved by the commission, the  
 9 following information, which must accompany a rate filing:

10 1. The signing officer and actuary have reviewed the  
 11 rate filing;

12 2. Based on the signing officer's and actuary's  
 13 knowledge, the rate filing does not contain any untrue  
 14 statement of a material fact or omit to state a material fact  
 15 necessary in order to make the statements made, in light of  
 16 the circumstances under which such statements were made, not  
 17 misleading;

18 3. Based on the signing officer's and actuary's  
 19 knowledge, the information and other factors described in s.  
 20 627.062(2)(b), including, but not limited to, investment  
 21 income, fairly present in all material respects the basis of  
 22 the rate filing for the periods presented in the filing; and

23 4. Based on the signing officer's and actuary's  
 24 knowledge, the rate filing reflects all premium savings that  
 25 are reasonably expected to result from legislative enactments  
 26 and are in accordance with generally accepted and reasonable  
 27 actuarial techniques.

28 (b) A signing officer or actuary knowingly making a  
 29 false certification under this subsection commits a violation  
 30 of s. 626.9541(1)(e) and is subject to the penalties under s.  
 31 626.9521.

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

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

6       ~~(9) The burden is on the office to establish that~~  
7 ~~rates are excessive for personal lines residential coverage~~  
8 ~~with a dwelling replacement cost of \$1 million or more or for~~  
9 ~~a single condominium unit with a combined dwelling and~~  
10 ~~contents replacement cost of \$1 million or more. Upon request~~  
11 ~~of the office, the insurer shall provide to the office such~~  
12 ~~loss and expense information as the office reasonably needs to~~  
13 ~~meet this burden.~~

14       Section 24. Paragraph (ee) is added to subsection (1)  
15 of section 626.9541, Florida Statutes, to read:

16       626.9541 Unfair methods of competition and unfair or  
17 deceptive acts or practices defined.--

18       (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR  
19 DECEPTIVE ACTS.--The following are defined as unfair methods  
20 of competition and unfair or deceptive acts or practices:

21       (ee) Selectively limiting insurance  
22 offerings.--Failing to offer in this state a kind or line of  
23 insurance which all insurers or affiliated insurers, as  
24 defined by the Financial Services Commission, offer in another  
25 jurisdiction. An insurer need not offer every kind or line of  
26 insurance, or any particular kind or line of insurance, in  
27 this state; however, if, on July 1, 2007, an insurer offers a  
28 particular kind or line of insurance anywhere it does  
29 business, it must offer the same kind or line in this state.  
30 The commission shall adopt rules to administer this paragraph.

31       Section 25. Paragraph (c) of subsection (3) of section

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1 627.0628, Florida Statutes, is amended to read:

2           627.0628 Florida Commission on Hurricane Loss  
3 Projection Methodology; public records exemption; public  
4 meetings exemption.--

5           (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

6           (c) With respect to a rate filing under s. 627.062, an  
7 insurer may employ actuarial methods, principles, standards,  
8 models, or output ranges found by the commission to be  
9 accurate or reliable to determine hurricane loss factors for  
10 use in a rate filing under s. 627.062. Such findings and  
11 factors are admissible and relevant in consideration of a rate  
12 filing by the office or in any arbitration or administrative  
13 or judicial review only if the office and the Insurance  
14 Consumer Advocate appointed pursuant to s. 350.0615 ~~s.~~  
15 ~~627.0613~~ have access to all of the assumptions and factors  
16 that were used in developing the actuarial methods,  
17 principles, standards, models, or output ranges, and are not  
18 precluded from disclosing such information in a rate  
19 proceeding. In any rate hearing under s. 120.57 ~~or in any~~  
20 ~~arbitration proceeding under s. 627.062(6)~~, the hearing  
21 officer ~~or~~ judge, ~~or arbitration panel~~ may determine whether  
22 the office and the Insurance Consumer Advocate were provided  
23 with access to all of the assumptions and factors that were  
24 used in developing the actuarial methods, principles,  
25 standards, models, or output ranges and to determine their  
26 admissibility.

27           Section 26. Paragraph (b) of subsection (5) of section  
28 627.311, Florida Statutes, is amended to read:

29           627.311 Joint underwriters and joint reinsurers;  
30 public records and public meetings exemptions.--

31           (5)



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1 (b) The operation of the plan is subject to the  
2 supervision of a 9-member board of governors. The board of  
3 governors shall be comprised of:

4 1. Three members appointed by the Financial Services  
5 Commission. Each member appointed by the commission shall  
6 serve at the pleasure of the commission;

7 2. Two of the 20 domestic insurers, as defined in s.  
8 624.06(1), having the largest voluntary direct premiums  
9 written in this state for workers' compensation and employer's  
10 liability insurance, which shall be elected by those 20  
11 domestic insurers;

12 3. Two of the 20 foreign insurers as defined in s.  
13 624.06(2) having the largest voluntary direct premiums written  
14 in this state for workers' compensation and employer's  
15 liability insurance, which shall be elected by those 20  
16 foreign insurers;

17 4. One person appointed by the largest property and  
18 casualty insurance agents' association in this state; and

19 5. The Insurance Consumer Advocate appointed under s.  
20 350.0615 ~~s. 627.0613~~ or the Insurance Consumer Advocate's  
21 designee.

22  
23 Each board member shall serve a 4-year term and may serve  
24 consecutive terms. A vacancy on the board shall be filled in  
25 the same manner as the original appointment for the unexpired  
26 portion of the term. The Financial Services Commission shall  
27 designate a member of the board to serve as chair. No board  
28 member shall be an insurer which provides services to the plan  
29 or which has an affiliate which provides services to the plan  
30 or which is serviced by a service company or third-party  
31 administrator which provides services to the plan or which has

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1 an affiliate which provides services to the plan. The minutes,  
 2 audits, and procedures of the board of governors are subject  
 3 to chapter 119.

4 Section 27. Paragraphs (a), (b), (c), (m), (p), and  
 5 (s) of subsection (6) of section 627.351, Florida Statutes,  
 6 are amended, and paragraph (ee) is added to that section, to  
 7 read:

8 627.351 Insurance risk apportionment plans.--

9 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

10 (a)1. The Legislature finds that actual and threatened  
 11 catastrophic losses to property in this state from hurricanes  
 12 have caused insurers to be unwilling or unable to provide  
 13 property insurance coverage to the extent sought and needed.  
 14 It is in the public interest and a public purpose to assist in  
 15 assuring that property in the state is insured so as to  
 16 facilitate the remediation, reconstruction, and replacement of  
 17 damaged or destroyed property in order to reduce or avoid the  
 18 negative effects otherwise resulting to the public health,  
 19 safety, and welfare; to the economy of the state; and to the  
 20 revenues of the state and local governments needed to provide  
 21 for the public welfare. It is necessary, therefore, to provide  
 22 property insurance to applicants who are in good faith  
 23 entitled to procure insurance through the voluntary market but  
 24 are unable to do so. The Legislature intends by this  
 25 subsection that property insurance be provided and that it  
 26 continues, as long as necessary, through an entity organized  
 27 to achieve efficiencies and economies, while providing service  
 28 to policyholders, applicants, and agents that is no less than  
 29 the quality generally provided in the voluntary market, all  
 30 toward the achievement of the foregoing public purposes.

31 Because it is essential for the corporation to have the

1 maximum financial resources to pay claims following a  
 2 catastrophic hurricane, it is the intent of the Legislature  
 3 that the income of the corporation be exempt from federal  
 4 income taxation and that interest on the debt obligations  
 5 issued by the corporation be exempt from federal income  
 6 taxation.

7           2. The Residential Property and Casualty Joint  
 8 Underwriting Association originally created by this statute  
 9 shall be known, as of July 1, 2002, as the Citizens Property  
 10 Insurance Corporation. The corporation shall provide insurance  
 11 for residential and commercial property, for applicants who  
 12 are in good faith entitled, but are unable, to procure  
 13 insurance through the voluntary market. The corporation shall  
 14 operate pursuant to a plan of operation approved by order of  
 15 the Financial Services Commission. The plan is subject to  
 16 continuous review by the commission. The commission may, by  
 17 order, withdraw approval of all or part of a plan if the  
 18 commission determines that conditions have changed since  
 19 approval was granted and that the purposes of the plan require  
 20 changes in the plan. The corporation shall continue to operate  
 21 pursuant to the plan of operation approved by the Office of  
 22 Insurance Regulation until October 1, 2006. For the purposes  
 23 of this subsection, residential coverage includes both  
 24 personal lines residential coverage, which consists of the  
 25 type of coverage provided by homeowner's, mobile home owner's,  
 26 dwelling, tenant's, condominium unit owner's, and similar  
 27 policies, and commercial lines residential coverage, which  
 28 consists of the type of coverage provided by condominium  
 29 association, apartment building, and similar policies.

30           3. For the purposes of this subsection, the term  
 31 "homestead property" means:

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1 a. Property that has been granted a homestead  
2 exemption under chapter 196;

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

7 c. An owner-occupied mobile home or manufactured home,  
8 as defined in s. 320.01, which is permanently affixed to real  
9 property, is owned by a Florida resident, and has been granted  
10 a homestead exemption under chapter 196 or, if the owner does  
11 not own the real property, the owner certifies that the mobile  
12 home or manufactured home is his or her principal place of  
13 residence.

14 d. Tenant's coverage;

15 e. Commercial lines residential property; or

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

22 4. For the purposes of this subsection, the term  
23 "nonhomestead property" means property that is not homestead  
24 property.

25 5. Effective July 1, 2008, a personal lines  
26 residential structure that has a dwelling replacement cost of  
27 \$1 million or more, or a single condominium unit that has a  
28 combined dwelling and content replacement cost of \$1 million  
29 or more is not eligible for coverage by the corporation. Such  
30 dwellings insured by the corporation on June 30, 2008, may  
31 continue to be covered by the corporation until the end of the

1 policy term. However, such dwellings that are insured by the  
 2 corporation and become ineligible for coverage due to the  
 3 provisions of this subparagraph may reapply and obtain  
 4 coverage in the high-risk account and be considered  
 5 "nonhomestead property" if the property owner provides the  
 6 corporation with a sworn affidavit from one or more insurance  
 7 agents, on a form provided by the corporation, stating that  
 8 the agents have made their best efforts to obtain coverage and  
 9 that the property has been rejected for coverage by at least  
 10 one authorized insurer and at least three surplus lines  
 11 insurers. If such conditions are met, the dwelling may be  
 12 insured by the corporation for up to 3 years, after which time  
 13 the dwelling is ineligible for coverage. The office shall  
 14 approve the method used by the corporation for valuing the  
 15 dwelling replacement cost for the purposes of this  
 16 subparagraph. If a policyholder is insured by the corporation  
 17 prior to being determined to be ineligible pursuant to this  
 18 subparagraph and such policyholder files a lawsuit challenging  
 19 the determination, the policyholder may remain insured by the  
 20 corporation until the conclusion of the litigation.

21 ~~6. Effective March 1, 2007, nonhomestead property is~~  
 22 ~~not eligible for coverage by the corporation and is not~~  
 23 ~~eligible for renewal of such coverage unless the property~~  
 24 ~~owner provides the corporation with a sworn affidavit from one~~  
 25 ~~or more insurance agents, on a form provided by the~~  
 26 ~~corporation, stating that the agents have made their best~~  
 27 ~~efforts to obtain coverage and that the property has been~~  
 28 ~~rejected for coverage by at least one authorized insurer and~~  
 29 ~~at least three surplus lines insurers.~~

30 ~~6.7.~~ It is the intent of the Legislature that  
 31 policyholders, applicants, and agents of the corporation

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1 receive service and treatment of the highest possible level  
 2 but never less than that generally provided in the voluntary  
 3 market. It also is intended that the corporation be held to  
 4 service standards no less than those applied to insurers in  
 5 the voluntary market by the office with respect to  
 6 responsiveness, timeliness, customer courtesy, and overall  
 7 dealings with policyholders, applicants, or agents of the  
 8 corporation.

9           (b)1. All insurers authorized to write one or more  
 10 subject lines of business in this state are subject to  
 11 assessment by the corporation and, for the purposes of this  
 12 subsection, are referred to collectively as "assessable  
 13 insurers." Insurers writing one or more subject lines of  
 14 business in this state pursuant to part VIII of chapter 626  
 15 are not assessable insurers, but insureds who procure one or  
 16 more subject lines of business in this state pursuant to part  
 17 VIII of chapter 626 are subject to assessment by the  
 18 corporation and are referred to collectively as "assessable  
 19 insureds." An authorized insurer's assessment liability shall  
 20 begin on the first day of the calendar year following the year  
 21 in which the insurer was issued a certificate of authority to  
 22 transact insurance for subject lines of business in this state  
 23 and shall terminate 1 year after the end of the first calendar  
 24 year during which the insurer no longer holds a certificate of  
 25 authority to transact insurance for subject lines of business  
 26 in this state.

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

30           (I) A personal lines account for personal residential  
 31 policies issued by the corporation or issued by the

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1 Residential Property and Casualty Joint Underwriting  
 2 Association and renewed by the corporation that provide  
 3 comprehensive, multiperil coverage on risks that are not  
 4 located in areas eligible for coverage in the Florida  
 5 Windstorm Underwriting Association as those areas were defined  
 6 on January 1, 2002, and for such policies that do not provide  
 7 coverage for the peril of wind on risks that are located in  
 8 such areas;

9 (II) A commercial lines account for commercial  
 10 residential and commercial nonresidential policies issued by  
 11 the corporation or issued by the Residential Property and  
 12 Casualty Joint Underwriting Association and renewed by the  
 13 corporation that provide coverage for basic property perils on  
 14 risks that are not located in areas eligible for coverage in  
 15 the Florida Windstorm Underwriting Association as those areas  
 16 were defined on January 1, 2002, and for such policies that do  
 17 not provide coverage for the peril of wind on risks that are  
 18 located in such areas; and

19 (III) A high-risk account for personal residential  
 20 policies and commercial residential and commercial  
 21 nonresidential property policies issued by the corporation or  
 22 transferred to the corporation that provide coverage for the  
 23 peril of wind on risks that are located in areas eligible for  
 24 coverage in the Florida Windstorm Underwriting Association as  
 25 those areas were defined on January 1, 2002. Beginning April  
 26 1, 2007, the corporation may offer multiperil coverage,  
 27 wind-only coverage, or both types of coverage in the high-risk  
 28 account. In issuing multiperil coverage, the corporation may  
 29 use its approved policy forms and rates for personal lines  
 30 accounts through December 31, 2007. It is the intent of the  
 31 Legislature that the offer of multiperil coverage in the

1 high-risk account be made and implemented in a manner that  
2 does not adversely affect the creditworthiness of or security  
3 for currently outstanding financing obligations or credit  
4 facilities of the high-risk account, the personal lines  
5 account, or the commercial lines account. The high-risk  
6 account must also include quota share primary insurance under  
7 subparagraph (c)2. The area eligible for coverage under the  
8 high-risk account also includes the area within Port  
9 Canaveral, which is bordered on the south by the City of Cape  
10 Canaveral, bordered on the west by the Banana River, and  
11 bordered on the north by Federal Government property. ~~The~~  
12 ~~office may remove territory from the area eligible for~~  
13 ~~wind-only and quota share coverage if, after a public hearing,~~  
14 ~~the office finds that authorized insurers in the voluntary~~  
15 ~~market are willing and able to write sufficient amounts of~~  
16 ~~personal and commercial residential coverage for all perils in~~  
17 ~~the territory, including coverage for the peril of wind, such~~  
18 ~~that risks covered by wind-only policies in the removed~~  
19 ~~territory could be issued a policy by the corporation in~~  
20 ~~either the personal lines or commercial lines account without~~  
21 ~~a significant increase in the corporation's probable maximum~~  
22 ~~loss in such account. Removal of territory from the area~~  
23 ~~eligible for wind only or quota share coverage does not alter~~  
24 ~~the assignment of wind coverage written in such areas to the~~  
25 ~~high-risk account.~~

26           b. The three separate accounts must be maintained as  
27 long as financing obligations entered into by the Florida  
28 Windstorm Underwriting Association or Residential Property and  
29 Casualty Joint Underwriting Association are outstanding, in  
30 accordance with the terms of the corresponding financing  
31 documents. When the financing obligations are no longer



1 outstanding, in accordance with the terms of the corresponding  
 2 financing documents, the corporation may use a single account  
 3 for all revenues, assets, liabilities, losses, and expenses of  
 4 the corporation. Consistent with the requirement of this  
 5 subparagraph and prudent investment policies that minimize the  
 6 cost of carrying debt, the board shall exercise its best  
 7 efforts to retire existing debt or to obtain approval of  
 8 necessary parties to amend the terms of existing debt, so as  
 9 to structure the most efficient plan to consolidate the three  
 10 separate accounts into a single account. By February 1, 2007,  
 11 the board shall submit a report to the Financial Services  
 12 Commission, the President of the Senate, and the Speaker of  
 13 the House of Representatives which includes an analysis of  
 14 consolidating the accounts, the actions the board has taken to  
 15 minimize the cost of carrying debt, and its recommendations  
 16 for executing the most efficient plan.

17         c. Creditors of the Residential Property and Casualty  
 18 Joint Underwriting Association shall have a claim against, and  
 19 recourse to, the accounts referred to in sub-sub-subparagraphs  
 20 a.(I) and (II) and shall have no claim against, or recourse  
 21 to, the account referred to in sub-sub-subparagraph a.(III).  
 22 Creditors of the Florida Windstorm Underwriting Association  
 23 shall have a claim against, and recourse to, the account  
 24 referred to in sub-sub-subparagraph a.(III) and shall have no  
 25 claim against, or recourse to, the accounts referred to in  
 26 sub-sub-subparagraphs a.(I) and (II).

27         d. Revenues, assets, liabilities, losses, and expenses  
 28 not attributable to particular accounts shall be prorated  
 29 among the accounts.

30         e. The Legislature finds that the revenues of the  
 31 corporation are revenues that are necessary to meet the

1 requirements set forth in documents authorizing the issuance  
2 of bonds under this subsection.

3 f. No part of the income of the corporation may inure  
4 to the benefit of any private person.

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

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

12 b. When the deficit incurred in a particular calendar  
13 year exceeds 10 percent of the aggregate statewide direct  
14 written premium for the subject lines of business for the  
15 prior calendar year, the corporation shall levy regular  
16 assessments on assessable insurers under paragraph (p) and on  
17 assessable insureds in an amount equal to the greater of 10  
18 percent of the deficit or 10 percent of the aggregate  
19 statewide direct written premium for the subject lines of  
20 business for the prior calendar year. Any remaining deficit  
21 shall be recovered through emergency assessments under  
22 sub-subparagraph d.

23 c. Each assessable insurer's share of the amount being  
24 assessed under sub-subparagraph a. or sub-subparagraph b.  
25 shall be in the proportion that the assessable insurer's  
26 direct written premium for the subject lines of business for  
27 the year preceding the assessment bears to the aggregate  
28 statewide direct written premium for the subject lines of  
29 business for that year. The assessment percentage applicable  
30 to each assessable insured is the ratio of the amount being  
31 assessed under sub-subparagraph a. or sub-subparagraph b. to

1 the aggregate statewide direct written premium for the subject  
 2 lines of business for the prior year. Assessments levied by  
 3 the corporation on assessable insurers under sub-subparagraphs  
 4 a. and b. shall be paid as required by the corporation's plan  
 5 of operation and paragraph (p). Notwithstanding any other  
 6 provision of this subsection, the aggregate amount of a  
 7 regular assessment for a deficit incurred in a particular  
 8 calendar year shall be reduced by the estimated amount to be  
 9 received by the corporation from the Citizens policyholder  
 10 surcharge under subparagraph (c)11. and the amount collected  
 11 or estimated to be collected from the assessment on Citizens  
 12 policyholders pursuant to sub-subparagraph i. Assessments  
 13 levied by the corporation on assessable insureds under  
 14 sub-subparagraphs a. and b. shall be collected by the surplus  
 15 lines agent at the time the surplus lines agent collects the  
 16 surplus lines tax required by s. 626.932 and shall be paid to  
 17 the Florida Surplus Lines Service Office at the time the  
 18 surplus lines agent pays the surplus lines tax to the Florida  
 19 Surplus Lines Service Office. Upon receipt of regular  
 20 assessments from surplus lines agents, the Florida Surplus  
 21 Lines Service Office shall transfer the assessments directly  
 22 to the corporation as determined by the corporation.

23       d. Upon a determination by the board of governors that  
 24 a deficit in an account exceeds the amount that will be  
 25 recovered through regular assessments under sub-subparagraph  
 26 a. or sub-subparagraph b., the board shall levy, after  
 27 verification by the office, emergency assessments, for as many  
 28 years as necessary to cover the deficits, to be collected by  
 29 assessable insurers and the corporation and collected from  
 30 assessable insureds upon issuance or renewal of policies for  
 31 subject lines of business, excluding National Flood Insurance

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1 policies. The amount of the emergency assessment collected in  
2 a particular year shall be a uniform percentage of that year's  
3 direct written premium for subject lines of business and all  
4 accounts of the corporation, excluding National Flood  
5 Insurance Program policy premiums, as annually determined by  
6 the board and verified by the office. The office shall verify  
7 the arithmetic calculations involved in the board's  
8 determination within 30 days after receipt of the information  
9 on which the determination was based. Notwithstanding any  
10 other provision of law, the corporation and each assessable  
11 insurer that writes subject lines of business shall collect  
12 emergency assessments from its policyholders without such  
13 obligation being affected by any credit, limitation,  
14 exemption, or deferment. Emergency assessments levied by the  
15 corporation on assessable insureds shall be collected by the  
16 surplus lines agent at the time the surplus lines agent  
17 collects the surplus lines tax required by s. 626.932 and  
18 shall be paid to the Florida Surplus Lines Service Office at  
19 the time the surplus lines agent pays the surplus lines tax to  
20 the Florida Surplus Lines Service Office. The emergency  
21 assessments so collected shall be transferred directly to the  
22 corporation on a periodic basis as determined by the  
23 corporation and shall be held by the corporation solely in the  
24 applicable account. The aggregate amount of emergency  
25 assessments levied for an account under this sub-subparagraph  
26 in any calendar year may not exceed the greater of 10 percent  
27 of the amount needed to cover the original deficit, plus  
28 interest, fees, commissions, required reserves, and other  
29 costs associated with financing of the original deficit, or 10  
30 percent of the aggregate statewide direct written premium for  
31 subject lines of business and for all accounts of the

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1 corporation for the prior year, plus interest, fees,  
2 commissions, required reserves, and other costs associated  
3 with financing the original deficit.

4 e. The corporation may pledge the proceeds of  
5 assessments, projected recoveries from the Florida Hurricane  
6 Catastrophe Fund, other insurance and reinsurance  
7 recoverables, policyholder surcharges and other surcharges,  
8 and other funds available to the corporation as the source of  
9 revenue for and to secure bonds issued under paragraph (p),  
10 bonds or other indebtedness issued under subparagraph (c)3.,  
11 or lines of credit or other financing mechanisms issued or  
12 created under this subsection, or to retire any other debt  
13 incurred as a result of deficits or events giving rise to  
14 deficits, or in any other way that the board determines will  
15 efficiently recover such deficits. The purpose of the lines of  
16 credit or other financing mechanisms is to provide additional  
17 resources to assist the corporation in covering claims and  
18 expenses attributable to a catastrophe. As used in this  
19 subsection, the term "assessments" includes regular  
20 assessments under sub-subparagraph a., sub-subparagraph b., or  
21 subparagraph (p)1. and emergency assessments under  
22 sub-subparagraph d. Emergency assessments collected under  
23 sub-subparagraph d. are not part of an insurer's rates, are  
24 not premium, and are not subject to premium tax, fees, or  
25 commissions; however, failure to pay the emergency assessment  
26 shall be treated as failure to pay premium. The emergency  
27 assessments under sub-subparagraph d. shall continue as long  
28 as any bonds issued or other indebtedness incurred with  
29 respect to a deficit for which the assessment was imposed  
30 remain outstanding, unless adequate provision has been made  
31 for the payment of such bonds or other indebtedness pursuant

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1 to the documents governing such bonds or other indebtedness.

2 f. As used in this subsection, the term "subject lines  
3 of business" means insurance written by assessable insurers or  
4 procured by assessable insureds for all property and casualty  
5 lines of business in this state, but not including workers'  
6 compensation or medical malpractice. As used in the  
7 sub-subparagraph, the term "property and casualty lines of  
8 business" includes all lines of business identified on Form 2,  
9 Exhibit of Premiums and Losses, in the annual statement  
10 required of authorized insurers by s. 624.424 and any rule  
11 adopted under this section, except for those lines identified  
12 as accident and health insurance and except for policies  
13 written under the National Flood Insurance program or the  
14 Federal Crop Insurance Program. For purposes of this  
15 sub-subparagraph, the term "workers' compensation" includes  
16 both workers' compensation insurance and excess workers'  
17 compensation insurance. ~~on real or personal property, as~~  
18 defined in s. 624.604, including insurance for fire,  
19 ~~industrial fire, allied lines, farmowners multiperil,~~  
20 ~~homeowners multiperil, commercial multiperil, and mobile~~  
21 ~~homes, and including liability coverage on all such insurance,~~  
22 ~~but excluding inland marine as defined in s. 624.607(3) and~~  
23 ~~excluding vehicle insurance as defined in s. 624.605(1) other~~  
24 ~~than insurance on mobile homes used as permanent dwellings.~~

25 g. The Florida Surplus Lines Service Office shall  
26 determine annually the aggregate statewide written premium in  
27 subject lines of business procured by assessable insureds and  
28 shall report that information to the corporation in a form and  
29 at a time the corporation specifies to ensure that the  
30 corporation can meet the requirements of this subsection and  
31 the corporation's financing obligations.

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1           h. The Florida Surplus Lines Service Office shall  
 2 verify the proper application by surplus lines agents of  
 3 assessment percentages for regular assessments and emergency  
 4 assessments levied under this subparagraph on assessable  
 5 insureds and shall assist the corporation in ensuring the  
 6 accurate, timely collection and payment of assessments by  
 7 surplus lines agents as required by the corporation.

8           i. If a deficit is incurred in any account in 2008 or  
 9 thereafter, the board of governors shall levy an immediate  
 10 assessment against the premium of each nonhomestead property  
 11 policyholder in all accounts of the corporation, as a uniform  
 12 percentage of the premium of the policy of up to 10 percent of  
 13 such premium, which funds shall be used to offset the deficit.  
 14 If this assessment is insufficient to eliminate the deficit,  
 15 the board of governors shall levy an additional assessment  
 16 against all policyholders of the corporation, which shall be  
 17 collected at the time of issuance or renewal of a policy, as a  
 18 uniform percentage of the premium for the policy of up to 10  
 19 percent of such premium, which funds shall be used to further  
 20 offset the deficit.

21           j. The board of governors shall maintain separate  
 22 accounting records that consolidate data for nonhomestead  
 23 properties, including, but not limited to, number of policies,  
 24 insured values, premiums written, and losses. The board of  
 25 governors shall annually report to the office and the  
 26 Legislature a summary of such data.

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

28           1. Must provide for adoption of residential property  
 29 and casualty insurance policy forms and commercial residential  
 30 and nonresidential property insurance forms, which forms must  
 31 be approved by the office prior to use. The corporation shall

1 adopt the following policy forms:

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

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

12 c. Commercial lines residential and nonresidential  
13 policy forms that are generally similar to the basic perils of  
14 full coverage obtainable for commercial residential structures  
15 and commercial nonresidential structures in the admitted  
16 voluntary market.

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

22 e. Commercial lines nonresidential property insurance  
23 forms that cover the peril of wind only. The forms are  
24 applicable only to nonresidential properties located in areas  
25 eligible for coverage under the high-risk account referred to  
26 in sub-subparagraph (b)2.a.

27 f. The corporation may adopt variations of the policy  
28 forms listed in sub-subparagraphs a.-e. that contain more  
29 restrictive coverage.

30 2.a. Must provide that the corporation adopt a program  
31 in which the corporation and authorized insurers enter into



1 | quota share primary insurance agreements for hurricane  
 2 | coverage, as defined in s. 627.4025(2)(a), for eligible risks,  
 3 | and adopt property insurance forms for eligible risks which  
 4 | cover the peril of wind only. As used in this subsection, the  
 5 | term:

6 |         (I) "Quota share primary insurance" means an  
 7 | arrangement in which the primary hurricane coverage of an  
 8 | eligible risk is provided in specified percentages by the  
 9 | corporation and an authorized insurer. The corporation and  
 10 | authorized insurer are each solely responsible for a specified  
 11 | percentage of hurricane coverage of an eligible risk as set  
 12 | forth in a quota share primary insurance agreement between the  
 13 | corporation and an authorized insurer and the insurance  
 14 | contract. The responsibility of the corporation or authorized  
 15 | insurer to pay its specified percentage of hurricane losses of  
 16 | an eligible risk, as set forth in the quota share primary  
 17 | insurance agreement, may not be altered by the inability of  
 18 | the other party to the agreement to pay its specified  
 19 | percentage of hurricane losses. Eligible risks that are  
 20 | provided hurricane coverage through a quota share primary  
 21 | insurance arrangement must be provided policy forms that set  
 22 | forth the obligations of the corporation and authorized  
 23 | insurer under the arrangement, clearly specify the percentages  
 24 | of quota share primary insurance provided by the corporation  
 25 | and authorized insurer, and conspicuously and clearly state  
 26 | that neither the authorized insurer nor the corporation may be  
 27 | held responsible beyond its specified percentage of coverage  
 28 | of hurricane losses.

29 |         (II) "Eligible risks" means personal lines residential  
 30 | and commercial lines residential risks that meet the  
 31 | underwriting criteria of the corporation and are located in

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1 areas that were eligible for coverage by the Florida Windstorm  
2 Underwriting Association on January 1, 2002.

3           b. The corporation may enter into quota share primary  
4 insurance agreements with authorized insurers at corporation  
5 coverage levels of 90 percent and 50 percent.

6           c. If the corporation determines that additional  
7 coverage levels are necessary to maximize participation in  
8 quota share primary insurance agreements by authorized  
9 insurers, the corporation may establish additional coverage  
10 levels. However, the corporation's quota share primary  
11 insurance coverage level may not exceed 90 percent.

12           d. Any quota share primary insurance agreement entered  
13 into between an authorized insurer and the corporation must  
14 provide for a uniform specified percentage of coverage of  
15 hurricane losses, by county or territory as set forth by the  
16 corporation board, for all eligible risks of the authorized  
17 insurer covered under the quota share primary insurance  
18 agreement.

19           e. Any quota share primary insurance agreement entered  
20 into between an authorized insurer and the corporation is  
21 subject to review and approval by the office. However, such  
22 agreement shall be authorized only as to insurance contracts  
23 entered into between an authorized insurer and an insured who  
24 is already insured by the corporation for wind coverage.

25           f. For all eligible risks covered under quota share  
26 primary insurance agreements, the exposure and coverage levels  
27 for both the corporation and authorized insurers shall be  
28 reported by the corporation to the Florida Hurricane  
29 Catastrophe Fund. For all policies of eligible risks covered  
30 under quota share primary insurance agreements, the  
31 corporation and the authorized insurer shall maintain complete

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1 and accurate records for the purpose of exposure and loss  
 2 reimbursement audits as required by Florida Hurricane  
 3 Catastrophe Fund rules. The corporation and the authorized  
 4 insurer shall each maintain duplicate copies of policy  
 5 declaration pages and supporting claims documents.

6 g. The corporation board shall establish in its plan  
 7 of operation standards for quota share agreements which ensure  
 8 that there is no discriminatory application among insurers as  
 9 to the terms of quota share agreements, pricing of quota share  
 10 agreements, incentive provisions if any, and consideration  
 11 paid for servicing policies or adjusting claims.

12 h. The quota share primary insurance agreement between  
 13 the corporation and an authorized insurer must set forth the  
 14 specific terms under which coverage is provided, including,  
 15 but not limited to, the sale and servicing of policies issued  
 16 under the agreement by the insurance agent of the authorized  
 17 insurer producing the business, the reporting of information  
 18 concerning eligible risks, the payment of premium to the  
 19 corporation, and arrangements for the adjustment and payment  
 20 of hurricane claims incurred on eligible risks by the claims  
 21 adjuster and personnel of the authorized insurer. Entering  
 22 into a quota sharing insurance agreement between the  
 23 corporation and an authorized insurer shall be voluntary and  
 24 at the discretion of the authorized insurer.

25 3. May provide that the corporation may employ or  
 26 otherwise contract with individuals or other entities to  
 27 provide administrative or professional services that may be  
 28 appropriate to effectuate the plan. The corporation shall have  
 29 the power to borrow funds, by issuing bonds or by incurring  
 30 other indebtedness, and shall have other powers reasonably  
 31 necessary to effectuate the requirements of this subsection,

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1 including, without limitation, the power to issue bonds and  
2 incur other indebtedness in order to refinance outstanding  
3 bonds or other indebtedness. The corporation may, but is not  
4 required to, seek judicial validation of its bonds or other  
5 indebtedness under chapter 75. The corporation may issue bonds  
6 or incur other indebtedness, or have bonds issued on its  
7 behalf by a unit of local government pursuant to subparagraph  
8 (g)2., in the absence of a hurricane or other weather-related  
9 event, upon a determination by the corporation, subject to  
10 approval by the office, that such action would enable it to  
11 efficiently meet the financial obligations of the corporation  
12 and that such financings are reasonably necessary to  
13 effectuate the requirements of this subsection. The  
14 corporation is authorized to take all actions needed to  
15 facilitate tax-free status for any such bonds or indebtedness,  
16 including formation of trusts or other affiliated entities.  
17 The corporation shall have the authority to pledge  
18 assessments, projected recoveries from the Florida Hurricane  
19 Catastrophe Fund, other reinsurance recoverables, market  
20 equalization and other surcharges, and other funds available  
21 to the corporation as security for bonds or other  
22 indebtedness. In recognition of s. 10, Art. I of the State  
23 Constitution, prohibiting the impairment of obligations of  
24 contracts, it is the intent of the Legislature that no action  
25 be taken whose purpose is to impair any bond indenture or  
26 financing agreement or any revenue source committed by  
27 contract to such bond or other indebtedness.

28       4.a. Must require that the corporation operate subject  
29 to the supervision and approval of a board of governors  
30 consisting of eight individuals who are residents of this  
31 state, from different geographical areas of this state. The

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1 Governor, the Chief Financial Officer, the President of the  
2 Senate, and the Speaker of the House of Representatives shall  
3 each appoint two members of the board. At least one of the two  
4 members appointed by each appointing officer must have  
5 demonstrated expertise in insurance. The Chief Financial  
6 Officer shall designate one of the appointees as chair. All  
7 board members serve at the pleasure of the appointing officer.  
8 All board members, including the chair, must be appointed to  
9 serve for 3-year terms beginning annually on a date designated  
10 by the plan. Any board vacancy shall be filled for the  
11 unexpired term by the appointing officer. The Chief Financial  
12 Officer shall appoint a technical advisory group to provide  
13 information and advice to the board of governors in connection  
14 with the board's duties under this subsection. The executive  
15 director and senior managers of the corporation shall be  
16 engaged by the board and serve at the pleasure of the board.  
17 Any executive director appointed on or after July 1, 2006, is  
18 subject to confirmation by the Senate. The executive director  
19 is responsible for employing other staff as the corporation  
20 may require, subject to review and concurrence by the board.

21       b. The board shall create a Market Accountability  
22 Advisory Committee to assist the corporation in developing  
23 awareness of its rates and its customer and agent service  
24 levels in relationship to the voluntary market insurers  
25 writing similar coverage. The members of the advisory  
26 committee shall consist of the following 11 persons, one of  
27 whom must be elected chair by the members of the committee:  
28 four representatives, one appointed by the Florida Association  
29 of Insurance Agents, one by the Florida Association of  
30 Insurance and Financial Advisors, one by the Professional  
31 Insurance Agents of Florida, and one by the Latin American

1 Association of Insurance Agencies; three representatives  
 2 appointed by the insurers with the three highest voluntary  
 3 market share of residential property insurance business in the  
 4 state; one representative from the Office of Insurance  
 5 Regulation; one consumer appointed by the board who is insured  
 6 by the corporation at the time of appointment to the  
 7 committee; one representative appointed by the Florida  
 8 Association of Realtors; and one representative appointed by  
 9 the Florida Bankers Association. All members must serve for  
 10 3-year terms and may serve for consecutive terms. The  
 11 committee shall report to the corporation at each board  
 12 meeting on insurance market issues which may include rates and  
 13 rate competition with the voluntary market; service, including  
 14 policy issuance, claims processing, and general responsiveness  
 15 to policyholders, applicants, and agents; and matters relating  
 16 to depopulation.

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

19           a. Subject to the provisions of s. 627.3517, with  
 20 respect to personal lines residential risks, if the risk is  
 21 offered coverage from an authorized insurer at the insurer's  
 22 approved rate under either a standard policy including wind  
 23 coverage or, if consistent with the insurer's underwriting  
 24 rules as filed with the office, a basic policy including wind  
 25 coverage, the risk is not eligible for any policy issued by  
 26 the corporation unless the premium for coverage from the  
 27 authorized insurer is more than 25 percent greater than the  
 28 premium for comparable coverage from the corporation. If the  
 29 risk is not able to obtain any such offer, the risk is  
 30 eligible for either a standard policy including wind coverage  
 31 or a basic policy including wind coverage issued by the

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1 corporation; however, if the risk could not be insured under a  
 2 standard policy including wind coverage regardless of market  
 3 conditions, the risk shall be eligible for a basic policy  
 4 including wind coverage unless rejected under subparagraph 8.  
 5 The corporation shall determine the type of policy to be  
 6 provided on the basis of objective standards specified in the  
 7 underwriting manual and based on generally accepted  
 8 underwriting practices.

9 (I) If the risk accepts an offer of coverage through  
 10 the market assistance plan or an offer of coverage through a  
 11 mechanism established by the corporation before a policy is  
 12 issued to the risk by the corporation or during the first 30  
 13 days of coverage by the corporation, and the producing agent  
 14 who submitted the application to the plan or to the  
 15 corporation is not currently appointed by the insurer, the  
 16 insurer shall:

17 (A) Pay to the producing agent of record of the  
 18 policy, for the first year, an amount that is the greater of  
 19 the insurer's usual and customary commission for the type of  
 20 policy written or a fee equal to the usual and customary  
 21 commission of the corporation; or

22 (B) Offer to allow the producing agent of record of  
 23 the policy to continue servicing the policy for a period of  
 24 not less than 1 year and offer to pay the agent the greater of  
 25 the insurer's or the corporation's usual and customary  
 26 commission for the type of policy written.

27  
 28 If the producing agent is unwilling or unable to accept  
 29 appointment, the new insurer shall pay the agent in accordance  
 30 with sub-sub-sub-subparagraph (A).

31 (II) When the corporation enters into a contractual

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1 agreement for a take-out plan, the producing agent of record  
2 of the corporation policy is entitled to retain any unearned  
3 commission on the policy, and the insurer shall:

4 (A) Pay to the producing agent of record of the  
5 corporation policy, for the first year, an amount that is the  
6 greater of the insurer's usual and customary commission for  
7 the type of policy written or a fee equal to the usual and  
8 customary commission of the corporation; or

9 (B) Offer to allow the producing agent of record of  
10 the corporation policy to continue servicing the policy for a  
11 period of not less than 1 year and offer to pay the agent the  
12 greater of the insurer's or the corporation's usual and  
13 customary commission for the type of policy written.

14  
15 If the producing agent is unwilling or unable to accept  
16 appointment, the new insurer shall pay the agent in accordance  
17 with sub-sub-sub-subparagraph (A).

18 b. With respect to commercial lines residential risks,  
19 if the risk is offered coverage under a policy including wind  
20 coverage from an authorized insurer at its approved rate, the  
21 risk is not eligible for any policy issued by the corporation  
22 unless the premium for coverage from the authorized insurer is  
23 more than 25 percent greater than the premium for comparable  
24 coverage from the corporation. If the risk is not able to  
25 obtain any such offer, the risk is eligible for a policy  
26 including wind coverage issued by the corporation.

27 (I) If the risk accepts an offer of coverage through  
28 the market assistance plan or an offer of coverage through a  
29 mechanism established by the corporation before a policy is  
30 issued to the risk by the corporation or during the first 30  
31 days of coverage by the corporation, and the producing agent



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1 | who submitted the application to the plan or the corporation  
2 | is not currently appointed by the insurer, the insurer shall:

3 |       (A) Pay to the producing agent of record of the  
4 | policy, for the first year, an amount that is the greater of  
5 | the insurer's usual and customary commission for the type of  
6 | policy written or a fee equal to the usual and customary  
7 | commission of the corporation; or

8 |       (B) Offer to allow the producing agent of record of  
9 | the policy to continue servicing the policy for a period of  
10 | not less than 1 year and offer to pay the agent the greater of  
11 | the insurer's or the corporation's usual and customary  
12 | commission for the type of policy written.

13 |  
14 | If the producing agent is unwilling or unable to accept  
15 | appointment, the new insurer shall pay the agent in accordance  
16 | with sub-sub-sub-subparagraph (A).

17 |       (II) When the corporation enters into a contractual  
18 | agreement for a take-out plan, the producing agent of record  
19 | of the corporation policy is entitled to retain any unearned  
20 | commission on the policy, and the insurer shall:

21 |       (A) Pay to the producing agent of record of the  
22 | corporation policy, for the first year, an amount that is the  
23 | greater of the insurer's usual and customary commission for  
24 | the type of policy written or a fee equal to the usual and  
25 | customary commission of the corporation; or

26 |       (B) Offer to allow the producing agent of record of  
27 | the corporation policy to continue servicing the policy for a  
28 | period of not less than 1 year and offer to pay the agent the  
29 | greater of the insurer's or the corporation's usual and  
30 | customary commission for the type of policy written.

31 |

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1 | If the producing agent is unwilling or unable to accept  
2 | appointment, the new insurer shall pay the agent in accordance  
3 | with sub-sub-sub-subparagraph (A).

4 |         6. Must provide by July 1, 2007, that an application  
5 | for coverage for a new policy is subject to a waiting period  
6 | of 10 days before coverage is effective, during which time the  
7 | corporation shall make such application available for review  
8 | by general lines agents and authorized property and casualty  
9 | insurers. The board may approve exceptions that allow for  
10 | coverage to be effective before the end of the 10-day waiting  
11 | period, for coverage issued in conjunction with a real estate  
12 | closing, and for such other exceptions as the board determines  
13 | are necessary to prevent lapses in coverage.

14 |         7. Must include rules for classifications of risks and  
15 | rates therefor.

16 |         8. Must provide that if premium and investment income  
17 | for an account attributable to a particular calendar year are  
18 | in excess of projected losses and expenses for the account  
19 | attributable to that year, such excess shall be held in  
20 | surplus in the account. Such surplus shall be available to  
21 | defray deficits in that account as to future years and shall  
22 | be used for that purpose prior to assessing assessable  
23 | insurers and assessable insureds as to any calendar year.

24 |         9. Must provide objective criteria and procedures to  
25 | be uniformly applied for all applicants in determining whether  
26 | an individual risk is so hazardous as to be uninsurable. In  
27 | making this determination and in establishing the criteria and  
28 | procedures, the following shall be considered:

29 |             a. Whether the likelihood of a loss for the individual  
30 | risk is substantially higher than for other risks of the same  
31 | class; and

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1           b. Whether the uncertainty associated with the  
2 individual risk is such that an appropriate premium cannot be  
3 determined.

4  
5 The acceptance or rejection of a risk by the corporation shall  
6 be construed as the private placement of insurance, and the  
7 provisions of chapter 120 shall not apply.

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

12           11. Must provide that in the event of regular deficit  
13 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
14 (b)3.b., in the personal lines account, the commercial lines  
15 residential account, or the high-risk account, the corporation  
16 shall levy upon corporation policyholders in its next rate  
17 filing, or by a separate rate filing solely for this purpose,  
18 a Citizens policyholder surcharge arising from a regular  
19 assessment in such account in a percentage equal to the total  
20 amount of such regular assessments divided by the aggregate  
21 statewide direct written premium for subject lines of business  
22 for the prior calendar year. For purposes of calculating the  
23 Citizens policyholder surcharge to be levied under this  
24 subparagraph, the total amount of the regular assessment to  
25 which this surcharge is related shall be determined as set  
26 forth in subparagraph (b)3., without deducting the estimated  
27 Citizens policyholder surcharge. Citizens policyholder  
28 surcharges under this subparagraph are not considered premium  
29 and are not subject to commissions, fees, or premium taxes;  
30 however, failure to pay a market equalization surcharge shall  
31 be treated as failure to pay premium.

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1           12. The policies issued by the corporation must  
 2 provide that, if the corporation or the market assistance plan  
 3 obtains an offer from an authorized insurer to cover the risk  
 4 at its approved rates, the risk is no longer eligible for  
 5 renewal through the corporation, except as otherwise provided  
 6 in this subsection.

7           13. Corporation policies and applications must include  
 8 a notice that the corporation policy could, under this  
 9 section, be replaced with a policy issued by an authorized  
 10 insurer that does not provide coverage identical to the  
 11 coverage provided by the corporation. The notice shall also  
 12 specify that acceptance of corporation coverage creates a  
 13 conclusive presumption that the applicant or policyholder is  
 14 aware of this potential.

15           14. May establish, subject to approval by the office,  
 16 different eligibility requirements and operational procedures  
 17 for any line or type of coverage for any specified county or  
 18 area if the board determines that such changes to the  
 19 eligibility requirements and operational procedures are  
 20 justified due to the voluntary market being sufficiently  
 21 stable and competitive in such area or for such line or type  
 22 of coverage and that consumers who, in good faith, are unable  
 23 to obtain insurance through the voluntary market through  
 24 ordinary methods would continue to have access to coverage  
 25 from the corporation. When coverage is sought in connection  
 26 with a real property transfer, such requirements and  
 27 procedures shall not provide for an effective date of coverage  
 28 later than the date of the closing of the transfer as  
 29 established by the transferor, the transferee, and, if  
 30 applicable, the lender.

31           15. Must provide that, with respect to the high-risk

1 account, any assessable insurer with a surplus as to  
 2 policyholders of \$25 million or less writing 25 percent or  
 3 more of its total countrywide property insurance premiums in  
 4 this state may petition the office, within the first 90 days  
 5 of each calendar year, to qualify as a limited apportionment  
 6 company. A regular assessment levied by the corporation on a  
 7 limited apportionment company for a deficit incurred by the  
 8 corporation for the high-risk account in 2006 or thereafter  
 9 may be paid to the corporation on a monthly basis as the  
 10 assessments are collected by the limited apportionment company  
 11 from its insureds pursuant to s. 627.3512, but the regular  
 12 assessment must be paid in full within 12 months after being  
 13 levied by the corporation. A limited apportionment company  
 14 shall collect from its policyholders any emergency assessment  
 15 imposed under sub-subparagraph (b)3.d. The plan shall provide  
 16 that, if the office determines that any regular assessment  
 17 will result in an impairment of the surplus of a limited  
 18 apportionment company, the office may direct that all or part  
 19 of such assessment be deferred as provided in subparagraph  
 20 (g)4. However, there shall be no limitation or deferment of an  
 21 emergency assessment to be collected from policyholders under  
 22 sub-subparagraph (b)3.d.

23         16. Must provide that the corporation appoint as its  
 24 licensed agents only those agents who also hold an appointment  
 25 as defined in s. 626.015(3) with an insurer who at the time of  
 26 the agent's initial appointment by the corporation is  
 27 authorized to write and is actually writing personal lines  
 28 residential property coverage, commercial residential property  
 29 coverage, or commercial nonresidential property coverage  
 30 within the state.

31         17. Must provide, by July 1, 2007, a premium payment

1 plan option to its policyholders which allows for quarterly  
2 and semiannual payment of premiums.

3           18. Must provide, effective June 1, 2007, that the  
4 corporation contract with each insurer providing the non-wind  
5 coverage for risks insured by the corporation in the high-risk  
6 account, requiring that the insurer provide claims adjusting  
7 services for the wind coverage provided by the corporation for  
8 such risks. An insurer is required to enter into this contract  
9 as a condition of providing non-wind coverage for a risk that  
10 is insured by the corporation in the high-risk account unless  
11 the board finds, after a hearing, that the insurer is not  
12 capable of providing adjusting services at an acceptable level  
13 of quality to corporation policyholders. The terms and  
14 conditions of such contracts must be substantially the same as  
15 the contracts that the corporation executed with insurers  
16 under the "adjust-your-own" program in 2006, except as may be  
17 mutually agreed to by the parties and except for such changes  
18 that the board determines are necessary to ensure that claims  
19 are adjusted appropriately. The corporation shall provide a  
20 process for neutral arbitration of any dispute between the  
21 corporation and the insurer regarding the terms of the  
22 contract. The corporation shall review and monitor the  
23 performance of insurers under these contracts.

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

27           20. May provide such limits of coverage as the board  
28 determines, consistent with the requirements of this  
29 subsection.

30           21. May require commercial property to meet specified  
31 hurricane mitigation construction features as a condition of

1 eligibility for coverage.

2 (m)1.

3 ~~a.~~ Rates for coverage provided by the corporation  
4 shall be actuarially sound and subject to the requirements of  
5 s. 627.062, except as otherwise provided in this paragraph.

6 The corporation shall file its recommended rates with the  
7 office at least annually. The corporation shall provide any  
8 additional information regarding the rates which the office  
9 requires. The office shall consider the recommendations of the  
10 board and issue a final order establishing the rates for the  
11 corporation within 45 days after the recommended rates are  
12 filed. The corporation may not pursue an administrative  
13 challenge or judicial review of the final order of the office.

14 ~~not competitive with approved rates charged in the admitted~~  
15 ~~voluntary market, so that the corporation functions as a~~  
16 ~~residual market mechanism to provide insurance only when the~~  
17 ~~insurance cannot be procured in the voluntary market. Rates~~  
18 ~~shall include an appropriate catastrophe loading factor that~~  
19 ~~reflects the actual catastrophic exposure of the corporation.~~  
20 ~~For policies in the personal lines account and the commercial~~  
21 ~~lines account issued or renewed on or after March 1, 2007, a~~  
22 ~~rate is deemed inadequate if the rate, including investment~~  
23 ~~income, is not sufficient to provide for the procurement of~~  
24 ~~coverage under the Florida Hurricane Catastrophe Fund and~~  
25 ~~private reinsurance costs, whether or not reinsurance is~~  
26 ~~procured, and to pay all claims and expenses reasonably~~  
27 ~~expected to result from a 100-year probable maximum loss event~~  
28 ~~without resort to any regular or emergency assessments,~~  
29 ~~long term debt, state revenues, or other funding sources. For~~  
30 ~~policies in the high risk account issued or renewed on or~~  
31 ~~after March 1, 2007, a rate is deemed inadequate if the rate,~~

1 ~~including investment income, is not sufficient to provide for~~  
 2 ~~the procurement of coverage under the Florida Hurricane~~  
 3 ~~Catastrophe Fund and private reinsurance costs, whether or not~~  
 4 ~~reinsurance is procured, and to pay all claims and expenses~~  
 5 ~~reasonably expected to result from a 70-year probable maximum~~  
 6 ~~loss event with resort to any regular or emergency~~  
 7 ~~assessments, long-term debt, state revenues, or other funding~~  
 8 ~~sources. For policies in the high-risk account issued or~~  
 9 ~~renewed in 2008 and 2009, the rate must be based upon an~~  
 10 ~~85-year and 100-year probable maximum loss event,~~  
 11 ~~respectively.~~

12         ~~b. It is the intent of the Legislature to reaffirm the~~  
 13 ~~requirement of rate adequacy in the residual market.~~  
 14 ~~Recognizing that rates may comply with the intent expressed in~~  
 15 ~~sub-subparagraph a. and yet be inadequate and recognizing the~~  
 16 ~~public need to limit subsidies within the residual market, it~~  
 17 ~~is the further intent of the Legislature to establish~~  
 18 ~~statutory standards for rate adequacy. Such standards are~~  
 19 ~~intended to supplement the standard specified in s.~~  
 20 ~~627.062(2)(e)3., providing that rates are inadequate if they~~  
 21 ~~are clearly insufficient to sustain projected losses and~~  
 22 ~~expenses in the class of business to which they apply.~~

23         ~~2. For each county, the average rates of the~~  
 24 ~~corporation for each line of business for personal lines~~  
 25 ~~residential policies excluding rates for wind-only policies~~  
 26 ~~shall be no lower than the average rates charged by the~~  
 27 ~~insurer that had the highest average rate in that county among~~  
 28 ~~the 20 insurers with the greatest total direct written premium~~  
 29 ~~in the state for that line of business in the preceding year,~~  
 30 ~~except that with respect to mobile home coverages, the average~~  
 31 ~~rates of the corporation shall be no lower than the average~~



1 ~~rates charged by the insurer that had the highest average rate~~  
 2 ~~in that county among the 5 insurers with the greatest total~~  
 3 ~~written premium for mobile home owner's policies in the state~~  
 4 ~~in the preceding year.~~

5 ~~3. Rates for personal lines residential wind only~~  
 6 ~~policies must be actuarially sound and not competitive with~~  
 7 ~~approved rates charged by authorized insurers. If the filing~~  
 8 ~~under this subparagraph is made at least 90 days before the~~  
 9 ~~proposed effective date and the filing is not implemented~~  
 10 ~~during the office's review of the filing and any proceeding~~  
 11 ~~and judicial review, such filing shall be considered a "file~~  
 12 ~~and use" filing. In such case, the office shall finalize its~~  
 13 ~~review by issuance of a notice of intent to approve or a~~  
 14 ~~notice of intent to disapprove within 90 days after receipt of~~  
 15 ~~the filing. The notice of intent to approve and the notice of~~  
 16 ~~intent to disapprove constitute agency action for purposes of~~  
 17 ~~the Administrative Procedure Act. Requests for supporting~~  
 18 ~~information, requests for mathematical or mechanical~~  
 19 ~~corrections, or notification to the insurer by the office of~~  
 20 ~~its preliminary findings shall not toll the 90-day period~~  
 21 ~~during any such proceedings and subsequent judicial review.~~  
 22 ~~The rate shall be deemed approved if the office does not issue~~  
 23 ~~a notice of intent to approve or a notice of intent to~~  
 24 ~~disapprove within 90 days after receipt of the filing.~~

25 ~~Corporation rate manuals shall include a rate surcharge for~~  
 26 ~~seasonal occupancy. To ensure that personal lines residential~~  
 27 ~~wind-only rates are not competitive with approved rates~~  
 28 ~~charged by authorized insurers, the corporation, in~~  
 29 ~~conjunction with the office, shall develop a wind-only~~  
 30 ~~ratemaking methodology, which methodology shall be contained~~  
 31 ~~in each rate filing made by the corporation with the office.~~

1 ~~If the office determines that the wind-only rates or rating~~  
 2 ~~factors filed by the corporation fail to comply with the~~  
 3 ~~wind-only ratemaking methodology provided for in this~~  
 4 ~~subsection, it shall so notify the corporation and require the~~  
 5 ~~corporation to amend its rates or rating factors to come into~~  
 6 ~~compliance within 90 days of notice from the office.~~

7         4. ~~The requirements of this paragraph that rates not~~  
 8 ~~be competitive with approved rates charged by authorized~~  
 9 ~~insurers do not apply in a county or area for which the office~~  
 10 ~~determines that no authorized insurer is offering coverage.~~  
 11 ~~The corporation shall amend its rates or rating factors for~~  
 12 ~~the affected county or area in conjunction with its next rate~~  
 13 ~~filing after such determination is made.~~

14         5. ~~For the purposes of establishing a pilot program to~~  
 15 ~~evaluate issues relating to the availability and affordability~~  
 16 ~~of insurance in an area where historically there has been~~  
 17 ~~little market competition, the provisions of subparagraph 2.~~  
 18 ~~do not apply to coverage provided by the corporation in Monroe~~  
 19 ~~County if the office determines that a reasonable degree of~~  
 20 ~~competition does not exist for personal lines residential~~  
 21 ~~policies. The provisions of subparagraph 3. do not apply to~~  
 22 ~~coverage provided by the corporation in Monroe County if the~~  
 23 ~~office determines that a reasonable degree of competition does~~  
 24 ~~not exist for personal lines residential policies in the area~~  
 25 ~~of that county which is eligible for wind-only coverage. In~~  
 26 ~~this county, the rates for personal lines residential coverage~~  
 27 ~~shall be actuarially sound and not excessive, inadequate, or~~  
 28 ~~unfairly discriminatory and are subject to the other~~  
 29 ~~provisions of the paragraph and s. 627.062. The commission~~  
 30 ~~shall adopt rules establishing the criteria for determining~~  
 31 ~~whether a reasonable degree of competition exists for personal~~

1 ~~lines residential policies in Monroe County. By March 1, 2006,~~  
 2 ~~the office shall submit a report to the Legislature providing~~  
 3 ~~an evaluation of the implementation of the pilot program~~  
 4 ~~affecting Monroe County.~~

5 ~~6. Rates for commercial lines coverage shall not be~~  
 6 ~~subject to the requirements of subparagraph 2., but shall be~~  
 7 ~~subject to all other requirements of this paragraph and s.~~  
 8 ~~627.062.~~

9 ~~7. Nothing in this paragraph shall require or allow~~  
 10 ~~the corporation to adopt a rate that is inadequate under s.~~  
 11 ~~627.062.~~

12 ~~8. The corporation shall certify to the office at~~  
 13 ~~least twice annually that its personal lines rates comply with~~  
 14 ~~the requirements of subparagraphs 1., 2., and 3. If any~~  
 15 ~~adjustment in the rates or rating factors of the corporation~~  
 16 ~~is necessary to ensure such compliance, the corporation shall~~  
 17 ~~make and implement such adjustments and file its revised rates~~  
 18 ~~and rating factors with the office. If the office thereafter~~  
 19 ~~determines that the revised rates and rating factors fail to~~  
 20 ~~comply with the provisions of subparagraphs 1., 2., and 3., it~~  
 21 ~~shall notify the corporation and require the corporation to~~  
 22 ~~amend its rates or rating factors in conjunction with its next~~  
 23 ~~rate filing. The office must notify the corporation by~~  
 24 ~~electronic means of any rate filing it approves for any~~  
 25 ~~insurer among the insurers referred to in subparagraph 2.~~

26 ~~2.9. In addition to the rates otherwise determined~~  
 27 ~~pursuant to this paragraph, the corporation shall impose and~~  
 28 ~~collect an amount equal to the premium tax provided for in s.~~  
 29 ~~624.509 to augment the financial resources of the corporation.~~

30 ~~10. The corporation shall develop a notice to~~  
 31 ~~policyholders or applicants that the rates of Citizens~~

1 ~~Property Insurance Corporation are intended to be higher than~~  
 2 ~~the rates of any admitted carrier and providing other~~  
 3 ~~information the corporation deems necessary to assist~~  
 4 ~~consumers in finding other voluntary admitted insurers willing~~  
 5 ~~to insure their property.~~

6       ~~3.11.~~ After the public hurricane loss-projection model  
 7 under s. 627.06281 has been found to be accurate and reliable  
 8 by the Florida Commission on Hurricane Loss Projection  
 9 Methodology, that model shall serve as the minimum benchmark  
 10 for determining the windstorm portion of the corporation's  
 11 rates. This subparagraph does not require or allow the  
 12 corporation to adopt rates lower than the rates otherwise  
 13 required or allowed by this paragraph.

14       4. The rate filings for the corporation which were  
 15 approved by the office and which took effect January 1, 2007,  
 16 are rescinded, except for those rates that were lowered. As  
 17 soon as possible, the corporation shall begin using the lower  
 18 rates that were in effect on December 31, 2006, and shall  
 19 provide refunds to policyholders who have paid higher rates as  
 20 a result of that rate filing. The rates in effect on December  
 21 31, 2006, shall remain in effect for the 2007 calendar year  
 22 except for any rate change that results in a lower rate. The  
 23 next rate change that may increase rates shall take effect  
 24 January 1, 2008, pursuant to a new rate filing recommended by  
 25 the corporation and established by the office, subject to the  
 26 requirements of this paragraph.

27       (p)1. The corporation shall certify to the office its  
 28 needs for annual assessments as to a particular calendar year,  
 29 and for any interim assessments that it deems to be necessary  
 30 to sustain operations as to a particular year pending the  
 31 receipt of annual assessments. Upon verification, the office

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1 shall approve such certification, and the corporation shall  
2 levy such annual or interim assessments. Such assessments  
3 shall be prorated as provided in paragraph (b). The  
4 corporation shall take all reasonable and prudent steps  
5 necessary to collect the amount of assessment due from each  
6 assessable insurer, including, if prudent, filing suit to  
7 collect such assessment. If the corporation is unable to  
8 collect an assessment from any assessable insurer, the  
9 uncollected assessments shall be levied as an additional  
10 assessment against the assessable insurers and any assessable  
11 insurer required to pay an additional assessment as a result  
12 of such failure to pay shall have a cause of action against  
13 such nonpaying assessable insurer. Assessments shall be  
14 included as an appropriate factor in the making of rates. The  
15 failure of a surplus lines agent to collect and remit any  
16 regular or emergency assessment levied by the corporation is  
17 considered to be a violation of s. 626.936 and subjects the  
18 surplus lines agent to the penalties provided in that section.

19       2. The governing body of any unit of local government,  
20 any residents of which are insured by the corporation, may  
21 issue bonds as defined in s. 125.013 or s. 166.101 from time  
22 to time to fund an assistance program, in conjunction with the  
23 corporation, for the purpose of defraying deficits of the  
24 corporation. In order to avoid needless and indiscriminate  
25 proliferation, duplication, and fragmentation of such  
26 assistance programs, any unit of local government, any  
27 residents of which are insured by the corporation, may provide  
28 for the payment of losses, regardless of whether or not the  
29 losses occurred within or outside of the territorial  
30 jurisdiction of the local government. Revenue bonds under this  
31 subparagraph may not be issued until validated pursuant to

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1 chapter 75, unless a state of emergency is declared by  
2 executive order or proclamation of the Governor pursuant to s.  
3 252.36 making such findings as are necessary to determine that  
4 it is in the best interests of, and necessary for, the  
5 protection of the public health, safety, and general welfare  
6 of residents of this state and declaring it an essential  
7 public purpose to permit certain municipalities or counties to  
8 issue such bonds as will permit relief to claimants and  
9 policyholders of the corporation. Any such unit of local  
10 government may enter into such contracts with the corporation  
11 and with any other entity created pursuant to this subsection  
12 as are necessary to carry out this paragraph. Any bonds issued  
13 under this subparagraph shall be payable from and secured by  
14 moneys received by the corporation from emergency assessments  
15 under sub-subparagraph (b)3.d., and assigned and pledged to or  
16 on behalf of the unit of local government for the benefit of  
17 the holders of such bonds. The funds, credit, property, and  
18 taxing power of the state or of the unit of local government  
19 shall not be pledged for the payment of such bonds. If any of  
20 the bonds remain unsold 60 days after issuance, the office  
21 shall require all insurers subject to assessment to purchase  
22 the bonds, which shall be treated as admitted assets; each  
23 insurer shall be required to purchase that percentage of the  
24 unsold portion of the bond issue that equals the insurer's  
25 relative share of assessment liability under this subsection.  
26 An insurer shall not be required to purchase the bonds to the  
27 extent that the office determines that the purchase would  
28 endanger or impair the solvency of the insurer.

29       3.a. The corporation shall adopt one or more programs  
30 subject to approval by the office for the reduction of both  
31 new and renewal writings in the corporation. Beginning January

1 1, 2008, any program the corporation adopts for the payment of  
2 bonuses to an insurer for each risk the insurer removes from  
3 the corporation shall comply with s. 627.3511(2) and may not  
4 exceed the amount referenced in s. 627.3511(2) for each risk  
5 removed. The corporation may consider any prudent and not  
6 unfairly discriminatory approach to reducing corporation  
7 writings, and may adopt a credit against assessment liability  
8 or other liability that provides an incentive for insurers to  
9 take risks out of the corporation and to keep risks out of the  
10 corporation by maintaining or increasing voluntary writings in  
11 counties or areas in which corporation risks are highly  
12 concentrated and a program to provide a formula under which an  
13 insurer voluntarily taking risks out of the corporation by  
14 maintaining or increasing voluntary writings will be relieved  
15 wholly or partially from assessments under sub-subparagraphs  
16 (b)3.a. and b. However, any "take-out bonus" or payment to an  
17 insurer must be conditioned on the property being insured for  
18 at least 5 years by the insurer, unless canceled or nonrenewed  
19 by the policyholder. If the policy is canceled or nonrenewed  
20 by the policyholder before the end of the 5-year period, the  
21 amount of the take-out bonus must be prorated for the time  
22 period the policy was insured. When the corporation enters  
23 into a contractual agreement for a take-out plan, the  
24 producing agent of record of the corporation policy is  
25 entitled to retain any unearned commission on such policy, and  
26 the insurer shall either:

27 (I) Pay to the producing agent of record of the  
28 policy, for the first year, an amount which is the greater of  
29 the insurer's usual and customary commission for the type of  
30 policy written or a policy fee equal to the usual and  
31 customary commission of the corporation; or

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

8 b. Any credit or exemption from regular assessments  
 9 adopted under this subparagraph shall last no longer than the  
 10 3 years following the cancellation or expiration of the policy  
 11 by the corporation. With the approval of the office, the board  
 12 may extend such credits for an additional year if the insurer  
 13 guarantees an additional year of renewability for all policies  
 14 removed from the corporation, or for 2 additional years if the  
 15 insurer guarantees 2 additional years of renewability for all  
 16 policies so removed.

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

20 4. The plan shall provide for the deferment, in whole  
 21 or in part, of the assessment of an assessable insurer, other  
 22 than an emergency assessment collected from policyholders  
 23 pursuant to sub-subparagraph (b)3.d., if the office finds that  
 24 payment of the assessment would endanger or impair the  
 25 solvency of the insurer. In the event an assessment against an  
 26 assessable insurer is deferred in whole or in part, the amount  
 27 by which such assessment is deferred may be assessed against  
 28 the other assessable insurers in a manner consistent with the  
 29 basis for assessments set forth in paragraph (b).

30 5. Effective July 1, 2007, in order to evaluate the  
 31 costs and benefits of approved take-out plans, if the



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1 corporation pays a bonus or other payment to an insurer for an  
2 approved take-out plan, it shall maintain a record of the  
3 address or such other identifying information on the property  
4 or risk removed in order to track if and when the property or  
5 risk is later insured by the corporation.

6 6. Any policy taken out, assumed, or removed from the  
7 corporation is, as of the effective date of the take-out,  
8 assumption, or removal, direct insurance issued by the insurer  
9 and not by the corporation, even if the corporation continues  
10 to service the policies. This subparagraph applies to policies  
11 of the corporation and not policies taken out, assumed, or  
12 removed from any other entity.

13 (s) For the purposes of s. 199.183(1), the corporation  
14 shall be considered a political subdivision of the state and  
15 shall be exempt from the corporate income tax. The premiums,  
16 assessments, investment income, and other revenue of the  
17 corporation are funds received for providing property  
18 insurance coverage as required by this subsection, paying  
19 claims for Florida citizens insured by the corporation,  
20 securing and repaying debt obligations issued by the  
21 corporation, and conducting all other activities of the  
22 corporation, and shall not be considered taxes, fees,  
23 licenses, or charges for services imposed by the Legislature  
24 on individuals, businesses, or agencies outside state  
25 government. Bonds and other debt obligations issued by or on  
26 behalf of the corporation are not to be considered "state  
27 bonds" within the meaning of s. 215.58(8). The corporation is  
28 not subject to the procurement provisions of chapter 287, and  
29 policies and decisions of the corporation relating to  
30 incurring debt, levying of assessments and the sale, issuance,  
31 continuation, terms and claims under corporation policies, and

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1 all services relating thereto, are not subject to the  
 2 provisions of chapter 120. The corporation is not required to  
 3 obtain or to hold a certificate of authority issued by the  
 4 office, nor is it required to participate as a member insurer  
 5 of the Florida Insurance Guaranty Association. However, the  
 6 corporation is required to pay, in the same manner as an  
 7 authorized insurer, assessments levied ~~pledged~~ by the Florida  
 8 Insurance Guaranty Association ~~to secure bonds issued or other~~  
 9 ~~indebtedness incurred to pay covered claims arising from~~  
 10 ~~insurer insolvencies caused by, or proximately related to,~~  
 11 ~~hurricane losses~~. It is the intent of the Legislature that the  
 12 tax exemptions provided in this paragraph will augment the  
 13 financial resources of the corporation to better enable the  
 14 corporation to fulfill its public purposes. Any debt  
 15 obligations issued by the corporation, their transfer, and the  
 16 income therefrom, including any profit made on the sale  
 17 thereof, shall at all times be free from taxation of every  
 18 kind by the state and any political subdivision or local unit  
 19 or other instrumentality thereof; however, this exemption does  
 20 not apply to any tax imposed by chapter 220 on interest,  
 21 income, or profits on debt obligations owned by corporations  
 22 other than the corporation.

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

25 Section 28. It is the intent of the Legislature that  
 26 commercial nonresidential property insurance coverage be made  
 27 available from Citizens Property Insurance Corporation  
 28 (Citizens), under s. 627.351(6), Florida Statutes, as amended  
 29 by this act, rather than from the Property and Casualty Joint  
 30 Underwriting Association (PCJUA), under s. 627.351(5), Florida  
 31 Statutes. As soon as it is reasonably able to do so, Citizens

1 shall adopt, subject to approval of the Office of Insurance  
2 Regulation, a plan providing for the transition of such  
3 coverage from the PCJUA to Citizens under such forms, rates,  
4 terms, and conditions as the board of Citizens considers  
5 appropriate. The plan shall include any contractual agreements  
6 between Citizens and the PCJUA which are required to effect  
7 the transition. In the transition plan, Citizens may assume  
8 policies or otherwise provide coverage for the commercial  
9 nonresidential policyholders of the PCJUA and may also provide  
10 for allocating to the appropriate account or accounts of  
11 Citizens the revenues, assets, liabilities, losses, and  
12 expenses associated with policies of the PCJUA which are  
13 assumed or otherwise covered by Citizens. It is the intent of  
14 the Legislature that the transition plan be implemented in a  
15 manner that does not adversely affect the creditworthiness of  
16 or security for currently outstanding financing obligations or  
17 credit facilities of the high-risk account, the personal lines  
18 account, or the commercial lines account. The order issued by  
19 the Office of Insurance Regulation may allow the PCJUA to  
20 continue to issue such coverage until the time that Citizens  
21 begins issuing such coverage.

22           Section 29. Subsections (3), (4), (5), and (7) of  
23 section 627.701, Florida Statutes, are amended to read:

24           627.701 Liability of insureds; coinsurance;  
25 deductibles.--

26           ~~(3)(a) A policy of residential property insurance~~  
27 ~~shall include a deductible amount applicable to hurricane~~  
28 ~~losses no lower than \$500 and no higher than 2 percent of the~~  
29 ~~policy dwelling limits with respect to personal lines~~  
30 ~~residential risks, and no higher than 3 percent of the policy~~  
31 ~~limits with respect to commercial lines residential risks;~~

1 ~~however, if a risk was covered on August 24, 1992, under a~~  
2 ~~policy having a higher deductible than the deductibles allowed~~  
3 ~~by this paragraph, a policy covering such risk may include a~~  
4 ~~deductible no higher than the deductible in effect on August~~  
5 ~~24, 1992. Notwithstanding the other provisions of this~~  
6 ~~paragraph, a personal lines residential policy covering a risk~~  
7 ~~valued at \$50,000 or less may include a deductible amount~~  
8 ~~attributable to hurricane losses no lower than \$250, and a~~  
9 ~~personal lines residential policy covering a risk valued at~~  
10 ~~\$100,000 or more may include a deductible amount attributable~~  
11 ~~to hurricane losses no higher than 10 percent of the policy~~  
12 ~~limits unless subject to a higher deductible on August 24,~~  
13 ~~1992; however, no maximum deductible is required with respect~~  
14 ~~to a personal lines residential policy covering a risk valued~~  
15 ~~at more than \$500,000. An insurer may require a higher~~  
16 ~~deductible, provided such deductible is the same as or similar~~  
17 ~~to a deductible program lawfully in effect on June 14, 1995.~~  
18 ~~In addition to the deductible amounts authorized by this~~  
19 ~~paragraph, an insurer may also offer policies with a copayment~~  
20 ~~provision under which, after exhaustion of the deductible, the~~  
21 ~~policyholder is responsible for 10 percent of the next \$10,000~~  
22 ~~of insured hurricane losses.~~

23 (a)(b)1. Except as otherwise provided in this  
24 paragraph, prior to issuing a personal lines residential  
25 property insurance policy ~~on or after January 1, 2006, or~~  
26 ~~prior to the first renewal of a residential property insurance~~  
27 ~~policy on or after January 1, 2006, the insurer must offer~~  
28 alternative deductible amounts applicable to hurricane losses  
29 equal to \$500, 2 percent, 5 percent, and 10 percent of the  
30 policy dwelling limits, unless the specific percentage  
31 deductible is less than \$500. The written notice of the offer

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1 shall specify the hurricane or wind deductible to be applied  
 2 in the event that the applicant or policyholder fails to  
 3 affirmatively choose a hurricane deductible. The insurer must  
 4 provide such policyholder with notice of the availability of  
 5 the deductible amounts specified in this paragraph in a form  
 6 approved by the office in conjunction with each renewal of the  
 7 policy. The failure to provide such notice constitutes a  
 8 violation of this code but does not affect the coverage  
 9 provided under the policy.

10 2. For policies issued or renewed on or after July 1,  
 11 2007, an insurer that is subject to subparagraph 1. must also  
 12 offer a deductible applicable to hurricane losses which covers  
 13 50 percent of the policyholder's equity in a structure that is  
 14 subject to a mortgage or lien. As a condition of making this  
 15 offer, the insurer may require the policyholder or financial  
 16 institution or other lienholder that holds the mortgage to  
 17 provide documentation annually to the insurer identifying the  
 18 amount of the policyholder's equity projected for the policy  
 19 year. The deductible may be structured to cover 50 percent of  
 20 the policyholder's equity as of the effective date of the  
 21 policy renewal or the deductible may be scheduled to reflect a  
 22 monthly adjustment that tracks the change in the  
 23 policyholder's equity. The commission may adopt rules to  
 24 administer this subparagraph.

25 ~~3.2.~~ This paragraph does not apply with respect to a  
 26 deductible program lawfully in effect on June 14, 1995, or to  
 27 any similar deductible program, if the deductible program  
 28 requires a minimum deductible amount of no less than 2 percent  
 29 of the policy limits.

30 ~~4.3.~~ With respect to a policy covering a risk with  
 31 dwelling limits of at least \$100,000, but less than \$250,000,

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1 the insurer may, in lieu of offering a policy with a \$500  
 2 hurricane or wind deductible as required by subparagraph 1.,  
 3 offer a policy that the insurer guarantees it will not  
 4 nonrenew for reasons of reducing hurricane loss for one  
 5 renewal period and that contains up to a 2 percent hurricane  
 6 or wind deductible as required by subparagraph 1.

7 ~~5.4.~~ With respect to a policy covering a risk with  
 8 dwelling limits of \$250,000 or more, the insurer need not  
 9 offer the \$500 hurricane deductible as required by  
 10 subparagraph 1., but must, except as otherwise provided in  
 11 this subsection, offer the other hurricane deductibles as  
 12 required by subparagraph 1.

13 (4)(a) Any policy that contains a separate hurricane  
 14 deductible must on its face include in boldfaced type no  
 15 smaller than 18 points the following statement: "THIS POLICY  
 16 CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY  
 17 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy  
 18 containing a coinsurance provision applicable to hurricane  
 19 losses must on its face include in boldfaced type no smaller  
 20 than 18 points the following statement: "THIS POLICY CONTAINS  
 21 A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET  
 22 EXPENSES TO YOU."

23 (b) ~~Beginning October 1, 2005,~~ For any personal lines  
 24 residential property insurance policy containing a separate  
 25 hurricane deductible, the insurer shall compute and  
 26 prominently display the actual dollar value of the hurricane  
 27 deductible on the declarations page of the policy at issuance  
 28 and, for renewal, on the renewal declarations page of the  
 29 policy or on the premium renewal notice.

30 (c) ~~Beginning October 1, 2005,~~ For any personal lines  
 31 residential property insurance policy containing an inflation

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1 guard rider, the insurer shall compute and prominently display  
2 the actual dollar value of the hurricane deductible on the  
3 declarations page of the policy at issuance and, for renewal,  
4 on the renewal declarations page of the policy or on the  
5 premium renewal notice. In addition, ~~beginning October 1,~~  
6 ~~2005,~~ for any personal lines residential property insurance  
7 policy containing an inflation guard rider, the insurer shall  
8 notify the policyholder of the possibility that the hurricane  
9 deductible may be higher than indicated when loss occurs due  
10 to application of the inflation guard rider. Such notification  
11 shall be made on the declarations page of the policy at  
12 issuance and, for renewal, on the renewal declarations page of  
13 the policy or on the premium renewal notice.

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

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

26 b. If the structure insured by the policy is subject  
27 to a mortgage or lien, the policyholder must provide the  
28 insurer with a written statement from the mortgageholder or  
29 lienholder indicating that the mortgageholder or lienholder  
30 approves the policyholder electing to have the specified  
31 deductible.

1           2. A deductible subject to the requirements of this  
 2 paragraph applies only for the term of the policy and must be  
 3 newly executed upon each renewal pursuant to the requirements  
 4 of this paragraph.

5           3. An insurer shall keep the original copy of the  
 6 signed statement required by this paragraph and provide a copy  
 7 to the policyholder providing the signed statement. A signed  
 8 statement meeting the requirements of this paragraph creates a  
 9 presumption that there was an informed, knowing election of  
 10 coverage.

11           4. The commission shall adopt rules providing  
 12 appropriate alternative methods for providing the statements  
 13 required by this section for policyholders who have a  
 14 handicapping or disabling condition that prevents them from  
 15 providing a handwritten statement.

16           (5)(a) The hurricane deductible of any personal lines  
 17 residential property insurance policy ~~issued or renewed on or~~  
 18 ~~after May 1, 2005,~~ shall be applied as follows:

19           1. The hurricane deductible shall apply on an annual  
 20 basis to all covered hurricane losses that occur during the  
 21 calendar year for losses that are covered under one or more  
 22 policies issued by the same insurer or an insurer in the same  
 23 insurer group.

24           2. If a hurricane deductible applies separately to  
 25 each of one or more structures insured under a single policy,  
 26 the requirements of this paragraph apply with respect to the  
 27 deductible for each structure.

28           3. If there was a hurricane loss for a prior hurricane  
 29 or hurricanes during the calendar year, the insurer may apply  
 30 a deductible to a subsequent hurricane which is the greater of  
 31 the remaining amount of the hurricane deductible or the amount



1 of the deductible that applies to perils other than a  
 2 hurricane. Insurers may require policyholders to report  
 3 hurricane losses that are below the hurricane deductible or to  
 4 maintain receipts or other records of such hurricane losses in  
 5 order to apply such losses to subsequent hurricane claims.

6       4. If there are hurricane losses in a calendar year on  
 7 more than one policy issued by the same insurer or an insurer  
 8 in the same insurer group, the hurricane deductible shall be  
 9 the highest amount stated in any one of the policies. If a  
 10 policyholder who had a hurricane loss under the prior policy  
 11 is provided or offered a lower hurricane deductible under the  
 12 new or renewal policy, the insurer must notify the  
 13 policyholder, in writing, at the time the lower hurricane  
 14 deductible is provided or offered, that the lower hurricane  
 15 deductible will not apply until January 1 of the following  
 16 calendar year.

17       (b) For commercial residential property insurance  
 18 policies ~~issued or renewed on or after January 1, 2006~~, the  
 19 insurer must offer the policyholder the following alternative  
 20 hurricane deductibles:

21       1. A hurricane deductible that applies on an annual  
 22 basis as provided in paragraph (a); and

23       2. A hurricane deductible that applies to each  
 24 hurricane.

25       (7) Prior to issuing a personal lines residential  
 26 property insurance policy ~~on or after April 1, 1997, or prior~~  
 27 ~~to the first renewal of a residential property insurance~~  
 28 ~~policy on or after April 1, 1997~~, the insurer must offer a  
 29 deductible equal to \$500 applicable to losses from perils  
 30 other than hurricane. The insurer must provide the  
 31 policyholder with notice of the availability of the deductible

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1 | specified in this subsection in a form approved by the office  
 2 | at least once every 3 years. The failure to provide such  
 3 | notice constitutes a violation of this code but does not  
 4 | affect the coverage provided under the policy. An insurer may  
 5 | require a higher deductible only as part of a deductible  
 6 | program lawfully in effect on June 1, 1996, or as part of a  
 7 | similar deductible program.

8 |       Section 30. Effective July 1, 2007, section 627.706,  
 9 | Florida Statutes, is amended to read:

10 |           627.706 Sinkhole insurance; definitions.--

11 |           (1) Every insurer authorized to transact property  
 12 | insurance in this state shall provide coverage for a  
 13 | catastrophic ground cover collapse and shall make available,  
 14 | for an appropriate additional premium, coverage for ~~insurable~~  
 15 | sinkhole losses on any structure, including contents of  
 16 | personal property contained therein, to the extent provided in  
 17 | the form to which the ~~sinkhole~~ coverage attaches. A policy for  
 18 | residential property insurance may include a deductible amount  
 19 | applicable to sinkhole losses equal to 1 percent, 2 percent, 5  
 20 | percent, or 10 percent of the policy dwelling limits, with  
 21 | appropriate premium discounts offered with each deductible  
 22 | amount.

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

26 |           (a) "Catastrophic ground cover collapse" means  
 27 | geological activity that results in the collapse of the ground  
 28 | cover and the insured structure being condemned and ordered to  
 29 | be vacated by the governmental agency authorized by law to  
 30 | issue such an order for that structure.

31 |           ~~(b)(a)~~ "Sinkhole" means a landform created by

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1 subsidence of soil, sediment, or rock as underlying strata are  
2 dissolved by groundwater. A sinkhole may form by collapse into  
3 subterranean voids created by dissolution of limestone or  
4 dolostone or by subsidence as these strata are dissolved.

5 ~~(c)(b)~~ "Sinkhole loss" means structural damage to the  
6 building, including the foundation, caused by sinkhole  
7 activity. Contents coverage shall apply only if there is  
8 structural damage to the building caused by sinkhole activity.

9 ~~(d)(c)~~ "Sinkhole activity" means settlement or  
10 systematic weakening of the earth supporting such property  
11 only when such settlement or systematic weakening results from  
12 movement or raveling of soils, sediments, or rock materials  
13 into subterranean voids created by the effect of water on a  
14 limestone or similar rock formation.

15 ~~(e)(d)~~ "Professional engineer" means a person, as  
16 defined in s. 471.005, who has a bachelor's degree or higher  
17 in engineering with a specialty in the geotechnical  
18 engineering field. A professional engineer must have  
19 geotechnical experience and expertise in the identification of  
20 sinkhole activity as well as other potential causes of damage  
21 to the structure.

22 ~~(f)(e)~~ "Professional geologist" means a person, as  
23 defined by s. 492.102, who has a bachelor's degree or higher  
24 in geology or related earth science with expertise in the  
25 geology of Florida. A professional geologist must have  
26 geological experience and expertise in the identification of  
27 sinkhole activity as well as other potential geologic causes  
28 of damage to the structure.

29 (3) Every insurer authorized to transact property  
30 insurance in this state shall make a proper filing with the  
31 office for the purpose of extending the appropriate forms of

1 | property insurance to include coverage for catastrophic ground  
2 | cover collapse or for sinkhole losses.

3 |       Section 31. Subsection (2) of section 627.7065,  
4 | Florida Statutes, is amended to read:

5 |           627.7065 Database of information relating to  
6 | sinkholes; the Department of Financial Services and the  
7 | Department of Environmental Protection.--

8 |       (2) The Department of Financial Services, including  
9 | the employee of the Division of Consumer Services designated  
10 | as the primary contact for consumers on issues relating to  
11 | sinkholes, and the ~~Office of the~~ Insurance Consumer Advocate  
12 | shall consult with the Florida Geological Survey and the  
13 | Department of Environmental Protection to implement a  
14 | statewide automated database of sinkholes and related activity  
15 | identified in the state.

16 |       Section 32. Effective July 1, 2007, section 627.712,  
17 | Florida Statutes, is created to read:

18 |           627.712 Residential hurricane coverage required;  
19 | availability of exclusions for windstorm or contents.--

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

25 |       (2) An insurer that is subject to subsection (1) must  
26 | make available, at the option of the policyholder, an  
27 | exclusion of hurricane coverage or windstorm coverage. The  
28 | coverage may be excluded only if:

29 |       (a) The policyholder personally writes and provides to  
30 | the insurer the following statement in his or her own  
31 | handwriting and signs his or her name, which must also be

1 signed by every other named insured on the policy, and dated:

2 "I do not want the insurance on my (home / mobile home /  
3 condominium unit) to pay for damage from windstorms or  
4 hurricanes. I will pay those costs. My insurance will not."

5 (b) If the structure insured by the policy is subject  
6 to a mortgage or lien, the policyholder must provide the  
7 insurer with a written statement from the mortgageholder or  
8 lienholder indicating that the mortgageholder or lienholder  
9 approves the policyholder electing to exclude windstorm  
10 coverage or hurricane coverage from his or her residential  
11 property insurance policy.

12 (3) An insurer issuing a residential property  
13 insurance policy, except for a condominium unit owner's  
14 policy, must make available, at the option of the  
15 policyholder, an exclusion of coverage for the contents. The  
16 coverage may be excluded only if the policyholder personally  
17 writes and provides to the insurer the following statement in  
18 his or her own handwriting and signs his or her signature,  
19 which must also be signed by every other named insured on the  
20 policy, and dated: "I do not want the insurance on my (home /  
21 mobile home) to pay for the costs to repair or replace any  
22 contents that are damaged. I will pay those costs. My  
23 insurance will not."

24 (4) An insurer shall keep the original copy of a  
25 signed statement required by this section and provide a copy  
26 to the policyholder providing the signed statement. A signed  
27 statement meeting the requirements of this section creates a  
28 presumption that there was an informed, knowing rejection of  
29 coverage.

30 (5) The exclusions authorized by this section are  
31 valid only for the term of the contract and must be newly

1 executed upon each contract renewal pursuant to the  
2 requirements of this section.

3 (6) The commission shall adopt rules providing  
4 appropriate alternative methods for providing the statements  
5 required by this section for policyholders who have a  
6 handicapping or disabling condition that prevents them from  
7 providing a handwritten statement.

8 Section 33. Section 627.713, Florida Statutes, is  
9 created to read:

10 627.713 Report of hurricane loss data.--

11 (1) The office may require property insurers to report  
12 data regarding hurricane claims and underwriting costs,  
13 including, but not limited to:

14 (a) Number of claims;

15 (b) Amount of claim payments made;

16 (c) Number and amount of total-loss claims;

17 (d) Amount and percentage of losses covered by  
18 reinsurance or other loss-transfer agreements;

19 (e) Amount of losses covered under specified  
20 deductibles;

21 (f) Claims and payments for specified insured values;

22 (g) Claims and payments for specified dollar values;

23 (h) Claims and payments for specified types of  
24 construction or mitigation features;

25 (i) Claims and payments for policies under specified  
26 underwriting criteria;

27 (j) Claims and payments for contents, additional  
28 living expense, and other specified coverages;

29 (k) Claims and payments by county for the information  
30 specified in this section; and

31 (l) Any other data that the office requires.

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1           (2) The commission may adopt rules pursuant to ss.  
2 120.536(1) and 120.54 to administer this section.

3           Section 34. Paragraph (e) of subsection (3) and  
4 subsection (4) of section 631.57, Florida Statutes, are  
5 amended to read:

6           631.57 Powers and duties of the association.--

7           (3)

8           (e)1.

9           a. In addition to assessments otherwise authorized in  
10 paragraph (a) and to the extent necessary to secure the funds  
11 for the account specified in s. 631.55(2)(c) for the direct  
12 payment of covered claims and to pay the reasonable costs to  
13 administer such claims, or to retire indebtedness, including,  
14 without limitation, the principal, redemption premium, if any,  
15 and interest on, and related costs of issuance of, bonds  
16 issued under s. 631.695 and the funding of any reserves and  
17 other payments required under the bond resolution or trust  
18 indenture pursuant to which such bonds have been issued, the  
19 office, upon certification of the board of directors, shall  
20 levy emergency assessments upon insurers holding a certificate  
21 of authority. The emergency assessments payable under this  
22 paragraph by any insurer shall not exceed in any single year  
23 more than 2 percent of that insurer's direct written premiums,  
24 net of refunds, in this state during the preceding calendar  
25 year for the kinds of insurance within the account specified  
26 in s. 631.55(2)(c).

27           b. Any emergency assessments authorized under this  
28 paragraph shall be levied by the office upon insurers referred  
29 to in sub-subparagraph a., upon certification as to the need  
30 for such assessments by the board of directors. In the event  
31 the board of directors participates in the issuance of bonds

1 in accordance with s. 631.695, emergency assessments shall be  
2 levied, in each year that bonds issued under s. 631.695 and  
3 secured by such emergency assessments are outstanding, in such  
4 amounts up to such 2-percent limit as required in order to  
5 provide for the full and timely payment of the principal of,  
6 redemption premium, if any, and interest on, and related costs  
7 of issuance of, such bonds. The emergency assessments provided  
8 for in this paragraph are assigned and pledged to the  
9 municipality, county, or legal entity issuing bonds under s.  
10 631.695 for the benefit of the holders of such bonds, in order  
11 to enable such municipality, county, or legal entity to  
12 provide for the payment of the principal of, redemption  
13 premium, if any, and interest on such bonds, the cost of  
14 issuance of such bonds, and the funding of any reserves and  
15 other payments required under the bond resolution or trust  
16 indenture pursuant to which such bonds have been issued,  
17 without the necessity of any further action by the  
18 association, the office, or any other party. To the extent  
19 bonds are issued under s. 631.695 and the association  
20 determines to secure such bonds by a pledge of revenues  
21 received from the emergency assessments, such bonds, upon such  
22 pledge of revenues, shall be secured by and payable from the  
23 proceeds of such emergency assessments, and the proceeds of  
24 emergency assessments levied under this paragraph shall be  
25 remitted directly to and administered by the trustee or  
26 custodian appointed for such bonds.

27 c. Emergency assessments under this paragraph may be  
28 payable in a single payment or, at the option of the  
29 association, may be payable in 12 monthly installments with  
30 the first installment being due and payable at the end of the  
31 month after an emergency assessment is levied and subsequent



1 | installments being due not later than the end of each  
2 | succeeding month.

3 |         d. If emergency assessments are imposed, the report  
4 | required by s. 631.695(7) shall include an analysis of the  
5 | revenues generated from the emergency assessments imposed  
6 | under this paragraph.

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

11 |         2. In order to ensure that insurers paying emergency  
12 | assessments levied under this paragraph continue to charge  
13 | rates that are neither inadequate nor excessive, within 90  
14 | days after being notified of such assessments, each insurer  
15 | that is to be assessed pursuant to this paragraph shall submit  
16 | a rate filing for coverage included within the account  
17 | specified in s. 631.55(2)(c) and for which rates are required  
18 | to be filed under s. 627.062. If the filing reflects a rate  
19 | change that, as a percentage, is equal to the difference  
20 | between the rate of such assessment and the rate of the  
21 | previous year's assessment under this paragraph, the filing  
22 | shall consist of a certification so stating and shall be  
23 | deemed approved when made. Any rate change of a different  
24 | percentage shall be subject to the standards and procedures of  
25 | s. 627.062.

26 |         3. In the event the board of directors participates in  
27 | the issuance of bonds in accordance with s. 631.695, an annual  
28 | assessment under this paragraph shall continue while the bonds  
29 | issued with respect to which the assessment was imposed are  
30 | outstanding, including any bonds the proceeds of which were  
31 | used to refund bonds issued pursuant to s. 631.695, unless

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1 adequate provision has been made for the payment of the bonds  
2 in the documents authorizing the issuance of such bonds.

3 4. Emergency assessments under this paragraph are not  
4 premium and are not subject to the premium tax, to any fees,  
5 or to any commissions. An insurer is liable for all emergency  
6 assessments that the insurer collects and shall treat the  
7 failure of an insured to pay an emergency assessment as a  
8 failure to pay the premium. An insurer is not liable for  
9 uncollectible emergency assessments.

10 (4) The department may exempt any insurer from any  
11 regular or emergency ~~an~~ assessment if an assessment would  
12 result in such insurer's financial statement reflecting an  
13 amount of capital or surplus less than the sum of the minimum  
14 amount required by any jurisdiction in which the insurer is  
15 authorized to transact insurance.

16 Section 35. The amendments to section 34 of chapter  
17 2006-12, Laws of Florida, authorized the Florida Insurance  
18 Guaranty Association to certify, and the Office of Insurance  
19 Regulation to levy, an emergency assessment of up to 2 percent  
20 to either directly pay the covered claims out of the account  
21 specified in s. 631.55(2)(c), Florida Statutes, or to use the  
22 proceeds of such emergency assessment to retire the  
23 indebtedness and the costs of bonds issued to pay such claims  
24 and reasonable claims-administration costs.

25 Section 36. Subsection (1) of section 631.912, Florida  
26 Statutes, is amended to read:

27 631.912 Board of directors.--

28 (1) The board of directors of the corporation shall  
29 consist of 11 persons, 1 of whom is the Insurance Consumer  
30 Advocate appointed under s. 350.0615 ~~s. 627.0613~~ or designee  
31 and 1 of whom is designated by the Chief Financial Officer.

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1 The department shall appoint to the board 6 persons selected  
2 by private carriers from among the 20 workers' compensation  
3 insurers with the largest amount of net direct written premium  
4 as determined by the department, and 3 persons selected by the  
5 self-insurance funds. At least two of the private carriers  
6 shall be foreign carriers authorized to do business in this  
7 state. The board shall elect a chairperson from among its  
8 members. The Chief Financial Officer may remove any board  
9 member for cause. Each board member shall serve for a 4-year  
10 term and may be reappointed. A vacancy on the board shall be  
11 filled for the remaining period of the term in the same manner  
12 by which the original appointment was made.

13 Section 37. Effective July 1, 2007, subsection (6) of  
14 section 627.0629, Florida Statutes, is repealed.

15 Section 38. Windstorm Mitigation Study Commission.--

16 (1)(a) The Windstorm Mitigation Study Commission is  
17 created and shall be composed of five members as follows:

18 1. Three members shall be appointed by the Governor,  
19 with one designated by the Governor to serve as chair.

20 2. One member shall be appointed by the Chief  
21 Financial Officer.

22 3. One member shall be appointed by the Commissioner  
23 of Insurance Regulation.

24 (b) Each member must be knowledgeable of issues  
25 concerning the mitigation of the effects of windstorms on  
26 structures in this state and at least one member must  
27 represent primarily the interests of homeowners.

28 (2)(a) The members of the commission shall serve  
29 without compensation, but are entitled to reimbursement for  
30 all necessary expenses incurred in performing their duties,  
31 including travel expenses, in accordance with s. 112.061,

1 Florida Statutes.

2 (b) The commission shall meet as necessary, at the  
3 call of the chair, and at the time and place designated by the  
4 chair. The commission may conduct its meetings through  
5 teleconferences or other similar means.

6 (3) The Department of Financial Services, the Office  
7 of Insurance Regulation, the Citizens Property Insurance  
8 Corporation, and other agencies of this state shall supply any  
9 information, assistance, and facilities that are considered  
10 necessary by the commission to carry out its duties under this  
11 section. The Executive Office of the Governor shall provide  
12 staff assistance as necessary in order to carry out the  
13 required clerical and administrative functions of the  
14 commission.

15 (4) The commission shall analyze those solutions and  
16 programs that address the state's acute need to mitigate the  
17 effects of windstorms on structures, especially residential  
18 property that is located in areas at greatest risk of  
19 windstorm damage, including programs or proposals that provide  
20 for:

21 (a) The availability of home inspections for windstorm  
22 resistance;

23 (b) Grants to assist homeowners, and possibly other  
24 groups of property owners, to harden their property against  
25 windstorm damage;

26 (c) The full actuarial value to be reflected in  
27 premium credits for windstorm mitigation;

28 (d) The most effective way to inform policyholders of  
29 the availability of and means by which to obtain premium  
30 credits for windstorm mitigation;

31 (e) Coordination among federal, local, and private

1 initiatives;

2 (f) Streamlining or strengthening applicable state,  
3 regional, and local regulations;

4 (g) The stimulation of public and private efforts to  
5 mitigate against windstorm injury and damage;

6 (h) The discovery and assessment of funding sources  
7 for windstorm mitigation;

8 (i) Tax incentives for windstorm mitigation;

9 (j) Consumer information concerning the benefits of  
10 windstorm mitigation, including personal safety as well as  
11 property security;

12 (k) Research on windstorm mitigation; and

13 (l) The development of a form for uniform mitigation  
14 verification inspection to be used by insurers when factoring  
15 discounts for wind insurance which clearly specifies the  
16 procedures necessary to receive the full value of a discount.

17  
18 The commission may develop any other solutions and programs  
19 that it considers appropriate.

20 (5) In performing its analysis, the commission shall  
21 consider both the safety of the residents of this state and  
22 the protection of real property, especially residential. In  
23 addition, the commission shall consider both short-term and  
24 long-term solutions and programs.

25 (6) The commission shall review, evaluate, and make  
26 recommendations regarding existing and proposed programs and  
27 initiatives for mitigating windstorm damage.

28 (7) The commission shall provide recommendations,  
29 including proposed legislation, to the Governor, the President  
30 of the Senate, the Speaker of the House of Representatives,  
31 the Chief Financial Officer, and the Commissioner of Insurance

1 Regulation by March 30, 2007.

2 Section 39. Florida Disaster Recovery Initiative.--

3 (1) There is established within the Department of  
 4 Community Affairs the Florida Disaster Recovery Initiative for  
 5 the purpose of assisting local governments in satisfying  
 6 disaster-recovery needs in the areas of low-income housing and  
 7 infrastructure, with a primary focus on the hardening of  
 8 single-family and multifamily housing units, not only to  
 9 ensure that affordable housing can withstand the effects of  
 10 hurricane-force winds, but also to mitigate the increasing  
 11 costs of insurance, which may ultimately render existing  
 12 affordable homes unaffordable or uninsurable. This section  
 13 does not create an entitlement for local governments or  
 14 property owners or obligate the state in any way to fund  
 15 disaster-recovery needs. Implementation of this initiative is  
 16 subject to annual legislative appropriations.

17 (2) The Department of Community Affairs shall  
 18 administer the initiative using funds provided through the  
 19 Emergency Supplemental Appropriations Act for Defense, the  
 20 Global War on Terror, and Hurricane Recovery, 2006, and those  
 21 funds shall be used to assist local governments in satisfying  
 22 their disaster-recovery needs in the areas of housing and  
 23 infrastructure.

24 (3) Entitlement and nonentitlement counties identified  
 25 under the Federal Disaster Declaration (FEMA-1609-DR),  
 26 federally recognized Indian tribes, and nonprofit  
 27 organizations are eligible to apply for funding.

28 (4) Up to 78 percent of these funds may be used to  
 29 complement the grants awarded by the Department of Financial  
 30 Services under s. 215.5586, Florida Statutes, and fund other  
 31 eligible disaster-related activities supporting housing

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1 rehabilitation, hardening, mitigation, and infrastructure  
 2 improvements at the request of the local governments in order  
 3 to assist the State of Florida in better serving low-income  
 4 homeowners in single-family housing units or condominiums. Up  
 5 to 20 percent of the funds may be used to provide inspections  
 6 and mitigation improvements to multifamily units receiving  
 7 rental assistance under projects of the United States  
 8 Department of Housing and Urban Development or the Rural  
 9 Development Division of the United States Department of  
 10 Agriculture.

11           Section 40. For the 2006-2007 fiscal year, the sum of  
 12 \$100,066,518 is appropriated in a Grant in Aid--Fixed Capital  
 13 Outlay appropriation category from the Florida Small Cities  
 14 Community Development Block Grant Program Fund to the  
 15 Department of Community Affairs for the purpose of  
 16 implementing the provisions of section 39 of this act. These  
 17 funds shall be used in a manner consistent with Federal  
 18 Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the  
 19 State of Florida Action Plan for Disaster Recovery as approved  
 20 by the United States Department of Housing and Urban  
 21 Development.

22           Section 41. Subsection (11) of section 718.111,  
 23 Florida Statutes, is amended to read:

24           718.111 The association.--

25           (11) INSURANCE.--In order to protect the safety,  
 26 health, and welfare of the people of the State of Florida and  
 27 to ensure consistency in the provision of insurance coverage  
 28 to condominiums and their unit owners, paragraphs (b) and (c)  
 29 are deemed to apply to every residential condominium in the  
 30 state, regardless of the date of its declaration of  
 31 condominium. It is the intent of the Legislature to encourage

1 lower or stable insurance premiums for associations described  
 2 in this section. Therefore, the Legislature requires a report  
 3 to be prepared by the Office of Insurance Regulation of the  
 4 Department of Financial Services for publication 18 months  
 5 from the effective date of this act, evaluating premium  
 6 increases or decreases for associations, unit owner premium  
 7 increases or decreases, recommended changes to better define  
 8 common areas, or any other information the Office of Insurance  
 9 Regulation deems appropriate.

10           (a) A unit-owner controlled association operating a  
 11 residential condominium shall use its best efforts to obtain  
 12 and maintain adequate insurance to protect the association,  
 13 the association property, the common elements, and the  
 14 condominium property required to be insured by the association  
 15 pursuant to paragraph (b). If the association is developer  
 16 controlled, the association shall exercise due diligence to  
 17 obtain and maintain such insurance. Failure to obtain and  
 18 maintain adequate insurance during any period of developer  
 19 control shall constitute a breach of fiduciary responsibility  
 20 by the developer-appointed members of the board of directors  
 21 of the association, unless said members can show that despite  
 22 such failure, they have exercised due diligence. The  
 23 declaration of condominium as originally recorded, or amended  
 24 pursuant to procedures provided therein, may require that  
 25 condominium property consisting of freestanding buildings  
 26 where there is no more than one building in or on such unit  
 27 need not be insured by the association if the declaration  
 28 requires the unit owner to obtain adequate insurance for the  
 29 condominium property. An association may also obtain and  
 30 maintain liability insurance for directors and officers,  
 31 insurance for the benefit of association employees, and flood



1 insurance for common elements, association property, and  
 2 units. Adequate insurance, regardless of any requirement in  
 3 the declaration of condominium for coverage by the association  
 4 for "full insurable value," "replacement cost," or the like,  
 5 may include reasonable deductibles as determined by the board  
 6 based upon available funds or predetermined assessment  
 7 authority at the time that the insurance is obtained.

8 1. Windstorm insurance coverage for a group of no  
 9 fewer than three communities created and operating under  
 10 chapter 718, chapter 719, chapter 720, or chapter 721 may be  
 11 obtained and maintained for the communities if the insurance  
 12 coverage is sufficient to cover an amount equal to the  
 13 probable maximum loss for the communities for a 250-year  
 14 windstorm event. Such probable maximum loss must be determined  
 15 through the use of a competent model that has been accepted by  
 16 the Florida Commission on Hurricane Loss Project Methodology.  
 17 Such insurance coverage is deemed adequate windstorm insurance  
 18 for the purposes of this section.

19 2. An association or group of associations may  
 20 self-insure against claims against the association, the  
 21 association property, and the condominium property required to  
 22 be insured by an association, upon compliance with the  
 23 applicable provisions of ss. 624.460-624.488, which shall be  
 24 considered adequate insurance for the purposes of this  
 25 section. A copy of each policy of insurance in effect shall be  
 26 made available for inspection by unit owners at reasonable  
 27 times.

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

31 1. All portions of the condominium property located

1 outside the units;

2           2. The condominium property located inside the units  
3 as such property was initially installed, or replacements  
4 thereof of like kind and quality and in accordance with the  
5 original plans and specifications or, if the original plans  
6 and specifications are not available, as they existed at the  
7 time the unit was initially conveyed; and

8           3. All portions of the condominium property for which  
9 the declaration of condominium requires coverage by the  
10 association.

11  
12 Anything to the contrary notwithstanding, the terms  
13 "condominium property," "building," "improvements," "insurable  
14 improvements," "common elements," "association property," or  
15 any other term found in the declaration of condominium which  
16 defines the scope of property or casualty insurance that a  
17 condominium association must obtain shall exclude all floor,  
18 wall, and ceiling coverings, electrical fixtures, appliances,  
19 air conditioner or heating equipment, water heaters, water  
20 filters, built-in cabinets and countertops, and window  
21 treatments, including curtains, drapes, blinds, hardware, and  
22 similar window treatment components, or replacements of any of  
23 the foregoing which are located within the boundaries of a  
24 unit and serve only one unit and all air conditioning  
25 compressors that service only an individual unit, whether or  
26 not located within the unit boundaries. The foregoing is  
27 intended to establish the property or casualty insuring  
28 responsibilities of the association and those of the  
29 individual unit owner and do not serve to broaden or extend  
30 the perils of coverage afforded by any insurance contract  
31 provided to the individual unit owner. Beginning January 1,

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1 | 2004, the association shall have the authority to amend the  
 2 | declaration of condominium, without regard to any requirement  
 3 | for mortgagee approval of amendments affecting insurance  
 4 | requirements, to conform the declaration of condominium to the  
 5 | coverage requirements of this section.

6 |       (c) Every hazard insurance policy issued or renewed on  
 7 | or after January 1, 2004, to an individual unit owner shall  
 8 | provide that the coverage afforded by such policy is excess  
 9 | over the amount recoverable under any other policy covering  
 10 | the same property. Each insurance policy issued to an  
 11 | individual unit owner providing such coverage shall be without  
 12 | rights of subrogation against the condominium association that  
 13 | operates the condominium in which such unit owner's unit is  
 14 | located. All real or personal property located within the  
 15 | boundaries of the unit owner's unit which is excluded from the  
 16 | coverage to be provided by the association as set forth in  
 17 | paragraph (b) shall be insured by the individual unit owner.

18 |       (d) The association shall obtain and maintain adequate  
 19 | insurance or fidelity bonding of all persons who control or  
 20 | disburse funds of the association. The insurance policy or  
 21 | fidelity bond must cover the maximum funds that will be in the  
 22 | custody of the association or its management agent at any one  
 23 | time. As used in this paragraph, the term "persons who control  
 24 | or disburse funds of the association" includes, but is not  
 25 | limited to, those individuals authorized to sign checks and  
 26 | the president, secretary, and treasurer of the association.  
 27 | The association shall bear the cost of bonding.

28 |       Section 42. Section 627.711, Florida Statutes, is  
 29 | amended to read:

30 |       627.711 Notice of premium discounts for hurricane loss  
 31 | mitigation; uniform mitigation verification inspection form.--

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1       (1) Using a form prescribed by the Office of Insurance  
2 Regulation, the insurer shall clearly notify the applicant or  
3 policyholder of any personal lines residential property  
4 insurance policy, at the time of the issuance of the policy  
5 and at each renewal, of the availability and the range of each  
6 premium discount, credit, other rate differential, or  
7 reduction in deductibles for properties on which fixtures or  
8 construction techniques demonstrated to reduce the amount of  
9 loss in a windstorm can be or have been installed or  
10 implemented. The prescribed form shall describe generally what  
11 actions the policyholders may be able to take to reduce their  
12 windstorm premium. The prescribed form and a list of such  
13 ranges approved by the office for each insurer licensed in the  
14 state and providing such discounts, credits, other rate  
15 differentials, or reductions in deductibles for properties  
16 described in this subsection shall be available for electronic  
17 viewing and download from the Department of Financial  
18 Services' or the Office of Insurance Regulation's Internet  
19 website. The Financial Services Commission may adopt rules to  
20 implement this subsection.

21       (2) The Financial Services Commission shall develop by  
22 rule a uniform mitigation verification inspection form that  
23 shall be used by all insurers when factoring discounts for  
24 wind insurance. In developing the form, the commission shall  
25 seek input from insurance, construction, and building code  
26 representatives. Further, the commission shall provide  
27 guidance as to the length of time the inspection results are  
28 valid.

29       Section 43. It is the intent of the Legislature to  
30 create during the 2007 Legislative Session a grant program to  
31 assist persons whose income does not exceed that of

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1 "low-income persons" as defined in s. 420.602(8), Florida  
2 Statutes, for the purpose of purchasing property insurance to  
3 protect their homestead property.

4 Section 44. Section 350.06151, Florida Statutes, is  
5 created to read:

6 350.06151 Beginning July 1, 2007, funds shall be  
7 transferred by the Department of Financial Services from the  
8 Insurance Regulatory Trust Fund to the Grants and Donations  
9 Trust Fund in the legislative branch for the purpose of  
10 funding the Office of Insurance Consumer Advocate. The  
11 transfer amount is equal to the approved operating budget for  
12 the Office of Insurance Consumer Advocate within the Office of  
13 Public Counsel.

14 Section 45. Except as otherwise expressly provided in  
15 this act, this act shall take effect upon becoming a law.

16  
17

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

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21

22 and insert:

23 A bill to be entitled  
24 An act relating to hurricane preparedness and  
25 property insurance; amending s. 20.121, F.S.;  
26 removing the Office of Insurance Consumer  
27 Advocate from the Department of Financial  
28 Services; providing for the powers, records,  
29 personnel, property, balances of appropriations  
30 and other funds, rules, pending issues, and  
31 contracts of the Office of Insurance Consumer

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1 Advocate to be transferred from the Department  
2 of Financial Services to the Public Counsel;  
3 amending s. 163.01, F.S., relating to the  
4 Interlocal Cooperation Act; redefining the term  
5 "public agency" to include certain legal or  
6 administrative entities; authorizing such  
7 entities to finance the provision of property  
8 coverage contracts for or from local government  
9 property insurance pools or property coverage  
10 contracts; authorizing certain hospitals and  
11 hospital systems to borrow funds, issue bonds,  
12 and enter into loan agreements for the purpose  
13 of providing property coverage; providing for  
14 validating such bonds; providing an exemption  
15 from taxation; amending s. 215.555, F.S.;

16 limiting the activities of the Florida  
17 Hurricane Fund Finance Corporation with respect  
18 to funding obligations; providing for revenue  
19 bonds to be issued to fund the obligations of  
20 the Florida Hurricane Excess Loss Program  
21 (FHELP); providing legislative findings;  
22 creating the Florida Hurricane Excess Loss  
23 Program Finance Corporation; providing for a  
24 board of directors; providing powers and  
25 duties; providing for the corporation to issue  
26 bonds that are not a debt of the state or any  
27 political subdivision; providing an exemption  
28 from taxation; providing for the protection of  
29 bondholders; limiting the activities of the  
30 Florida Hurricane Excess Loss Program Finance  
31 Corporation with respect to the obligations

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1 incurred by the Florida Hurricane Catastrophe  
2 Fund; authorizing the board of the Florida  
3 Hurricane Catastrophe Fund to enter into  
4 capital market transactions; authorizing  
5 temporary emergency options for additional  
6 coverage; providing a system under which  
7 insurers may procure additional reinsurance  
8 from the fund; defining terms; providing  
9 guidelines for such coverage; prescribing  
10 premiums for such coverage; providing a  
11 temporary increase in coverage limit options;  
12 providing legislative findings; defining terms;  
13 creating the Florida Hurricane Excess Loss  
14 Program, which shall be administered by the  
15 State Board of Administration; authorizing the  
16 board to adopt rules and employ or contract  
17 with staff; requiring that a contract addendum  
18 be executed by participating insurers;  
19 requiring that the state assume a portion of  
20 liability for losses under a covered policy;  
21 requiring that such coverage be funded  
22 separately from the obligations of the Florida  
23 Hurricane Catastrophe Fund and proceeds of  
24 bonds issued by the Florida Hurricane  
25 Catastrophe Fund Finance Corporation; requiring  
26 insurers obtaining certain coverages offered by  
27 the Florida Hurricane Catastrophe Fund to make  
28 rate filings that reflect savings or reduction  
29 in loss exposure; requiring that the Office of  
30 Insurance Regulation specify, by order, the  
31 dates on which such filings must be made;

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1 providing limitations for an insurer in  
2 implementing a rate change following a rate  
3 filing; requiring the Office of Insurance  
4 Regulation to calculate a presumed factor to  
5 reflect the impact on rates resulting from this  
6 act; providing an appropriation; amending s.  
7 215.5586, F.S., relating to the Florida  
8 Comprehensive Hurricane Damage Mitigation  
9 Program; providing for grants to homeowners to  
10 protect rather than retrofit their properties;  
11 revising certain other eligibility criteria for  
12 a grant; authorizing the use of grants for  
13 roof-protection systems; amending s. 215.559,  
14 F.S., relating to the Hurricane Loss Mitigation  
15 Program; providing for a certain portion of the  
16 appropriation under the program to be used for  
17 securing fixtures for mobile homes; amending s.  
18 350.012, F.S.; redesignating the Committee on  
19 Public Service Commission Oversight as the  
20 "Committee on Public Service Commission and  
21 Insurance Oversight"; requiring that the  
22 committee confirm or reject the appointment of  
23 the Insurance Consumer Advocate by the Chief  
24 Financial Officer; amending s. 350.0611, F.S.,  
25 relating to the Public Counsel; providing  
26 duties with respect to the Insurance Consumer  
27 Advocate; amending s. 350.0613, F.S.;  
28 authorizing the Public Counsel to represent the  
29 public before the Office of Insurance  
30 Regulation, the Financial Services Commission,  
31 and the Department of Financial Services;



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1 including certain proceedings related to rules  
2 and rate filings for insurance; authorizing the  
3 Public Counsel to have access to files of the  
4 Office of Insurance Regulation, the Financial  
5 Services Commission, and the Department of  
6 Financial Services, to seek review of orders of  
7 the office and the commission, and to issue  
8 reports, recommendations, and proposed orders  
9 to the office and the commission; authorizing  
10 the Committee on Public Service Commission and  
11 Insurance Oversight to authorize the Public  
12 Counsel to employ certain types of employees;  
13 requiring the Office of Insurance Regulation,  
14 the Financial Services Commission, and the  
15 Department of Financial Services to provide  
16 copies of certain filings to the Public  
17 Counsel; creating s. 350.0615, F.S.; creating  
18 the office of Insurance Consumer Advocate to  
19 represent the public on matters relating to the  
20 regulation of insurance; requiring the Chief  
21 Financial Officer to appoint the Insurance  
22 Consumer Advocate, who is subject to  
23 confirmation by the Committee on Public Service  
24 Commission and Insurance Oversight; providing  
25 for the Insurance Consumer Advocate to report  
26 directly to and be employed by the Public  
27 Counsel; specifying the powers and duties of  
28 the Insurance Consumer Advocate; creating s.  
29 395.1060, F.S.; providing for risk pooling,  
30 with respect to property exposure, by certain  
31 hospitals and hospital systems; exempting

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1 entities formed to do so from the Florida  
2 Insurance Code; amending s. 553.73, F.S.;  
3 prohibiting the Florida Building Commission  
4 from modifying certain foundation codes  
5 relating to wind resistance or the prevention  
6 of water intrusion unless the modification  
7 enhances such provisions; amending s. 553.775,  
8 F.S., relating to interpretations of the  
9 Florida Building Code; conforming a  
10 cross-reference; requiring jurisdictions having  
11 authority to enforce the Florida Building Code  
12 to require wind-borne-debris protection  
13 according to specified requirements; requiring  
14 that the Florida Building Commission amend the  
15 Florida Building Code to reflect the  
16 requirements of the act and eliminate certain  
17 less stringent requirements; providing an  
18 exception; requiring an amendment to the code  
19 with respect to certain provisions governing  
20 new residential construction; requiring the  
21 commission to develop voluntary guidelines for  
22 increasing the hurricane resistance of  
23 buildings; requiring that the guidelines be  
24 included in the commission's report to the 2008  
25 Legislature; amending s. 624.319, F.S.;  
26 authorizing the Public Counsel and the  
27 Insurance Consumer Advocate to have access to  
28 certain confidential information held by the  
29 Department of Financial Services or the Office  
30 of Insurance Regulation; amending s. 624.462,  
31 F.S.; revising requirements for the

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1 establishment of a commercial self-insurance  
2 fund by a not-for-profit group; amending s.  
3 624.4622, F.S.; authorizing local government  
4 self-insurance funds to insure or self-insure  
5 real or personal property against loss or  
6 damage; creating s. 624.4625, F.S.; authorizing  
7 two or more corporations not for profit to form  
8 a self-insurance fund for certain purposes;  
9 providing specific requirements; providing a  
10 definition; providing limitations; providing  
11 for application of certain provisions to  
12 certain premiums, contributions, and  
13 assessments; providing for payment of insurance  
14 premium tax at a reduced rate by corporation  
15 not-for-profit self-insurance funds; subjecting  
16 a corporation not for profit self-insurance  
17 fund to certain group self-insurance fund  
18 provisions under certain circumstances;  
19 amending s. 624.610, F.S.; specifying  
20 additional circumstances under which the Office  
21 of Insurance Regulation may allow credit when  
22 reinsurance is ceded to an assuming insurer;  
23 amending s. 626.9541, F.S.; providing that an  
24 insurer's failure to offer in this state any  
25 kind or line of insurance which all insurers or  
26 affiliated insurers offer in another  
27 jurisdiction constitutes an unfair method of  
28 competition and unfair or deceptive act;  
29 providing penalties; providing for rules;  
30 repealing s. 627.0613, F.S., relating to the  
31 consumer advocate appointed by the Chief

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1 Financial Officer; amending s. 627.062, F.S.;

2 deleting provisions allowing property and

3 casualty insurers to use and file rates;

4 deleting provisions exempting certain rate

5 filings from review by the Office of Insurance

6 Regulation; deleting provisions authorizing an

7 insurer to require the arbitration of a rate

8 filing following agency action under the

9 Administrative Procedure Act; requiring the

10 chief executive officer, chief financial

11 officer, or chief actuary of a property insurer

12 to certify the information contained in a rate

13 filing; providing penalties for knowingly

14 making a false certification; authorizing the

15 Financial Services Commission to adopt rules;

16 deleting provisions placing the burden on the

17 Office of Insurance Regulation to establish

18 that certain rates are excessive; amending s.

19 627.0628, F.S., relating to hurricane loss

20 projection; conforming references to changes

21 made by the act; amending s. 627.311, F.S.;

22 providing for the Insurance Consumer Advocate

23 to be a member of the board of governors

24 supervising joint underwriting associations;

25 amending s. 627.351, F.S., relating to the

26 Citizens Property Insurance Corporation;

27 deleting provisions that deny certain

28 nonhomestead property eligibility for coverage

29 by the corporation; including commercial

30 nonresidential policies into an account of the

31 corporation; authorizing the corporation to

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1 issue multiperil coverage, wind-only coverage,  
2 or both in the high-risk account after a  
3 specified date; deleting provisions authorizing  
4 the Office of Insurance Regulation to remove  
5 territory from the area eligible for wind-only  
6 and quota share coverage; redefining the term  
7 "subject lines of business" subject to  
8 assessments for deficits; requiring the board  
9 of governors of the corporation to levy an  
10 assessment against nonhomestead property  
11 policyholders if certain deficits occur after a  
12 specified date; restricting the eligibility of  
13 a risk for a policy issued by the corporation  
14 under certain circumstances; authorizing the  
15 plan of operation to establish limits of  
16 coverage and to require commercial property to  
17 meet specified hurricane-mitigation features;  
18 requiring that the corporation annually file  
19 recommended rates; requiring that the office  
20 issue a final order establishing the rates  
21 within a specified period; prohibiting the  
22 corporation from pursuing administrative or  
23 judicial review of such order; deleting  
24 provisions specifying circumstances under which  
25 a rate is deemed inadequate; deleting  
26 legislative intent concerning rate adequacy in  
27 the residual market; deleting provisions  
28 providing requirements for personal lines  
29 residential policies and residential wind-only  
30 policies; deleting an exemption provided for  
31 coverage provided by the corporation in Monroe

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1 County under certain circumstances; deleting a  
2 requirement that the corporation certify to the  
3 office that its rates comply with certain  
4 requirements; deleting a requirement for a  
5 notice to policyholders and applicants;  
6 rescinding certain rate filings by the  
7 corporation which took effect January 1, 2007;  
8 reinstating certain rates in effect on December  
9 31, 2006; clarifying the effect of a policy  
10 that is taken out, assumed, or removed from the  
11 corporation; providing legislative intent that  
12 commercial nonresidential property insurance be  
13 made available from Citizens Property Insurance  
14 Corporation; requiring that Citizens Property  
15 Insurance Corporation adopt a plan providing  
16 for the transition of such coverage from the  
17 Property and Casualty Joint Underwriting  
18 Association to Citizens; providing requirements  
19 for the plan; amending s. 627.701, F.S. ;  
20 revising requirements for the deductible amount  
21 applicable to hurricane loss for policies of  
22 residential property insurance and personal  
23 lines residential property insurance;  
24 prohibiting a hurricane deductible in excess of  
25 a specified percentage for personal lines  
26 residential property insurance policies of less  
27 than a certain value unless the policyholder  
28 signs a statement acknowledging the lack of  
29 insurance or provides a statement from the  
30 mortgageholder or lienholder; requiring that  
31 the insurer keep documentation of such

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1 statements; requiring the Financial Services  
2 Commission to adopt rules; deleting obsolete  
3 provisions; amending s. 627.706, F.S., relating  
4 to sinkhole insurance; defining the term  
5 "catastrophic ground cover collapse"; amending  
6 s. 627.7065, F.S., relating to a database of  
7 sinkhole information; conforming a reference to  
8 changes made by the act; creating s. 627.712,  
9 F.S.; requiring insurers issuing residential  
10 property insurance to provide hurricane or  
11 windstorm coverage; authorizing a policyholder  
12 to make a written rejection of such coverage by  
13 signing a statement acknowledging the lack of  
14 insurance or providing a statement from the  
15 mortgageholder or lienholder; requiring  
16 insurers issuing residential property insurance  
17 to make available an exclusion of coverage for  
18 contents; providing for the policyholder to  
19 make a written rejection of such coverage;  
20 requiring that the insurer keep documentation  
21 of such statements; requiring the Financial  
22 Services commission to adopt rules; creating s.  
23 627.713, F.S.; authorizing the office to  
24 require property insurers to report data  
25 regarding hurricane claims and underwriting  
26 costs; providing for the adoption of rules;  
27 amending s. 631.57, F.S.; specifying certain  
28 additional circumstances under which the board  
29 of directors of the Florida Insurance Guaranty  
30 Association, Inc., may levy emergency and  
31 regular assessments; clarifying that

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1 authorization exists for the Florida Insurance  
2 Guaranty Association to certify and for the  
3 Office of Insurance Regulation to levy an  
4 emergency assessment; amending s. 631.912,  
5 F.S., relating to the board of directors of the  
6 Florida Workers' Compensation Insurance  
7 Guaranty Association, Inc.; conforming  
8 provisions to changes made by the act; amending  
9 s. 718.111, F.S.; providing for windstorm  
10 insurance for condominium associations;  
11 repealing s. 627.0629(6), F.S., relating to  
12 requirements for hurricane or windstorm  
13 coverage; creating the Windstorm Mitigation  
14 Study Commission for the purpose of analyzing  
15 solutions and programs that could address the  
16 state's need to mitigate the effects of  
17 windstorms on structures; providing for  
18 membership and qualifications; providing that  
19 the members are entitled to reimbursement for  
20 expenses incurred in connection with their  
21 duties; requiring the Department of Financial  
22 Services, the Office of Insurance Regulation,  
23 the Citizens Property Insurance Corporation,  
24 and other state agencies to supply information,  
25 assistance, and facilities to the commission;  
26 requiring that the Executive Office of the  
27 Governor provide staff assistance; specifying  
28 duties of the commission; requiring that the  
29 commission report to the Governor, the  
30 Legislature, the Chief Financial Officer, and  
31 the Commissioner of Insurance Regulation by a



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1 specified date; establishing the Florida  
2 Disaster Recovery Initiative within the  
3 Department of Community Affairs for the purpose  
4 of assisting local governments in hardening  
5 affordable housing against the effects of  
6 hurricanes; specifying that the act does not  
7 create an entitlement or obligate the state;  
8 providing for program administration;  
9 specifying the entities that are eligible to  
10 apply for funding; providing components and  
11 requirements of the initiative; providing an  
12 appropriation; amending s. 627.711, F.S.;

13 requiring the Financial Services Commission to  
14 develop uniform mitigation verification  
15 inspection forms; providing duties of the  
16 commission; expressing the intent of the  
17 Legislature to create a grant program to assist  
18 low-income persons in purchasing property  
19 insurance; creating s. 350.06151, F.S.;

20 providing for transfer of funds from the  
21 Insurance Regulatory Trust Fund to the Grants  
22 and Donations Trust Fund of the legislative  
23 branch to fund the Office of Insurance Consumer  
24 Advocate; providing effective dates.

25  
26 WHEREAS, homeowners in the State of Florida are  
27 struggling under increased insurance costs and increased  
28 housing prices as a result of damage caused by hurricanes and  
29 tropical storms, and

30 WHEREAS, this increase in the cost of property  
31 insurance for the state's residents demands immediate

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1 attention, and

2           WHEREAS, the affordability of property insurance  
3 creates financial burdens for Florida's residents and  
4 financial crises for some property owners, and

5           WHEREAS, in addition to affordability, the availability  
6 and stability of property insurance rates are critical issues  
7 to the residents of this state, and

8           WHEREAS, because there is no single, quick, or easy  
9 solution to the current crisis, a comprehensive and creative  
10 approach is required, and

11           WHEREAS, property insurance is so interwoven with other  
12 forms of insurance, through business, regulation, advocacy,  
13 purchasing, and other interactions, that the viability of the  
14 insurance market in Florida is at risk, and

15           WHEREAS, expanding coverage offered by the Florida  
16 Hurricane Catastrophe Fund can help to address this crisis,  
17 and

18           WHEREAS, taking steps to control or reduce the premiums  
19 charged by Citizens Property Insurance Corporation can help to  
20 address this crisis, and

21           WHEREAS, strengthening the Florida Building Code and  
22 providing for voluntary guidelines in addition to the  
23 requirements of the code can help to address this crisis, and

24           WHEREAS, sinkhole coverage is a critical part of the  
25 crisis in certain areas of the state and must be addressed as  
26 part of any comprehensive solution, and

27           WHEREAS, requiring property insurers to offer  
28 additional deductibles and exclusions that apply at the option  
29 of the property owner can help to address this crisis, and

30           WHEREAS, authorizing various groups of public and  
31 private entities to enter into forms of self-insurance or

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1 guaranty groups can help to address this crisis, and

2           WHEREAS, strengthening the processes for establishing  
3 property insurance rates can help to address this crisis, and

4           WHEREAS, the role of consumer advocacy is a critical  
5 part of addressing this crisis and consumer advocacy for  
6 property insurance is a critical, if not the predominant, part  
7 of consumer advocacy regarding insurance, and

8           WHEREAS, promoting, through financial and regulatory  
9 methods, the ability of property insurers and reinsurers to do  
10 business in Florida can help to address this crisis, and

11           WHEREAS, promoting, through financial and regulatory  
12 incentives for property owners, the strengthening of property  
13 to withstand the effects of windstorm damage can help to  
14 address this crisis, NOW, THEREFORE,

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