

1 Program Finance Corporation; providing for a
2 board of directors; providing powers and
3 duties; providing for the corporation to issue
4 bonds that are not a debt of the state or any
5 political subdivision; providing an exemption
6 from taxation; providing for the protection of
7 bondholders; limiting the activities of the
8 Florida Hurricane Excess Loss Program Finance
9 Corporation with respect to the obligations
10 incurred by the Florida Hurricane Catastrophe
11 Fund; authorizing the board of the Florida
12 Hurricane Catastrophe Fund to enter into
13 capital market transactions; authorizing
14 temporary emergency options for additional
15 coverage; providing a system under which
16 insurers may procure additional reinsurance
17 from the fund; defining terms; providing
18 guidelines for such coverage; prescribing
19 premiums for such coverage; providing a
20 temporary increase in coverage limit options;
21 providing legislative findings; defining terms;
22 creating the Florida Hurricane Excess Loss
23 Program, which shall be administered by the
24 State Board of Administration; authorizing the
25 board to adopt rules and employ or contract
26 with staff; requiring that a contract addendum
27 be executed by participating insurers;
28 requiring that the state assume a portion of
29 liability for losses under a covered policy;
30 requiring that such coverage be funded
31 separately from the obligations of the Florida

1 Hurricane Catastrophe Fund and proceeds of
2 bonds issued by the Florida Hurricane
3 Catastrophe Fund Finance Corporation; requiring
4 insurers obtaining certain coverages offered by
5 the Florida Hurricane Catastrophe Fund to make
6 rate filings that reflect savings or reduction
7 in loss exposure; requiring that the Office of
8 Insurance Regulation specify, by order, the
9 dates on which such filings must be made;
10 providing limitations for an insurer in
11 implementing a rate change following a rate
12 filing; amending s. 350.012, F.S. ;
13 redesignating the Committee on Public Service
14 Commission Oversight as the "Committee on
15 Public Service Commission and Insurance
16 Oversight"; requiring that the committee
17 confirm or reject the appointment of the
18 Insurance Consumer Advocate by the Chief
19 Financial Officer; amending s. 350.0611, F.S.,
20 relating to the Public Counsel; providing
21 duties with respect to the Insurance Consumer
22 Advocate; amending s. 350.0613, F.S. ;
23 authorizing the Public Counsel to represent the
24 public before the Office of Insurance
25 Regulation, the Financial Services Commission,
26 and the Department of Financial Services;
27 including certain proceedings related to rules
28 and rate filings for insurance; authorizing the
29 Public Counsel to have access to files of the
30 Office of Insurance Regulation, the Financial
31 Services Commission, and the Department of

1 Financial Services, to seek review of orders of
2 the office and the commission, and to issue
3 reports, recommendations, and proposed orders
4 to the office and the commission; authorizing
5 the Committee on Public Service Commission and
6 Insurance Oversight to authorize the Public
7 Counsel to employ certain types of employees;
8 requiring the Office of Insurance Regulation,
9 the Financial Services Commission, and the
10 Department of Financial Services to provide
11 copies of certain filings to the Public
12 Counsel; creating s. 350.0615, F.S.; creating
13 the office of Insurance Consumer Advocate to
14 represent the public on matters relating to the
15 regulation of insurance; requiring the Chief
16 Financial Officer to appoint the Insurance
17 Consumer Advocate, who is subject to
18 confirmation by the Committee on Public Service
19 Commission and Insurance Oversight; providing
20 for the Insurance Consumer Advocate to report
21 directly to and be employed by the Public
22 Counsel; specifying the powers and duties of
23 the Insurance Consumer Advocate; creating s.
24 395.1060, F.S.; providing for risk pooling,
25 with respect to property exposure, by certain
26 hospitals and hospital systems; exempting
27 entities formed to do so from the Florida
28 Insurance Code; amending s. 553.73, F.S.;
29 prohibiting the Florida Building Commission
30 from modifying certain foundation codes
31 relating to wind resistance or the prevention

1 of water intrusion unless the modification
2 enhances such provisions; amending s. 553.775,
3 F.S., relating to interpretations of the
4 Florida Building Code; conforming a
5 cross-reference; requiring jurisdictions having
6 authority to enforce the Florida Building Code
7 to require wind-borne-debris protection
8 according to specified requirements; requiring
9 that the Florida Building Commission amend the
10 Florida Building Code to reflect the
11 requirements of the act and eliminate certain
12 less stringent requirements; providing an
13 exception; requiring an amendment to the code
14 with respect to certain provisions governing
15 new residential construction; requiring the
16 commission to develop voluntary guidelines for
17 increasing the hurricane resistance of
18 buildings; requiring that the guidelines be
19 included in the commission's report to the 2008
20 Legislature; amending s. 624.319, F.S.;
21 authorizing the Public Counsel and the
22 Insurance Consumer Advocate to have access to
23 certain confidential information held by the
24 Department of Financial Services or the Office
25 of Insurance Regulation; amending s. 624.462,
26 F.S.; revising requirements for the
27 establishment of a commercial self-insurance
28 fund by a not-for-profit group; amending s.
29 624.4622, F.S.; authorizing local government
30 self-insurance funds to insure or self-insure
31 real or personal property against loss or

1 damage; amending s. 624.610, F.S.; specifying
2 additional circumstances under which the Office
3 of Insurance Regulation may allow credit when
4 reinsurance is ceded to an assuming insurer;
5 repealing s. 627.0613, F.S., relating to the
6 consumer advocate appointed by the Chief
7 Financial Officer; amending s. 627.062, F.S.;
8 deleting provisions exempting certain rate
9 filings from review by the Office of Insurance
10 Regulation; deleting provisions authorizing an
11 insurer to require the arbitration of a rate
12 filing following agency action under the
13 Administrative Procedure Act; requiring the
14 chief executive officer, chief financial
15 officer, or chief actuary of a property insurer
16 to certify the information contained in a rate
17 filing; providing penalties for knowingly
18 making a false certification; authorizing the
19 Financial Services Commission to adopt rules;
20 deleting provisions placing the burden on the
21 Office of Insurance Regulation to establish
22 that certain rates are excessive; amending s.
23 627.0628, F.S., relating to hurricane loss
24 projection; conforming references to changes
25 made by the act; amending s. 627.311, F.S.;
26 providing for the Insurance Consumer Advocate
27 to be a member of the board of governors
28 supervising joint underwriting associations;
29 amending s. 627.351, F.S., relating to the
30 Citizens Property Insurance Corporation;
31 deleting provisions that deny certain

1 nonhomestead property eligibility for coverage
2 by the corporation; including commercial
3 nonresidential policies into an account of the
4 corporation; authorizing the corporation to
5 issue multiperil coverage, wind-only coverage,
6 or both in the high-risk account after a
7 specified date; deleting provisions authorizing
8 the Office of Insurance Regulation to remove
9 territory from the area eligible for wind-only
10 and quota share coverage; redefining the term
11 "subject lines of business" subject to
12 assessments for deficits; requiring the board
13 of governors of the corporation to levy an
14 assessment against nonhomestead property
15 policyholders if certain deficits occur after a
16 specified date; restricting the eligibility of
17 a risk for a policy issued by the corporation
18 under certain circumstances; authorizing the
19 plan of operation to establish limits of
20 coverage and to require commercial property to
21 meet specified hurricane-mitigation features;
22 requiring that the corporation annually file
23 recommended rates; requiring that the office
24 issue a final order establishing the rates
25 within a specified period; prohibiting the
26 corporation from pursuing administrative or
27 judicial review of such order; deleting
28 provisions specifying circumstances under which
29 a rate is deemed inadequate; deleting
30 legislative intent concerning rate adequacy in
31 the residual market; deleting provisions

1 providing requirements for personal lines
2 residential policies and residential wind-only
3 policies; deleting an exemption provided for
4 coverage provided by the corporation in Monroe
5 County under certain circumstances; deleting a
6 requirement that the corporation certify to the
7 office that its rates comply with certain
8 requirements; deleting a requirement for a
9 notice to policyholders and applicants;
10 rescinding certain rate filings by the
11 corporation which took effect January 1, 2007;
12 reinstating certain rates in effect on December
13 31, 2006; clarifying the effect of a policy
14 that is taken out, assumed, or removed from the
15 corporation; providing legislative intent that
16 commercial nonresidential property insurance be
17 made available from Citizens Property Insurance
18 Corporation; requiring that Citizens Property
19 Insurance Corporation adopt a plan providing
20 for the transition of such coverage from the
21 Property and Casualty Joint Underwriting
22 Association to Citizens; providing requirements
23 for the plan; amending s. 627.701, F.S.;
24 revising requirements for the deductible amount
25 applicable to hurricane loss for policies of
26 residential property insurance and personal
27 lines residential property insurance;
28 prohibiting a hurricane deductible in excess of
29 a specified percentage for personal lines
30 residential property insurance policies of less
31 than a certain value unless the policyholder

1 signs a statement acknowledging the lack of
2 insurance or provides a statement from the
3 mortgageholder or lienholder; requiring that
4 the insurer keep documentation of such
5 statements; requiring the Financial Services
6 Commission to adopt rules; deleting obsolete
7 provisions; amending s. 627.706, F.S., relating
8 to sinkhole insurance; defining the term
9 "catastrophic ground cover collapse"; amending
10 s. 627.7065, F.S., relating to a database of
11 sinkhole information; conforming a reference to
12 changes made by the act; creating s. 627.712,
13 F.S.; requiring insurers issuing residential
14 property insurance to provide hurricane or
15 windstorm coverage; authorizing a policyholder
16 to make a written rejection of such coverage by
17 signing a statement acknowledging the lack of
18 insurance or providing a statement from the
19 mortgageholder or lienholder; requiring
20 insurers issuing residential property insurance
21 to make available an exclusion of coverage for
22 contents; providing for the policyholder to
23 make a written rejection of such coverage;
24 requiring that the insurer keep documentation
25 of such statements; requiring the Financial
26 Services commission to adopt rules; creating s.
27 627.713, F.S.; authorizing the office to
28 require property insurers to report data
29 regarding hurricane claims and underwriting
30 costs; providing for the adoption of rules;
31 amending s. 631.57, F.S.; specifying certain

1 additional circumstances under which the board
2 of directors of the Florida Insurance Guaranty
3 Association, Inc., may levy emergency and
4 regular assessments; clarifying that
5 authorization exists for the Florida Insurance
6 Guaranty Association to certify and for the
7 Office of Insurance Regulation to levy an
8 emergency assessment; amending s. 631.912,
9 F.S., relating to the board of directors of the
10 Florida Workers' Compensation Insurance
11 Guaranty Association, Inc.; conforming
12 provisions to changes made by the act;
13 repealing s. 627.0629(6), F.S., relating to
14 requirements for hurricane or windstorm
15 coverage; creating the Windstorm Mitigation
16 Study Commission for the purpose of analyzing
17 solutions and programs that could address the
18 state's need to mitigate the effects of
19 windstorms on structures; providing for
20 membership and qualifications; providing that
21 the members are entitled to reimbursement for
22 expenses incurred in connection with their
23 duties; requiring the Department of Financial
24 Services, the Office of Insurance Regulation,
25 the Citizens Property Insurance Corporation,
26 and other state agencies to supply information,
27 assistance, and facilities to the commission;
28 requiring that the Executive Office of the
29 Governor provide staff assistance; specifying
30 duties of the commission; requiring that the
31 commission report to the Governor, the

1 | Legislature, the Chief Financial Officer, and
2 | the Commissioner of Insurance Regulation by a
3 | specified date; establishing the Florida
4 | Disaster Recovery Initiative within the
5 | Department of Community Affairs for the purpose
6 | of assisting local governments in hardening
7 | affordable housing against the effects of
8 | hurricanes; specifying that the act does not
9 | create an entitlement or obligate the state;
10 | providing for program administration;
11 | specifying the entities that are eligible to
12 | apply for funding; providing components and
13 | requirements of the initiative; providing an
14 | appropriation; providing effective dates.

15 |
16 | WHEREAS, homeowners in the State of Florida are
17 | struggling under increased insurance costs and increased
18 | housing prices as a result of damage caused by hurricanes and
19 | tropical storms, and

20 | WHEREAS, this increase in the cost of property
21 | insurance for the state's residents demands immediate
22 | attention, and

23 | WHEREAS, the affordability of property insurance
24 | creates financial burdens for Florida's residents and
25 | financial crises for some property owners, and

26 | WHEREAS, in addition to affordability, the availability
27 | and stability of property insurance rates are critical issues
28 | to the residents of this state, and

29 | WHEREAS, because there is no single, quick, or easy
30 | solution to the current crisis, a comprehensive and creative
31 | approach is required, and

1 WHEREAS, property insurance is so interwoven with other
2 forms of insurance, through business, regulation, advocacy,
3 purchasing, and other interactions, that the viability of the
4 insurance market in Florida is at risk, and

5 WHEREAS, expanding coverage offered by the Florida
6 Hurricane Catastrophe Fund can help to address this crisis,
7 and

8 WHEREAS, taking steps to control or reduce the premiums
9 charged by Citizens Property Insurance Corporation can help to
10 address this crisis, and

11 WHEREAS, strengthening the Florida Building Code and
12 providing for voluntary guidelines in addition to the
13 requirements of the code can help to address this crisis, and

14 WHEREAS, sinkhole coverage is a critical part of the
15 crisis in certain areas of the state and must be addressed as
16 part of any comprehensive solution, and

17 WHEREAS, requiring property insurers to offer
18 additional deductibles and exclusions that apply at the option
19 of the property owner can help to address this crisis, and

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

23 WHEREAS, strengthening the processes for establishing
24 property insurance rates can help to address this crisis, and

25 WHEREAS, the role of consumer advocacy is a critical
26 part of addressing this crisis and consumer advocacy for
27 property insurance is a critical, if not the predominant, part
28 of consumer advocacy regarding insurance, and

29 WHEREAS, promoting, through financial and regulatory
30 methods, the ability of property insurers and reinsurers to do
31 business in Florida can help to address this crisis, and

1 WHEREAS, promoting, through financial and regulatory
2 incentives for property owners, the strengthening of property
3 to withstand the effects of windstorm damage can help to
4 address this crisis, NOW, THEREFORE,

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Paragraphs (m) and (n) of subsection (2) of
9 section 20.121, Florida Statutes, are amended to read:

10 20.121 Department of Financial Services.--There is
11 created a Department of Financial Services.

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

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

15 (m)(n) The Division of Funeral, Cemetery, and Consumer
16 Services.

17 Section 2. All of the powers, duties, functions,
18 records, personnel, and property; unexpended balances of
19 appropriations, allocations, and other funds; administrative
20 authority; administrative rules; pending issues; and existing
21 contracts of the consumer advocate and the Office of Insurance
22 Consumer Advocate are transferred by a type two transfer,
23 pursuant to s. 20.06(2), Florida Statutes, from the Chief
24 Financial Officer and the Department of Financial Services to
25 the Public Counsel.

26 Section 3. Paragraph (b) of subsection (3) and
27 paragraph (e) of subsection (7) of section 163.01, Florida
28 Statutes, are amended, and paragraph (h) is added to
29 subsection (7) of that section, to read:

30 163.01 Florida Interlocal Cooperation Act of 1969.--

31 (3) As used in this section:

1 (b) "Public agency" means a political subdivision,
2 agency, or officer of this state or of any state of the United
3 States, including, but not limited to, state government,
4 county, city, school district, single and multipurpose special
5 district, single and multipurpose public authority,
6 metropolitan or consolidated government, a separate legal
7 entity or administrative entity created under subsection (7),
8 an independently elected county officer, any agency of the
9 United States Government, a federally recognized Native
10 American tribe, and any similar entity of any other state of
11 the United States.

12 (7)

13 (e)1. Notwithstanding the provisions of paragraph (c),
14 any separate legal entity, created pursuant to the provisions
15 of this section and controlled by counties or municipalities
16 of this state, the membership of which consists or is to
17 consist only of public agencies of this state, may, for the
18 purpose of financing the provision or acquisition of liability
19 or property coverage contracts for or from one or more local
20 government liability or property pools to provide liability or
21 property coverage for counties, municipalities, or other
22 public agencies of this state, exercise all powers in
23 connection with the authorization, issuance, and sale of
24 bonds. All of the privileges, benefits, powers, and terms of
25 s. 125.01 relating to counties and s. 166.021 relating to
26 municipalities shall be fully applicable to such entity and
27 such entity shall be considered a unit of local government for
28 all of the privileges, benefits, powers, and terms of part I
29 of chapter 159. Bonds issued by such entity shall be deemed
30 issued on behalf of counties, municipalities, or public
31 agencies which enter into loan agreements with such entity as

1 provided in this paragraph. Proceeds of bonds issued by such
2 entity may be loaned to counties, municipalities, or other
3 public agencies of this state, whether or not such counties,
4 municipalities, or other public agencies are also members of
5 the entity issuing the bonds, and such counties,
6 municipalities, or other public agencies may in turn deposit
7 such loan proceeds with a separate local government liability
8 or property pool for purposes of providing or acquiring
9 liability or property coverage contracts.

10 2. Counties or municipalities of this state are
11 authorized pursuant to this section, in addition to the
12 authority provided by s. 125.01, part II of chapter 166, and
13 other applicable law, to issue bonds for the purpose of
14 acquiring liability coverage contracts from a local government
15 liability pool. Any individual county or municipality may, by
16 entering into interlocal agreements with other counties,
17 municipalities, or public agencies of this state, issue bonds
18 on behalf of itself and other counties, municipalities, or
19 other public agencies, for purposes of acquiring a liability
20 coverage contract or contracts from a local government
21 liability pool. Counties, municipalities, or other public
22 agencies are also authorized to enter into loan agreements
23 with any entity created pursuant to subparagraph 1., or with
24 any county or municipality issuing bonds pursuant to this
25 subparagraph, for the purpose of obtaining bond proceeds with
26 which to acquire liability coverage contracts from a local
27 government liability pool. No county, municipality, or other
28 public agency shall at any time have more than one loan
29 agreement outstanding for the purpose of obtaining bond
30 proceeds with which to acquire liability coverage contracts
31 from a local government liability pool. Obligations of any

1 county, municipality, or other public agency of this state
2 pursuant to a loan agreement as described above may be
3 validated as provided in chapter 75. Prior to the issuance of
4 any bonds pursuant to subparagraph 1. or this subparagraph for
5 the purpose of acquiring liability coverage contracts from a
6 local government liability pool, the reciprocal insurer or the
7 manager of any self-insurance program shall demonstrate to the
8 satisfaction of the Office of Insurance Regulation of the
9 Financial Services Commission that excess liability coverage
10 for counties, municipalities, or other public agencies is
11 reasonably unobtainable in the amounts provided by such pool
12 or that the liability coverage obtained through acquiring
13 contracts from a local government liability pool, after taking
14 into account costs of issuance of bonds and any other
15 administrative fees, is less expensive to counties,
16 municipalities, or special districts than similar commercial
17 coverage then reasonably available.

18 3. Any entity created pursuant to this section or any
19 county or municipality may also issue bond anticipation notes,
20 as provided by s. 215.431, in connection with the
21 authorization, issuance, and sale of such bonds. In addition,
22 the governing body of such legal entity or the governing body
23 of such county or municipality may also authorize bonds to be
24 issued and sold from time to time and may delegate, to such
25 officer, official, or agent of such legal entity as the
26 governing body of such legal entity may select, the power to
27 determine the time; manner of sale, public or private;
28 maturities; rate or rates of interest, which may be fixed or
29 may vary at such time or times and in accordance with a
30 specified formula or method of determination; and other terms
31 and conditions as may be deemed appropriate by the officer,

1 official, or agent so designated by the governing body of such
2 legal entity. However, the amounts and maturities of such
3 bonds and the interest rate or rates of such bonds shall be
4 within the limits prescribed by the governing body of such
5 legal entity and its resolution delegating to such officer,
6 official, or agent the power to authorize the issuance and
7 sale of such bonds. Any series of bonds issued pursuant to
8 this paragraph for liability coverage shall mature no later
9 than 7 years following the date of issuance ~~thereof~~. Any
10 series of bonds issued pursuant to this paragraph for property
11 coverage shall mature no later than 30 years following the
12 date of issuance.

13 4. Bonds issued pursuant to subparagraph 1. may be
14 validated as provided in chapter 75. The complaint in any
15 action to validate such bonds shall be filed only in the
16 Circuit Court for Leon County. The notice required to be
17 published by s. 75.06 shall be published in Leon County and in
18 each county which is an owner of the entity issuing the bonds,
19 or in which a member of the entity is located, and the
20 complaint and order of the circuit court shall be served only
21 on the State Attorney of the Second Judicial Circuit and on
22 the state attorney of each circuit in each county or
23 municipality which is an owner of the entity issuing the bonds
24 or in which a member of the entity is located.

25 5. Bonds issued pursuant to subparagraph 2. may be
26 validated as provided in chapter 75. The complaint in any
27 action to validate such bonds shall be filed in the circuit
28 court of the county or municipality which will issue the
29 bonds. The notice required to be published by s. 75.06 shall
30 be published only in the county where the complaint is filed,
31 and the complaint and order of the circuit court shall be

1 served only on the state attorney of the circuit in the county
2 or municipality which will issue the bonds.

3 6. The participation by any county, municipality, or
4 other public agency of this state in a local government
5 liability pool shall not be deemed a waiver of immunity to the
6 extent of liability coverage, nor shall any contract entered
7 regarding such a local government liability pool be required
8 to contain any provision for waiver.

9 (h)1. Notwithstanding the provisions of paragraph (c),
10 any separate legal entity consisting of an alliance, as
11 defined in s. 395.1060(2)(a), which is created pursuant to
12 this paragraph and controlled by and whose members consist of
13 the following eligible entities: special districts created
14 pursuant to a special act and having the authority to own or
15 operate one or more Florida-licensed hospitals, or
16 Florida-licensed hospitals that are owned, operated, or funded
17 by a county or municipality, may, for the purpose of providing
18 property insurance coverage as defined in s. 395.1060(2)(c),
19 for such eligible entities, exercise all powers under this
20 subsection in connection with borrowing funds for such
21 purposes, including, without limitation, the authorization,
22 issuance, and sale of bonds, notes, or other obligations of
23 indebtedness. Borrowed funds, including bonds issued by such
24 alliance, shall be deemed issued on behalf of such eligible
25 entities that enter into loan agreements with such separate
26 entity as provided in this paragraph.

27 2. Any such separate entity shall have all the powers
28 that are provided by the interlocal agreement under which it
29 is created or that are necessary to finance, operate, or
30 manage the alliance's property insurance coverage program.
31 Proceeds of bonds, notes, or other obligations issued by such

1 an entity may be loaned to any one or more eligible entities.
2 Eligible entities are authorized to enter into loan agreements
3 with any separate entity created pursuant to this paragraph
4 for the purpose of obtaining moneys with which to finance
5 property insurance coverage or claims. Obligations of any
6 eligible entity pursuant to a loan agreement as described in
7 this paragraph may be validated as provided in chapter 75.

8 3. Any bonds, notes, or other obligations to be issued
9 or incurred by a separate entity created pursuant to this
10 paragraph shall be authorized by resolution of the governing
11 body of such entity and bear the date or dates; mature at the
12 time or times, not exceeding 30 years from their respective
13 dates; bear interest at the rate or rates, which may be fixed
14 or vary at such time or times and in accordance with a
15 specified formula or method of determination; be payable at
16 the time or times; be in the denomination; be in the form;
17 carry the registration privileges; be executed in the manner;
18 be payable from the sources and in the medium of payment and
19 at the place; and be subject to redemption, including
20 redemption prior to maturity, as the resolution may provide.
21 The bonds, notes, or other obligations may be sold at public
22 or private sale for such price as the governing body of the
23 separate entity shall determine. The bonds may be secured by
24 such credit enhancement, if any, as the governing body of the
25 separate entity deems appropriate. The bonds may be secured by
26 an indenture of trust or trust agreement. In addition, the
27 governing body of the separate entity may delegate, to such
28 officer or official of such entity as the governing body may
29 select, the power to determine the time; manner of sale,
30 public or private; maturities; rate or rates of interest,
31 which may be fixed or may vary at such time or times and in

1 accordance with a specified formula or method of
2 determination; and other terms and conditions as may be deemed
3 appropriate by the officer or official so designated by the
4 governing body of such separate entity. However, the amounts
5 and maturities of such bonds, the interest rate or rates, and
6 the purchase price of such bonds shall be within the limits
7 prescribed by the governing body of such separate entity in
8 its resolution delegating to such officer or official the
9 power to authorize the issuance and sale of such bonds.

10 4. Bonds issued pursuant to this paragraph may be
11 validated as provided in chapter 75. The complaint in any
12 action to validate such bonds shall be filed only in the
13 Circuit Court for Leon County. The notice required to be
14 published by s. 75.06 shall be published in Leon County and in
15 each county in which an eligible entity that is a member of an
16 alliance is located. The complaint and order of the circuit
17 court shall be served only on the state attorney of the Second
18 Judicial Circuit and on the state attorney of each circuit in
19 each county in which an eligible entity receiving bond
20 proceeds is located.

21 5. The accomplishment of the authorized purposes of a
22 separate entity created under this paragraph is in all
23 respects for the benefit of the people of the state, for the
24 increase of their commerce and prosperity, and for the
25 improvement of their health and living conditions. Since the
26 separate entity will perform essential public functions in
27 accomplishing its purposes, the separate entity is not
28 required to pay any taxes or assessments of any kind
29 whatsoever upon any property acquired or used by it for such
30 purposes or upon any revenues at any time received by it. The
31 bonds, notes, and other obligations of such separate entity,

1 their transfer, and the income therefrom, including any
2 profits made on the sale thereof, are at all times free from
3 taxation of any kind of the state or by any political
4 subdivision or other agency or instrumentality thereof. The
5 exemption granted in this paragraph is not applicable to any
6 tax imposed by chapter 220 on interest, income, or profits on
7 debt obligations owned by corporations.

8 6. The participation by any eligible entity in an
9 alliance or a separate entity created pursuant to this
10 paragraph may not be deemed a waiver of immunity to the extent
11 of liability or any other coverage, and a contract entered
12 regarding such alliance is not required to contain any
13 provision for waiver.

14 Section 4. Paragraph (c) of subsection (4), subsection
15 (6), and paragraph (a) of present subsection (7) of section
16 215.555, Florida Statutes, are amended, present subsections
17 (7) through (15) of that section are redesignated as
18 subsections (8) through (16), respectively, a new subsection
19 (7) is added to that section, and subsections (17), (18), and
20 (19) are added to that section, to read:

21 215.555 Florida Hurricane Catastrophe Fund.--

22 (4) REIMBURSEMENT CONTRACTS.--

23 (c)1. The contract shall also provide that the
24 obligation of the board with respect to all contracts covering
25 a particular contract year shall not exceed the actual
26 claims-paying capacity of the fund up to a limit of \$15
27 billion for that contract year adjusted based upon the
28 reported exposure from the prior contract year to reflect the
29 percentage growth in exposure to the fund for covered policies
30 since 2003, provided the dollar growth in the limit may not
31 increase in any year by an amount greater than the dollar

1 growth of the balance of the fund as of December 31, less any
2 premiums or interest attributable to optional coverage
3 selected by insurers pursuant to subsection (17) or subsection
4 (18), as defined by rule which occurred over the prior
5 calendar year.

6 2. In May before the start of the upcoming contract
7 year and in October during the contract year, the board shall
8 publish in the Florida Administrative Weekly a statement of
9 the fund's estimated borrowing capacity and the projected
10 balance of the fund as of December 31. After the end of each
11 calendar year, the board shall notify insurers of the
12 estimated borrowing capacity and the balance of the fund as of
13 December 31 to provide insurers with data necessary to assist
14 them in determining their retention and projected payout from
15 the fund for loss reimbursement purposes. In conjunction with
16 the development of the premium formula, as provided for in
17 subsection (5), the board shall publish factors or multiples
18 that assist insurers in determining their retention and
19 projected payout for the next contract year. For all
20 regulatory and reinsurance purposes, an insurer may calculate
21 its projected payout from the fund as its share of the total
22 fund premium for the current contract year multiplied by the
23 sum of the projected balance of the fund as of December 31 and
24 the estimated borrowing capacity for that contract year as
25 reported under this subparagraph.

26 3. Additionally, in conjunction with coverage provided
27 under subsection (19), the board shall publish in the Florida
28 Administrative Weekly in May and October of the contract year
29 the estimated 250-year probable maximum loss for the purposes
30 of determining the aggregate FHELP coverage limit as provided
31 in subsection (19).

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

3 (a) General provisions.--

4 1. Upon the occurrence of a hurricane and a
5 determination that the moneys in the fund are or will be
6 insufficient to pay reimbursement at the levels promised in
7 the reimbursement contracts, the board may take the necessary
8 steps under paragraph (c) or paragraph (d) for the issuance of
9 revenue bonds for the benefit of the fund. The proceeds of
10 such revenue bonds may be used to make reimbursement payments
11 under reimbursement contracts; to refinance or replace
12 previously existing borrowings or financial arrangements; to
13 pay interest on bonds; to fund reserves for the bonds; to pay
14 expenses incident to the issuance or sale of any bond issued
15 under this section, including costs of validating, printing,
16 and delivering the bonds, costs of printing the official
17 statement, costs of publishing notices of sale of the bonds,
18 and related administrative expenses; or for such other
19 purposes related to the financial obligations of the fund as
20 the board may determine. The term of the bonds may not exceed
21 30 years. The board may pledge or authorize the corporation to
22 pledge all or a portion of all revenues under subsection (5)
23 and under paragraph (b) to secure such revenue bonds and the
24 board may execute such agreements between the board and the
25 issuer of any revenue bonds and providers of other financing
26 arrangements under paragraph ~~(8)(b)(7)(b)~~ as the board deems
27 necessary to evidence, secure, preserve, and protect such
28 pledge. If reimbursement premiums received under subsection
29 (5) or earnings on such premiums are used to pay debt service
30 on revenue bonds, such premiums and earnings shall be used
31 only after the use of the moneys derived from assessments

1 | under paragraph (b). The funds, credit, property, or taxing
2 | power of the state or political subdivisions of the state
3 | shall not be pledged for the payment of such bonds. The board
4 | may also enter into agreements under paragraph (c) or
5 | paragraph (d) for the purpose of issuing revenue bonds in the
6 | absence of a hurricane upon a determination that such action
7 | would maximize the ability of the fund to meet future
8 | obligations.

9 | 2. The Legislature finds and declares that the
10 | issuance of bonds under this subsection is for the public
11 | purpose of paying the proceeds of the bonds to insurers,
12 | thereby enabling insurers to pay the claims of policyholders
13 | to assure that policyholders are able to pay the cost of
14 | construction, reconstruction, repair, restoration, and other
15 | costs associated with damage to property of policyholders of
16 | covered policies after the occurrence of a hurricane.

17 | (b) Emergency assessments.--

18 | 1. If the board determines that the amount of revenue
19 | produced under subsection (5) is insufficient to fund the
20 | obligations, costs, and expenses of the fund and the
21 | corporation, including repayment of revenue bonds and that
22 | portion of the debt service coverage not met by reimbursement
23 | premiums, the board shall direct the Office of Insurance
24 | Regulation to levy, by order, an emergency assessment on
25 | direct premiums for all property and casualty lines of
26 | business in this state, including property and casualty
27 | business of surplus lines insurers regulated under part VIII
28 | of chapter 626, but not including any workers' compensation
29 | premiums or medical malpractice premiums. As used in this
30 | subsection, the term "property and casualty business" includes
31 | all lines of business identified on Form 2, Exhibit of

1 Premiums and Losses, in the annual statement required of
2 authorized insurers by s. 624.424 and any rule adopted under
3 this section, except for those lines identified as accident
4 and health insurance and except for policies written under the
5 National Flood Insurance Program. The assessment shall be
6 specified as a percentage of direct written premium and is
7 subject to annual adjustments by the board in order to meet
8 debt obligations. The same percentage shall apply to all
9 policies in lines of business subject to the assessment issued
10 or renewed during the 12-month period beginning on the
11 effective date of the assessment.

12 2. A premium is not subject to an annual assessment
13 under this paragraph in excess of 6 percent of premium with
14 respect to obligations arising out of losses attributable to
15 any one contract year, and a premium is not subject to an
16 aggregate annual assessment under this paragraph in excess of
17 10 percent of premium. An annual assessment under this
18 paragraph shall continue as long as the revenue bonds issued
19 with respect to which the assessment was imposed are
20 outstanding, including any bonds the proceeds of which were
21 used to refund the revenue bonds, unless adequate provision
22 has been made for the payment of the bonds under the documents
23 authorizing issuance of the bonds.

24 3. Emergency assessments shall be collected from
25 policyholders. Emergency assessments shall be remitted by
26 insurers as a percentage of direct written premium for the
27 preceding calendar quarter as specified in the order from the
28 Office of Insurance Regulation. The office shall verify the
29 accurate and timely collection and remittance of emergency
30 assessments and shall report the information to the board in a
31 form and at a time specified by the board. Each insurer

1 collecting assessments shall provide the information with
2 respect to premiums and collections as may be required by the
3 office to enable the office to monitor and verify compliance
4 with this paragraph.

5 4. With respect to assessments of surplus lines
6 premiums, each surplus lines agent shall collect the
7 assessment at the same time as the agent collects the surplus
8 lines tax required by s. 626.932, and the surplus lines agent
9 shall remit the assessment to the Florida Surplus Lines
10 Service Office created by s. 626.921 at the same time as the
11 agent remits the surplus lines tax to the Florida Surplus
12 Lines Service Office. The emergency assessment on each insured
13 procuring coverage and filing under s. 626.938 shall be
14 remitted by the insured to the Florida Surplus Lines Service
15 Office at the time the insured pays the surplus lines tax to
16 the Florida Surplus Lines Service Office. The Florida Surplus
17 Lines Service Office shall remit the collected assessments to
18 the fund or corporation as provided in the order levied by the
19 Office of Insurance Regulation. The Florida Surplus Lines
20 Service Office shall verify the proper application of such
21 emergency assessments and shall assist the board in ensuring
22 the accurate and timely collection and remittance of
23 assessments as required by the board. The Florida Surplus
24 Lines Service Office shall annually calculate the aggregate
25 written premium on property and casualty business, other than
26 workers' compensation and medical malpractice, procured
27 through surplus lines agents and insureds procuring coverage
28 and filing under s. 626.938 and shall report the information
29 to the board in a form and at a time specified by the board.

30 5. Any assessment authority not used for a particular
31 contract year may be used for a subsequent contract year. If,

1 | for a subsequent contract year, the board determines that the
2 | amount of revenue produced under subsection (5) is
3 | insufficient to fund the obligations, costs, and expenses of
4 | the fund and the corporation, including repayment of revenue
5 | bonds and that portion of the debt service coverage not met by
6 | reimbursement premiums, the board shall direct the Office of
7 | Insurance Regulation to levy an emergency assessment up to an
8 | amount not exceeding the amount of unused assessment authority
9 | from a previous contract year or years, plus an additional 4
10 | percent provided that the assessments in the aggregate do not
11 | exceed the limits specified in subparagraph 2.

12 | 6. The assessments otherwise payable to the
13 | corporation under this paragraph shall be paid to the fund
14 | unless and until the Office of Insurance Regulation and the
15 | Florida Surplus Lines Service Office have received from the
16 | corporation and the fund a notice, which shall be conclusive
17 | and upon which they may rely without further inquiry, that the
18 | corporation has issued bonds and the fund has no agreements in
19 | effect with local governments under paragraph (c). On or after
20 | the date of the notice and until the date the corporation has
21 | no bonds outstanding, the fund shall have no right, title, or
22 | interest in or to the assessments, except as provided in the
23 | fund's agreement with the corporation.

24 | 7. Emergency assessments are not premium and are not
25 | subject to the premium tax, to the surplus lines tax, to any
26 | fees, or to any commissions. An insurer is liable for all
27 | assessments that it collects and must treat the failure of an
28 | insured to pay an assessment as a failure to pay the premium.
29 | An insurer is not liable for uncollectible assessments.

30 | 8. When an insurer is required to return an unearned
31 | premium, it shall also return any collected assessment

1 | attributable to the unearned premium. A credit adjustment to
2 | the collected assessment may be made by the insurer with
3 | regard to future remittances that are payable to the fund or
4 | corporation, but the insurer is not entitled to a refund.

5 | 9. When a surplus lines insured or an insured who has
6 | procured coverage and filed under s. 626.938 is entitled to
7 | the return of an unearned premium, the Florida Surplus Lines
8 | Service Office shall provide a credit or refund to the agent
9 | or such insured for the collected assessment attributable to
10 | the unearned premium prior to remitting the emergency
11 | assessment collected to the fund or corporation.

12 | 10. The exemption of medical malpractice insurance
13 | premiums from emergency assessments under this paragraph is
14 | repealed May 31, 2007, and medical malpractice insurance
15 | premiums shall be subject to emergency assessments
16 | attributable to loss events occurring in the contract years
17 | commencing on June 1, 2007.

18 | (c) Revenue bond issuance through counties or
19 | municipalities.--

20 | 1. If the board elects to enter into agreements with
21 | local governments for the issuance of revenue bonds for the
22 | benefit of the fund, the board shall enter into such contracts
23 | with one or more local governments, including agreements
24 | providing for the pledge of revenues, as are necessary to
25 | effect such issuance. The governing body of a county or
26 | municipality is authorized to issue bonds as defined in s.
27 | 125.013 or s. 166.101 from time to time to fund an assistance
28 | program, in conjunction with the Florida Hurricane Catastrophe
29 | Fund, for the purposes set forth in this section or for the
30 | purpose of paying the costs of construction, reconstruction,
31 | repair, restoration, and other costs associated with damage to

1 | properties of policyholders of covered policies due to the
2 | occurrence of a hurricane by assuring that policyholders
3 | located in this state are able to recover claims under
4 | property insurance policies after a covered event.

5 | 2. In order to avoid needless and indiscriminate
6 | proliferation, duplication, and fragmentation of such
7 | assistance programs, any local government may provide for the
8 | payment of fund reimbursements, regardless of whether or not
9 | the losses for which reimbursement is made occurred within or
10 | outside of the territorial jurisdiction of the local
11 | government.

12 | 3. The state hereby covenants with holders of bonds
13 | issued under this paragraph that the state will not repeal or
14 | abrogate the power of the board to direct the Office of
15 | Insurance Regulation to levy the assessments and to collect
16 | the proceeds of the revenues pledged to the payment of such
17 | bonds as long as any such bonds remain outstanding unless
18 | adequate provision has been made for the payment of such bonds
19 | pursuant to the documents authorizing the issuance of such
20 | bonds.

21 | 4. There shall be no liability on the part of, and no
22 | cause of action shall arise against any members or employees
23 | of the governing body of a local government for any actions
24 | taken by them in the performance of their duties under this
25 | paragraph.

26 | (d) Florida Hurricane Catastrophe Fund Finance
27 | Corporation.--

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

30 | a. The public benefits corporation created under this
31 | paragraph will provide a mechanism necessary for the

1 | cost-effective and efficient issuance of bonds. This mechanism
2 | will eliminate unnecessary costs in the bond issuance process,
3 | thereby increasing the amounts available to pay reimbursement
4 | for losses to property sustained as a result of hurricane
5 | damage.

6 | b. The purpose of such bonds is to fund reimbursements
7 | through the Florida Hurricane Catastrophe Fund to pay for the
8 | costs of construction, reconstruction, repair, restoration,
9 | and other costs associated with damage to properties of
10 | policyholders of covered policies due to the occurrence of a
11 | hurricane.

12 | c. The efficacy of the financing mechanism will be
13 | enhanced by the corporation's ownership of the assessments, by
14 | the insulation of the assessments from possible bankruptcy
15 | proceedings, and by covenants of the state with the
16 | corporation's bondholders.

17 | 2.a. There is created a public benefits corporation,
18 | which is an instrumentality of the state, to be known as the
19 | Florida Hurricane Catastrophe Fund Finance Corporation.

20 | b. The corporation shall operate under a five-member
21 | board of directors consisting of the Governor or a designee,
22 | the Chief Financial Officer or a designee, the Attorney
23 | General or a designee, the director of the Division of Bond
24 | Finance of the State Board of Administration, and the senior
25 | employee of the State Board of Administration responsible for
26 | operations of the Florida Hurricane Catastrophe Fund.

27 | c. The corporation has all of the powers of
28 | corporations under chapter 607 and under chapter 617, subject
29 | only to the provisions of this subsection.

30 |
31 |

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

4 e. The corporation may invest in any of the
5 investments authorized under s. 215.47.

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

10 3.a. In actions under chapter 75 to validate any bonds
11 issued by the corporation, the notice required by s. 75.06
12 shall be published only in Leon County and in two newspapers
13 of general circulation in the state, and the complaint and
14 order of the court shall be served only on the State Attorney
15 of the Second Judicial Circuit.

16 b. The state hereby covenants with holders of bonds of
17 the corporation that the state will not repeal or abrogate the
18 power of the board to direct the Office of Insurance
19 Regulation to levy the assessments and to collect the proceeds
20 of the revenues pledged to the payment of such bonds as long
21 as any such bonds remain outstanding unless adequate provision
22 has been made for the payment of such bonds pursuant to the
23 documents authorizing the issuance of such bonds.

24 4. The bonds of the corporation are not a debt of the
25 state or of any political subdivision, and neither the state
26 nor any political subdivision is liable on such bonds. The
27 corporation does not have the power to pledge the credit, the
28 revenues, or the taxing power of the state or of any political
29 subdivision. The credit, revenues, or taxing power of the
30 state or of any political subdivision shall not be deemed to
31 be pledged to the payment of any bonds of the corporation.

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

12 b. All bonds of the corporation shall be and
13 constitute legal investments without limitation for all public
14 bodies of this state; for all banks, trust companies, savings
15 banks, savings associations, savings and loan associations,
16 and investment companies; for all administrators, executors,
17 trustees, and other fiduciaries; for all insurance companies
18 and associations and other persons carrying on an insurance
19 business; and for all other persons who are now or may
20 hereafter be authorized to invest in bonds or other
21 obligations of the state and shall be and constitute eligible
22 securities to be deposited as collateral for the security of
23 any state, county, municipal, or other public funds. This
24 sub-subparagraph shall be considered as additional and
25 supplemental authority and shall not be limited without
26 specific reference to this sub-subparagraph.

27 6. The corporation and its corporate existence shall
28 continue until terminated by law; however, no such law shall
29 take effect as long as the corporation has bonds outstanding
30 unless adequate provision has been made for the payment of
31 such bonds pursuant to the documents authorizing the issuance

1 of such bonds. Upon termination of the existence of the
2 corporation, all of its rights and properties in excess of its
3 obligations shall pass to and be vested in the state.

4 (e) Protection of bondholders.--

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

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

24 3. Notwithstanding any other provision of law, any
25 pledge of or other security interest in revenue, money,
26 accounts, contract rights, general intangibles, or other
27 personal property made or created by the fund or the
28 corporation shall be valid, binding, and perfected from the
29 time such pledge is made or other security interest attaches
30 without any physical delivery of the collateral or further act
31 and the lien of any such pledge or other security interest

1 shall be valid, binding, and perfected against all parties
2 having claims of any kind in tort, contract, or otherwise
3 against the fund or the corporation irrespective of whether or
4 not such parties have notice of such claims. No instrument by
5 which such a pledge or security interest is created nor any
6 financing statement need be recorded or filed.

7 (f) Limitation.--The Florida Hurricane Fund Finance
8 Corporation may not be used to fund obligations under
9 subsection (19).

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

12 (a) General provisions.--

13 1. Upon a determination by law that any moneys
14 dedicated or otherwise available to the Florida Hurricane
15 Excess Loss Program (FHELP) are or will be insufficient to pay
16 for the amount of the state's liability for losses under the
17 FHELP, and a designation by law of a source of revenue from
18 which appropriations will be made to satisfy loan obligations
19 or to secure bonds, the board may take the necessary steps
20 under paragraph (b) to authorize the Florida Hurricane Excess
21 Loss Program Finance Corporation to satisfy loan obligations
22 or to issue bonds for the payment of such losses. The proceeds
23 of such bonds may be used to make payments for such losses; to
24 refinance or replace previously existing borrowings or
25 financial arrangements; to pay interest on bonds; to fund
26 reserves for the bonds; to pay expenses incident to the
27 issuance or sale of any bond issued under this paragraph,
28 including costs of validating, printing, and delivering the
29 bonds, costs of printing the official statement, costs of
30 publishing notices of sale of the bonds, and related
31 administrative expenses; or for such other purposes related to

1 the financial obligations of the FHELP as the board may
2 determine. The term of the bonds may not exceed 30 years. The
3 board and the Florida Hurricane Excess Loss Program Finance
4 Corporation may pledge all or a portion of all revenues
5 available from appropriations from the source designated by
6 law to secure such bonds and the board may execute such
7 agreements between the board and such corporation as the board
8 considers necessary to evidence, secure, preserve, and protect
9 such pledge. The credit, property, or taxing power of the
10 state or political subdivisions of the state may not be
11 pledged for the payment of such bonds. The bonds shall be
12 payable only from revenues specifically appropriated for such
13 purpose or from any other funds or revenues of the Florida
14 Hurricane Excess Loss Program Finance Corporation which are
15 pledged for such purpose. It is the intent of the Legislature
16 that initial funding for the FHELP shall be provided from up
17 to 10 percent of state revenues, which may include covenants
18 to appropriate and budget, as may be necessary.

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 insured
22 policyholders and to ensure that such policyholders are able
23 to pay the cost of construction, reconstruction, repair,
24 restoration, and other costs associated with damage to their
25 residential property after the occurrence of a hurricane, and
26 that the issuance of the bonds is essential to protect the
27 health, safety, and welfare of citizens of the state.

28 (b) Florida Hurricane Excess Loss Program Finance
29 Corporation.--
30
31

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

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

11 b. The purpose of such bonds is to fund reimbursements
12 through the FHELP to pay for the costs of construction,
13 reconstruction, repair, restoration, and other costs
14 associated with damage to properties of policyholders of
15 covered policies due to the occurrence of a hurricane.

16 c. The efficacy of the financing mechanism will be
17 enhanced by the corporation's ownership of the assessments, by
18 the insulation of the assessments from possible bankruptcy
19 proceedings, and by covenants of the state with the
20 corporation's bondholders.

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

24 b. The corporation shall operate under a five-member
25 board of directors consisting of the Governor or a designee,
26 the Chief Financial Officer or a designee, the Attorney
27 General or a designee, the director of the Division of Bond
28 Finance of the Florida Board of Administration, and the senior
29 employee of the Florida Board of Administration responsible
30 for operations of the Florida Hurricane Catastrophe Fund.

31

1 c. The corporation has all of the powers of
2 corporations under chapter 607 and under chapter 617, subject
3 only to the provisions of this subsection.

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

7 e. The corporation may invest in any of the
8 investments authorized under s. 215.47.

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

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

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

26 4. The bonds of the corporation are not a debt of the
27 state or of any political subdivision, and neither the state
28 nor any political subdivision is liable on such bonds. The
29 corporation does not have the power to pledge the credit, the
30 revenues, or the taxing power of the state or of any political
31 subdivision. The credit, revenues, or taxing power of the

1 state or of any political subdivision shall not be deemed to
2 be pledged to the payment of any bonds of the corporation.

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

14 b. All bonds of the corporation shall be and
15 constitute legal investments without limitation for all public
16 bodies of this state; for all banks, trust companies, savings
17 banks, savings associations, savings and loan associations,
18 and investment companies; for all administrators, executors,
19 trustees, and other fiduciaries; for all insurance companies
20 and associations and other persons carrying on an insurance
21 business; and for all other persons who are now or may
22 hereafter be authorized to invest in bonds or other
23 obligations of the state and shall be and constitute eligible
24 securities to be deposited as collateral for the security of
25 any state, county, municipal, or other public funds. This
26 sub-subparagraph shall be considered as additional and
27 supplemental authority and may not be limited without specific
28 reference to this sub-subparagraph.

29 6. The corporation and its corporate existence shall
30 continue until terminated by law; however, such law may not
31 take effect as long as the corporation has bonds outstanding

1 unless adequate provision has been made for the payment of
2 such bonds pursuant to the documents authorizing the issuance
3 of such bonds. Upon termination of the existence of the
4 corporation, all of its rights and properties in excess of its
5 obligations shall pass to and be vested in the state.

6 (c) Protection of bondholders.--

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

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

26 3. Notwithstanding any other provision of law, any
27 pledge of or other security interest in revenue, money,
28 accounts, contract rights, general intangibles, or other
29 personal property made or created by the fund or the
30 corporation shall be valid, binding, and perfected from the
31 time such pledge is made or other security interest attaches

1 without any physical delivery of the collateral or further act
2 and the lien of any such pledge or other security interest
3 shall be valid, binding, and perfected against all parties
4 having claims of any kind in tort, contract, or otherwise
5 against the fund or the corporation irrespective of whether or
6 not such parties have notice of such claims. No instrument by
7 which such a pledge or security interest is created nor any
8 financing statement need be recorded or filed.

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

15 ~~(8)(7)~~ ADDITIONAL POWERS AND DUTIES.--

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

24 (17) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL
25 COVERAGE.--

26 (a) Findings and intent.--

27 1. The Legislature finds that:

28 a. Because of temporary disruptions in the market for
29 catastrophic reinsurance, many property insurers were unable
30 to procure reinsurance for the 2006 hurricane season with an
31 attachment point below the insurers' respective Florida

1 Hurricane Catastrophe Fund attachment points, were unable to
2 procure sufficient amounts of such reinsurance, or were able
3 to procure such reinsurance only by incurring substantially
4 higher costs than in prior years.

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

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

12 2. It is the intent of the Legislature to create a
13 temporary emergency program, applicable to the 2007 and 2008
14 hurricane seasons, to address these market disruptions and
15 enable insurers, at their option, to procure additional
16 coverage from the Florida Hurricane Catastrophe Fund. It is
17 the further intent of the Legislature to structure this
18 program in a manner that requires insurers to pay premiums for
19 this coverage which are comparable to the premiums the insurer
20 would have paid for comparable reinsurance coverage but for
21 the current emergency in the reinsurance market and also in a
22 manner that minimizes subsidies from the general public.

23 (b) Applicability of other provisions of this
24 section.--All provisions of this section and the rules adopted
25 under this section apply to the program created by this
26 subsection unless specifically superseded by this subsection.

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

29 1. "TEACO options" means the temporary emergency
30 additional coverage options created under this subsection.
31

1 2. "TEACO insurer" means an insurer that has opted to
2 obtain coverage under the TEACO options in addition to the
3 coverage provided to the insurer under its reimbursement
4 contract.

5 3. "TEACO reimbursement premium" means the premium
6 charged by the fund for coverage provided under the TEACO
7 options.

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

12 a. The board shall calculate and report to each TEACO
13 insurer the TEACO retention multiples. There shall be three
14 TEACO retention multiples for defining coverage. Each multiple
15 shall be calculated by dividing \$3 billion, \$4 billion, or \$5
16 billion by the total estimated TEACO reimbursement premium
17 assuming all insurers selected that option. Total estimated
18 TEACO reimbursement premium for purposes of the calculation
19 under this sub-subparagraph shall be calculated using the
20 assumption that all insurers have selected a specific TEACO
21 retention multiple option and have selected the 90-percent
22 coverage level.

23 b. The TEACO retention multiples as determined under
24 sub-subparagraph a. shall be adjusted to reflect the coverage
25 level elected by the insurer. For insurers electing the
26 90-percent coverage level, the adjusted retention multiple is
27 100 percent of the amount determined under sub-subparagraph a.
28 For insurers electing the 75-percent coverage level, the
29 retention multiple is 120 percent of the amount determined
30 under sub-subparagraph a. For insurers electing the 45-percent
31

1 coverage level, the adjusted retention multiple is 200 percent
2 of the amount determined under sub-subparagraph a.

3 c. An insurer shall determine its provisional TEACO
4 retention by multiplying its provisional TEACO reimbursement
5 premium by the applicable adjusted TEACO retention multiple
6 and shall determine its actual TEACO retention by multiplying
7 its actual TEACO reimbursement premium by the applicable
8 adjusted TEACO retention multiple.

9 d. For TEACO insurers who experience multiple covered
10 events causing loss during the contract term beginning June 1,
11 2007, or the contract year beginning June 1, 2008, the
12 insurer's full TEACO retention shall be applied to each of the
13 covered events causing the two largest losses for that
14 insurer. For other covered events resulting in losses, the
15 TEACO option does not apply and the insurer's retention shall
16 be one-third of the full retention as calculated under
17 paragraph (2)(e).

18 5. "TEACO addendum" means an addendum to the
19 reimbursement contract reflecting the obligations of the fund
20 and TEACO insurers under the program created by this
21 subsection.

22 (d) TEACO addendum.--

23 1. The TEACO addendum shall provide for reimbursement
24 of TEACO insurers for covered events occurring between June 1,
25 2007, and May 31, 2008, and between June 1, 2008, and May 31,
26 2009, in exchange for the TEACO reimbursement premium paid
27 into the fund under paragraph (e). Any insurer writing covered
28 policies have the option of choosing to accept the TEACO
29 addendum.

30 2. The TEACO addendum shall contain a promise by the
31 board to reimburse the TEACO insurer for 45 percent, 75

1 percent, or 90 percent of its losses from each covered event
2 in excess of the insurer's TEACO retention, plus 5 percent of
3 the reimbursed losses to cover loss adjustment expenses. The
4 percentage shall be the same as the coverage level selected by
5 the insurer under paragraph (4)(b).

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

9 4. The TEACO addendum shall also provide that the
10 obligation of the board with respect to all TEACO addenda
11 shall not exceed an amount equal to two times the difference
12 between the industry retention level calculated under
13 paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5 billion
14 industry TEACO retention level options actually selected, but
15 in no event may the board's obligation exceed the actual
16 claims-paying capacity of the fund plus the additional
17 capacity created in paragraph (f). If the actual claims-paying
18 capacity and the additional capacity created under paragraph
19 (f) fall short of the board's obligations under the
20 reimbursement contract, each insurer's share of the fund's
21 capacity shall be pro rated based on the premium an insurer
22 pays for its normal reimbursement coverage and the premium
23 paid for its optional TEACO coverage as each such premium
24 bears to the total premiums paid to the fund times the
25 available capacity.

26 5. The priorities, schedule, and method of
27 reimbursements under the TEACO addendum shall be the same as
28 provided under subsection (4).

29 6. A TEACO insurer's maximum reimbursement under the
30 TEACO addendum shall be calculated by multiplying the
31 insurer's share of the estimated total TEACO reimbursement

1 premium as calculated under sub-subparagraph (c)4.a. by an
2 amount equal to two times the difference between the industry
3 retention level calculated under paragraph (2)(e) and the \$3
4 billion, \$4 billion, or \$5 billion industry TEACO retention
5 level specified in sub-subparagraph (c)4.a. as selected by the
6 TEACO insurer.

7 (e) TEACO reimbursement premiums.--

8 1. Each TEACO insurer shall pay to the fund, in the
9 manner and at the time provided in the reimbursement contract
10 for payment of reimbursement premiums, a TEACO reimbursement
11 premium calculated as specified in this paragraph.

12 2. The TEACO reimbursement premiums shall be
13 calculated based on the assumption that, if all insurers
14 entering into reimbursement contracts under subsection (4)
15 also accepted the TEACO option, the industry TEACO
16 reimbursement premium associated with the \$3 billion retention
17 option would be equal to 40 percent of the difference between
18 the industry retention level calculated under paragraph (2)(e)
19 and the \$3 billion industry TEACO retention level, the TEACO
20 reimbursement premium associated with the \$4 billion retention
21 option would be equal to 35 percent of the difference between
22 the industry retention level calculated under paragraph (2)(e)
23 and the \$4 billion industry TEACO retention level, and the
24 TEACO premium associated with the \$5 billion retention option
25 would be equal to 30 percent of the difference between the
26 industry retention level calculated under paragraph (2)(e) and
27 the \$5 billion industry TEACO retention level.

28 3. Each insurer's TEACO premium shall be calculated
29 based on its share of the total TEACO reimbursement premiums
30 based on its coverage selection under the TEACO addendum.

31

1 (f) Effect on claims-paying capacity of the fund.--For
2 the contract term commencing June 1, 2007, and the contract
3 year commencing April 1, 2008, the program created by this
4 subsection shall increase the claims-paying capacity of the
5 fund as provided in subparagraph (4)(c)1. by an amount equal
6 to two times the difference between the industry retention
7 level calculated under paragraph (2)(e) and the \$3 billion
8 industry TEACO retention level specified in sub-subparagraph
9 (c)4.a. The additional capacity shall apply only to the
10 additional coverage provided under the TEACO option and shall
11 not otherwise affect any insurer's reimbursement from the
12 fund.

13 (18) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

14 (a) Findings and intent.--

15 1. The Legislature finds that:

16 a. Because of temporary disruptions in the market for
17 catastrophic reinsurance, many property insurers were unable
18 to procure sufficient amounts of such reinsurance for the 2006
19 hurricane season or were able to procure such reinsurance only
20 by incurring substantially higher costs than in prior years.

21 b. The reinsurance market problems were responsible,
22 at least in part, for substantial premium increases to many
23 consumers and increases in the number of policies issued by
24 Citizens Property Insurance Corporation.

25 c. It is likely that the reinsurance market
26 disruptions will not significantly abate prior to the 2007
27 hurricane season.

28 2. It is the intent of the Legislature to create
29 options for insurers to purchase a temporary increased
30 coverage limit above the statutorily determined limit in
31 subparagraph (4)(c)1., applicable for the 2007 and 2008

1 hurricane seasons, to address market disruptions and enable
2 insurers, at their option, to procure additional coverage from
3 the Florida Hurricane Catastrophe Fund. It is the further
4 intent of the Legislature to structure this coverage in a
5 manner that requires insurers to pay premiums that are
6 comparable to the premiums the insurer would have paid for
7 comparable reinsurance coverage but for the current emergency
8 in the reinsurance market and also in a manner that minimizes
9 subsidies from the general public over the long run by
10 providing the optional increase in coverage limit for 2 years.

11 (b) Applicability of other provisions of this
12 section.--All provisions of this section and the rules adopted
13 under this section apply to the coverage created by this
14 subsection unless specifically superseded by provisions in
15 this subsection.

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

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

19 2. "FHCF reimbursement premium" means the premium paid
20 by an insurer for its coverage as a mandatory participant in
21 the FHCF, but does not include additional premiums for
22 optional coverages.

23 3. "Payout multiple" means defined as the number or
24 multiple created by dividing the statutorily defined
25 claims-paying capacity as determined in subparagraph (4)(c)1.
26 by the aggregate reimbursement premiums paid by all insurers
27 estimated or projected as of calendar year-end.

28 4. "TICL" means the temporary increase in coverage
29 limit.

30 5. "TICL options" means the temporary increase in
31 coverage options created under this subsection.

1 6. "TICL insurer" means an insurer that has opted to
2 obtain coverage under the TICL options addendum in addition to
3 the coverage provided to the insurer under its FHCF
4 reimbursement contract.

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

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

11 9. "TICL coverage" means the coverage for an insurer's
12 losses above the insurer's statutorily determined
13 claims-paying capacity based on the claims-paying limit in
14 subparagraph (4)(c)1., which an insurer selects as its
15 temporary increase in coverage from the fund under the TICL
16 options selected. A TICL insurer's increased coverage limit
17 options shall be calculated as follows:

18 a. The board shall calculate and report to each TICL
19 insurer the TICL coverage multiples based on three options for
20 increasing the insurer's FHCF coverage limit. Each TICL
21 coverage multiple shall be calculated by dividing \$1 billion,
22 \$2 billion, or \$3 billion by the total estimated aggregate
23 FHCF reimbursement premiums for the 2007-2008 reimbursement
24 contract year and for the 2008-2009 reimbursement contract
25 year.

26 b. The TICL insurer's increased coverage shall be the
27 FHCF reimbursement premium multiplied by the TICL coverage
28 multiple. In order to determine an insurer's total limit of
29 coverage, an insurer shall add its TICL coverage multiple to
30 its payout multiple. The total shall represent a number that,
31 when multiplied by an insurer's FHCF reimbursement premium for

1 a given reimbursement contract year, defines an insurer's
2 total limit of FHCF reimbursement coverage for that
3 reimbursement contract year.

4 10. "TICL options addendum" means an addendum to the
5 reimbursement contract reflecting the obligations of the fund
6 and insurers selecting an option to increase an insurer's FHCF
7 coverage limit.

8 (d) TICL options addendum.--

9 1. The TICL options addendum shall provide for
10 reimbursement of TICL insurers for covered events occurring
11 between June 1, 2007, and May 31, 2008, and between June 1,
12 2008, and May 31, 2009, in exchange for the TICL reimbursement
13 premium paid into the fund under paragraph (e). Any insurer
14 writing covered policies has the option of selecting an
15 increased limit of coverage under the TICL options addendum
16 and shall select such coverage at the time that it executes
17 the FHCF reimbursement contract.

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

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

28 4. The priorities, schedule, and method of
29 reimbursements under the TICL addendum shall be the same as
30 provided under subsection (4).

31 (e) TICL reimbursement premiums.--

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

5 2. Each insurer's TICL premium shall be calculated
6 based on the additional limit of increased coverage that it
7 selects. Such limit is determined by multiplying the TICL
8 multiple associated with one of the three options times the
9 insurer's FHCF reimbursement premium. For the amount of
10 increased coverage based on the option of using \$1 billion to
11 derive the TICL multiple, the rate-on-line for such coverage
12 shall be 20 percent. For the option using \$2 billion, the
13 rate-on-line shall be 17.5 percent and for the option using \$3
14 billion, the rate-on-line shall be 15 percent.

15 (f) Effect on claims-paying capacity of the fund.--For
16 the contract terms commencing June 1, 2007, and April 1, 2008,
17 the program created by this subsection shall increase the
18 claims-paying capacity of the fund as provided in subparagraph
19 (4)(c)1. by an amount not to exceed \$3 billion dollars and
20 shall depend on the TICL coverage options selected and the
21 number of insurers that select the TICL optional coverage. The
22 additional capacity shall apply only to the additional
23 coverage provided under the TICL options and shall not
24 otherwise affect any insurer's reimbursement from the fund if
25 the insurer chooses not to select the temporary option to
26 increase its limit of coverage under the FHCF.

27 (19) FLORIDA HURRICANE EXCESS LOSS PROGRAM.--

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

29 1. There is a compelling state interest in maintaining
30 a viable and orderly private-sector market for property
31 insurance in this state and ensuring that premiums for

1 property insurance are affordable. Increased premiums and
2 assessments may force policyholders to sell their homes and
3 even leave the state, which poses a serious threat to the
4 economy of the state and the essential economic value of home
5 ownership.

6 2. As a result of unprecedented levels of catastrophic
7 insured losses in recent years, and especially as a result of
8 Hurricanes Charlie, Jeanne, Francis, Ivan, Dennis, Katrina,
9 Rita, and Wilma, insurers are facing increased demands from
10 regulators, rating agencies, and investors to obtain
11 reinsurance to cover multiple catastrophic events at a time
12 when reinsurance availability has been limited, reinsurance
13 costs have substantially increased, and hurricane
14 loss-projection models are reportedly being revised to
15 increase expected hurricane losses, all causing further
16 disruption in the reinsurance and property insurance market.

17 3. Providing a limitation of liability on property
18 insurers above amounts that are covered by the Florida
19 Hurricane Catastrophe Fund and assuming state liability for
20 such amounts will enable insurers to limit its purchase of
21 reinsurance and limit their exposure to losses under such
22 amounts, with corresponding premium savings to residential
23 property insurance policyholders in the state.

24 (b) All provisions of this section and rules adopted
25 under this section apply to the program created by this
26 subsection, except as otherwise provided in this section or as
27 superseded by this subsection.

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

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

30 2. "FHELP" means Florida Hurricane Excess Loss
31 Program.

1 3. "FHELP retention" means the sum of the insurer's
2 FHCF retention as defined in paragraph (2)(e), plus the
3 insurer's limit of FHCF coverage as determined in subparagraph
4 (4)(c)2., plus the insurer's copayments associated with the
5 coverage selected as provided for in paragraph (4)(b),
6 including the maximum limits of coverage available to the
7 insurer under the Temporary Increased Coverage Limit (TICL)
8 option pursuant to subsection (18), whether or not selected by
9 the insurer, but only for those years when the TICL option is
10 available.

11 4. "FHELP payout multiple" means the factor or number
12 derived by dividing the difference in the industry FHELP
13 coverage limit and the industry FHELP retention by the
14 estimated aggregate FHCF premium paid by all insurers for the
15 mandatory FHCF coverage for the contract year calculated at
16 the time the premium formula is determined.

17 (d) There is created the Florida Hurricane Excess Loss
18 Program to be administered by the State Board of
19 Administration. The board may adopt such rules as are
20 reasonable and necessary to administer this subsection and
21 provide for the operation of the FHELP. The board may employ
22 or contract with such staff and professionals as the board
23 considers necessary for the administration of the FHELP. The
24 board shall administer the FHELP in conjunction with the FHCF;
25 however, in all other respects, the operation, accounts,
26 assets, liabilities, rights, and obligations of the FHELP
27 shall be segregated from those of the FHCF and shall not in
28 any way affect the operation, accounts, assets, liabilities,
29 rights, and obligations of the FHCF. Any moneys attributable
30 to the FHELP shall be subject to the same limitations and
31 investment restrictions as provide for under subsection (3).

1 (e)1. Beginning with the FHCF reimbursement contract
2 year on June 1, 2007, the board shall require a contract
3 addendum be executed by each FHCF participating insurer that
4 obligates the state to provide FHELP coverage in exchange for
5 the insurer's obligation to pay and service all claims covered
6 by FHELP. The execution of the addendum shall be a requirement
7 and a condition of doing business in this state for all
8 insurers writing covered policies.

9 2. The FHELP addendum shall require that the state
10 assume liability under the FHELP for 90 percent of losses
11 under a covered policy from each covered event in excess of
12 the insurer's FHELP retention up to the insurer's FHELP limit.
13 The insurer's FHELP limit is determined by multiplying the
14 insurer's FHCF reimbursement premium by the FHELP payout
15 multiple. The FHELP addendum shall also require that the state
16 reimburse the insurer for 5 percent of the reimbursed losses
17 to cover loss-adjustment expenses.

18 3. The FHELP addendum shall also provide that the
19 obligation of the board with respect to all contracts covering
20 a particular contract year shall not exceed the industry FHELP
21 coverage limit. The industry FHELP coverage limit is that
22 portion of the loss level determined by the board to have a
23 probability of occurring once every 250 years for all covered
24 policies, generally referred to as a 250-year probable maximum
25 loss, which is in excess of the industry FHELP retention.

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

29 5. The priorities, schedule, and method of
30 reimbursements under the FHELP addendum shall be the same as
31 provided under subsection (4).

1 (f) Insurers are not be required to pay premiums for
2 FHELP coverage, which shall be funded pursuant to subsection
3 (7). Such coverage shall be funded separately and apart from
4 the obligations of the Florida Hurricane Catastrophe Fund and
5 any revenue bonds issued by the Florida Hurricane Catastrophe
6 Fund Finance Corporation.

7 Section 5. (1) An insurer that elects the TEACO or
8 TICL coverage options offered by the Florida Hurricane
9 Catastrophe Fund, as required to be offered by this act, must
10 make a rate filing with the Office of Insurance Regulation,
11 pursuant to the "file and use" provisions of s.
12 627.062(2)(a)1., Florida Statutes, which reflects any savings
13 or reduction in loss exposure to the insurer. An insurer may
14 not obtain a rate increase due to the election of the TEACO or
15 TICL coverage options.

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

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

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

1 Section 6. Section 350.012, Florida Statutes, is
2 amended to read:

3 350.012 Committee on Public Service Commission and
4 Insurance Oversight; creation; membership; powers and
5 duties.--

6 (1) There is created a standing joint committee of the
7 Legislature, designated the Committee on Public Service
8 Commission and Insurance Oversight, and composed of 12 members
9 appointed as follows: six members of the Senate appointed by
10 the President of the Senate, two of whom must be members of
11 the minority party; and six members of the House of
12 Representatives appointed by the Speaker of the House of
13 Representatives, two of whom must be members of the minority
14 party. The terms of members shall be for 2 years and shall run
15 from the organization of one Legislature to the organization
16 of the next Legislature. The President shall appoint the chair
17 of the committee in even-numbered years and the vice chair in
18 odd-numbered years, and the Speaker of the House of
19 Representatives shall appoint the chair of the committee in
20 odd-numbered years and the vice chair in even-numbered years,
21 from among the committee membership. Vacancies shall be filled
22 in the same manner as the original appointment. Members shall
23 serve without additional compensation, but shall be reimbursed
24 for expenses.

25 (2) The committee shall:

26 (a) Recommend to the Governor nominees to fill a
27 vacancy on the Public Service Commission, as provided by
28 general law; ~~and~~

29 (b) Appoint a Public Counsel as provided by general
30 law; ~~and-~~

31

1 (c) Confirm or reject the appointment by the Chief
2 Financial Officer of the Insurance Consumer Advocate, as
3 provided in s. 350.0615.

4 (3) The committee is authorized to file a complaint
5 with the Commission on Ethics alleging a violation of this
6 chapter by a commissioner, former commissioner, former
7 commission employee, or member of the Public Service
8 Commission Nominating Council.

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

13 Section 7. Section 350.0611, Florida Statutes, is
14 amended to read:

15 350.0611 Public Counsel; duties and powers.--It shall
16 be the duty of the Public Counsel to provide legal
17 representation for the people of the state in proceedings
18 before the commission and in proceedings before counties
19 pursuant to s. 367.171(8). The Public Counsel shall have such
20 powers as are necessary to carry out the duties of his or her
21 office, including, but not limited to, the following specific
22 powers:

23 (1) To recommend to the commission or the counties, by
24 petition, the commencement of any proceeding or action or to
25 appear, in the name of the state or its citizens, in any
26 proceeding or action before the commission or the counties and
27 urge therein any position which he or she deems to be in the
28 public interest, whether consistent or inconsistent with
29 positions previously adopted by the commission or the
30 counties, and utilize therein all forms of discovery available
31 to attorneys in civil actions generally, subject to protective

1 orders of the commission or the counties which shall be
2 reviewable by summary procedure in the circuit courts of this
3 state;

4 (2) To have access to and use of all files, records,
5 and data of the commission or the counties available to any
6 other attorney representing parties in a proceeding before the
7 commission or the counties;

8 (3) In any proceeding in which he or she has
9 participated as a party, to seek review of any determination,
10 finding, or order of the commission or the counties, or of any
11 hearing examiner designated by the commission or the counties,
12 in the name of the state or its citizens;

13 (4) To prepare and issue reports, recommendations, and
14 proposed orders to the commission, the Governor, and the
15 Legislature on any matter or subject within the jurisdiction
16 of the commission, and to make such recommendations as he or
17 she deems appropriate for legislation relative to commission
18 procedures, rules, jurisdiction, personnel, and functions; ~~and~~

19 (5) To appear before other state agencies, federal
20 agencies, and state and federal courts in connection with
21 matters under the jurisdiction of the commission, in the name
22 of the state or its citizens; ~~and-~~

23 (6) To represent, through the Insurance Consumer
24 Advocate, the general public of the state on matters related
25 to the regulation of insurance before the Office of Insurance
26 Regulation, the Department of Financial Services, and the
27 Financial Services Commission, as provided in s. 350.0615.

28 Section 8. Section 350.0613, Florida Statutes, is
29 amended to read:

30 350.0613 Public Counsel; employees; receipt of
31 pleadings.--The committee may authorize the Public Counsel to

1 employ clerical and technical assistants whose qualifications,
2 duties, and responsibilities the committee shall from time to
3 time prescribe. The committee may from time to time authorize
4 retention of the services of additional attorneys, actuaries,
5 economists, or experts to the extent that the best interests
6 of the people of the state will be better served thereby,
7 including the retention of expert witnesses and other
8 technical personnel for participation in contested proceedings
9 before the Public Service Commission, the Office of Insurance
10 Regulation, the Department of Financial Services, or the
11 Financial Services Commission. The Public Service Commission
12 shall furnish the Public Counsel with copies of the initial
13 pleadings in all proceedings before the commission. The Office
14 of Insurance Regulation, the Financial Services Commission,
15 and the Department of Financial Services shall furnish the
16 Public Counsel with copies of all filings, as requested by the
17 Public Counsel or under such criteria as requested by the
18 Public Counsel, which relate to the jurisdiction of the
19 Insurance Consumer Advocate pursuant to s. 350.0615., ~~and~~ If
20 the Public Counsel or Insurance Consumer Advocate intervenes
21 as a party in any proceeding he or she shall be served with
22 copies of all subsequent pleadings, exhibits, and prepared
23 testimony, if used. Upon filing notice of intervention, the
24 Public Counsel or Insurance Consumer Advocate shall serve all
25 interested parties with copies of such notice and all of his
26 or her subsequent pleadings and exhibits.

27 Section 9. Section 350.0615, Florida Statutes, is
28 created to read:

29 350.0615 Insurance Consumer Advocate.--The Chief
30 Financial Officer shall appoint the Insurance Consumer
31 Advocate, who shall be subject to confirmation by the

1 Committee on Public Service Commission and Insurance
2 Oversight. The Insurance Consumer Advocate shall represent the
3 general public of the state on matters related to the
4 regulation of insurance before the Office of Insurance
5 Regulation, the Department of Financial Services, and the
6 Financial Services Commission. The Insurance Consumer Advocate
7 shall report directly to and be engaged as an employee of the
8 Public Counsel as a Deputy Public Counsel. The Public Counsel
9 shall provide administrative and staff support to the
10 Insurance Consumer Advocate. The Insurance Consumer Advocate
11 has all powers that are necessary to carry out his or her
12 duties, including, but not limited to, the powers to:
13 (1) Recommend to the office, department, or
14 commission, by petition, the commencement of any proceeding or
15 action; to appear in any proceeding or action before the
16 office, department, or commission; and to appear in any
17 proceeding before the Division of Administrative Hearings
18 relating to insurance matters under the jurisdiction of the
19 office, department, or commission.
20 (2) Have access to and use of all files, records, and
21 data of the office, department, or commission.
22 (3) Examine all rate and form filings submitted to the
23 office, hire consultants as necessary to aid in the review
24 process, and recommend to the office, department, commission,
25 or Legislature any position considered by the Insurance
26 Consumer Advocate to be in the public interest.
27 Section 10. Section 395.1060, Florida Statutes, is
28 created to read:
29 395.1060 Risk pooling by certain hospitals and
30 hospital systems.--
31

1 (1) Notwithstanding any other provision of law, any
2 two or more Florida-licensed hospitals located in this state
3 may form an alliance for the purpose of pooling and spreading
4 liabilities of its members relative to property exposure or
5 securing such property insurance coverage for the benefit of
6 its members, provided the alliance that is created must:
7 (a) Have annual premiums in excess of \$3 million;
8 (b) Maintain a continuing program of premium
9 calculation and evaluation and reserve evaluation to protect
10 the financial stability of the alliance in an amount and
11 manner determined by consultants using catastrophic (CAT)
12 modeling criteria or other risk-estimating methodologies,
13 including those used by qualified and independent actuaries;
14 (c) Cause to be prepared annually a fiscal year-end
15 financial statement in accordance with generally accepted
16 accounting principles and audited by an independent certified
17 public accountant within 6 months after the end of the fiscal
18 year; and
19 (d) Have a governing body comprised entirely of member
20 entities whose representatives on such governing body are
21 specified by the organizational documents of the alliance.
22 (2) For purposes of this section, the term:
23 (a) "Alliance" means a corporation, association,
24 limited liability company, or partnership or any other legal
25 entity formed by a group of eligible entities.
26 (b) "Property coverage" means coverage provided by
27 self-insurance or insurance for real or personal property of
28 every kind and every interest in such property against loss or
29 damage from any hazard or cause and against any loss
30 consequential to such loss or damage.
31

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

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

11 Section 11. Section 553.73, Florida Statutes, is
12 amended to read:

13 553.73 Florida Building Code.--

14 (1)(a) The commission shall adopt, by rule pursuant to
15 ss. 120.536(1) and 120.54, the Florida Building Code which
16 shall contain or incorporate by reference all laws and rules
17 which pertain to and govern the design, construction,
18 erection, alteration, modification, repair, and demolition of
19 public and private buildings, structures, and facilities and
20 enforcement of such laws and rules, except as otherwise
21 provided in this section.

22 (b) The technical portions of the Florida
23 Accessibility Code for Building Construction shall be
24 contained in their entirety in the Florida Building Code. The
25 civil rights portions and the technical portions of the
26 accessibility laws of this state shall remain as currently
27 provided by law. Any revision or amendments to the Florida
28 Accessibility Code for Building Construction pursuant to part
29 II shall be considered adopted by the commission as part of
30 the Florida Building Code. Neither the commission nor any
31 local government shall revise or amend any standard of the

1 Florida Accessibility Code for Building Construction except as
2 provided for in part II.

3 (c) The Florida Fire Prevention Code and the Life
4 Safety Code shall be referenced in the Florida Building Code,
5 but shall be adopted, modified, revised, or amended,
6 interpreted, and maintained by the Department of Financial
7 Services by rule adopted pursuant to ss. 120.536(1) and
8 120.54. The Florida Building Commission may not adopt a fire
9 prevention or lifesafety code, and nothing in the Florida
10 Building Code shall affect the statutory powers, duties, and
11 responsibilities of any fire official or the Department of
12 Financial Services.

13 (d) Conflicting requirements between the Florida
14 Building Code and the Florida Fire Prevention Code and Life
15 Safety Code of the state established pursuant to ss. 633.022
16 and 633.025 shall be resolved by agreement between the
17 commission and the State Fire Marshal in favor of the
18 requirement that offers the greatest degree of lifesafety or
19 alternatives that would provide an equivalent degree of
20 lifesafety and an equivalent method of construction. If the
21 commission and State Fire Marshal are unable to agree on a
22 resolution, the question shall be referred to a mediator,
23 mutually agreeable to both parties, to resolve the conflict in
24 favor of the provision that offers the greatest lifesafety, or
25 alternatives that would provide an equivalent degree of
26 lifesafety and an equivalent method of construction.

27 (e) Subject to the provisions of this act,
28 responsibility for enforcement, interpretation, and regulation
29 of the Florida Building Code shall be vested in a specified
30 local board or agency, and the words "local government" and
31

1 "local governing body" as used in this part shall be construed
2 to refer exclusively to such local board or agency.

3 (2) The Florida Building Code shall contain provisions
4 or requirements for public and private buildings, structures,
5 and facilities relative to structural, mechanical, electrical,
6 plumbing, energy, and gas systems, existing buildings,
7 historical buildings, manufactured buildings, elevators,
8 coastal construction, lodging facilities, food sales and food
9 service facilities, health care facilities, including assisted
10 living facilities, adult day care facilities, hospice
11 residential and inpatient facilities and units, and facilities
12 for the control of radiation hazards, public or private
13 educational facilities, swimming pools, and correctional
14 facilities and enforcement of and compliance with such
15 provisions or requirements. Further, the Florida Building Code
16 must provide for uniform implementation of ss. 515.25, 515.27,
17 and 515.29 by including standards and criteria for residential
18 swimming pool barriers, pool covers, latching devices, door
19 and window exit alarms, and other equipment required therein,
20 which are consistent with the intent of s. 515.23. Technical
21 provisions to be contained within the Florida Building Code
22 are restricted to requirements related to the types of
23 materials used and construction methods and standards employed
24 in order to meet criteria specified in the Florida Building
25 Code. Provisions relating to the personnel, supervision or
26 training of personnel, or any other professional qualification
27 requirements relating to contractors or their workforce may
28 not be included within the Florida Building Code, and
29 subsections (4), (5), (6), ~~and (7)~~, and (8) are not to be
30 construed to allow the inclusion of such provisions within the
31 Florida Building Code by amendment. This restriction applies

1 to both initial development and amendment of the Florida
2 Building Code.

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

19 (a) The proposed amendment has been published on the
20 commission's website for a minimum of 45 days and all the
21 associated documentation has been made available to any
22 interested party before any consideration by any Technical
23 Advisory Committee;

24 (b) In order for a Technical Advisory Committee to
25 make a favorable recommendation to the commission, the
26 proposal must receive a three-fourths vote of the members
27 present at the Technical Advisory Committee meeting and at
28 least half of the regular members must be present in order to
29 conduct a meeting;

30 (c) After Technical Advisory Committee consideration
31 and a recommendation for approval of any proposed amendment,

1 | the proposal must be published on the commission's website for
2 | not less than 45 days before any consideration by the
3 | commission; and

4 | (d) Any proposal may be modified by the commission
5 | based on public testimony and evidence from a public hearing
6 | held in accordance with chapter 120.

7 |
8 | The commission shall incorporate within sections of the
9 | Florida Building Code provisions which address regional and
10 | local concerns and variations. The commission shall make every
11 | effort to minimize conflicts between the Florida Building
12 | Code, the Florida Fire Prevention Code, and the Life Safety
13 | Code.

14 | (4)(a) All entities authorized to enforce the Florida
15 | Building Code pursuant to s. 553.80 shall comply with
16 | applicable standards for issuance of mandatory certificates of
17 | occupancy, minimum types of inspections, and procedures for
18 | plans review and inspections as established by the commission
19 | by rule. Local governments may adopt amendments to the
20 | administrative provisions of the Florida Building Code,
21 | subject to the limitations of this paragraph. Local amendments
22 | shall be more stringent than the minimum standards described
23 | herein and shall be transmitted to the commission within 30
24 | days after enactment. The local government shall make such
25 | amendments available to the general public in a usable format.
26 | The State Fire Marshal is responsible for establishing the
27 | standards and procedures required in this paragraph for
28 | governmental entities with respect to applying the Florida
29 | Fire Prevention Code and the Life Safety Code.

30 | (b) Local governments may, subject to the limitations
31 | of this section, adopt amendments to the technical provisions

1 of the Florida Building Code which apply solely within the
2 jurisdiction of such government and which provide for more
3 stringent requirements than those specified in the Florida
4 Building Code, not more than once every 6 months. A local
5 government may adopt technical amendments that address local
6 needs if:

7 1. The local governing body determines, following a
8 public hearing which has been advertised in a newspaper of
9 general circulation at least 10 days before the hearing, that
10 there is a need to strengthen the requirements of the Florida
11 Building Code. The determination must be based upon a review
12 of local conditions by the local governing body, which review
13 demonstrates by evidence or data that the geographical
14 jurisdiction governed by the local governing body exhibits a
15 local need to strengthen the Florida Building Code beyond the
16 needs or regional variation addressed by the Florida Building
17 Code, that the local need is addressed by the proposed local
18 amendment, and that the amendment is no more stringent than
19 necessary to address the local need.

20 2. Such additional requirements are not discriminatory
21 against materials, products, or construction techniques of
22 demonstrated capabilities.

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

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

28 5. Any amendment to the Florida Building Code shall be
29 transmitted within 30 days by the adopting local government to
30 the commission. The commission shall maintain copies of all
31 such amendments in a format that is usable and obtainable by

1 the public. Local technical amendments shall not become
2 effective until 30 days after the amendment has been received
3 and published by the commission.

4 6. Any amendment to the Florida Building Code adopted
5 by a local government pursuant to this paragraph shall be
6 effective only until the adoption by the commission of the new
7 edition of the Florida Building Code every third year. At such
8 time, the commission shall review such amendment for
9 consistency with the criteria in paragraph (8)(a) ~~(7)(a)~~ and
10 adopt such amendment as part of the Florida Building Code or
11 rescind the amendment. The commission shall immediately notify
12 the respective local government of the rescission of any
13 amendment. After receiving such notice, the respective local
14 government may readopt the rescinded amendment pursuant to the
15 provisions of this paragraph.

16 7. Each county and municipality desiring to make local
17 technical amendments to the Florida Building Code shall by
18 interlocal agreement establish a countywide compliance review
19 board to review any amendment to the Florida Building Code,
20 adopted by a local government within the county pursuant to
21 this paragraph, that is challenged by any substantially
22 affected party for purposes of determining the amendment's
23 compliance with this paragraph. If challenged, the local
24 technical amendments shall not become effective until time for
25 filing an appeal pursuant to subparagraph 8. has expired or,
26 if there is an appeal, until the commission issues its final
27 order determining the adopted amendment is in compliance with
28 this subsection.

29 8. If the compliance review board determines such
30 amendment is not in compliance with this paragraph, the
31 compliance review board shall notify such local government of

1 | the noncompliance and that the amendment is invalid and
2 | unenforceable until the local government corrects the
3 | amendment to bring it into compliance. The local government
4 | may appeal the decision of the compliance review board to the
5 | commission. If the compliance review board determines such
6 | amendment to be in compliance with this paragraph, any
7 | substantially affected party may appeal such determination to
8 | the commission. Any such appeal shall be filed with the
9 | commission within 14 days of the board's written
10 | determination. The commission shall promptly refer the appeal
11 | to the Division of Administrative Hearings for the assignment
12 | of an administrative law judge. The administrative law judge
13 | shall conduct the required hearing within 30 days, and shall
14 | enter a recommended order within 30 days of the conclusion of
15 | such hearing. The commission shall enter a final order within
16 | 30 days thereafter. The provisions of chapter 120 and the
17 | uniform rules of procedure shall apply to such proceedings.
18 | The local government adopting the amendment that is subject to
19 | challenge has the burden of proving that the amendment
20 | complies with this paragraph in proceedings before the
21 | compliance review board and the commission, as applicable.
22 | Actions of the commission are subject to judicial review
23 | pursuant to s. 120.68. The compliance review board shall
24 | determine whether its decisions apply to a respective local
25 | jurisdiction or apply countywide.

26 | 9. An amendment adopted under this paragraph shall
27 | include a fiscal impact statement which documents the costs
28 | and benefits of the proposed amendment. Criteria for the
29 | fiscal impact statement shall include the impact to local
30 | government relative to enforcement, the impact to property and
31 | building owners, as well as to industry, relative to the cost

1 of compliance. The fiscal impact statement may not be used as
2 a basis for challenging the amendment for compliance.

3 10. In addition to subparagraphs 7. and 9., the
4 commission may review any amendments adopted pursuant to this
5 subsection and make nonbinding recommendations related to
6 compliance of such amendments with this subsection.

7 (c) Any amendment adopted by a local enforcing agency
8 pursuant to this subsection shall not apply to state or school
9 district owned buildings, manufactured buildings or
10 factory-built school buildings approved by the commission, or
11 prototype buildings approved pursuant to s. 553.77(3). The
12 respective responsible entities shall consider the physical
13 performance parameters substantiating such amendments when
14 designing, specifying, and constructing such exempt buildings.

15 (5) The initial adoption of, and any subsequent update
16 or amendment to, the Florida Building Code by the commission
17 is deemed adopted for use statewide without adoptions by local
18 government. For a building permit for which an application is
19 submitted prior to the effective date of the Florida Building
20 Code, the state minimum building code in effect in the
21 permitting jurisdiction on the date of the application governs
22 the permitted work for the life of the permit and any
23 extension granted to the permit.

24 (6)(a) The commission, by rule adopted pursuant to ss.
25 120.536(1) and 120.54, shall update the Florida Building Code
26 every 3 years. When updating the Florida Building Code, the
27 commission shall select the most current version of the
28 International Building Code, the International Fuel Gas Code,
29 the International Mechanical Code, the International Plumbing
30 Code, and the International Residential Code, all of which are
31 adopted by the International Code Council, and the National

1 | Electrical Code, which is adopted by the National Fire
2 | Protection Association, to form the foundation codes of the
3 | updated Florida Building Code, if the version has been adopted
4 | by the applicable model code entity and made available to the
5 | public at least 6 months prior to its selection by the
6 | commission.

7 | (b) Codes regarding noise contour lines shall be
8 | reviewed annually, and the most current federal guidelines
9 | shall be adopted.

10 | (c) The commission may modify any portion of the
11 | foundation codes only as needed to accommodate the specific
12 | needs of this state, maintaining Florida-specific amendments
13 | previously adopted by the commission and not addressed by the
14 | updated foundation code. Standards or criteria referenced by
15 | the codes shall be incorporated by reference. If a referenced
16 | standard or criterion requires amplification or modification
17 | to be appropriate for use in this state, only the
18 | amplification or modification shall be set forth in the
19 | Florida Building Code. The commission may approve technical
20 | amendments to the updated Florida Building Code after the
21 | amendments have been subject to the conditions set forth in
22 | paragraphs (3)(a)-(d). Amendments to the foundation codes
23 | which are adopted in accordance with this subsection shall be
24 | clearly marked in printed versions of the Florida Building
25 | Code so that the fact that the provisions are Florida-specific
26 | amendments to the foundation codes is readily apparent.

27 | (d) The commission shall further consider the
28 | commission's own interpretations, declaratory statements,
29 | appellate decisions, and approved statewide and local
30 | technical amendments and shall incorporate such
31 | interpretations, statements, decisions, and amendments into

1 | the updated Florida Building Code only to the extent that they
2 | are needed to modify the foundation codes to accommodate the
3 | specific needs of the state. A change made by an institute or
4 | standards organization to any standard or criterion that is
5 | adopted by reference in the Florida Building Code does not
6 | become effective statewide until it has been adopted by the
7 | commission. Furthermore, the edition of the Florida Building
8 | Code which is in effect on the date of application for any
9 | permit authorized by the code governs the permitted work for
10 | the life of the permit and any extension granted to the
11 | permit.

12 | (e) A rule updating the Florida Building Code in
13 | accordance with this subsection shall take effect no sooner
14 | than 6 months after publication of the updated code. Any
15 | amendment to the Florida Building Code which is adopted upon a
16 | finding by the commission that the amendment is necessary to
17 | protect the public from immediate threat of harm takes effect
18 | immediately.

19 | (f) Provisions of the foundation codes, including
20 | those contained in referenced standards and criteria, relating
21 | to wind resistance or the prevention of water intrusion may
22 | not be modified to diminish those construction requirements;
23 | however, the commission may, subject to conditions in this
24 | subsection, modify the provisions to enhance those
25 | construction requirements.

26 | ~~(7)(f)~~ Upon the conclusion of a triennial update to
27 | the Florida Building Code, notwithstanding the provisions of
28 | ~~this subsection or subsection (3) or subsection (6),~~ the
29 | commission may address issues identified in this subsection
30 | ~~paragraph~~ by amending the code pursuant only to the rule
31 | adoption procedures contained in chapter 120. Provisions of

1 the Florida Building Code, including those contained in
2 referenced standards and criteria, relating to wind resistance
3 or the prevention of water intrusion may not be amended
4 pursuant to this subsection to diminish those construction
5 requirements; however, the commission may, subject to
6 conditions in this subsection, amend the provisions to enhance
7 those construction requirements. Following the approval of any
8 amendments to the Florida Building Code by the commission and
9 publication of the amendments on the commission's website,
10 authorities having jurisdiction to enforce the Florida
11 Building Code may enforce the amendments. The commission may
12 approve amendments that are needed to address:

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

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

16 (c)3- The omission of previously adopted
17 Florida-specific amendments to the updated code if such
18 omission is not supported by a specific recommendation of a
19 technical advisory committee or particular action by the
20 commission; or

21 (d)4- Unintended results from the integration of
22 previously adopted Florida-specific amendments with the model
23 code.

24 (8)(7)(a) The commission may approve technical
25 amendments to the Florida Building Code once each year for
26 statewide or regional application upon a finding that the
27 amendment:

28 1. Is needed in order to accommodate the specific
29 needs of this state.

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

1 3. Strengthens or improves the Florida Building Code,
2 or in the case of innovation or new technology, will provide
3 equivalent or better products or methods or systems of
4 construction.

5 4. Does not discriminate against materials, products,
6 methods, or systems of construction of demonstrated
7 capabilities.

8 5. Does not degrade the effectiveness of the Florida
9 Building Code.

10
11 Furthermore, the Florida Building Commission may approve
12 technical amendments to the code once each year to incorporate
13 into the Florida Building Code its own interpretations of the
14 code which are embodied in its opinions, final orders,
15 declaratory statements, and interpretations of hearing officer
16 panels under s. 553.775(3)(c), but shall do so only to the
17 extent that incorporation of interpretations is needed to
18 modify the foundation codes to accommodate the specific needs
19 of this state. Amendments approved under this paragraph shall
20 be adopted by rule pursuant to ss. 120.536(1) and 120.54,
21 after the amendments have been subjected to the provisions of
22 subsection (3).

23 (b) A proposed amendment shall include a fiscal impact
24 statement which documents the costs and benefits of the
25 proposed amendment. Criteria for the fiscal impact statement
26 shall be established by rule by the commission and shall
27 include the impact to local government relative to
28 enforcement, the impact to property and building owners, as
29 well as to industry, relative to the cost of compliance.

30 (c) The commission may not approve any proposed
31 amendment that does not accurately and completely address all

1 requirements for amendment which are set forth in this
2 section. The commission shall require all proposed amendments
3 and information submitted with proposed amendments to be
4 reviewed by commission staff prior to consideration by any
5 technical advisory committee. These reviews shall be for
6 sufficiency only and are not intended to be qualitative in
7 nature. Staff members shall reject any proposed amendment that
8 fails to include a fiscal impact statement. Proposed
9 amendments rejected by members of the staff may not be
10 considered by the commission or any technical advisory
11 committee.

12 (d) Provisions of the Florida Building Code, including
13 those contained in referenced standards and criteria, relating
14 to wind resistance or the prevention of water intrusion may
15 not be amended pursuant to this subsection to diminish those
16 construction requirements; however, the commission may,
17 subject to conditions in this subsection, amend the provisions
18 to enhance those construction requirements.

19 ~~(9)(8)~~ The following buildings, structures, and
20 facilities are exempt from the Florida Building Code as
21 provided by law, and any further exemptions shall be as
22 determined by the Legislature and provided by law:

23 (a) Buildings and structures specifically regulated
24 and preempted by the Federal Government.

25 (b) Railroads and ancillary facilities associated with
26 the railroad.

27 (c) Nonresidential farm buildings on farms.

28 (d) Temporary buildings or sheds used exclusively for
29 construction purposes.

30 (e) Mobile or modular structures used as temporary
31 offices, except that the provisions of part II relating to

1 accessibility by persons with disabilities shall apply to such
2 mobile or modular structures.

3 (f) Those structures or facilities of electric
4 utilities, as defined in s. 366.02, which are directly
5 involved in the generation, transmission, or distribution of
6 electricity.

7 (g) Temporary sets, assemblies, or structures used in
8 commercial motion picture or television production, or any
9 sound-recording equipment used in such production, on or off
10 the premises.

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

16 (i) Chickees constructed by the Miccosukee Tribe of
17 Indians of Florida or the Seminole Tribe of Florida. As used
18 in this paragraph, the term "chickee" means an open-sided
19 wooden hut that has a thatched roof of palm or palmetto or
20 other traditional materials, and that does not incorporate any
21 electrical, plumbing, or other nonwood features.

22
23 With the exception of paragraphs (a), (b), (c), and (f), in
24 order to preserve the health, safety, and welfare of the
25 public, the Florida Building Commission may, by rule adopted
26 pursuant to chapter 120, provide for exceptions to the broad
27 categories of buildings exempted in this section, including
28 exceptions for application of specific sections of the code or
29 standards adopted therein. The Department of Agriculture and
30 Consumer Services shall have exclusive authority to adopt by
31 rule, pursuant to chapter 120, exceptions to nonresidential

1 farm buildings exempted in paragraph (c) when reasonably
2 necessary to preserve public health, safety, and welfare. The
3 exceptions must be based upon specific criteria, such as
4 under-roof floor area, aggregate electrical service capacity,
5 HVAC system capacity, or other building requirements. Further,
6 the commission may recommend to the Legislature additional
7 categories of buildings, structures, or facilities which
8 should be exempted from the Florida Building Code, to be
9 provided by law.

10 (10)~~(9)~~(a) In the event of a conflict between the
11 Florida Building Code and the Florida Fire Prevention Code and
12 the Life Safety Code as applied to a specific project, the
13 conflict shall be resolved by agreement between the local
14 building code enforcement official and the local fire code
15 enforcement official in favor of the requirement of the code
16 which offers the greatest degree of lifesafety or alternatives
17 which would provide an equivalent degree of lifesafety and an
18 equivalent method of construction.

19 (b) Any decision made by the local fire official and
20 the local building official may be appealed to a local
21 administrative board designated by the municipality, county,
22 or special district having firesafety responsibilities. If the
23 decision of the local fire official and the local building
24 official is to apply the provisions of either the Florida
25 Building Code or the Florida Fire Prevention Code and the Life
26 Safety Code, the board may not alter the decision unless the
27 board determines that the application of such code is not
28 reasonable. If the decision of the local fire official and
29 the local building official is to adopt an alternative to the
30 codes, the local administrative board shall give due regard to
31 the decision rendered by the local officials and may modify

1 that decision if the administrative board adopts a better
2 alternative, taking into consideration all relevant
3 circumstances. In any case in which the local administrative
4 board adopts alternatives to the decision rendered by the
5 local fire official and the local building official, such
6 alternatives shall provide an equivalent degree of lifesafety
7 and an equivalent method of construction as the decision
8 rendered by the local officials.

9 (c) If the local building official and the local fire
10 official are unable to agree on a resolution of the conflict
11 between the Florida Building Code and the Florida Fire
12 Prevention Code and the Life Safety Code, the local
13 administrative board shall resolve the conflict in favor of
14 the code which offers the greatest degree of lifesafety or
15 alternatives which would provide an equivalent degree of
16 lifesafety and an equivalent method of construction.

17 (d) All decisions of the local administrative board,
18 or if none exists, the decisions of the local building
19 official and the local fire official, are subject to review by
20 a joint committee composed of members of the Florida Building
21 Commission and the Fire Code Advisory Council. If the joint
22 committee is unable to resolve conflicts between the codes as
23 applied to a specific project, the matter shall be resolved
24 pursuant to the provisions of paragraph (1)(d).

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

28 (f) All decisions of the local building official and
29 local fire official and all decisions of the administrative
30 board shall be in writing and shall be binding upon all
31 persons but shall not limit the authority of the State Fire

1 Marshal or the Florida Building Commission pursuant to
2 paragraph (1)(d) and ss. 663.01 and 633.161. Decisions of
3 general application shall be indexed by building and fire code
4 sections and shall be available for inspection during normal
5 business hours.

6 ~~(11)~~~~(10)~~ Except within coastal building zones as
7 defined in s. 161.54, specification standards developed by
8 nationally recognized code promulgation organizations to
9 determine compliance with engineering criteria of the Florida
10 Building Code for wind load design shall not apply to one or
11 two family dwellings which are two stories or less in height
12 unless approved by the commission for use or unless expressly
13 made subject to said standards and criteria by local ordinance
14 adopted in accordance with the provisions of subsection (4).

15 ~~(12)~~~~(11)~~ The Florida Building Code does not apply to,
16 and no code enforcement action shall be brought with respect
17 to, zoning requirements, land use requirements, and owner
18 specifications or programmatic requirements which do not
19 pertain to and govern the design, construction, erection,
20 alteration, modification, repair, or demolition of public or
21 private buildings, structures, or facilities or to
22 programmatic requirements that do not pertain to enforcement
23 of the Florida Building Code. Additionally, a local code
24 enforcement agency may not administer or enforce the Florida
25 Building Code to prevent the siting of any publicly owned
26 facility, including, but not limited to, correctional
27 facilities, juvenile justice facilities, or state
28 universities, community colleges, or public education
29 facilities, as provided by law.

30 Section 12. Subsection (2) of section 553.775, Florida
31 Statutes, is amended to read:

1 553.775 Interpretations.--

2 (2) Local enforcement agencies, local building
3 officials, state agencies, and the commission shall interpret
4 provisions of the Florida Building Code in a manner that is
5 consistent with declaratory statements and interpretations
6 entered by the commission, except that conflicts between the
7 Florida Fire Prevention Code and the Florida Building Code
8 shall be resolved in accordance with s. 553.73(10)(c) and (d)
9 ~~s. 553.73(9)(c) and (d)~~.

10 Section 13. Upon the effective date of this act, each
11 jurisdiction having authority to enforce the Florida Building
12 Code shall, at a minimum, require wind-borne-debris protection
13 in accordance with s. 1609.1, International Building Code
14 (2006) within the "wind-borne-debris region" as that term is
15 defined in s. 1609.2, International Building Code (2006).

16 Section 14. (1) The Florida Building Commission shall
17 amend the Florida Building Code to reflect the application of
18 provisions identified in section 553.73, Florida Statutes, and
19 to eliminate all exceptions that provide less stringent
20 requirements. The amendments by the commission shall apply
21 throughout the state with the exception of the High Velocity
22 Hurricane Zone, which shall be governed as currently provided
23 within the Florida Building Code. The commission shall, in
24 addition, amend the code to require that, at a minimum, in
25 areas where the applicable design wind speed is less than 120
26 miles per hour, all new residences are designed and
27 constructed to withstand internal pressures. The commission
28 shall fulfill these obligations before July 1, 2007, pursuant
29 only to the provisions of chapter 120, Florida Statutes.

30 (2) The Florida Building Commission shall develop
31 voluntary "Code Plus" guidelines for increasing the hurricane

1 resistance of buildings. The guidelines must be modeled on the
2 requirements for the High Velocity Hurricane Zone and must
3 identify products, systems, and methods of construction that
4 the commission anticipates could result in stronger
5 construction. The commission shall include these guidelines in
6 its report to the 2008 Legislature.

7 Section 15. Paragraph (b) of subsection (3) of section
8 624.319, Florida Statutes, is amended to read:

9 624.319 Examination and investigation reports.--

10 (3)

11 (b) Workpapers and other information held by the
12 department or office, and workpapers and other information
13 received from another governmental entity or the National
14 Association of Insurance Commissioners, for the department's
15 or office's use in the performance of its examination or
16 investigation duties pursuant to this section and ss. 624.316,
17 624.3161, 624.317, and 624.318 are confidential and exempt
18 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
19 the State Constitution. This exemption applies to workpapers
20 and other information held by the department or office before,
21 on, or after the effective date of this exemption. Such
22 confidential and exempt information may be disclosed to
23 another governmental entity, if disclosure is necessary for
24 the receiving entity to perform its duties and
25 responsibilities, and may be disclosed to the National
26 Association of Insurance Commissioners. The Public Counsel and
27 the Insurance Consumer Advocate shall have access to such
28 confidential and exempt information pertaining to insurance at
29 any time. The receiving governmental entity or the association
30 must maintain the confidential and exempt status of the
31 information. The information made confidential and exempt by

1 | this paragraph may be used in a criminal, civil, or
2 | administrative proceeding so long as the confidential and
3 | exempt status of such information is maintained. This
4 | paragraph is subject to the Open Government Sunset Review Act
5 | of 1995 in accordance with s. 119.15 and shall stand repealed
6 | on October 2, 2007, unless reviewed and saved from repeal
7 | through reenactment by the Legislature.

8 | Section 16. Paragraph (a) of subsection (2) of section
9 | 624.462, Florida Statutes, is amended to read:

10 | 624.462 Commercial self-insurance funds.--

11 | (2) As used in ss. 624.460-624.488, "commercial
12 | self-insurance fund" or "fund" means a group of members,
13 | operating individually and collectively through a trust or
14 | corporation, that must be:

15 | (a) Established by:

16 | 1. A not-for-profit trade association, industry
17 | association, or professional association of employers or
18 | professionals which has a constitution or bylaws, which is
19 | incorporated under the laws of this state, and which has been
20 | organized for purposes other than that of obtaining or
21 | providing insurance and operated in good faith for a
22 | continuous period of 1 year;

23 | 2. A self-insurance trust fund organized pursuant to
24 | s. 627.357 and maintained in good faith for a continuous
25 | period of 1 year for purposes other than that of obtaining or
26 | providing insurance pursuant to this section. Each member of a
27 | commercial self-insurance trust fund established pursuant to
28 | this subsection must maintain membership in the self-insurance
29 | trust fund organized pursuant to s. 627.357;

30 |
31 |

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

4 4. A not-for-profit group comprised of no fewer less
5 than 10 community condominium associations created and
6 operating under chapter 718, chapter 719, chapter 720, chapter
7 721, or chapter 723 as defined in s. 718.103(2), which is
8 incorporated under the laws of this state, which restricts its
9 membership to community condominium associations only, and
10 which has been organized and maintained in good faith for the
11 purpose of pooling and spreading the liabilities of its group
12 members relating to property or casualty risk or surety
13 insurance a continuous period of 1 year for purposes other
14 than that of obtaining or providing insurance.

15 Section 17. Subsection (1) of section 624.4622,
16 Florida Statutes, is amended to read:

17 624.4622 Local government self-insurance funds.--

18 (1) Any two or more local governmental entities may
19 enter into interlocal agreements for the purpose of securing
20 the payment of benefits under chapter 440, or insuring or
21 self-insuring real or personal property of every kind and
22 every interest in such property against loss or damage from
23 any hazard or cause and against any loss consequential to such
24 loss or damage, provided the local government self-insurance
25 fund that is created must:

26 (a) Have annual normal premiums in excess of \$5
27 million;

28 (b) Maintain a continuing program of excess insurance
29 coverage and reserve evaluation to protect the financial
30 stability of the fund in an amount and manner determined by a
31 qualified and independent actuary;

1 (c) Submit annually an audited fiscal year-end
2 financial statement by an independent certified public
3 accountant within 6 months after the end of the fiscal year to
4 the office; and

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

7 Section 18. Subsection (3) of section 624.610, Florida
8 Statutes, is amended to read:

9 624.610 Reinsurance.--

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

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

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

18 b. Submits to this state's authority to examine its
19 books and records;

20 c. Is licensed or authorized to transact insurance or
21 reinsurance in at least one state or, in the case of a United
22 States branch of an alien assuming insurer, is entered
23 through, licensed, or authorized to transact insurance or
24 reinsurance in at least one state;

25 d. Files annually with the office a copy of its annual
26 statement filed with the insurance department of its state of
27 domicile any quarterly statements if required by its state of
28 domicile or such quarterly statements if specifically
29 requested by the office, and a copy of its most recent audited
30 financial statement; and
31

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

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

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

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

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

30 4. The actual costs and expenses incurred by the
31 office to review a reinsurer's request for accreditation and

1 subsequent reviews must be charged to and collected from the
2 requesting reinsurer. If the reinsurer fails to pay the actual
3 costs and expenses promptly when due, the office may refuse to
4 accredit the reinsurer or may revoke the reinsurer's
5 accreditation.

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

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

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

23 (II) The insurance regulator of another state who,
24 pursuant to the terms of the trust instrument, has accepted
25 principal regulatory oversight of the trust.

26 b. The form of the trust and any trust amendments must
27 be filed with the insurance regulator of every state in which
28 the ceding insurer beneficiaries of the trust are domiciled.
29 The trust instrument must provide that contested claims are
30 valid and enforceable upon the final order of any court of
31 competent jurisdiction in the United States. The trust must

1 vest legal title to its assets in its trustees for the benefit
2 of the assuming insurer's United States ceding insurers and
3 their assigns and successors in interest. The trust and the
4 assuming insurer are subject to examination as determined by
5 the insurance regulator.

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

14 3. The following requirements apply to the following
15 categories of assuming insurer:

16 a. The trust fund for a single assuming insurer
17 consists of funds in trust in an amount not less than the
18 assuming insurer's liabilities attributable to reinsurance
19 ceded by United States ceding insurers, and, in addition, the
20 assuming insurer shall maintain a trusteed surplus of not less
21 than \$20 million. Not less than 50 percent of the funds in the
22 trust covering the assuming insurer's liabilities attributable
23 to reinsurance ceded by United States ceding insurers and
24 trusteed surplus shall consist of assets of a quality
25 substantially similar to that required in part II of chapter
26 625. Clean, irrevocable, unconditional, and evergreen letters
27 of credit, issued or confirmed by a qualified United States
28 financial institution, as defined in paragraph (5)(a),
29 effective no later than December 31 of the year for which the
30 filing is made and in the possession of the trust on or before
31

1 the filing date of its annual statement, may be used to fund
2 the remainder of the trust and trusteed surplus.

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

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

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

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

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

28 (III) Within 90 days after its financial statements
29 are due to be filed with the group's domiciliary regulator,
30 the group shall provide to the insurance regulator an annual
31 certification by the group's domiciliary regulator of the

1 solvency of each underwriter member or, if a certification is
2 unavailable, financial statements, prepared by independent
3 public accountants, of each underwriter member of the group.

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

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

19 1. The domiciliary regulatory jurisdiction of the
20 assuming insurer;

21 2. The structure and authority of the domiciliary
22 regulator with regard to solvency regulation requirements and
23 the financial surveillance of the reinsurer;

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

26 4. The form and substance of financial reports
27 required to be filed by the reinsurers in the domiciliary
28 jurisdiction or other public financial statements filed in
29 accordance with generally accepted accounting principles;

30
31

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

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

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

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

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

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

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

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

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

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

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

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

30 3. If the insurance regulator with regulatory
31 oversight determines that the assets of the trust fund or any

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

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

9 Section 19. Section 627.0613, Florida Statutes, is
10 repealed.

11 Section 20. Section 627.062, Florida Statutes, is
12 amended to read:

13 627.062 Rate standards.--

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

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

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

26 1. If the filing is made at least 90 days before the
27 proposed effective date and the filing is not implemented
28 during the office's review of the filing and any proceeding
29 and judicial review, then such filing shall be considered a
30 "file and use" filing. In such case, the office shall
31 finalize its review by issuance of a notice of intent to

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

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

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

- 27 1. Past and prospective loss experience within and
28 without this state.
- 29 2. Past and prospective expenses.
- 30 3. The degree of competition among insurers for the
31 risk insured.

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

16 5. The reasonableness of the judgment reflected in the
17 filing.

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

21 7. The adequacy of loss reserves.

22 8. The cost of reinsurance.

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

25 10. Conflagration and catastrophe hazards, if
26 applicable.

27 11. A reasonable margin for underwriting profit and
28 contingencies. For that portion of the rate covering the risk
29 of hurricanes and other catastrophic losses for which the
30 insurer has not purchased reinsurance and has exposed its
31 capital and surplus to such risk, the office must approve a

1 rating factor that provides the insurer a reasonable rate of
2 return that is commensurate with such risk.

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

4 13. Other relevant factors which impact upon the
5 frequency or severity of claims or upon expenses.

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

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

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

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

31

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

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

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

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

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

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

29 (g) The office may at any time review a rate, rating
30 schedule, rating manual, or rate change; the pertinent records
31 of the insurer; and market conditions. If the office finds on

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

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

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

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

25 ~~1. With respect to any residential property insurance~~
26 ~~subject to regulation under this section for any area for~~
27 ~~which the office determines a reasonable degree of competition~~
28 ~~exists, a rate filing, including, but not limited to, any rate~~
29 ~~changes, rating factors, territories, classification,~~
30 ~~discounts, and credits, with respect to any policy form,~~
31 ~~including endorsements issued with the form, that results in~~

1 ~~an overall average statewide premium increase or decrease of~~
2 ~~no more than 5 percent above or below the premium that would~~
3 ~~result from the insurer's rates then in effect shall not be~~
4 ~~subject to a determination by the office that the rate is~~
5 ~~excessive or unfairly discriminatory except as provided in~~
6 ~~subparagraph 3., or any other provision of law, provided all~~
7 ~~changes specified in the filing do not result in an overall~~
8 ~~premium increase of more than 10 percent for any one~~
9 ~~territory, for reasons related solely to the rate change. As~~
10 ~~used in this subparagraph, the term "insurer's rates then in~~
11 ~~effect" includes only rates that have been lawfully in effect~~
12 ~~under this section or rates that have been determined to be~~
13 ~~lawful through administrative proceedings or judicial~~
14 ~~proceedings.~~

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

23 ~~3. This paragraph does not affect the authority of the~~
24 ~~office to disapprove a rate as inadequate or to disapprove a~~
25 ~~filing for the unlawful use of unfairly discriminatory rating~~
26 ~~factors that are prohibited by the laws of this state. An~~
27 ~~insurer electing to implement a rate change under this~~
28 ~~paragraph shall submit a filing to the office at least 40 days~~
29 ~~prior to the effective date of the rate change. The office~~
30 ~~shall have 30 days after the filing's submission to review the~~
31 ~~filing and determine if the rate is inadequate or uses~~

1 ~~unfairly discriminatory rating factors. Absent a finding by~~
2 ~~the office within such 30 day period that the rate is~~
3 ~~inadequate or that the insurer has used unfairly~~
4 ~~discriminatory rating factors, the filing is deemed approved.~~
5 ~~If the office finds during the 30 day period that the filing~~
6 ~~will result in inadequate premiums or otherwise endanger the~~
7 ~~insurer's solvency, the office shall suspend the rate~~
8 ~~decrease. If the insurer is implementing an overall rate~~
9 ~~increase, the results of which continue to produce an~~
10 ~~inadequate rate, such increase shall proceed pending~~
11 ~~additional action by the office to ensure the adequacy of the~~
12 ~~rate.~~

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

15
16 The provisions of this subsection shall not apply to workers'
17 compensation and employer's liability insurance and to motor
18 vehicle insurance.

19 (3)(a) For individual risks that are not rated in
20 accordance with the insurer's rates, rating schedules, rating
21 manuals, and underwriting rules filed with the office and
22 which have been submitted to the insurer for individual
23 rating, the insurer must maintain documentation on each risk
24 subject to individual risk rating. The documentation must
25 identify the named insured and specify the characteristics and
26 classification of the risk supporting the reason for the risk
27 being individually risk rated, including any modifications to
28 existing approved forms to be used on the risk. The insurer
29 must maintain these records for a period of at least 5 years
30 after the effective date of the policy.

31

1 (b) Individual risk rates and modifications to
2 existing approved forms are not subject to this part or part
3 II, except for paragraph (a) and ss. 627.402, 627.403,
4 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085,
5 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417,
6 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but
7 are subject to all other applicable provisions of this code
8 and rules adopted thereunder.

9 (c) This subsection does not apply to private
10 passenger motor vehicle insurance.

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

28 (5) With respect to a rate filing involving coverage
29 of the type for which the insurer is required to pay a
30 reimbursement premium to the Florida Hurricane Catastrophe
31 Fund, the insurer may fully recoup in its property insurance

1 | premiums any reimbursement premiums paid to the Florida
2 | Hurricane Catastrophe Fund, together with reasonable costs of
3 | other reinsurance, but may not recoup reinsurance costs that
4 | duplicate coverage provided by the Florida Hurricane
5 | Catastrophe Fund. An insurer may not recoup more than 1 year
6 | of reimbursement premium at a time. Any under-recoupment from
7 | the prior year may be added to the following year's
8 | reimbursement premium and any over-recoupment shall be
9 | subtracted from the following year's reimbursement premium.

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

28 | ~~(b) Arbitration under this subsection shall be~~
29 | ~~conducted pursuant to the procedures specified in ss.~~
30 | ~~682.06-682.10. Either party may apply to the circuit court to~~
31 | ~~vacate or modify the decision pursuant to s. 682.13 or s.~~

1 ~~682.14. The commission shall adopt rules for arbitration under~~
2 ~~this subsection, which rules may not be inconsistent with the~~
3 ~~arbitration rules of the American Arbitration Association as~~
4 ~~of January 1, 1996.~~

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

11 (6)(7)(a) The provisions of this subsection apply only
12 with respect to rates for medical malpractice insurance and
13 shall control to the extent of any conflict with other
14 provisions of this section.

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

30 (c) Upon reviewing a rate filing and determining
31 whether the rate is excessive, inadequate, or unfairly

1 | discriminatory, the office shall consider, in accordance with
2 | generally accepted and reasonable actuarial techniques, past
3 | and present prospective loss experience, either using loss
4 | experience solely for this state or giving greater credibility
5 | to this state's loss data after applying actuarially sound
6 | methods of assigning credibility to such data.

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

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

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

25 | ~~(7)~~~~(8)~~(a)1. No later than 60 days after the effective
26 | date of medical malpractice legislation enacted during the
27 | 2003 Special Session D of the Florida Legislature, the office
28 | shall calculate a presumed factor that reflects the impact
29 | that the changes contained in such legislation will have on
30 | rates for medical malpractice insurance and shall issue a
31 | notice informing all insurers writing medical malpractice

1 coverage of such presumed factor. In determining the presumed
2 factor, the office shall use generally accepted actuarial
3 techniques and standards provided in this section in
4 determining the expected impact on losses, expenses, and
5 investment income of the insurer. To the extent that the
6 operation of a provision of medical malpractice legislation
7 enacted during the 2003 Special Session D of the Florida
8 Legislature is stayed pending a constitutional challenge, the
9 impact of that provision shall not be included in the
10 calculation of a presumed factor under this subparagraph.

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

27 (b) Any insurer or rating organization that contends
28 that the rate provided for in paragraph (a) is excessive,
29 inadequate, or unfairly discriminatory shall separately state
30 in its filing the rate it contends is appropriate and shall
31 state with specificity the factors or data that it contends

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

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

21 | (d) Rates approved on or before July 1, 2003, for
22 | medical malpractice insurance shall remain in effect until the
23 | effective date of a new rate filing approved under this
24 | subsection.

25 | (e) The calculation and notice by the office of the
26 | presumed factor pursuant to paragraph (a) is not an order or
27 | rule that is subject to chapter 120. If the office enters into
28 | a contract with an independent consultant to assist the office
29 | in calculating the presumed factor, such contract shall not be
30 | subject to the competitive solicitation requirements of s.
31 | 287.057.

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

7 1. The signing officer and actuary have reviewed the
8 rate filing;

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

15 3. Based on the signing officer's and actuary's
16 knowledge, the information and other factors described in s.
17 627.062(2)(b), including, but not limited to, investment
18 income, fairly present in all material respects the basis of
19 the rate filing for the periods presented in the filing.

20 (b) A signing officer or actuary knowingly making a
21 false certification under this subsection commits a violation
22 of s. 626.9541(1)(e) and is subject to the penalties under s.
23 626.9521.

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

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

29 ~~(9) The burden is on the office to establish that~~
30 ~~rates are excessive for personal lines residential coverage~~
31 ~~with a dwelling replacement cost of \$1 million or more or for~~

1 ~~a single condominium unit with a combined dwelling and~~
2 ~~contents replacement cost of \$1 million or more. Upon request~~
3 ~~of the office, the insurer shall provide to the office such~~
4 ~~loss and expense information as the office reasonably needs to~~
5 ~~meet this burden.~~

6 Section 21. Paragraph (c) of subsection (3) of section
7 627.0628, Florida Statutes, is amended to read:

8 627.0628 Florida Commission on Hurricane Loss
9 Projection Methodology; public records exemption; public
10 meetings exemption.--

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

12 (c) With respect to a rate filing under s. 627.062, an
13 insurer may employ actuarial methods, principles, standards,
14 models, or output ranges found by the commission to be
15 accurate or reliable to determine hurricane loss factors for
16 use in a rate filing under s. 627.062. Such findings and
17 factors are admissible and relevant in consideration of a rate
18 filing by the office or in any arbitration or administrative
19 or judicial review only if the office and the Insurance
20 Consumer Advocate appointed pursuant to s. 350.0615 ~~s.~~
21 ~~627.0613~~ have access to all of the assumptions and factors
22 that were used in developing the actuarial methods,
23 principles, standards, models, or output ranges, and are not
24 precluded from disclosing such information in a rate
25 proceeding. In any rate hearing under s. 120.57 ~~or in any~~
26 ~~arbitration proceeding under s. 627.062(6)~~, the hearing
27 officer or, judge, ~~or arbitration panel~~ may determine whether
28 the office and the Insurance Consumer Advocate were provided
29 with access to all of the assumptions and factors that were
30 used in developing the actuarial methods, principles,
31

1 standards, models, or output ranges and to determine their
2 admissibility.

3 Section 22. Paragraph (b) of subsection (5) of section
4 627.311, Florida Statutes, is amended to read:

5 627.311 Joint underwriters and joint reinsurers;
6 public records and public meetings exemptions.--

7 (5)

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

11 1. Three members appointed by the Financial Services
12 Commission. Each member appointed by the commission shall
13 serve at the pleasure of the commission;

14 2. Two of the 20 domestic insurers, as defined in s.
15 624.06(1), having the largest voluntary direct premiums
16 written in this state for workers' compensation and employer's
17 liability insurance, which shall be elected by those 20
18 domestic insurers;

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

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

26 5. The Insurance Consumer Advocate appointed under s.
27 350.0615 ~~s. 627.0613~~ or the Insurance Consumer Advocate's
28 designee.

29
30 Each board member shall serve a 4-year term and may serve
31 consecutive terms. A vacancy on the board shall be filled in

1 | the same manner as the original appointment for the unexpired
2 | portion of the term. The Financial Services Commission shall
3 | designate a member of the board to serve as chair. No board
4 | member shall be an insurer which provides services to the plan
5 | or which has an affiliate which provides services to the plan
6 | or which is serviced by a service company or third-party
7 | administrator which provides services to the plan or which has
8 | an affiliate which provides services to the plan. The minutes,
9 | audits, and procedures of the board of governors are subject
10 | to chapter 119.

11 | Section 23. Paragraphs (a), (b), (c), (m), (p), and
12 | (s) of subsection (6) of section 627.351, Florida Statutes,
13 | are amended, and paragraph (ee) is added to that section, to
14 | read:

15 | 627.351 Insurance risk apportionment plans.--

16 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

17 | (a)1. The Legislature finds that actual and threatened
18 | catastrophic losses to property in this state from hurricanes
19 | have caused insurers to be unwilling or unable to provide
20 | property insurance coverage to the extent sought and needed.
21 | It is in the public interest and a public purpose to assist in
22 | assuring that property in the state is insured so as to
23 | facilitate the remediation, reconstruction, and replacement of
24 | damaged or destroyed property in order to reduce or avoid the
25 | negative effects otherwise resulting to the public health,
26 | safety, and welfare; to the economy of the state; and to the
27 | revenues of the state and local governments needed to provide
28 | for the public welfare. It is necessary, therefore, to provide
29 | property insurance to applicants who are in good faith
30 | entitled to procure insurance through the voluntary market but
31 | are unable to do so. The Legislature intends by this

1 subsection that property insurance be provided and that it
2 continues, as long as necessary, through an entity organized
3 to achieve efficiencies and economies, while providing service
4 to policyholders, applicants, and agents that is no less than
5 the quality generally provided in the voluntary market, all
6 toward the achievement of the foregoing public purposes.
7 Because it is essential for the corporation to have the
8 maximum financial resources to pay claims following a
9 catastrophic hurricane, it is the intent of the Legislature
10 that the income of the corporation be exempt from federal
11 income taxation and that interest on the debt obligations
12 issued by the corporation be exempt from federal income
13 taxation.

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

1 type of coverage provided by homeowner's, mobile home owner's,
2 dwelling, tenant's, condominium unit owner's, and similar
3 policies, and commercial lines residential coverage, which
4 consists of the type of coverage provided by condominium
5 association, apartment building, and similar policies.

6 3. For the purposes of this subsection, the term
7 "homestead property" means:

8 a. Property that has been granted a homestead
9 exemption under chapter 196;

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

14 c. An owner-occupied mobile home or manufactured home,
15 as defined in s. 320.01, which is permanently affixed to real
16 property, is owned by a Florida resident, and has been granted
17 a homestead exemption under chapter 196 or, if the owner does
18 not own the real property, the owner certifies that the mobile
19 home or manufactured home is his or her principal place of
20 residence.

21 d. Tenant's coverage;

22 e. Commercial lines residential property; or

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

29 4. For the purposes of this subsection, the term
30 "nonhomestead property" means property that is not homestead
31 property.

1 5. Effective July 1, 2008, a personal lines
2 residential structure that has a dwelling replacement cost of
3 \$1 million or more, or a single condominium unit that has a
4 combined dwelling and content replacement cost of \$1 million
5 or more is not eligible for coverage by the corporation. Such
6 dwellings insured by the corporation on June 30, 2008, may
7 continue to be covered by the corporation until the end of the
8 policy term. However, such dwellings that are insured by the
9 corporation and become ineligible for coverage due to the
10 provisions of this subparagraph may reapply and obtain
11 coverage in the high-risk account and be considered
12 "nonhomestead property" if the property owner provides the
13 corporation with a sworn affidavit from one or more insurance
14 agents, on a form provided by the corporation, stating that
15 the agents have made their best efforts to obtain coverage and
16 that the property has been rejected for coverage by at least
17 one authorized insurer and at least three surplus lines
18 insurers. If such conditions are met, the dwelling may be
19 insured by the corporation for up to 3 years, after which time
20 the dwelling is ineligible for coverage. The office shall
21 approve the method used by the corporation for valuing the
22 dwelling replacement cost for the purposes of this
23 subparagraph. If a policyholder is insured by the corporation
24 prior to being determined to be ineligible pursuant to this
25 subparagraph and such policyholder files a lawsuit challenging
26 the determination, the policyholder may remain insured by the
27 corporation until the conclusion of the litigation.

28 ~~6. Effective March 1, 2007, nonhomestead property is~~
29 ~~not eligible for coverage by the corporation and is not~~
30 ~~eligible for renewal of such coverage unless the property~~
31 ~~owner provides the corporation with a sworn affidavit from one~~

1 ~~or more insurance agents, on a form provided by the~~
2 ~~corporation, stating that the agents have made their best~~
3 ~~efforts to obtain coverage and that the property has been~~
4 ~~rejected for coverage by at least one authorized insurer and~~
5 ~~at least three surplus lines insurers.~~

6 6.7. It is the intent of the Legislature that
7 policyholders, applicants, and agents of the corporation
8 receive service and treatment of the highest possible level
9 but never less than that generally provided in the voluntary
10 market. It also is intended that the corporation be held to
11 service standards no less than those applied to insurers in
12 the voluntary market by the office with respect to
13 responsiveness, timeliness, customer courtesy, and overall
14 dealings with policyholders, applicants, or agents of the
15 corporation.

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

1 authority to transact insurance for subject lines of business
2 in this state.

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

6 (I) A personal lines account for personal residential
7 policies issued by the corporation or issued by the
8 Residential Property and Casualty Joint Underwriting
9 Association and renewed by the corporation that provide
10 comprehensive, multiperil coverage on risks that are not
11 located in areas eligible for coverage in the Florida
12 Windstorm Underwriting Association as those areas were defined
13 on January 1, 2002, and for such policies that do not provide
14 coverage for the peril of wind on risks that are located in
15 such areas;

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

26 (III) A high-risk account for personal residential
27 policies and commercial residential and commercial
28 nonresidential property policies issued by the corporation or
29 transferred to the corporation that provide coverage for the
30 peril of wind on risks that are located in areas eligible for
31 coverage in the Florida Windstorm Underwriting Association as

1 | those areas were defined on January 1, 2002. Beginning April
2 | 1, 2007, the corporation may offer multiperil coverage,
3 | wind-only coverage, or both types of coverage in the high-risk
4 | account. In issuing multiperil coverage, the corporation may
5 | use its approved policy forms and rates for personal lines
6 | accounts through December 31, 2007. It is the intent of the
7 | Legislature that the offer of multiperil coverage in the
8 | high-risk account be made and implemented in a manner that
9 | does not adversely affect the creditworthiness of or security
10 | for currently outstanding financing obligations or credit
11 | facilities of the high-risk account, the personal lines
12 | account, or the commercial lines account. The high-risk
13 | account must also include quota share primary insurance under
14 | subparagraph (c)2. The area eligible for coverage under the
15 | high-risk account also includes the area within Port
16 | Canaveral, which is bordered on the south by the City of Cape
17 | Canaveral, bordered on the west by the Banana River, and
18 | bordered on the north by Federal Government property. ~~The~~
19 | ~~office may remove territory from the area eligible for~~
20 | ~~wind only and quota share coverage if, after a public hearing,~~
21 | ~~the office finds that authorized insurers in the voluntary~~
22 | ~~market are willing and able to write sufficient amounts of~~
23 | ~~personal and commercial residential coverage for all perils in~~
24 | ~~the territory, including coverage for the peril of wind, such~~
25 | ~~that risks covered by wind only policies in the removed~~
26 | ~~territory could be issued a policy by the corporation in~~
27 | ~~either the personal lines or commercial lines account without~~
28 | ~~a significant increase in the corporation's probable maximum~~
29 | ~~loss in such account. Removal of territory from the area~~
30 | ~~eligible for wind only or quota share coverage does not alter~~
31 |

1 ~~the assignment of wind coverage written in such areas to the~~
2 ~~high risk account.~~

3 b. The three separate accounts must be maintained as
4 long as financing obligations entered into by the Florida
5 Windstorm Underwriting Association or Residential Property and
6 Casualty Joint Underwriting Association are outstanding, in
7 accordance with the terms of the corresponding financing
8 documents. When the financing obligations are no longer
9 outstanding, in accordance with the terms of the corresponding
10 financing documents, the corporation may use a single account
11 for all revenues, assets, liabilities, losses, and expenses of
12 the corporation. Consistent with the requirement of this
13 subparagraph and prudent investment policies that minimize the
14 cost of carrying debt, the board shall exercise its best
15 efforts to retire existing debt or to obtain approval of
16 necessary parties to amend the terms of existing debt, so as
17 to structure the most efficient plan to consolidate the three
18 separate accounts into a single account. By February 1, 2007,
19 the board shall submit a report to the Financial Services
20 Commission, the President of the Senate, and the Speaker of
21 the House of Representatives which includes an analysis of
22 consolidating the accounts, the actions the board has taken to
23 minimize the cost of carrying debt, and its recommendations
24 for executing the most efficient plan.

25 c. Creditors of the Residential Property and Casualty
26 Joint Underwriting Association shall have a claim against, and
27 recourse to, the accounts referred to in sub-sub-subparagraphs
28 a.(I) and (II) and shall have no claim against, or recourse
29 to, the account referred to in sub-sub-subparagraph a.(III).
30 Creditors of the Florida Windstorm Underwriting Association
31 shall have a claim against, and recourse to, the account

1 referred to in sub-sub-subparagraph a.(III) and shall have no
2 claim against, or recourse to, the accounts referred to in
3 sub-sub-subparagraphs a.(I) and (II).

4 d. Revenues, assets, liabilities, losses, and expenses
5 not attributable to particular accounts shall be prorated
6 among the accounts.

7 e. The Legislature finds that the revenues of the
8 corporation are revenues that are necessary to meet the
9 requirements set forth in documents authorizing the issuance
10 of bonds under this subsection.

11 f. No part of the income of the corporation may inure
12 to the benefit of any private person.

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

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

20 b. When the deficit incurred in a particular calendar
21 year exceeds 10 percent of the aggregate statewide direct
22 written premium for the subject lines of business for the
23 prior calendar year, the corporation shall levy regular
24 assessments on assessable insurers under paragraph (p) and on
25 assessable insureds in an amount equal to the greater of 10
26 percent of the deficit or 10 percent of the aggregate
27 statewide direct written premium for the subject lines of
28 business for the prior calendar year. Any remaining deficit
29 shall be recovered through emergency assessments under
30 sub-subparagraph d.

31

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

1 d. Upon a determination by the board of governors that
2 a deficit in an account exceeds the amount that will be
3 recovered through regular assessments under sub-subparagraph
4 a. or sub-subparagraph b., the board shall levy, after
5 verification by the office, emergency assessments, for as many
6 years as necessary to cover the deficits, to be collected by
7 assessable insurers and the corporation and collected from
8 assessable insureds upon issuance or renewal of policies for
9 subject lines of business, excluding National Flood Insurance
10 policies. The amount of the emergency assessment collected in
11 a particular year shall be a uniform percentage of that year's
12 direct written premium for subject lines of business and all
13 accounts of the corporation, excluding National Flood
14 Insurance Program policy premiums, as annually determined by
15 the board and verified by the office. The office shall verify
16 the arithmetic calculations involved in the board's
17 determination within 30 days after receipt of the information
18 on which the determination was based. Notwithstanding any
19 other provision of law, the corporation and each assessable
20 insurer that writes subject lines of business shall collect
21 emergency assessments from its policyholders without such
22 obligation being affected by any credit, limitation,
23 exemption, or deferment. Emergency assessments levied by the
24 corporation on assessable insureds shall be collected by the
25 surplus lines agent at the time the surplus lines agent
26 collects the surplus lines tax required by s. 626.932 and
27 shall be paid to the Florida Surplus Lines Service Office at
28 the time the surplus lines agent pays the surplus lines tax to
29 the Florida Surplus Lines Service Office. The emergency
30 assessments so collected shall be transferred directly to the
31 corporation on a periodic basis as determined by the

1 corporation and shall be held by the corporation solely in the
2 applicable account. The aggregate amount of emergency
3 assessments levied for an account under this sub-subparagraph
4 in any calendar year may not exceed the greater of 10 percent
5 of the amount needed to cover the original deficit, plus
6 interest, fees, commissions, required reserves, and other
7 costs associated with financing of the original deficit, or 10
8 percent of the aggregate statewide direct written premium for
9 subject lines of business and for all accounts of the
10 corporation for the prior year, plus interest, fees,
11 commissions, required reserves, and other costs associated
12 with financing the original deficit.

13 e. The corporation may pledge the proceeds of
14 assessments, projected recoveries from the Florida Hurricane
15 Catastrophe Fund, other insurance and reinsurance
16 recoverables, policyholder surcharges and other surcharges,
17 and other funds available to the corporation as the source of
18 revenue for and to secure bonds issued under paragraph (p),
19 bonds or other indebtedness issued under subparagraph (c)3.,
20 or lines of credit or other financing mechanisms issued or
21 created under this subsection, or to retire any other debt
22 incurred as a result of deficits or events giving rise to
23 deficits, or in any other way that the board determines will
24 efficiently recover such deficits. The purpose of the lines of
25 credit or other financing mechanisms is to provide additional
26 resources to assist the corporation in covering claims and
27 expenses attributable to a catastrophe. As used in this
28 subsection, the term "assessments" includes regular
29 assessments under sub-subparagraph a., sub-subparagraph b., or
30 subparagraph (p)1. and emergency assessments under
31 sub-subparagraph d. Emergency assessments collected under

1 sub-subparagraph d. are not part of an insurer's rates, are
2 not premium, and are not subject to premium tax, fees, or
3 commissions; however, failure to pay the emergency assessment
4 shall be treated as failure to pay premium. The emergency
5 assessments under sub-subparagraph d. shall continue as long
6 as any bonds issued or other indebtedness incurred with
7 respect to a deficit for which the assessment was imposed
8 remain outstanding, unless adequate provision has been made
9 for the payment of such bonds or other indebtedness pursuant
10 to the documents governing such bonds or other indebtedness.

11 f. As used in this subsection, the term "subject lines
12 of business" means insurance written by assessable insurers or
13 procured by assessable insureds for all property and casualty
14 lines of business in this state, but not including workers'
15 compensation. As used in this sub-subparagraph, the term
16 "property and casualty lines of business" includes all lines
17 of business identified on Form 2, Exhibit of Premiums and
18 Losses, in the annual statement required of authorized
19 insurers by s. 624.424 and any rule adopted under this
20 section, except for those lines identified as accident and
21 health insurance and except for policies written under the
22 National Flood Insurance program or the Federal Crop Insurance
23 Program. For purposes of this sub-subparagraph, the term
24 "workers' compensation" includes both workers' compensation
25 insurance and excess workers' compensation insurance. ~~on real~~
26 ~~or personal property, as defined in s. 624.604, including~~
27 ~~insurance for fire, industrial fire, allied lines, farmowners~~
28 ~~multiperil, homeowners multiperil, commercial multiperil, and~~
29 ~~mobile homes, and including liability coverage on all such~~
30 ~~insurance, but excluding inland marine as defined in s.~~
31 ~~624.607(3) and excluding vehicle insurance as defined in s.~~

1 ~~624.605(1) other than insurance on mobile homes used as~~
2 ~~permanent dwellings.~~

3 g. The Florida Surplus Lines Service Office shall
4 determine annually the aggregate statewide written premium in
5 subject lines of business procured by assessable insureds and
6 shall report that information to the corporation in a form and
7 at a time the corporation specifies to ensure that the
8 corporation can meet the requirements of this subsection and
9 the corporation's financing obligations.

10 h. The Florida Surplus Lines Service Office shall
11 verify the proper application by surplus lines agents of
12 assessment percentages for regular assessments and emergency
13 assessments levied under this subparagraph on assessable
14 insureds and shall assist the corporation in ensuring the
15 accurate, timely collection and payment of assessments by
16 surplus lines agents as required by the corporation.

17 i. If a deficit is incurred in any account in 2008 or
18 thereafter, the board of governors shall levy an immediate
19 assessment against the premium of each nonhomestead property
20 policyholder in all accounts of the corporation, as a uniform
21 percentage of the premium of the policy of up to 10 percent of
22 such premium, which funds shall be used to offset the deficit.
23 If this assessment is insufficient to eliminate the deficit,
24 the board of governors shall levy an additional assessment
25 against all policyholders of the corporation, which shall be
26 collected at the time of issuance or renewal of a policy, as a
27 uniform percentage of the premium for the policy of up to 10
28 percent of such premium, which funds shall be used to further
29 offset the deficit.

30 j. The board of governors shall maintain separate
31 accounting records that consolidate data for nonhomestead

1 | properties, including, but not limited to, number of policies,
2 | insured values, premiums written, and losses. The board of
3 | governors shall annually report to the office and the
4 | Legislature a summary of such data.

5 | (c) The plan of operation of the corporation:

6 | 1. Must provide for adoption of residential property
7 | and casualty insurance policy forms and commercial residential
8 | and nonresidential property insurance forms, which forms must
9 | be approved by the office prior to use. The corporation shall
10 | adopt the following policy forms:

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

16 | b. Basic personal lines policy forms that are policies
17 | similar to an HO-8 policy or a dwelling fire policy that
18 | provide coverage meeting the requirements of the secondary
19 | mortgage market, but which coverage is more limited than the
20 | coverage under a standard policy.

21 | c. Commercial lines residential and nonresidential
22 | policy forms that are generally similar to the basic perils of
23 | full coverage obtainable for commercial residential structures
24 | and commercial nonresidential structures in the admitted
25 | voluntary market.

26 | d. Personal lines and commercial lines residential
27 | property insurance forms that cover the peril of wind only.
28 | The forms are applicable only to residential properties
29 | located in areas eligible for coverage under the high-risk
30 | account referred to in sub-subparagraph (b)2.a.
31 |

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

6 f. The corporation may adopt variations of the policy
7 forms listed in sub-subparagraphs a.-e. that contain more
8 restrictive coverage.

9 2.a. Must provide that the corporation adopt a program
10 in which the corporation and authorized insurers enter into
11 quota share primary insurance agreements for hurricane
12 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
13 and adopt property insurance forms for eligible risks which
14 cover the peril of wind only. As used in this subsection, the
15 term:

16 (I) "Quota share primary insurance" means an
17 arrangement in which the primary hurricane coverage of an
18 eligible risk is provided in specified percentages by the
19 corporation and an authorized insurer. The corporation and
20 authorized insurer are each solely responsible for a specified
21 percentage of hurricane coverage of an eligible risk as set
22 forth in a quota share primary insurance agreement between the
23 corporation and an authorized insurer and the insurance
24 contract. The responsibility of the corporation or authorized
25 insurer to pay its specified percentage of hurricane losses of
26 an eligible risk, as set forth in the quota share primary
27 insurance agreement, may not be altered by the inability of
28 the other party to the agreement to pay its specified
29 percentage of hurricane losses. Eligible risks that are
30 provided hurricane coverage through a quota share primary
31 insurance arrangement must be provided policy forms that set

1 | forth the obligations of the corporation and authorized
2 | insurer under the arrangement, clearly specify the percentages
3 | of quota share primary insurance provided by the corporation
4 | and authorized insurer, and conspicuously and clearly state
5 | that neither the authorized insurer nor the corporation may be
6 | held responsible beyond its specified percentage of coverage
7 | of hurricane losses.

8 | (II) "Eligible risks" means personal lines residential
9 | and commercial lines residential risks that meet the
10 | underwriting criteria of the corporation and are located in
11 | areas that were eligible for coverage by the Florida Windstorm
12 | Underwriting Association on January 1, 2002.

13 | b. The corporation may enter into quota share primary
14 | insurance agreements with authorized insurers at corporation
15 | coverage levels of 90 percent and 50 percent.

16 | c. If the corporation determines that additional
17 | coverage levels are necessary to maximize participation in
18 | quota share primary insurance agreements by authorized
19 | insurers, the corporation may establish additional coverage
20 | levels. However, the corporation's quota share primary
21 | insurance coverage level may not exceed 90 percent.

22 | d. Any quota share primary insurance agreement entered
23 | into between an authorized insurer and the corporation must
24 | provide for a uniform specified percentage of coverage of
25 | hurricane losses, by county or territory as set forth by the
26 | corporation board, for all eligible risks of the authorized
27 | insurer covered under the quota share primary insurance
28 | agreement.

29 | e. Any quota share primary insurance agreement entered
30 | into between an authorized insurer and the corporation is
31 | subject to review and approval by the office. However, such

1 agreement shall be authorized only as to insurance contracts
2 entered into between an authorized insurer and an insured who
3 is already insured by the corporation for wind coverage.

4 f. For all eligible risks covered under quota share
5 primary insurance agreements, the exposure and coverage levels
6 for both the corporation and authorized insurers shall be
7 reported by the corporation to the Florida Hurricane
8 Catastrophe Fund. For all policies of eligible risks covered
9 under quota share primary insurance agreements, the
10 corporation and the authorized insurer shall maintain complete
11 and accurate records for the purpose of exposure and loss
12 reimbursement audits as required by Florida Hurricane
13 Catastrophe Fund rules. The corporation and the authorized
14 insurer shall each maintain duplicate copies of policy
15 declaration pages and supporting claims documents.

16 g. The corporation board shall establish in its plan
17 of operation standards for quota share agreements which ensure
18 that there is no discriminatory application among insurers as
19 to the terms of quota share agreements, pricing of quota share
20 agreements, incentive provisions if any, and consideration
21 paid for servicing policies or adjusting claims.

22 h. The quota share primary insurance agreement between
23 the corporation and an authorized insurer must set forth the
24 specific terms under which coverage is provided, including,
25 but not limited to, the sale and servicing of policies issued
26 under the agreement by the insurance agent of the authorized
27 insurer producing the business, the reporting of information
28 concerning eligible risks, the payment of premium to the
29 corporation, and arrangements for the adjustment and payment
30 of hurricane claims incurred on eligible risks by the claims
31 adjuster and personnel of the authorized insurer. Entering

1 into a quota sharing insurance agreement between the
2 corporation and an authorized insurer shall be voluntary and
3 at the discretion of the authorized insurer.

4 3. May provide that the corporation may employ or
5 otherwise contract with individuals or other entities to
6 provide administrative or professional services that may be
7 appropriate to effectuate the plan. The corporation shall have
8 the power to borrow funds, by issuing bonds or by incurring
9 other indebtedness, and shall have other powers reasonably
10 necessary to effectuate the requirements of this subsection,
11 including, without limitation, the power to issue bonds and
12 incur other indebtedness in order to refinance outstanding
13 bonds or other indebtedness. The corporation may, but is not
14 required to, seek judicial validation of its bonds or other
15 indebtedness under chapter 75. The corporation may issue bonds
16 or incur other indebtedness, or have bonds issued on its
17 behalf by a unit of local government pursuant to subparagraph
18 (g)2., in the absence of a hurricane or other weather-related
19 event, upon a determination by the corporation, subject to
20 approval by the office, that such action would enable it to
21 efficiently meet the financial obligations of the corporation
22 and that such financings are reasonably necessary to
23 effectuate the requirements of this subsection. The
24 corporation is authorized to take all actions needed to
25 facilitate tax-free status for any such bonds or indebtedness,
26 including formation of trusts or other affiliated entities.
27 The corporation shall have the authority to pledge
28 assessments, projected recoveries from the Florida Hurricane
29 Catastrophe Fund, other reinsurance recoverables, market
30 equalization and other surcharges, and other funds available
31 to the corporation as security for bonds or other

1 indebtedness. In recognition of s. 10, Art. I of the State
2 Constitution, prohibiting the impairment of obligations of
3 contracts, it is the intent of the Legislature that no action
4 be taken whose purpose is to impair any bond indenture or
5 financing agreement or any revenue source committed by
6 contract to such bond or other indebtedness.

7 4.a. Must require that the corporation operate subject
8 to the supervision and approval of a board of governors
9 consisting of eight individuals who are residents of this
10 state, from different geographical areas of this state. The
11 Governor, the Chief Financial Officer, the President of the
12 Senate, and the Speaker of the House of Representatives shall
13 each appoint two members of the board. At least one of the two
14 members appointed by each appointing officer must have
15 demonstrated expertise in insurance. The Chief Financial
16 Officer shall designate one of the appointees as chair. All
17 board members serve at the pleasure of the appointing officer.
18 All board members, including the chair, must be appointed to
19 serve for 3-year terms beginning annually on a date designated
20 by the plan. Any board vacancy shall be filled for the
21 unexpired term by the appointing officer. The Chief Financial
22 Officer shall appoint a technical advisory group to provide
23 information and advice to the board of governors in connection
24 with the board's duties under this subsection. The executive
25 director and senior managers of the corporation shall be
26 engaged by the board and serve at the pleasure of the board.
27 Any executive director appointed on or after July 1, 2006, is
28 subject to confirmation by the Senate. The executive director
29 is responsible for employing other staff as the corporation
30 may require, subject to review and concurrence by the board.

31

1 b. The board shall create a Market Accountability
2 Advisory Committee to assist the corporation in developing
3 awareness of its rates and its customer and agent service
4 levels in relationship to the voluntary market insurers
5 writing similar coverage. The members of the advisory
6 committee shall consist of the following 11 persons, one of
7 whom must be elected chair by the members of the committee:
8 four representatives, one appointed by the Florida Association
9 of Insurance Agents, one by the Florida Association of
10 Insurance and Financial Advisors, one by the Professional
11 Insurance Agents of Florida, and one by the Latin American
12 Association of Insurance Agencies; three representatives
13 appointed by the insurers with the three highest voluntary
14 market share of residential property insurance business in the
15 state; one representative from the Office of Insurance
16 Regulation; one consumer appointed by the board who is insured
17 by the corporation at the time of appointment to the
18 committee; one representative appointed by the Florida
19 Association of Realtors; and one representative appointed by
20 the Florida Bankers Association. All members must serve for
21 3-year terms and may serve for consecutive terms. The
22 committee shall report to the corporation at each board
23 meeting on insurance market issues which may include rates and
24 rate competition with the voluntary market; service, including
25 policy issuance, claims processing, and general responsiveness
26 to policyholders, applicants, and agents; and matters relating
27 to depopulation.

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

30 a. Subject to the provisions of s. 627.3517, with
31 respect to personal lines residential risks, if the risk is

1 offered coverage from an authorized insurer at the insurer's
2 approved rate under either a standard policy including wind
3 coverage or, if consistent with the insurer's underwriting
4 rules as filed with the office, a basic policy including wind
5 coverage, the risk is not eligible for any policy issued by
6 the corporation unless the premium for coverage from the
7 authorized insurer is more than 25 percent greater than the
8 premium for comparable coverage from the corporation. If the
9 risk is not able to obtain any such offer, the risk is
10 eligible for either a standard policy including wind coverage
11 or a basic policy including wind coverage issued by the
12 corporation; however, if the risk could not be insured under a
13 standard policy including wind coverage regardless of market
14 conditions, the risk shall be eligible for a basic policy
15 including wind coverage unless rejected under subparagraph 8.
16 The corporation shall determine the type of policy to be
17 provided on the basis of objective standards specified in the
18 underwriting manual and based on generally accepted
19 underwriting practices.

20 (I) If the risk accepts an offer of coverage through
21 the market assistance plan or an offer of coverage through a
22 mechanism established by the corporation before a policy is
23 issued to the risk by the corporation or during the first 30
24 days of coverage by the corporation, and the producing agent
25 who submitted the application to the plan or to the
26 corporation is not currently appointed by the insurer, the
27 insurer shall:

28 (A) Pay to the producing agent of record of the
29 policy, for the first year, an amount that is the greater of
30 the insurer's usual and customary commission for the type of
31

1 policy written or a fee equal to the usual and customary
2 commission of the corporation; or

3 (B) Offer to allow the producing agent of record of
4 the policy to continue servicing the policy for a period of
5 not less than 1 year and offer to pay the agent the greater of
6 the insurer's or the corporation's usual and customary
7 commission for the type of policy written.

8
9 If the producing agent is unwilling or unable to accept
10 appointment, the new insurer shall pay the agent in accordance
11 with sub-sub-sub-subparagraph (A).

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

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

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

26
27 If the producing agent is unwilling or unable to accept
28 appointment, the new insurer shall pay the agent in accordance
29 with sub-sub-sub-subparagraph (A).

30 b. With respect to commercial lines residential risks,
31 if the risk is offered coverage under a policy including wind

1 coverage from an authorized insurer at its approved rate, the
2 risk is not eligible for any policy issued by the corporation
3 unless the premium for coverage from the authorized insurer is
4 more than 25 percent greater than the premium for comparable
5 coverage from the corporation. If the risk is not able to
6 obtain any such offer, the risk is eligible for a policy
7 including wind coverage issued by the corporation.

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

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

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

25
26 If the producing agent is unwilling or unable to accept
27 appointment, the new insurer shall pay the agent in accordance
28 with sub-sub-sub-subparagraph (A).

29 (II) When the corporation enters into a contractual
30 agreement for a take-out plan, the producing agent of record
31

1 of the corporation policy is entitled to retain any unearned
2 commission on the policy, and the insurer shall:

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

8 (B) Offer to allow the producing agent of record of
9 the corporation policy to continue servicing the policy for a
10 period of not less than 1 year and offer to pay the agent the
11 greater of the insurer's or the corporation's usual and
12 customary 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 6. Must provide by July 1, 2007, that an application
18 for coverage for a new policy is subject to a waiting period
19 of 10 days before coverage is effective, during which time the
20 corporation shall make such application available for review
21 by general lines agents and authorized property and casualty
22 insurers. The board may approve exceptions that allow for
23 coverage to be effective before the end of the 10-day waiting
24 period, for coverage issued in conjunction with a real estate
25 closing, and for such other exceptions as the board determines
26 are necessary to prevent lapses in coverage.

27 7. Must include rules for classifications of risks and
28 rates therefor.

29 8. Must provide that if premium and investment income
30 for an account attributable to a particular calendar year are
31 in excess of projected losses and expenses for the account

1 | attributable to that year, such excess shall be held in
2 | surplus in the account. Such surplus shall be available to
3 | defray deficits in that account as to future years and shall
4 | be used for that purpose prior to assessing assessable
5 | insurers and assessable insureds as to any calendar year.

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

11 | a. Whether the likelihood of a loss for the individual
12 | risk is substantially higher than for other risks of the same
13 | class; and

14 | b. Whether the uncertainty associated with the
15 | individual risk is such that an appropriate premium cannot be
16 | determined.

17 |
18 | The acceptance or rejection of a risk by the corporation shall
19 | be construed as the private placement of insurance, and the
20 | provisions of chapter 120 shall not apply.

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

25 | 11. Must provide that in the event of regular deficit
26 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph
27 | (b)3.b., in the personal lines account, the commercial lines
28 | residential account, or the high-risk account, the corporation
29 | shall levy upon corporation policyholders in its next rate
30 | filing, or by a separate rate filing solely for this purpose,
31 | a Citizens policyholder surcharge arising from a regular

1 assessment in such account in a percentage equal to the total
2 amount of such regular assessments divided by the aggregate
3 statewide direct written premium for subject lines of business
4 for the prior calendar year. For purposes of calculating the
5 Citizens policyholder surcharge to be levied under this
6 subparagraph, the total amount of the regular assessment to
7 which this surcharge is related shall be determined as set
8 forth in subparagraph (b)3., without deducting the estimated
9 Citizens policyholder surcharge. Citizens policyholder
10 surcharges under this subparagraph are not considered premium
11 and are not subject to commissions, fees, or premium taxes;
12 however, failure to pay a market equalization surcharge shall
13 be treated as failure to pay premium.

14 12. The policies issued by the corporation must
15 provide that, if the corporation or the market assistance plan
16 obtains an offer from an authorized insurer to cover the risk
17 at its approved rates, the risk is no longer eligible for
18 renewal through the corporation, except as otherwise provided
19 in this subsection.

20 13. Corporation policies and applications must include
21 a notice that the corporation policy could, under this
22 section, be replaced with a policy issued by an authorized
23 insurer that does not provide coverage identical to the
24 coverage provided by the corporation. The notice shall also
25 specify that acceptance of corporation coverage creates a
26 conclusive presumption that the applicant or policyholder is
27 aware of this potential.

28 14. May establish, subject to approval by the office,
29 different eligibility requirements and operational procedures
30 for any line or type of coverage for any specified county or
31 area if the board determines that such changes to the

1 | eligibility requirements and operational procedures are
2 | justified due to the voluntary market being sufficiently
3 | stable and competitive in such area or for such line or type
4 | of coverage and that consumers who, in good faith, are unable
5 | to obtain insurance through the voluntary market through
6 | ordinary methods would continue to have access to coverage
7 | from the corporation. When coverage is sought in connection
8 | with a real property transfer, such requirements and
9 | procedures shall not provide for an effective date of coverage
10 | later than the date of the closing of the transfer as
11 | established by the transferor, the transferee, and, if
12 | applicable, the lender.

13 | 15. Must provide that, with respect to the high-risk
14 | account, any assessable insurer with a surplus as to
15 | policyholders of \$25 million or less writing 25 percent or
16 | more of its total countrywide property insurance premiums in
17 | this state may petition the office, within the first 90 days
18 | of each calendar year, to qualify as a limited apportionment
19 | company. A regular assessment levied by the corporation on a
20 | limited apportionment company for a deficit incurred by the
21 | corporation for the high-risk account in 2006 or thereafter
22 | may be paid to the corporation on a monthly basis as the
23 | assessments are collected by the limited apportionment company
24 | from its insureds pursuant to s. 627.3512, but the regular
25 | assessment must be paid in full within 12 months after being
26 | levied by the corporation. A limited apportionment company
27 | shall collect from its policyholders any emergency assessment
28 | imposed under sub-subparagraph (b)3.d. The plan shall provide
29 | that, if the office determines that any regular assessment
30 | will result in an impairment of the surplus of a limited
31 | apportionment company, the office may direct that all or part

1 of such assessment be deferred as provided in subparagraph
2 (g)4. However, there shall be no limitation or deferment of an
3 emergency assessment to be collected from policyholders under
4 sub-subparagraph (b)3.d.

5 16. Must provide that the corporation appoint as its
6 licensed agents only those agents who also hold an appointment
7 as defined in s. 626.015(3) with an insurer who at the time of
8 the agent's initial appointment by the corporation is
9 authorized to write and is actually writing personal lines
10 residential property coverage, commercial residential property
11 coverage, or commercial nonresidential property coverage
12 within the state.

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

16 18. Must provide, effective June 1, 2007, that the
17 corporation contract with each insurer providing the non-wind
18 coverage for risks insured by the corporation in the high-risk
19 account, requiring that the insurer provide claims adjusting
20 services for the wind coverage provided by the corporation for
21 such risks. An insurer is required to enter into this contract
22 as a condition of providing non-wind coverage for a risk that
23 is insured by the corporation in the high-risk account unless
24 the board finds, after a hearing, that the insurer is not
25 capable of providing adjusting services at an acceptable level
26 of quality to corporation policyholders. The terms and
27 conditions of such contracts must be substantially the same as
28 the contracts that the corporation executed with insurers
29 under the "adjust-your-own" program in 2006, except as may be
30 mutually agreed to by the parties and except for such changes
31 that the board determines are necessary to ensure that claims

1 are adjusted appropriately. The corporation shall provide a
2 process for neutral arbitration of any dispute between the
3 corporation and the insurer regarding the terms of the
4 contract. The corporation shall review and monitor the
5 performance of insurers under these contracts.

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

9 20. May provide such limits of coverage as the board
10 determines, consistent with the requirements of this
11 subsection.

12 21. May require commercial property to meet specified
13 hurricane mitigation construction features as a condition of
14 eligibility for coverage.

15 (m)1.

16 ~~a.~~ Rates for coverage provided by the corporation
17 shall be actuarially sound and subject to the requirements of
18 s. 627.062, except as otherwise provided in this paragraph.
19 The corporation shall file its recommended rates with the
20 office at least annually. The corporation shall provide any
21 additional information regarding the rates which the office
22 requires. The office shall consider the recommendations of the
23 board and issue a final order establishing the rates for the
24 corporation within 45 days after the recommended rates are
25 filed. The corporation may not pursue an administrative
26 challenge or judicial review of the final order of the office.
27 ~~not competitive with approved rates charged in the admitted~~
28 ~~voluntary market, so that the corporation functions as a~~
29 ~~residual market mechanism to provide insurance only when the~~
30 ~~insurance cannot be procured in the voluntary market. Rates~~
31 ~~shall include an appropriate catastrophe loading factor that~~

1 ~~reflects the actual catastrophic exposure of the corporation.~~
2 ~~For policies in the personal lines account and the commercial~~
3 ~~lines account issued or renewed on or after March 1, 2007, a~~
4 ~~rate is deemed inadequate if the rate, including investment~~
5 ~~income, is not sufficient to provide for the procurement of~~
6 ~~coverage under the Florida Hurricane Catastrophe Fund and~~
7 ~~private reinsurance costs, whether or not reinsurance is~~
8 ~~procured, and to pay all claims and expenses reasonably~~
9 ~~expected to result from a 100 year probable maximum loss event~~
10 ~~without resort to any regular or emergency assessments,~~
11 ~~long term debt, state revenues, or other funding sources. For~~
12 ~~policies in the high risk account issued or renewed on or~~
13 ~~after March 1, 2007, a rate is deemed inadequate if the rate,~~
14 ~~including investment income, is not sufficient to provide for~~
15 ~~the procurement of coverage under the Florida Hurricane~~
16 ~~Catastrophe Fund and private reinsurance costs, whether or not~~
17 ~~reinsurance is procured, and to pay all claims and expenses~~
18 ~~reasonably expected to result from a 70 year probable maximum~~
19 ~~loss event with resort to any regular or emergency~~
20 ~~assessments, long term debt, state revenues, or other funding~~
21 ~~sources. For policies in the high risk account issued or~~
22 ~~renewed in 2008 and 2009, the rate must be based upon an~~
23 ~~85 year and 100 year probable maximum loss event,~~
24 ~~respectively.~~

25 ~~b. It is the intent of the Legislature to reaffirm the~~
26 ~~requirement of rate adequacy in the residual market.~~
27 ~~Recognizing that rates may comply with the intent expressed in~~
28 ~~sub subparagraph a. and yet be inadequate and recognizing the~~
29 ~~public need to limit subsidies within the residual market, it~~
30 ~~is the further intent of the Legislature to establish~~
31 ~~statutory standards for rate adequacy. Such standards are~~

1 ~~intended to supplement the standard specified in s.~~
2 ~~627.062(2)(c)3., providing that rates are inadequate if they~~
3 ~~are clearly insufficient to sustain projected losses and~~
4 ~~expenses in the class of business to which they apply.~~

5 ~~2. For each county, the average rates of the~~
6 ~~corporation for each line of business for personal lines~~
7 ~~residential policies excluding rates for wind only policies~~
8 ~~shall be no lower than the average rates charged by the~~
9 ~~insurer that had the highest average rate in that county among~~
10 ~~the 20 insurers with the greatest total direct written premium~~
11 ~~in the state for that line of business in the preceding year,~~
12 ~~except that with respect to mobile home coverages, the average~~
13 ~~rates of the corporation shall be no lower than the average~~
14 ~~rates charged by the insurer that had the highest average rate~~
15 ~~in that county among the 5 insurers with the greatest total~~
16 ~~written premium for mobile home owner's policies in the state~~
17 ~~in the preceding year.~~

18 ~~3. Rates for personal lines residential wind only~~
19 ~~policies must be actuarially sound and not competitive with~~
20 ~~approved rates charged by authorized insurers. If the filing~~
21 ~~under this subparagraph is made at least 90 days before the~~
22 ~~proposed effective date and the filing is not implemented~~
23 ~~during the office's review of the filing and any proceeding~~
24 ~~and judicial review, such filing shall be considered a "file~~
25 ~~and use" filing. In such case, the office shall finalize its~~
26 ~~review by issuance of a notice of intent to approve or a~~
27 ~~notice of intent to disapprove within 90 days after receipt of~~
28 ~~the filing. The notice of intent to approve and the notice of~~
29 ~~intent to disapprove constitute agency action for purposes of~~
30 ~~the Administrative Procedure Act. Requests for supporting~~
31 ~~information, requests for mathematical or mechanical~~

1 ~~corrections, or notification to the insurer by the office of~~
2 ~~its preliminary findings shall not toll the 90 day period~~
3 ~~during any such proceedings and subsequent judicial review.~~
4 ~~The rate shall be deemed approved if the office does not issue~~
5 ~~a notice of intent to approve or a notice of intent to~~
6 ~~disapprove within 90 days after receipt of the filing.~~
7 ~~Corporation rate manuals shall include a rate surcharge for~~
8 ~~seasonal occupancy. To ensure that personal lines residential~~
9 ~~wind only rates are not competitive with approved rates~~
10 ~~charged by authorized insurers, the corporation, in~~
11 ~~conjunction with the office, shall develop a wind only~~
12 ~~ratemaking methodology, which methodology shall be contained~~
13 ~~in each rate filing made by the corporation with the office.~~
14 ~~If the office determines that the wind only rates or rating~~
15 ~~factors filed by the corporation fail to comply with the~~
16 ~~wind only ratemaking methodology provided for in this~~
17 ~~subsection, it shall so notify the corporation and require the~~
18 ~~corporation to amend its rates or rating factors to come into~~
19 ~~compliance within 90 days of notice from the office.~~
20 ~~4. The requirements of this paragraph that rates not~~
21 ~~be competitive with approved rates charged by authorized~~
22 ~~insurers do not apply in a county or area for which the office~~
23 ~~determines that no authorized insurer is offering coverage.~~
24 ~~The corporation shall amend its rates or rating factors for~~
25 ~~the affected county or area in conjunction with its next rate~~
26 ~~filing after such determination is made.~~
27 ~~5. For the purposes of establishing a pilot program to~~
28 ~~evaluate issues relating to the availability and affordability~~
29 ~~of insurance in an area where historically there has been~~
30 ~~little market competition, the provisions of subparagraph 2.~~
31 ~~do not apply to coverage provided by the corporation in Monroe~~

1 ~~County if the office determines that a reasonable degree of~~
2 ~~competition does not exist for personal lines residential~~
3 ~~policies. The provisions of subparagraph 3. do not apply to~~
4 ~~coverage provided by the corporation in Monroe County if the~~
5 ~~office determines that a reasonable degree of competition does~~
6 ~~not exist for personal lines residential policies in the area~~
7 ~~of that county which is eligible for wind only coverage. In~~
8 ~~this county, the rates for personal lines residential coverage~~
9 ~~shall be actuarially sound and not excessive, inadequate, or~~
10 ~~unfairly discriminatory and are subject to the other~~
11 ~~provisions of the paragraph and s. 627.062. The commission~~
12 ~~shall adopt rules establishing the criteria for determining~~
13 ~~whether a reasonable degree of competition exists for personal~~
14 ~~lines residential policies in Monroe County. By March 1, 2006,~~
15 ~~the office shall submit a report to the Legislature providing~~
16 ~~an evaluation of the implementation of the pilot program~~
17 ~~affecting Monroe County.~~

18 ~~6. Rates for commercial lines coverage shall not be~~
19 ~~subject to the requirements of subparagraph 2., but shall be~~
20 ~~subject to all other requirements of this paragraph and s.~~
21 ~~627.062.~~

22 ~~7. Nothing in this paragraph shall require or allow~~
23 ~~the corporation to adopt a rate that is inadequate under s.~~
24 ~~627.062.~~

25 ~~8. The corporation shall certify to the office at~~
26 ~~least twice annually that its personal lines rates comply with~~
27 ~~the requirements of subparagraphs 1., 2., and 3. If any~~
28 ~~adjustment in the rates or rating factors of the corporation~~
29 ~~is necessary to ensure such compliance, the corporation shall~~
30 ~~make and implement such adjustments and file its revised rates~~
31 ~~and rating factors with the office. If the office thereafter~~

1 ~~determines that the revised rates and rating factors fail to~~
2 ~~comply with the provisions of subparagraphs 1., 2., and 3., it~~
3 ~~shall notify the corporation and require the corporation to~~
4 ~~amend its rates or rating factors in conjunction with its next~~
5 ~~rate filing. The office must notify the corporation by~~
6 ~~electronic means of any rate filing it approves for any~~
7 ~~insurer among the insurers referred to in subparagraph 2.~~

8 2.9. In addition to the rates otherwise determined
9 pursuant to this paragraph, the corporation shall impose and
10 collect an amount equal to the premium tax provided for in s.
11 624.509 to augment the financial resources of the corporation.

12 ~~10. The corporation shall develop a notice to~~
13 ~~policyholders or applicants that the rates of Citizens~~
14 ~~Property Insurance Corporation are intended to be higher than~~
15 ~~the rates of any admitted carrier and providing other~~
16 ~~information the corporation deems necessary to assist~~
17 ~~consumers in finding other voluntary admitted insurers willing~~
18 ~~to insure their property.~~

19 3.11. After the public hurricane loss-projection model
20 under s. 627.06281 has been found to be accurate and reliable
21 by the Florida Commission on Hurricane Loss Projection
22 Methodology, that model shall serve as the minimum benchmark
23 for determining the windstorm portion of the corporation's
24 rates. This subparagraph does not require or allow the
25 corporation to adopt rates lower than the rates otherwise
26 required or allowed by this paragraph.

27 4. The rate filings for the corporation which were
28 approved by the office and which took effect January 1, 2007,
29 are rescinded, except for those rates that were lowered. As
30 soon as possible, the corporation shall begin using the lower
31 rates that were in effect on December 31, 2006, and shall

1 provide refunds to policyholders who have paid higher rates as
2 a result of that rate filing. The rates in effect on December
3 31, 2006, shall remain in effect for the 2007 calendar year
4 except for any rate change that results in a lower rate. The
5 next rate change that may increase rates shall take effect
6 January 1, 2008, pursuant to a new rate filing recommended by
7 the corporation and established by the office, subject to the
8 requirements of this paragraph.

9 (p)1. The corporation shall certify to the office its
10 needs for annual assessments as to a particular calendar year,
11 and for any interim assessments that it deems to be necessary
12 to sustain operations as to a particular year pending the
13 receipt of annual assessments. Upon verification, the office
14 shall approve such certification, and the corporation shall
15 levy such annual or interim assessments. Such assessments
16 shall be prorated as provided in paragraph (b). The
17 corporation shall take all reasonable and prudent steps
18 necessary to collect the amount of assessment due from each
19 assessable insurer, including, if prudent, filing suit to
20 collect such assessment. If the corporation is unable to
21 collect an assessment from any assessable insurer, the
22 uncollected assessments shall be levied as an additional
23 assessment against the assessable insurers and any assessable
24 insurer required to pay an additional assessment as a result
25 of such failure to pay shall have a cause of action against
26 such nonpaying assessable insurer. Assessments shall be
27 included as an appropriate factor in the making of rates. The
28 failure of a surplus lines agent to collect and remit any
29 regular or emergency assessment levied by the corporation is
30 considered to be a violation of s. 626.936 and subjects the
31 surplus lines agent to the penalties provided in that section.

1 2. The governing body of any unit of local government,
2 any residents of which are insured by the corporation, may
3 issue bonds as defined in s. 125.013 or s. 166.101 from time
4 to time to fund an assistance program, in conjunction with the
5 corporation, for the purpose of defraying deficits of the
6 corporation. In order to avoid needless and indiscriminate
7 proliferation, duplication, and fragmentation of such
8 assistance programs, any unit of local government, any
9 residents of which are insured by the corporation, may provide
10 for the payment of losses, regardless of whether or not the
11 losses occurred within or outside of the territorial
12 jurisdiction of the local government. Revenue bonds under this
13 subparagraph may not be issued until validated pursuant to
14 chapter 75, unless a state of emergency is declared by
15 executive order or proclamation of the Governor pursuant to s.
16 252.36 making such findings as are necessary to determine that
17 it is in the best interests of, and necessary for, the
18 protection of the public health, safety, and general welfare
19 of residents of this state and declaring it an essential
20 public purpose to permit certain municipalities or counties to
21 issue such bonds as will permit relief to claimants and
22 policyholders of the corporation. Any such unit of local
23 government may enter into such contracts with the corporation
24 and with any other entity created pursuant to this subsection
25 as are necessary to carry out this paragraph. Any bonds issued
26 under this subparagraph shall be payable from and secured by
27 moneys received by the corporation from emergency assessments
28 under sub-subparagraph (b)3.d., and assigned and pledged to or
29 on behalf of the unit of local government for the benefit of
30 the holders of such bonds. The funds, credit, property, and
31 taxing power of the state or of the unit of local government

1 shall not be pledged for the payment of such bonds. If any of
2 the bonds remain unsold 60 days after issuance, the office
3 shall require all insurers subject to assessment to purchase
4 the bonds, which shall be treated as admitted assets; each
5 insurer shall be required to purchase that percentage of the
6 unsold portion of the bond issue that equals the insurer's
7 relative share of assessment liability under this subsection.
8 An insurer shall not be required to purchase the bonds to the
9 extent that the office determines that the purchase would
10 endanger or impair the solvency of the insurer.

11 3.a. The corporation shall adopt one or more programs
12 subject to approval by the office for the reduction of both
13 new and renewal writings in the corporation. Beginning January
14 1, 2008, any program the corporation adopts for the payment of
15 bonuses to an insurer for each risk the insurer removes from
16 the corporation shall comply with s. 627.3511(2) and may not
17 exceed the amount referenced in s. 627.3511(2) for each risk
18 removed. The corporation may consider any prudent and not
19 unfairly discriminatory approach to reducing corporation
20 writings, and may adopt a credit against assessment liability
21 or other liability that provides an incentive for insurers to
22 take risks out of the corporation and to keep risks out of the
23 corporation by maintaining or increasing voluntary writings in
24 counties or areas in which corporation risks are highly
25 concentrated and a program to provide a formula under which an
26 insurer voluntarily taking risks out of the corporation by
27 maintaining or increasing voluntary writings will be relieved
28 wholly or partially from assessments under sub-subparagraphs
29 (b)3.a. and b. However, any "take-out bonus" or payment to an
30 insurer must be conditioned on the property being insured for
31 at least 5 years by the insurer, unless canceled or nonrenewed

1 | by the policyholder. If the policy is canceled or nonrenewed
2 | by the policyholder before the end of the 5-year period, the
3 | amount of the take-out bonus must be prorated for the time
4 | period the policy was insured. When the corporation enters
5 | into a contractual agreement for a take-out plan, the
6 | producing agent of record of the corporation policy is
7 | entitled to retain any unearned commission on such policy, and
8 | the insurer shall either:

9 | (I) Pay to the producing agent of record of the
10 | policy, for the first year, an amount which is the greater of
11 | the insurer's usual and customary commission for the type of
12 | policy written or a policy fee equal to the usual and
13 | customary commission of the corporation; or

14 | (II) Offer to allow the producing agent of record of
15 | the policy to continue servicing the policy for a period of
16 | not less than 1 year and offer to pay the agent the insurer's
17 | usual and customary commission for the type of policy written.
18 | If the producing agent is unwilling or unable to accept
19 | appointment by the new insurer, the new insurer shall pay the
20 | agent in accordance with sub-sub-subparagraph (I).

21 | b. Any credit or exemption from regular assessments
22 | adopted under this subparagraph shall last no longer than the
23 | 3 years following the cancellation or expiration of the policy
24 | by the corporation. With the approval of the office, the board
25 | may extend such credits for an additional year if the insurer
26 | guarantees an additional year of renewability for all policies
27 | removed from the corporation, or for 2 additional years if the
28 | insurer guarantees 2 additional years of renewability for all
29 | policies so removed.

30 |
31 |

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

4 4. The plan shall provide for the deferment, in whole
5 or in part, of the assessment of an assessable insurer, other
6 than an emergency assessment collected from policyholders
7 pursuant to sub-subparagraph (b)3.d., if the office finds that
8 payment of the assessment would endanger or impair the
9 solvency of the insurer. In the event an assessment against an
10 assessable insurer is deferred in whole or in part, the amount
11 by which such assessment is deferred may be assessed against
12 the other assessable insurers in a manner consistent with the
13 basis for assessments set forth in paragraph (b).

14 5. Effective July 1, 2007, in order to evaluate the
15 costs and benefits of approved take-out plans, if the
16 corporation pays a bonus or other payment to an insurer for an
17 approved take-out plan, it shall maintain a record of the
18 address or such other identifying information on the property
19 or risk removed in order to track if and when the property or
20 risk is later insured by the corporation.

21 6. Any policy taken out, assumed, or removed from the
22 corporation is, as of the effective date of the take-out,
23 assumption, or removal, direct insurance issued by the insurer
24 and not by the corporation, even if the corporation continues
25 to service the policies. This subparagraph applies to policies
26 of the corporation and not policies taken out, assumed, or
27 removed from any other entity.

28 (s) For the purposes of s. 199.183(1), the corporation
29 shall be considered a political subdivision of the state and
30 shall be exempt from the corporate income tax. The premiums,
31 assessments, investment income, and other revenue of the

1 corporation are funds received for providing property
2 insurance coverage as required by this subsection, paying
3 claims for Florida citizens insured by the corporation,
4 securing and repaying debt obligations issued by the
5 corporation, and conducting all other activities of the
6 corporation, and shall not be considered taxes, fees,
7 licenses, or charges for services imposed by the Legislature
8 on individuals, businesses, or agencies outside state
9 government. Bonds and other debt obligations issued by or on
10 behalf of the corporation are not to be considered "state
11 bonds" within the meaning of s. 215.58(8). The corporation is
12 not subject to the procurement provisions of chapter 287, and
13 policies and decisions of the corporation relating to
14 incurring debt, levying of assessments and the sale, issuance,
15 continuation, terms and claims under corporation policies, and
16 all services relating thereto, are not subject to the
17 provisions of chapter 120. The corporation is not required to
18 obtain or to hold a certificate of authority issued by the
19 office, nor is it required to participate as a member insurer
20 of the Florida Insurance Guaranty Association. However, the
21 corporation is required to pay, in the same manner as an
22 authorized insurer, assessments levied ~~pledged~~ by the Florida
23 Insurance Guaranty Association ~~to secure bonds issued or other~~
24 ~~indebtedness incurred to pay covered claims arising from~~
25 ~~insurer insolvencies caused by, or proximately related to,~~
26 ~~hurricane losses~~. It is the intent of the Legislature that the
27 tax exemptions provided in this paragraph will augment the
28 financial resources of the corporation to better enable the
29 corporation to fulfill its public purposes. Any debt
30 obligations issued by the corporation, their transfer, and the
31 income therefrom, including any profit made on the sale

1 | thereof, shall at all times be free from taxation of every
2 | kind by the state and any political subdivision or local unit
3 | or other instrumentality thereof; however, this exemption does
4 | not apply to any tax imposed by chapter 220 on interest,
5 | income, or profits on debt obligations owned by corporations
6 | other than the corporation.

7 | ~~(ee)~~ The assets of the corporation may be invested and
8 | managed by the State Board of Administration.

9 | Section 24. It is the intent of the Legislature that
10 | commercial nonresidential property insurance coverage be made
11 | available from Citizens Property Insurance Corporation
12 | (Citizens), under s. 627.351(6), Florida Statutes, as amended
13 | by this act, rather than from the Property and Casualty Joint
14 | Underwriting Association (PCJUA), under s. 627.351(5), Florida
15 | Statutes. As soon as it is reasonably able to do so, Citizens
16 | shall adopt, subject to approval of the Office of Insurance
17 | Regulation, a plan providing for the transition of such
18 | coverage from the PCJUA to Citizens under such forms, rates,
19 | terms, and conditions as the board of Citizens considers
20 | appropriate. The plan shall include any contractual agreements
21 | between Citizens and the PCJUA which are required to effect
22 | the transition. In the transition plan, Citizens may assume
23 | policies or otherwise provide coverage for the commercial
24 | nonresidential policyholders of the PCJUA and may also provide
25 | for allocating to the appropriate account or accounts of
26 | Citizens the revenues, assets, liabilities, losses, and
27 | expenses associated with policies of the PCJUA which are
28 | assumed or otherwise covered by Citizens. It is the intent of
29 | the Legislature that the transition plan be implemented in a
30 | manner that does not adversely affect the creditworthiness of
31 | or security for currently outstanding financing obligations or

1 credit facilities of the high-risk account, the personal lines
2 account, or the commercial lines account. The order issued by
3 the Office of Insurance Regulation may allow the PCJUA to
4 continue to issue such coverage until the time that Citizens
5 begins issuing such coverage.

6 Section 25. Subsections (3), (4), (5), and (7) of
7 section 627.701, Florida Statutes, are amended to read:

8 627.701 Liability of insureds; coinsurance;
9 deductibles.--

10 ~~(3)(a) A policy of residential property insurance~~
11 ~~shall include a deductible amount applicable to hurricane~~
12 ~~losses no lower than \$500 and no higher than 2 percent of the~~
13 ~~policy dwelling limits with respect to personal lines~~
14 ~~residential risks, and no higher than 3 percent of the policy~~
15 ~~limits with respect to commercial lines residential risks;~~
16 ~~however, if a risk was covered on August 24, 1992, under a~~
17 ~~policy having a higher deductible than the deductibles allowed~~
18 ~~by this paragraph, a policy covering such risk may include a~~
19 ~~deductible no higher than the deductible in effect on August~~
20 ~~24, 1992. Notwithstanding the other provisions of this~~
21 ~~paragraph, a personal lines residential policy covering a risk~~
22 ~~valued at \$50,000 or less may include a deductible amount~~
23 ~~attributable to hurricane losses no lower than \$250, and a~~
24 ~~personal lines residential policy covering a risk valued at~~
25 ~~\$100,000 or more may include a deductible amount attributable~~
26 ~~to hurricane losses no higher than 10 percent of the policy~~
27 ~~limits unless subject to a higher deductible on August 24,~~
28 ~~1992; however, no maximum deductible is required with respect~~
29 ~~to a personal lines residential policy covering a risk valued~~
30 ~~at more than \$500,000. An insurer may require a higher~~
31 ~~deductible, provided such deductible is the same as or similar~~

1 ~~to a deductible program lawfully in effect on June 14, 1995.~~
2 ~~In addition to the deductible amounts authorized by this~~
3 ~~paragraph, an insurer may also offer policies with a copayment~~
4 ~~provision under which, after exhaustion of the deductible, the~~
5 ~~policyholder is responsible for 10 percent of the next \$10,000~~
6 ~~of insured hurricane losses.~~

7 ~~(a)(b)~~1. Except as otherwise provided in this
8 paragraph, prior to issuing a personal lines residential
9 property insurance policy ~~on or after January 1, 2006, or~~
10 ~~prior to the first renewal of a residential property insurance~~
11 ~~policy on or after January 1, 2006,~~ the insurer must offer
12 alternative deductible amounts applicable to hurricane losses
13 equal to \$500, 2 percent, 5 percent, and 10 percent of the
14 policy dwelling limits, unless the specific percentage
15 deductible is less than \$500. The written notice of the offer
16 shall specify the hurricane or wind deductible to be applied
17 in the event that the applicant or policyholder fails to
18 affirmatively choose a hurricane deductible. The insurer must
19 provide such policyholder with notice of the availability of
20 the deductible amounts specified in this paragraph in a form
21 approved by the office in conjunction with each renewal of the
22 policy. The failure to provide such notice constitutes a
23 violation of this code but does not affect the coverage
24 provided under the policy.

25 2. For policies issued or renewed on or after July 1,
26 2007, an insurer that is subject to subparagraph 1. must also
27 offer a deductible applicable to hurricane losses which covers
28 50 percent of the policyholder's equity in a structure that is
29 subject to a mortgage or lien. As a condition of making this
30 offer, the insurer may require the policyholder or financial
31 institution or other lienholder that holds the mortgage to

1 provide documentation annually to the insurer identifying the
2 amount of the policyholder's equity projected for the policy
3 year. The deductible may be structured to cover 50 percent of
4 the policyholder's equity as of the effective date of the
5 policy renewal or the deductible may be scheduled to reflect a
6 monthly adjustment that tracks the change in the
7 policyholder's equity. The commission may adopt rules to
8 administer this subparagraph.

9 ~~3.2-~~ This paragraph does not apply with respect to a
10 deductible program lawfully in effect on June 14, 1995, or to
11 any similar deductible program, if the deductible program
12 requires a minimum deductible amount of no less than 2 percent
13 of the policy limits.

14 ~~4.3-~~ With respect to a policy covering a risk with
15 dwelling limits of at least \$100,000, but less than \$250,000,
16 the insurer may, in lieu of offering a policy with a \$500
17 hurricane or wind deductible as required by subparagraph 1.,
18 offer a policy that the insurer guarantees it will not
19 nonrenew for reasons of reducing hurricane loss for one
20 renewal period and that contains up to a 2 percent hurricane
21 or wind deductible as required by subparagraph 1.

22 ~~5.4-~~ With respect to a policy covering a risk with
23 dwelling limits of \$250,000 or more, the insurer need not
24 offer the \$500 hurricane deductible as required by
25 subparagraph 1., but must, except as otherwise provided in
26 this subsection, offer the other hurricane deductibles as
27 required by subparagraph 1.

28 (4)(a) Any policy that contains a separate hurricane
29 deductible must on its face include in boldfaced type no
30 smaller than 18 points the following statement: "THIS POLICY
31 CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY

1 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy
2 containing a coinsurance provision applicable to hurricane
3 losses must on its face include in boldfaced type no smaller
4 than 18 points the following statement: "THIS POLICY CONTAINS
5 A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET
6 EXPENSES TO YOU."

7 (b) ~~Beginning October 1, 2005,~~ For any personal lines
8 residential property insurance policy containing a separate
9 hurricane deductible, the insurer shall compute and
10 prominently display the actual dollar value of the hurricane
11 deductible on the declarations page of the policy at issuance
12 and, for renewal, on the renewal declarations page of the
13 policy or on the premium renewal notice.

14 (c) ~~Beginning October 1, 2005,~~ For any personal lines
15 residential property insurance policy containing an inflation
16 guard rider, the insurer shall compute and prominently display
17 the actual dollar value of the hurricane deductible on the
18 declarations page of the policy at issuance and, for renewal,
19 on the renewal declarations page of the policy or on the
20 premium renewal notice. In addition, ~~beginning October 1,~~
21 ~~2005,~~ for any personal lines residential property insurance
22 policy containing an inflation guard rider, the insurer shall
23 notify the policyholder of the possibility that the hurricane
24 deductible may be higher than indicated when loss occurs due
25 to application of the inflation guard rider. Such notification
26 shall be made on the declarations page of the policy at
27 issuance and, for renewal, on the renewal declarations page of
28 the policy or on the premium renewal notice.

29 (d)1. A personal lines residential property insurance
30 policy covering a risk valued at less than \$500,000 may not
31 have a hurricane deductible in excess of 10 percent of the

1 policy dwelling limits, unless the following conditions are
2 met:

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

10 b. If the structure insured by the policy is subject
11 to a mortgage or lien, the policyholder must provide the
12 insurer with a written statement from the mortgageholder or
13 lienholder indicating that the mortgageholder or lienholder
14 approves the policyholder electing to have the specified
15 deductible.

16 2. A deductible subject to the requirements of this
17 paragraph applies only for the term of the policy and must be
18 newly executed upon each renewal pursuant to the requirements
19 of this paragraph.

20 3. An insurer shall keep the original copy of the
21 signed statement required by this paragraph and provide a copy
22 to the policyholder providing the signed statement. A signed
23 statement meeting the requirements of this paragraph creates a
24 presumption that there was an informed, knowing election of
25 coverage.

26 4. The commission shall adopt rules providing
27 appropriate alternative methods for providing the statements
28 required by this section for policyholders who have a
29 handicapping or disabling condition that prevents them from
30 providing a handwritten statement.

31

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

4 1. The hurricane deductible shall apply on an annual
5 basis to all covered hurricane losses that occur during the
6 calendar year for losses that are covered under one or more
7 policies issued by the same insurer or an insurer in the same
8 insurer group.

9 2. If a hurricane deductible applies separately to
10 each of one or more structures insured under a single policy,
11 the requirements of this paragraph apply with respect to the
12 deductible for each structure.

13 3. If there was a hurricane loss for a prior hurricane
14 or hurricanes during the calendar year, the insurer may apply
15 a deductible to a subsequent hurricane which is the greater of
16 the remaining amount of the hurricane deductible or the amount
17 of the deductible that applies to perils other than a
18 hurricane. Insurers may require policyholders to report
19 hurricane losses that are below the hurricane deductible or to
20 maintain receipts or other records of such hurricane losses in
21 order to apply such losses to subsequent hurricane claims.

22 4. If there are hurricane losses in a calendar year on
23 more than one policy issued by the same insurer or an insurer
24 in the same insurer group, the hurricane deductible shall be
25 the highest amount stated in any one of the policies. If a
26 policyholder who had a hurricane loss under the prior policy
27 is provided or offered a lower hurricane deductible under the
28 new or renewal policy, the insurer must notify the
29 policyholder, in writing, at the time the lower hurricane
30 deductible is provided or offered, that the lower hurricane
31

1 deductible will not apply until January 1 of the following
2 calendar year.

3 (b) For commercial residential property insurance
4 policies ~~issued or renewed on or after January 1, 2006~~, the
5 insurer must offer the policyholder the following alternative
6 hurricane deductibles:

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

9 2. A hurricane deductible that applies to each
10 hurricane.

11 (7) Prior to issuing a personal lines residential
12 property insurance policy ~~on or after April 1, 1997, or prior~~
13 ~~to the first renewal of a residential property insurance~~
14 ~~policy on or after April 1, 1997~~, the insurer must offer a
15 deductible equal to \$500 applicable to losses from perils
16 other than hurricane. The insurer must provide the
17 policyholder with notice of the availability of the deductible
18 specified in this subsection in a form approved by the office
19 at least once every 3 years. The failure to provide such
20 notice constitutes a violation of this code but does not
21 affect the coverage provided under the policy. An insurer may
22 require a higher deductible only as part of a deductible
23 program lawfully in effect on June 1, 1996, or as part of a
24 similar deductible program.

25 Section 26. Effective July 1, 2007, section 627.706,
26 Florida Statutes, is amended to read:

27 627.706 Sinkhole insurance; definitions.--

28 (1) Every insurer authorized to transact property
29 insurance in this state shall provide coverage for a
30 catastrophic ground cover collapse and shall make available,
31 for an appropriate additional premium, coverage for ~~insurable~~

1 sinkhole losses on any structure, including contents of
2 personal property contained therein, to the extent provided in
3 the form to which the ~~sinkhole~~ coverage attaches. A policy for
4 residential property insurance may include a deductible amount
5 applicable to sinkhole losses equal to 1 percent, 2 percent, 5
6 percent, or 10 percent of the policy dwelling limits, with
7 appropriate premium discounts offered with each deductible
8 amount.

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

12 (a) "Catastrophic ground cover collapse" means
13 geological activity that results in the collapse of the ground
14 cover and the insured structure being condemned and ordered to
15 be vacated by the governmental agency authorized by law to
16 issue such an order for that structure.

17 (b)(a) "Sinkhole" means a landform created by
18 subsidence of soil, sediment, or rock as underlying strata are
19 dissolved by groundwater. A sinkhole may form by collapse into
20 subterranean voids created by dissolution of limestone or
21 dolostone or by subsidence as these strata are dissolved.

22 (c)(b) "Sinkhole loss" means structural damage to the
23 building, including the foundation, caused by sinkhole
24 activity. Contents coverage shall apply only if there is
25 structural damage to the building caused by sinkhole activity.

26 (d)(c) "Sinkhole activity" means settlement or
27 systematic weakening of the earth supporting such property
28 only when such settlement or systematic weakening results from
29 movement or raveling of soils, sediments, or rock materials
30 into subterranean voids created by the effect of water on a
31 limestone or similar rock formation.

1 ~~(e)~~(d) "Professional engineer" means a person, as
2 defined in s. 471.005, who has a bachelor's degree or higher
3 in engineering with a specialty in the geotechnical
4 engineering field. A professional engineer must have
5 geotechnical experience and expertise in the identification of
6 sinkhole activity as well as other potential causes of damage
7 to the structure.

8 ~~(f)~~(e) "Professional geologist" means a person, as
9 defined by s. 492.102, who has a bachelor's degree or higher
10 in geology or related earth science with expertise in the
11 geology of Florida. A professional geologist must have
12 geological experience and expertise in the identification of
13 sinkhole activity as well as other potential geologic causes
14 of damage to the structure.

15 (3) Every insurer authorized to transact property
16 insurance in this state shall make a proper filing with the
17 office for the purpose of extending the appropriate forms of
18 property insurance to include coverage for catastrophic ground
19 cover collapse or for sinkhole losses.

20 Section 27. Subsection (2) of section 627.7065,
21 Florida Statutes, is amended to read:

22 627.7065 Database of information relating to
23 sinkholes; the Department of Financial Services and the
24 Department of Environmental Protection.--

25 (2) The Department of Financial Services, including
26 the employee of the Division of Consumer Services designated
27 as the primary contact for consumers on issues relating to
28 sinkholes, and the ~~Office of the~~ Insurance Consumer Advocate
29 shall consult with the Florida Geological Survey and the
30 Department of Environmental Protection to implement a
31

1 statewide automated database of sinkholes and related activity
2 identified in the state.

3 Section 28. Effective July 1, 2007, section 627.712,
4 Florida Statutes, is created to read:

5 627.712 Residential hurricane coverage required;
6 availability of exclusions for windstorm or contents.--

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

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

16 (a) The policyholder personally writes and provides to
17 the insurer the following statement in his or her own
18 handwriting and signs his or her name, which must also be
19 signed by every other named insured on the policy, and dated:

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

23 (b) If the structure insured by the policy is subject
24 to a mortgage or lien, the policyholder must provide the
25 insurer with a written statement from the mortgageholder or
26 lienholder indicating that the mortgageholder or lienholder
27 approves the policyholder electing to exclude windstorm
28 coverage or hurricane coverage from his or her residential
29 property insurance policy.

30 (3) An insurer issuing a residential property
31 insurance policy, except for a condominium unit owner's

1 policy, must make available, at the option of the
2 policyholder, an exclusion of coverage for the contents. The
3 coverage may be excluded only if the policyholder personally
4 writes and provides to the insurer the following statement in
5 his or her own handwriting and signs his or her signature,
6 which must also be signed by every other named insured on the
7 policy, and dated: "I do not want the insurance on my (home /
8 mobile home) to pay for the costs to repair or replace any
9 contents that are damaged. I will pay those costs. My
10 insurance will not."

11 (4) An insurer shall keep the original copy of a
12 signed statement required by this section and provide a copy
13 to the policyholder providing the signed statement. A signed
14 statement meeting the requirements of this section creates a
15 presumption that there was an informed, knowing rejection of
16 coverage.

17 (5) The exclusions authorized by this section are
18 valid only for the term of the contract and must be newly
19 executed upon each contract renewal pursuant to the
20 requirements of this section.

21 (6) The commission shall adopt rules providing
22 appropriate alternative methods for providing the statements
23 required by this section for policyholders who have a
24 handicapping or disabling condition that prevents them from
25 providing a handwritten statement.

26 Section 29. Section 627.713, Florida Statutes, is
27 created to read:

28 627.713 Report of hurricane loss data.--

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

- 1 (a) Number of claims;
2 (b) Amount of claim payments made;
3 (c) Number and amount of total-loss claims;
4 (d) Amount and percentage of losses covered by
5 reinsurance or other loss-transfer agreements;
6 (e) Amount of losses covered under specified
7 deductibles;
8 (f) Claims and payments for specified insured values;
9 (g) Claims and payments for specified dollar values;
10 (h) Claims and payments for specified types of
11 construction or mitigation features;
12 (i) Claims and payments for policies under specified
13 underwriting criteria;
14 (j) Claims and payments for contents, additional
15 living expense, and other specified coverages;
16 (k) Claims and payments by county for the information
17 specified in this section; and
18 (l) Any other data that the office requires.
19 (2) The commission may adopt rules pursuant to ss.
20 120.536(1) and 120.54 to administer this section.

21 Section 30. Paragraph (e) of subsection (3) and
22 subsection (4) of section 631.57, Florida Statutes, are
23 amended to read:

24 631.57 Powers and duties of the association.--

25 (3)

26 (e)1.

27 a. In addition to assessments otherwise authorized in
28 paragraph (a) and to the extent necessary to secure the funds
29 for the account specified in s. 631.55(2)(c) for the direct
30 payment of covered claims and to pay the reasonable costs to
31 administer such claims, or to retire indebtedness, including,

1 without limitation, the principal, redemption premium, if any,
2 and interest on, and related costs of issuance of, bonds
3 issued under s. 631.695 and the funding of any reserves and
4 other payments required under the bond resolution or trust
5 indenture pursuant to which such bonds have been issued, the
6 office, upon certification of the board of directors, shall
7 levy emergency assessments upon insurers holding a certificate
8 of authority. The emergency assessments payable under this
9 paragraph by any insurer shall not exceed in any single year
10 more than 2 percent of that insurer's direct written premiums,
11 net of refunds, in this state during the preceding calendar
12 year for the kinds of insurance within the account specified
13 in s. 631.55(2)(c).

14 b. Any emergency assessments authorized under this
15 paragraph shall be levied by the office upon insurers referred
16 to in sub-subparagraph a., upon certification as to the need
17 for such assessments by the board of directors. In the event
18 the board of directors participates in the issuance of bonds
19 in accordance with s. 631.695, emergency assessments shall be
20 levied, in each year that bonds issued under s. 631.695 and
21 secured by such emergency assessments are outstanding, in such
22 amounts up to such 2-percent limit as required in order to
23 provide for the full and timely payment of the principal of,
24 redemption premium, if any, and interest on, and related costs
25 of issuance of, such bonds. The emergency assessments provided
26 for in this paragraph are assigned and pledged to the
27 municipality, county, or legal entity issuing bonds under s.
28 631.695 for the benefit of the holders of such bonds, in order
29 to enable such municipality, county, or legal entity to
30 provide for the payment of the principal of, redemption
31 premium, if any, and interest on such bonds, the cost of

1 issuance of such bonds, and the funding of any reserves and
2 other payments required under the bond resolution or trust
3 indenture pursuant to which such bonds have been issued,
4 without the necessity of any further action by the
5 association, the office, or any other party. To the extent
6 bonds are issued under s. 631.695 and the association
7 determines to secure such bonds by a pledge of revenues
8 received from the emergency assessments, such bonds, upon such
9 pledge of revenues, shall be secured by and payable from the
10 proceeds of such emergency assessments, and the proceeds of
11 emergency assessments levied under this paragraph shall be
12 remitted directly to and administered by the trustee or
13 custodian appointed for such bonds.

14 c. Emergency assessments under this paragraph may be
15 payable in a single payment or, at the option of the
16 association, may be payable in 12 monthly installments with
17 the first installment being due and payable at the end of the
18 month after an emergency assessment is levied and subsequent
19 installments being due not later than the end of each
20 succeeding month.

21 d. If emergency assessments are imposed, the report
22 required by s. 631.695(7) shall include an analysis of the
23 revenues generated from the emergency assessments imposed
24 under this paragraph.

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

29 2. In order to ensure that insurers paying emergency
30 assessments levied under this paragraph continue to charge
31 rates that are neither inadequate nor excessive, within 90

1 days after being notified of such assessments, each insurer
2 that is to be assessed pursuant to this paragraph shall submit
3 a rate filing for coverage included within the account
4 specified in s. 631.55(2)(c) and for which rates are required
5 to be filed under s. 627.062. If the filing reflects a rate
6 change that, as a percentage, is equal to the difference
7 between the rate of such assessment and the rate of the
8 previous year's assessment under this paragraph, the filing
9 shall consist of a certification so stating and shall be
10 deemed approved when made. Any rate change of a different
11 percentage shall be subject to the standards and procedures of
12 s. 627.062.

13 3. In the event the board of directors participates in
14 the issuance of bonds in accordance with s. 631.695, an annual
15 assessment under this paragraph shall continue while the bonds
16 issued with respect to which the assessment was imposed are
17 outstanding, including any bonds the proceeds of which were
18 used to refund bonds issued pursuant to s. 631.695, unless
19 adequate provision has been made for the payment of the bonds
20 in the documents authorizing the issuance of such bonds.

21 4. Emergency assessments under this paragraph are not
22 premium and are not subject to the premium tax, to any fees,
23 or to any commissions. An insurer is liable for all emergency
24 assessments that the insurer collects and shall treat the
25 failure of an insured to pay an emergency assessment as a
26 failure to pay the premium. An insurer is not liable for
27 uncollectible emergency assessments.

28 (4) The department may exempt any insurer from any
29 regular or emergency ~~an~~ assessment if an assessment would
30 result in such insurer's financial statement reflecting an
31 amount of capital or surplus less than the sum of the minimum

1 amount required by any jurisdiction in which the insurer is
2 authorized to transact insurance.

3 Section 31. The amendments to section 34 of chapter
4 2006-12, Laws of Florida, authorized the Florida Insurance
5 Guaranty Association to certify, and the Office of Insurance
6 Regulation to levy, an emergency assessment of up to 2 percent
7 to either directly pay the covered claims out of the account
8 specified in s. 631.55(2)(c), Florida Statutes, or to use the
9 proceeds of such emergency assessment to retire the
10 indebtedness and the costs of bonds issued to pay such claims
11 and reasonable claims-administration costs.

12 Section 32. Subsection (1) of section 631.912, Florida
13 Statutes, is amended to read:

14 631.912 Board of directors.--

15 (1) The board of directors of the corporation shall
16 consist of 11 persons, 1 of whom is the Insurance Consumer
17 Advocate appointed under s. 350.0615 ~~s. 627.0613~~ or designee
18 and 1 of whom is designated by the Chief Financial Officer.
19 The department shall appoint to the board 6 persons selected
20 by private carriers from among the 20 workers' compensation
21 insurers with the largest amount of net direct written premium
22 as determined by the department, and 3 persons selected by the
23 self-insurance funds. At least two of the private carriers
24 shall be foreign carriers authorized to do business in this
25 state. The board shall elect a chairperson from among its
26 members. The Chief Financial Officer may remove any board
27 member for cause. Each board member shall serve for a 4-year
28 term and may be reappointed. A vacancy on the board shall be
29 filled for the remaining period of the term in the same manner
30 by which the original appointment was made.

31

1 Section 33. Effective July 1, 2007, subsection (6) of
2 section 627.0629, Florida Statutes, is repealed.

3 Section 34. Windstorm Mitigation Study Commission.--

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

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

8 2. One member shall be appointed by the Chief
9 Financial Officer.

10 3. One member shall be appointed by the Commissioner
11 of Insurance Regulation.

12 (b) Each member must be knowledgeable of issues
13 concerning the mitigation of the effects of windstorms on
14 structures in this state and at least one member must
15 represent primarily the interests of homeowners.

16 (2)(a) The members of the commission shall serve
17 without compensation, but are entitled to reimbursement for
18 all necessary expenses incurred in performing their duties,
19 including travel expenses, in accordance with s. 112.061,
20 Florida Statutes.

21 (b) The commission shall meet as necessary, at the
22 call of the chair, and at the time and place designated by the
23 chair. The commission may conduct its meetings through
24 teleconferences or other similar means.

25 (3) The Department of Financial Services, the Office
26 of Insurance Regulation, the Citizens Property Insurance
27 Corporation, and other agencies of this state shall supply any
28 information, assistance, and facilities that are considered
29 necessary by the commission to carry out its duties under this
30 section. The Executive Office of the Governor shall provide
31 staff assistance as necessary in order to carry out the

1 required clerical and administrative functions of the
2 commission.

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

9 (a) The availability of home inspections for windstorm
10 resistance;

11 (b) Grants to assist homeowners, and possibly other
12 groups of property owners, to harden their property against
13 windstorm damage;

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

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

19 (e) Coordination among federal, local, and private
20 initiatives;

21 (f) Streamlining or strengthening applicable state,
22 regional, and local regulations;

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

25 (h) The discovery and assessment of funding sources
26 for windstorm mitigation;

27 (i) Tax incentives for windstorm mitigation;

28 (j) Consumer information concerning the benefits of
29 windstorm mitigation, including personal safety as well as
30 property security; and

31 (k) Research on windstorm mitigation.

1
2 The commission may develop any other solutions and programs
3 that it considers appropriate.

4 (5) In performing its analysis, the commission shall
5 consider both the safety of the residents of this state and
6 the protection of real property, especially residential. In
7 addition, the commission shall consider both short-term and
8 long-term solutions and programs.

9 (6) The commission shall review, evaluate, and make
10 recommendations regarding existing and proposed programs and
11 initiatives for mitigating windstorm damage.

12 (7) The commission shall provide recommendations,
13 including proposed legislation, to the Governor, the President
14 of the Senate, the Speaker of the House of Representatives,
15 the Chief Financial Officer, and the Commissioner of Insurance
16 Regulation by March 30, 2007.

17 Section 35. Florida Disaster Recovery Initiative.--

18 (1) There is established within the Department of
19 Community Affairs the Florida Disaster Recovery Initiative for
20 the purpose of assisting local governments in satisfying
21 disaster-recovery needs in the areas of low-income housing and
22 infrastructure, with a primary focus on the hardening of
23 single-family and multifamily housing units, not only to
24 ensure that affordable housing can withstand the effects of
25 hurricane-force winds, but also to mitigate the increasing
26 costs of insurance, which may ultimately render existing
27 affordable homes unaffordable or uninsurable. This section
28 does not create an entitlement for local governments or
29 property owners or obligate the state in any way to fund
30 disaster-recovery needs. Implementation of this initiative is
31 subject to annual legislative appropriations.

1 (2) The Department of Community Affairs shall
2 administer the initiative using funds provided through the
3 Emergency Supplemental Appropriations Act for Defense, the
4 Global War on Terror, and Hurricane Recovery, 2006, and those
5 funds shall be used to assist local governments in satisfying
6 their disaster-recovery needs in the areas of housing and
7 infrastructure.

8 (3) Entitlement and nonentitlement counties identified
9 under the Federal Disaster Declaration (FEMA-1609-DR),
10 federally recognized Indian tribes, and nonprofit
11 organizations are eligible to apply for funding.

12 (4) Up to 78 percent of these funds shall be used to
13 complement the grants awarded by the Department of Financial
14 Services under s. 215.5586, Florida Statutes, and fund other
15 eligible disaster-related activities supporting housing
16 rehabilitation, hardening, mitigation, and infrastructure
17 improvements at the request of the local governments in order
18 to assist the State of Florida in better serving low-income
19 homeowners. Up to 20 percent of the funds shall be used to
20 provide inspections and mitigation improvements to multifamily
21 units receiving rental assistance under projects of the United
22 States Department of Housing and Urban Development or the
23 Rural Development Division of the United States Department of
24 Agriculture.

25 Section 36. For the 2006-2007 fiscal year, the sum of
26 \$100,066,518 is appropriated in a Grant in Aid--Fixed Capital
27 Outlay appropriation category from the Florida Small Cities
28 Community Development Block Grant Program Fund to the
29 Department of Community Affairs for the purpose of
30 implementing the provisions of section 1 of this act. These
31 funds shall be used in a manner consistent with Federal

1 Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the
2 State of Florida Action Plan for Disaster Recovery as approved
3 by the United States Department of Housing and Urban
4 Development.

5 Section 37. Except as otherwise expressly provided in
6 this act, this act shall take effect upon becoming a law.

8 *****

9 SENATE SUMMARY

10 Transfers the Office of Insurance Consumer Advocate from
11 the Department of Financial Services to the Public
12 Counsel. Provides additional authority for local
13 entities, hospitals, and hospital systems to issue bonds
14 and fund self-insurance programs. Revises provisions of
15 the Florida Hurricane Catastrophe Fund governing
16 reimbursement contracts. Provides for additional
17 reinsurance under the fund. Creates the Florida Hurricane
18 Excess Loss Program (FHELP) and the Florida Hurricane
19 Excess Loss Program Finance Corporation. Requires that
20 FHELP coverage be funded separately from the obligations
21 of the Florida Hurricane Catastrophe Fund or the proceeds
22 of bonds issued by the Florida Hurricane Catastrophe Fund
23 Finance Corporation. Provides requirements for the
24 Florida Building Commission with respect to modifying the
25 Florida Building Code. Provides for credit when
26 reinsurance is ceded to an assuming insurer. Revises
27 provisions governing the Citizens Property Insurance
28 Corporation. Removes requirements for certain assessments
29 and limitations on coverage. Rescinds certain rate
30 filings that took effect January 1, 2007, and reinstates
31 the rates in effect on December 31, 2006. Creates the
Windstorm Mitigation Study Commission to study programs
to mitigate the effects of windstorms on structures.
Creates the Florida Disaster Recovery Initiative within
the Department of Community Affairs for the purpose of
assisting local governments in protecting affordable
housing against hurricane damage and mitigating the
increased costs of insurance. Specifies that the act does
not create an entitlement or obligate the state. Provides
eligibility requirements. Provides requirements for the
use of funds. (See bill for details.)