

1 A bill to be entitled
2 An act relating to hurricane preparedness and
3 property insurance; amending s. 20.121, F.S.;
4 removing the Office of Insurance Consumer
5 Advocate from the Department of Financial
6 Services; providing for the powers, records,
7 personnel, property, balances of appropriations
8 and other funds, rules, pending issues, and
9 contracts of the Office of Insurance Consumer
10 Advocate to be transferred from the Department
11 of Financial Services to the Public Counsel;
12 amending s. 163.01, F.S., relating to the
13 Interlocal Cooperation Act; redefining the term
14 "public agency" to include certain legal or
15 administrative entities; authorizing such
16 entities to finance the provision of property
17 coverage contracts for or from local government
18 property insurance pools or property coverage
19 contracts; authorizing certain hospitals and
20 hospital systems to borrow funds, issue bonds,
21 and enter into loan agreements for the purpose
22 of providing property coverage; providing for
23 validating such bonds; providing an exemption
24 from taxation; amending s. 215.555, F.S.;
25 limiting the activities of the Florida
26 Hurricane Fund Finance Corporation with respect
27 to funding obligations; providing for revenue
28 bonds to be issued to fund the obligations of
29 the Florida Hurricane Excess Loss Program
30 (FHELP); providing legislative findings;
31 creating the Florida Hurricane Excess Loss

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; requiring the Office of Insurance
13 Regulation to calculate a presumed factor to
14 reflect the impact on rates resulting from this
15 act; providing an appropriation; amending s.
16 215.5586, F.S., relating to the Florida
17 Comprehensive Hurricane Damage Mitigation
18 Program; providing for grants to homeowners to
19 protect rather than retrofit their properties;
20 revising certain other eligibility criteria for
21 a grant; authorizing the use of grants for
22 roof-protection systems; amending s. 215.559,
23 F.S., relating to the Hurricane Loss Mitigation
24 Program; providing for a certain portion of the
25 appropriation under the program to be used for
26 securing fixtures for mobile homes; amending s.
27 350.012, F.S.; redesignating the Committee on
28 Public Service Commission Oversight as the
29 "Committee on Public Service Commission and
30 Insurance Oversight"; requiring that the
31 committee confirm or reject the appointment of

1 the Insurance Consumer Advocate by the Chief
2 Financial Officer; amending s. 350.0611, F.S.,
3 relating to the Public Counsel; providing
4 duties with respect to the Insurance Consumer
5 Advocate; amending s. 350.0613, F.S.;
6 authorizing the Public Counsel to represent the
7 public before the Office of Insurance
8 Regulation, the Financial Services Commission,
9 and the Department of Financial Services;
10 including certain proceedings related to rules
11 and rate filings for insurance; authorizing the
12 Public Counsel to have access to files of the
13 Office of Insurance Regulation, the Financial
14 Services Commission, and the Department of
15 Financial Services, to seek review of orders of
16 the office and the commission, and to issue
17 reports, recommendations, and proposed orders
18 to the office and the commission; authorizing
19 the Committee on Public Service Commission and
20 Insurance Oversight to authorize the Public
21 Counsel to employ certain types of employees;
22 requiring the Office of Insurance Regulation,
23 the Financial Services Commission, and the
24 Department of Financial Services to provide
25 copies of certain filings to the Public
26 Counsel; creating s. 350.0615, F.S.; creating
27 the office of Insurance Consumer Advocate to
28 represent the public on matters relating to the
29 regulation of insurance; requiring the Chief
30 Financial Officer to appoint the Insurance
31 Consumer Advocate, who is subject to

1 confirmation by the Committee on Public Service
2 Commission and Insurance Oversight; providing
3 for the Insurance Consumer Advocate to report
4 directly to and be employed by the Public
5 Counsel; specifying the powers and duties of
6 the Insurance Consumer Advocate; creating s.
7 395.1060, F.S.; providing for risk pooling,
8 with respect to property exposure, by certain
9 hospitals and hospital systems; exempting
10 entities formed to do so from the Florida
11 Insurance Code; amending s. 553.73, F.S.;
12 prohibiting the Florida Building Commission
13 from modifying certain foundation codes
14 relating to wind resistance or the prevention
15 of water intrusion unless the modification
16 enhances such provisions; amending s. 553.775,
17 F.S., relating to interpretations of the
18 Florida Building Code; conforming a
19 cross-reference; requiring jurisdictions having
20 authority to enforce the Florida Building Code
21 to require wind-borne-debris protection
22 according to specified requirements; requiring
23 that the Florida Building Commission amend the
24 Florida Building Code to reflect the
25 requirements of the act and eliminate certain
26 less stringent requirements; providing an
27 exception; requiring an amendment to the code
28 with respect to certain provisions governing
29 new residential construction; requiring the
30 commission to develop voluntary guidelines for
31 increasing the hurricane resistance of

1 buildings; requiring that the guidelines be
2 included in the commission's report to the 2008
3 Legislature; amending s. 624.319, F.S.;
4 authorizing the Public Counsel and the
5 Insurance Consumer Advocate to have access to
6 certain confidential information held by the
7 Department of Financial Services or the Office
8 of Insurance Regulation; amending s. 624.462,
9 F.S.; revising requirements for the
10 establishment of a commercial self-insurance
11 fund by a not-for-profit group; amending s.
12 624.4622, F.S.; authorizing local government
13 self-insurance funds to insure or self-insure
14 real or personal property against loss or
15 damage; creating s. 624.4625, F.S.; authorizing
16 two or more corporations not for profit to form
17 a self-insurance fund for certain purposes;
18 providing specific requirements; providing a
19 definition; providing limitations; providing
20 for application of certain provisions to
21 certain premiums, contributions, and
22 assessments; providing for payment of insurance
23 premium tax at a reduced rate by corporation
24 not-for-profit self-insurance funds; subjecting
25 a corporation not for profit self-insurance
26 fund to certain group self-insurance fund
27 provisions under certain circumstances;
28 amending s. 624.610, F.S.; specifying
29 additional circumstances under which the Office
30 of Insurance Regulation may allow credit when
31 reinsurance is ceded to an assuming insurer;

1 | amending s. 626.9541, F.S.; providing that an
2 | insurer's failure to offer in this state any
3 | kind or line of insurance which all insurers or
4 | affiliated insurers offer in another
5 | jurisdiction constitutes an unfair method of
6 | competition and unfair or deceptive act;
7 | providing penalties; providing for rules;
8 | repealing s. 627.0613, F.S., relating to the
9 | consumer advocate appointed by the Chief
10 | Financial Officer; amending s. 627.062, F.S.;
11 | deleting provisions allowing property and
12 | casualty insurers to use and file rates;
13 | deleting provisions exempting certain rate
14 | filings from review by the Office of Insurance
15 | Regulation; deleting provisions authorizing an
16 | insurer to require the arbitration of a rate
17 | filing following agency action under the
18 | Administrative Procedure Act; requiring the
19 | chief executive officer, chief financial
20 | officer, or chief actuary of a property insurer
21 | to certify the information contained in a rate
22 | filing; providing penalties for knowingly
23 | making a false certification; authorizing the
24 | Financial Services Commission to adopt rules;
25 | deleting provisions placing the burden on the
26 | Office of Insurance Regulation to establish
27 | that certain rates are excessive; amending s.
28 | 627.0628, F.S., relating to hurricane loss
29 | projection; conforming references to changes
30 | made by the act; amending s. 627.311, F.S.;
31 | providing for the Insurance Consumer Advocate

1 to be a member of the board of governors
2 supervising joint underwriting associations;
3 amending s. 627.351, F.S., relating to the
4 Citizens Property Insurance Corporation;
5 deleting provisions that deny certain
6 nonhomestead property eligibility for coverage
7 by the corporation; including commercial
8 nonresidential policies into an account of the
9 corporation; authorizing the corporation to
10 issue multiperil coverage, wind-only coverage,
11 or both in the high-risk account after a
12 specified date; deleting provisions authorizing
13 the Office of Insurance Regulation to remove
14 territory from the area eligible for wind-only
15 and quota share coverage; redefining the term
16 "subject lines of business" subject to
17 assessments for deficits; requiring the board
18 of governors of the corporation to levy an
19 assessment against nonhomestead property
20 policyholders if certain deficits occur after a
21 specified date; restricting the eligibility of
22 a risk for a policy issued by the corporation
23 under certain circumstances; authorizing the
24 plan of operation to establish limits of
25 coverage and to require commercial property to
26 meet specified hurricane-mitigation features;
27 requiring that the corporation annually file
28 recommended rates; requiring that the office
29 issue a final order establishing the rates
30 within a specified period; prohibiting the
31 corporation from pursuing administrative or

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

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

1 | 627.713, F.S.; authorizing the office to
2 | require property insurers to report data
3 | regarding hurricane claims and underwriting
4 | costs; providing for the adoption of rules;
5 | amending s. 631.57, F.S.; specifying certain
6 | additional circumstances under which the board
7 | of directors of the Florida Insurance Guaranty
8 | Association, Inc., may levy emergency and
9 | regular assessments; clarifying that
10 | authorization exists for the Florida Insurance
11 | Guaranty Association to certify and for the
12 | Office of Insurance Regulation to levy an
13 | emergency assessment; amending s. 631.912,
14 | F.S., relating to the board of directors of the
15 | Florida Workers' Compensation Insurance
16 | Guaranty Association, Inc.; conforming
17 | provisions to changes made by the act; amending
18 | s. 718.111, F.S.; providing for windstorm
19 | insurance for condominium associations;
20 | repealing s. 627.0629(6), F.S., relating to
21 | requirements for hurricane or windstorm
22 | coverage; creating the Windstorm Mitigation
23 | Study Commission for the purpose of analyzing
24 | solutions and programs that could address the
25 | state's need to mitigate the effects of
26 | windstorms on structures; providing for
27 | membership and qualifications; providing that
28 | the members are entitled to reimbursement for
29 | expenses incurred in connection with their
30 | duties; requiring the Department of Financial
31 | Services, the Office of Insurance Regulation,

1 the Citizens Property Insurance Corporation,
2 and other state agencies to supply information,
3 assistance, and facilities to the commission;
4 requiring that the Executive Office of the
5 Governor provide staff assistance; specifying
6 duties of the commission; requiring that the
7 commission report to the Governor, the
8 Legislature, the Chief Financial Officer, and
9 the Commissioner of Insurance Regulation by a
10 specified date; establishing the Florida
11 Disaster Recovery Initiative within the
12 Department of Community Affairs for the purpose
13 of assisting local governments in hardening
14 affordable housing against the effects of
15 hurricanes; specifying that the act does not
16 create an entitlement or obligate the state;
17 providing for program administration;
18 specifying the entities that are eligible to
19 apply for funding; providing components and
20 requirements of the initiative; providing an
21 appropriation; amending s. 627.711, F.S.;
22 requiring the Financial Services Commission to
23 develop uniform mitigation verification
24 inspection forms; providing duties of the
25 commission; expressing the intent of the
26 Legislature to create a grant program to assist
27 low-income persons in purchasing property
28 insurance; creating s. 350.06151, F.S.;
29 providing for transfer of funds from the
30 Insurance Regulatory Trust Fund to the Grants
31 and Donations Trust Fund of the legislative

1 branch to fund the Office of Insurance Consumer
2 Advocate; providing effective dates.

3
4 WHEREAS, homeowners in the State of Florida are
5 struggling under increased insurance costs and increased
6 housing prices as a result of damage caused by hurricanes and
7 tropical storms, and

8 WHEREAS, this increase in the cost of property
9 insurance for the state's residents demands immediate
10 attention, and

11 WHEREAS, the affordability of property insurance
12 creates financial burdens for Florida's residents and
13 financial crises for some property owners, and

14 WHEREAS, in addition to affordability, the availability
15 and stability of property insurance rates are critical issues
16 to the residents of this state, and

17 WHEREAS, because there is no single, quick, or easy
18 solution to the current crisis, a comprehensive and creative
19 approach is required, and

20 WHEREAS, property insurance is so interwoven with other
21 forms of insurance, through business, regulation, advocacy,
22 purchasing, and other interactions, that the viability of the
23 insurance market in Florida is at risk, and

24 WHEREAS, expanding coverage offered by the Florida
25 Hurricane Catastrophe Fund can help to address this crisis,
26 and

27 WHEREAS, taking steps to control or reduce the premiums
28 charged by Citizens Property Insurance Corporation can help to
29 address this crisis, and

30
31

1 WHEREAS, strengthening the Florida Building Code and
2 providing for voluntary guidelines in addition to the
3 requirements of the code can help to address this crisis, and

4 WHEREAS, sinkhole coverage is a critical part of the
5 crisis in certain areas of the state and must be addressed as
6 part of any comprehensive solution, and

7 WHEREAS, requiring property insurers to offer
8 additional deductibles and exclusions that apply at the option
9 of the property owner can help to address this crisis, and

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

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

15 WHEREAS, the role of consumer advocacy is a critical
16 part of addressing this crisis and consumer advocacy for
17 property insurance is a critical, if not the predominant, part
18 of consumer advocacy regarding insurance, and

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

22 WHEREAS, promoting, through financial and regulatory
23 incentives for property owners, the strengthening of property
24 to withstand the effects of windstorm damage can help to
25 address this crisis, NOW, THEREFORE,

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraphs (m) and (n) of subsection (2) of
30 section 20.121, Florida Statutes, are amended to read:

31

1 20.121 Department of Financial Services.--There is
2 created a Department of Financial Services.

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

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

6 (m)(n) The Division of Funeral, Cemetery, and Consumer
7 Services.

8 Section 2. All of the powers, duties, functions,
9 records, personnel, and property; unexpended balances of
10 appropriations, allocations, and other funds; administrative
11 authority; administrative rules; pending issues; and existing
12 contracts of the consumer advocate and the Office of Insurance
13 Consumer Advocate are transferred by a type two transfer,
14 pursuant to s. 20.06(2), Florida Statutes, from the Chief
15 Financial Officer and the Department of Financial Services to
16 the Public Counsel. Funds shall be transferred by the
17 Department of Financial Services from the Insurance Regulatory
18 Trust Fund to the Grants and Donations Trust Fund in the
19 legislative branch for the purpose of funding the Office of
20 Insurance Consumer Advocate. The transfer amount for the
21 2006-2007 fiscal year is equal to the remaining unobligated
22 approved operating budget for the Office of Insurance Consumer
23 Advocate within the Department of Financial Services.

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

28 163.01 Florida Interlocal Cooperation Act of 1969.--

29 (3) As used in this section:

30 (b) "Public agency" means a political subdivision,
31 agency, or officer of this state or of any state of the United

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

10 (7)

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

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

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

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

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

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

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

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

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

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

25 2. Any such separate entity shall have all the powers
26 that are provided by the interlocal agreement under which it
27 is created or that are necessary to finance, operate, or
28 manage the alliance's property insurance coverage program.
29 Proceeds of bonds, notes, or other obligations issued by such
30 an entity may be loaned to any one or more eligible entities.
31 Eligible entities are authorized to enter into loan agreements

1 with any separate entity created pursuant to this paragraph
2 for the purpose of obtaining moneys with which to finance
3 property insurance coverage or claims. Obligations of any
4 eligible entity pursuant to a loan agreement as described in
5 this paragraph may be validated as provided in chapter 75.

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

1 appropriate by the officer or official so designated by the
2 governing body of such separate entity. However, the amounts
3 and maturities of such bonds, the interest rate or rates, and
4 the purchase price of such bonds shall be within the limits
5 prescribed by the governing body of such separate entity in
6 its resolution delegating to such officer or official the
7 power to authorize the issuance and sale of such bonds.

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

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

1 taxation of any kind of the state or by any political
2 subdivision or other agency or instrumentality thereof. The
3 exemption granted in this paragraph is not applicable to any
4 tax imposed by chapter 220 on interest, income, or profits on
5 debt obligations owned by corporations.

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

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

19 215.555 Florida Hurricane Catastrophe Fund.--

20 (4) REIMBURSEMENT CONTRACTS.--

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

1 selected by insurers pursuant to subsection (17) or subsection
2 (18), as defined by rule which occurred over the prior
3 calendar year.

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

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

26 (a) General provisions.--

27 1. Upon the occurrence of a hurricane and a
28 determination that the moneys in the fund are or will be
29 insufficient to pay reimbursement at the levels promised in
30 the reimbursement contracts, the board may take the necessary
31 steps under paragraph (c) or paragraph (d) for the issuance of

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

1 2. The Legislature finds and declares that the
2 issuance of bonds under this subsection is for the public
3 purpose of paying the proceeds of the bonds to insurers,
4 thereby enabling insurers to pay the claims of policyholders
5 to assure that policyholders are able to pay the cost of
6 construction, reconstruction, repair, restoration, and other
7 costs associated with damage to property of policyholders of
8 covered policies after the occurrence of a hurricane.

9 (b) Emergency assessments.--

10 1. If the board determines that the amount of revenue
11 produced under subsection (5) is insufficient to fund the
12 obligations, costs, and expenses of the fund and the
13 corporation, including repayment of revenue bonds and that
14 portion of the debt service coverage not met by reimbursement
15 premiums, the board shall direct the Office of Insurance
16 Regulation to levy, by order, an emergency assessment on
17 direct premiums for all property and casualty lines of
18 business in this state, including property and casualty
19 business of surplus lines insurers regulated under part VIII
20 of chapter 626, but not including any workers' compensation
21 premiums or medical malpractice premiums. As used in this
22 subsection, the term "property and casualty business" includes
23 all lines of business identified on Form 2, Exhibit of
24 Premiums and Losses, in the annual statement required of
25 authorized insurers by s. 624.424 and any rule adopted under
26 this section, except for those lines identified as accident
27 and health insurance and except for policies written under the
28 National Flood Insurance Program. The assessment shall be
29 specified as a percentage of direct written premium and is
30 subject to annual adjustments by the board in order to meet
31 debt obligations. The same percentage shall apply to all

1 policies in lines of business subject to the assessment issued
2 or renewed during the 12-month period beginning on the
3 effective date of the assessment.

4 2. A premium is not subject to an annual assessment
5 under this paragraph in excess of 6 percent of premium with
6 respect to obligations arising out of losses attributable to
7 any one contract year, and a premium is not subject to an
8 aggregate annual assessment under this paragraph in excess of
9 10 percent of premium. An annual assessment under this
10 paragraph shall continue as long as the revenue bonds issued
11 with respect to which the assessment was imposed are
12 outstanding, including any bonds the proceeds of which were
13 used to refund the revenue bonds, unless adequate provision
14 has been made for the payment of the bonds under the documents
15 authorizing issuance of the bonds.

16 3. Emergency assessments shall be collected from
17 policyholders. Emergency assessments shall be remitted by
18 insurers as a percentage of direct written premium for the
19 preceding calendar quarter as specified in the order from the
20 Office of Insurance Regulation. The office shall verify the
21 accurate and timely collection and remittance of emergency
22 assessments and shall report the information to the board in a
23 form and at a time specified by the board. Each insurer
24 collecting assessments shall provide the information with
25 respect to premiums and collections as may be required by the
26 office to enable the office to monitor and verify compliance
27 with this paragraph.

28 4. With respect to assessments of surplus lines
29 premiums, each surplus lines agent shall collect the
30 assessment at the same time as the agent collects the surplus
31 lines tax required by s. 626.932, and the surplus lines agent

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

22 5. Any assessment authority not used for a particular
23 contract year may be used for a subsequent contract year. If,
24 for a subsequent contract year, the board determines that the
25 amount of revenue produced under subsection (5) is
26 insufficient to fund the obligations, costs, and expenses of
27 the fund and the corporation, including repayment of revenue
28 bonds and that portion of the debt service coverage not met by
29 reimbursement premiums, the board shall direct the Office of
30 Insurance Regulation to levy an emergency assessment up to an
31 amount not exceeding the amount of unused assessment authority

1 from a previous contract year or years, plus an additional 4
2 percent provided that the assessments in the aggregate do not
3 exceed the limits specified in subparagraph 2.

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

16 7. Emergency assessments are not premium and are not
17 subject to the premium tax, to the surplus lines tax, to any
18 fees, or to any commissions. An insurer is liable for all
19 assessments that it collects and must treat the failure of an
20 insured to pay an assessment as a failure to pay the premium.
21 An insurer is not liable for uncollectible assessments.

22 8. When an insurer is required to return an unearned
23 premium, it shall also return any collected assessment
24 attributable to the unearned premium. A credit adjustment to
25 the collected assessment may be made by the insurer with
26 regard to future remittances that are payable to the fund or
27 corporation, but the insurer is not entitled to a refund.

28 9. When a surplus lines insured or an insured who has
29 procured coverage and filed under s. 626.938 is entitled to
30 the return of an unearned premium, the Florida Surplus Lines
31 Service Office shall provide a credit or refund to the agent

1 or such insured for the collected assessment attributable to
2 the unearned premium prior to remitting the emergency
3 assessment collected to the fund or corporation.

4 10. The exemption of medical malpractice insurance
5 premiums from emergency assessments under this paragraph is
6 repealed May 31, 2007, and medical malpractice insurance
7 premiums shall be subject to emergency assessments
8 attributable to loss events occurring in the contract years
9 commencing on June 1, 2007.

10 (c) Revenue bond issuance through counties or
11 municipalities.--

12 1. If the board elects to enter into agreements with
13 local governments for the issuance of revenue bonds for the
14 benefit of the fund, the board shall enter into such contracts
15 with one or more local governments, including agreements
16 providing for the pledge of revenues, as are necessary to
17 effect such issuance. The governing body of a county or
18 municipality is authorized to issue bonds as defined in s.
19 125.013 or s. 166.101 from time to time to fund an assistance
20 program, in conjunction with the Florida Hurricane Catastrophe
21 Fund, for the purposes set forth in this section or for the
22 purpose of paying the costs of construction, reconstruction,
23 repair, restoration, and other costs associated with damage to
24 properties of policyholders of covered policies due to the
25 occurrence of a hurricane by assuring that policyholders
26 located in this state are able to recover claims under
27 property insurance policies after a covered event.

28 2. In order to avoid needless and indiscriminate
29 proliferation, duplication, and fragmentation of such
30 assistance programs, any local government may provide for the
31 payment of fund reimbursements, regardless of whether or not

1 the losses for which reimbursement is made occurred within or
2 outside of the territorial jurisdiction of the local
3 government.

4 3. The state hereby covenants with holders of bonds
5 issued under this paragraph that the state will not repeal or
6 abrogate the power of the board to direct the Office of
7 Insurance Regulation to levy the assessments and to collect
8 the proceeds of the revenues pledged to the payment of such
9 bonds as long as any such bonds remain outstanding unless
10 adequate provision has been made for the payment of such bonds
11 pursuant to the documents authorizing the issuance of such
12 bonds.

13 4. There shall be no liability on the part of, and no
14 cause of action shall arise against any members or employees
15 of the governing body of a local government for any actions
16 taken by them in the performance of their duties under this
17 paragraph.

18 (d) Florida Hurricane Catastrophe Fund Finance
19 Corporation.--

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

22 a. The public benefits corporation created under this
23 paragraph will provide a mechanism necessary for the
24 cost-effective and efficient issuance of bonds. This mechanism
25 will eliminate unnecessary costs in the bond issuance process,
26 thereby increasing the amounts available to pay reimbursement
27 for losses to property sustained as a result of hurricane
28 damage.

29 b. The purpose of such bonds is to fund reimbursements
30 through the Florida Hurricane Catastrophe Fund to pay for the
31 costs of construction, reconstruction, repair, restoration,

1 and other costs associated with damage to properties of
2 policyholders of covered policies due to the occurrence of a
3 hurricane.

4 c. The efficacy of the financing mechanism will be
5 enhanced by the corporation's ownership of the assessments, by
6 the insulation of the assessments from possible bankruptcy
7 proceedings, and by covenants of the state with the
8 corporation's bondholders.

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

12 b. The corporation shall operate under a five-member
13 board of directors consisting of the Governor or a designee,
14 the Chief Financial Officer or a designee, the Attorney
15 General or a designee, the director of the Division of Bond
16 Finance of the State Board of Administration, and the senior
17 employee of the State Board of Administration responsible for
18 operations of the Florida Hurricane Catastrophe Fund.

19 c. The corporation has all of the powers of
20 corporations under chapter 607 and under chapter 617, subject
21 only to the provisions of this subsection.

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

25 e. The corporation may invest in any of the
26 investments authorized under s. 215.47.

27 f. There shall be no liability on the part of, and no
28 cause of action shall arise against, any board members or
29 employees of the corporation for any actions taken by them in
30 the performance of their duties under this paragraph.
31

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

7 b. The state hereby covenants with holders of bonds of
8 the corporation that the state will not repeal or abrogate the
9 power of the board to direct the Office of Insurance
10 Regulation to levy the assessments and to collect the proceeds
11 of the revenues pledged to the payment of such bonds as long
12 as any such bonds remain outstanding unless adequate provision
13 has been made for the payment of such bonds pursuant to the
14 documents authorizing the issuance of such bonds.

15 4. The bonds of the corporation are not a debt of the
16 state or of any political subdivision, and neither the state
17 nor any political subdivision is liable on such bonds. The
18 corporation does not have the power to pledge the credit, the
19 revenues, or the taxing power of the state or of any political
20 subdivision. The credit, revenues, or taxing power of the
21 state or of any political subdivision shall not be deemed to
22 be pledged to the payment of any bonds of the corporation.

23 5.a. The property, revenues, and other assets of the
24 corporation; the transactions and operations of the
25 corporation and the income from such transactions and
26 operations; and all bonds issued under this paragraph and
27 interest on such bonds are exempt from taxation by the state
28 and any political subdivision, including the intangibles tax
29 under chapter 199 and the income tax under chapter 220. This
30 exemption does not apply to any tax imposed by chapter 220 on
31 interest, income, or profits on debt obligations owned by

1 corporations other than the Florida Hurricane Catastrophe Fund
2 Finance Corporation.

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

18 6. The corporation and its corporate existence shall
19 continue until terminated by law; however, no such law shall
20 take effect as long as the corporation has bonds outstanding
21 unless adequate provision has been made for the payment of
22 such bonds pursuant to the documents authorizing the issuance
23 of such bonds. Upon termination of the existence of the
24 corporation, all of its rights and properties in excess of its
25 obligations shall pass to and be vested in the state.

26 (e) Protection of bondholders.--

27 1. As long as the corporation has any bonds
28 outstanding, neither the fund nor the corporation shall have
29 the authority to file a voluntary petition under chapter 9 of
30 the federal Bankruptcy Code or such corresponding chapter or
31 sections as may be in effect, from time to time, and neither

1 any public officer nor any organization, entity, or other
2 person shall authorize the fund or the corporation to be or
3 become a debtor under chapter 9 of the federal Bankruptcy Code
4 or such corresponding chapter or sections as may be in effect,
5 from time to time, during any such period.

6 2. The state hereby covenants with holders of bonds of
7 the corporation that the state will not limit or alter the
8 denial of authority under this paragraph or the rights under
9 this section vested in the fund or the corporation to fulfill
10 the terms of any agreements made with such bondholders or in
11 any way impair the rights and remedies of such bondholders as
12 long as any such bonds remain outstanding unless adequate
13 provision has been made for the payment of such bonds pursuant
14 to the documents authorizing the issuance of such bonds.

15 3. Notwithstanding any other provision of law, any
16 pledge of or other security interest in revenue, money,
17 accounts, contract rights, general intangibles, or other
18 personal property made or created by the fund or the
19 corporation shall be valid, binding, and perfected from the
20 time such pledge is made or other security interest attaches
21 without any physical delivery of the collateral or further act
22 and the lien of any such pledge or other security interest
23 shall be valid, binding, and perfected against all parties
24 having claims of any kind in tort, contract, or otherwise
25 against the fund or the corporation irrespective of whether or
26 not such parties have notice of such claims. No instrument by
27 which such a pledge or security interest is created nor any
28 financing statement need be recorded or filed.

29 (f) Limitation.--The Florida Hurricane Fund Finance
30 Corporation may not be used to fund obligations under
31 subsection (19).

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

3 (a) General provisions.--

4 1. Upon a determination by law that any moneys
5 dedicated or otherwise available to the Florida Hurricane
6 Excess Loss Program (FHELP) are or will be insufficient to pay
7 for the amount of the state's liability for losses under the
8 FHELP, and a designation by law of a source of revenue from
9 which appropriations will be made to satisfy loan obligations
10 or to secure bonds, the board may take the necessary steps
11 under paragraph (b) to authorize the Florida Hurricane Excess
12 Loss Program Finance Corporation to satisfy loan obligations
13 or to issue bonds for the payment of such losses. The proceeds
14 of such bonds may be used to make payments for such losses; to
15 refinance or replace previously existing borrowings or
16 financial arrangements; to pay interest on bonds; to fund
17 reserves for the bonds; to pay expenses incident to the
18 issuance or sale of any bond issued under this paragraph,
19 including costs of validating, printing, and delivering the
20 bonds, costs of printing the official statement, costs of
21 publishing notices of sale of the bonds, and related
22 administrative expenses; or for such other purposes related to
23 the financial obligations of the FHELP as the board may
24 determine. The term of the bonds may not exceed 30 years. The
25 board and the Florida Hurricane Excess Loss Program Finance
26 Corporation may pledge all or a portion of all revenues
27 available from appropriations from the source designated by
28 law to secure such bonds and the board may execute such
29 agreements between the board and such corporation as the board
30 considers necessary to evidence, secure, preserve, and protect
31 such pledge. The credit, property, or taxing power of the

1 state or political subdivisions of the state may not be
2 pledged for the payment of such bonds. The bonds shall be
3 payable only from revenues specifically appropriated for such
4 purpose or from any other funds or revenues of the Florida
5 Hurricane Excess Loss Program Finance Corporation which are
6 pledged for such purpose. It is the intent of the Legislature
7 that initial funding for the FHELP shall be provided from up
8 to 10 percent of state revenues, which may include covenants
9 to appropriate and budget, as may be necessary.

10 2. The Legislature finds and declares that the
11 issuance of bonds under this subsection is for the public
12 purpose of paying the proceeds of the bonds to insured
13 policyholders and to ensure that such policyholders are able
14 to pay the cost of construction, reconstruction, repair,
15 restoration, and other costs associated with damage to their
16 residential property after the occurrence of a hurricane, and
17 that the issuance of the bonds is essential to protect the
18 health, safety, and welfare of citizens of the state.

19 (b) Florida Hurricane Excess Loss Program Finance
20 Corporation.--

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

24 a. The public benefits corporation created under this
25 paragraph will provide a mechanism necessary for the
26 cost-effective and efficient issuance of bonds. This mechanism
27 will eliminate unnecessary costs in the bond-issuance process,
28 thereby increasing the amounts available to pay reimbursement
29 for losses to property sustained as a result of hurricane
30 damage.

31

1 b. The purpose of such bonds is to fund reimbursements
2 through the FHELP to pay for the costs of construction,
3 reconstruction, repair, restoration, and other costs
4 associated with damage to properties of policyholders of
5 covered policies due to the occurrence of a hurricane.

6 c. The efficacy of the financing mechanism will be
7 enhanced by the corporation's ownership of the assessments, by
8 the insulation of the assessments from possible bankruptcy
9 proceedings, and by covenants of the state with the
10 corporation's bondholders.

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

14 b. The corporation shall operate under a five-member
15 board of directors consisting of the Governor or a designee,
16 the Chief Financial Officer or a designee, the Attorney
17 General or a designee, the director of the Division of Bond
18 Finance of the Florida Board of Administration, and the senior
19 employee of the Florida Board of Administration responsible
20 for operations of the Florida Hurricane Catastrophe Fund.

21 c. The corporation has all of the powers of
22 corporations under chapter 607 and under chapter 617, subject
23 only to the provisions of this subsection.

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

27 e. The corporation may invest in any of the
28 investments authorized under s. 215.47.

29 f. There shall be no liability on the part of, and no
30 cause of action shall arise against, any board members or
31

1 employees of the corporation for any actions taken by them in
2 the performance of their duties under this paragraph.

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

9 b. The state hereby covenants with holders of bonds of
10 the corporation that the state will not repeal or abrogate the
11 power of the board to collect the proceeds of the revenues
12 pledged to the payment of such bonds as long as any such bonds
13 remain outstanding unless adequate provision has been made for
14 the payment of such bonds pursuant to the documents
15 authorizing the issuance of such bonds.

16 4. The bonds of the corporation are not a debt of the
17 state or of any political subdivision, and neither the state
18 nor any political subdivision is liable on such bonds. The
19 corporation does not have the power to pledge the credit, the
20 revenues, or the taxing power of the state or of any political
21 subdivision. The credit, revenues, or taxing power of the
22 state or of any political subdivision shall not be deemed to
23 be pledged to the payment of any bonds of the corporation.

24 5.a. The property, revenues, and other assets of the
25 corporation, the transactions and operations of the
26 corporation and the income from such transactions and
27 operations, and all bonds issued under this paragraph and
28 interest on such bonds are exempt from taxation by the state
29 and any political subdivision, including the intangibles tax
30 under chapter 199 and the income tax under chapter 220. This
31 exemption does not apply to any tax imposed by chapter 220 on

1 interest, income, or profits on debt obligations owned by
2 corporations other than the Florida Hurricane Excess Loss
3 Program Finance Corporation.

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

19 6. The corporation and its corporate existence shall
20 continue until terminated by law; however, such law may not
21 take effect as long as the corporation has bonds outstanding
22 unless adequate provision has been made for the payment of
23 such bonds pursuant to the documents authorizing the issuance
24 of such bonds. Upon termination of the existence of the
25 corporation, all of its rights and properties in excess of its
26 obligations shall pass to and be vested in the state.

27 (c) Protection of bondholders.--

28 1. As long as the corporation has any bonds
29 outstanding, neither the fund nor the corporation shall have
30 the authority to file a voluntary petition under chapter 9 of
31 the federal Bankruptcy Code or such corresponding chapter or

1 sections as may be in effect, from time to time, and neither
2 any public officer nor any organization, entity, or other
3 person shall authorize the fund or the corporation to be or
4 become a debtor under chapter 9 of the federal Bankruptcy Code
5 or such corresponding chapter or sections as may be in effect,
6 from time to time, during any such period.

7 2. The state hereby covenants with holders of bonds of
8 the corporation that the state will not limit or alter the
9 denial of authority under this paragraph or the rights under
10 this section vested in the fund or the corporation to fulfill
11 the terms of any agreements made with such bondholders or in
12 any way impair the rights and remedies of such bondholders as
13 long as any such bonds remain outstanding unless adequate
14 provision has been made for the payment of such bonds pursuant
15 to the documents authorizing the issuance of such bonds.

16 3. Notwithstanding any other provision of law, any
17 pledge of or other security interest in revenue, money,
18 accounts, contract rights, general intangibles, or other
19 personal property made or created by the fund or the
20 corporation shall be valid, binding, and perfected from the
21 time such pledge is made or other security interest attaches
22 without any physical delivery of the collateral or further act
23 and the lien of any such pledge or other security interest
24 shall be valid, binding, and perfected against all parties
25 having claims of any kind in tort, contract, or otherwise
26 against the fund or the corporation irrespective of whether or
27 not such parties have notice of such claims. No instrument by
28 which such a pledge or security interest is created nor any
29 financing statement need be recorded or filed.

30 (d) The Florida Hurricane Excess Loss Program Finance
31 Corporation may not be used to fund obligations that are

1 incurred by the coverage afforded under the Florida Hurricane
2 Catastrophe Fund, including any retention levels or
3 copayments, whether for mandatory coverage or optional
4 coverages.

5 ~~(8)(7)~~ ADDITIONAL POWERS AND DUTIES.--

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

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

15 (a) Findings and intent.--

16 1. The Legislature finds that:

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

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

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

29 2. It is the intent of the Legislature to create
30 options for insurers to purchase a temporary increased
31 coverage limit above the statutorily determined limit in

1 subparagraph (4)(c)1., applicable for the 2007 and 2008
2 hurricane seasons, to address market disruptions and enable
3 insurers, at their option, to procure additional coverage from
4 the Florida Hurricane Catastrophe Fund. It is the further
5 intent of the Legislature to structure this coverage in a
6 manner that requires insurers to pay premiums that are
7 comparable to the premiums the insurer would have paid for
8 comparable reinsurance coverage but for the current emergency
9 in the reinsurance market and also in a manner that minimizes
10 subsidies from the general public over the long run by
11 providing the optional increase in coverage limit for 2 years.

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

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

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

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

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

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

31

1 5. "TICL options" means the temporary increase in
2 coverage options created under this subsection.

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

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

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

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

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

28 b. The TICL insurer's increased coverage shall be the
29 FHCF reimbursement premium multiplied by the TICL coverage
30 multiple. In order to determine an insurer's total limit of
31 coverage, an insurer shall add its TICL coverage multiple to

1 its payout multiple. The total shall represent a number that,
2 when multiplied by an insurer's FHCF reimbursement premium for
3 a given reimbursement contract year, defines an insurer's
4 total limit of FHCF reimbursement coverage for that
5 reimbursement contract year.

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

10 (d) TICL options addendum.--

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

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

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

30

31

1 4. The priorities, schedule, and method of
2 reimbursements under the TICL addendum shall be the same as
3 provided under subsection (4).

4 (e) TICL reimbursement premiums.--

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

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

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

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

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

2 1. There is a compelling state interest in maintaining
3 a viable and orderly private-sector market for property
4 insurance in this state and ensuring that premiums for
5 property insurance are affordable. Increased premiums and
6 assessments may force policyholders to sell their homes and
7 even leave the state, which poses a serious threat to the
8 economy of the state and the essential economic value of home
9 ownership.

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

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

28 (b) All provisions of this section and rules adopted
29 under this section apply to the program created by this
30 subsection, except as otherwise provided in this section or as
31 superseded by this subsection.

1 (c) As used in this subsection, the term:
2 1. "FHCF" means Florida Hurricane Catastrophe Fund.
3 2. "FHELP" means Florida Hurricane Excess Loss
4 Program.
5 3. "FHELP retention" means the sum of the insurer's
6 FHCF retention as defined in paragraph (2)(e), plus the
7 insurer's limit of FHCF coverage as determined in subparagraph
8 (4)(c)2., plus the insurer's copayments associated with the
9 coverage selected as provided for in paragraph (4)(b),
10 including the maximum limits of coverage available to the
11 insurer under the Temporary Increased Coverage Limit (TICL)
12 option pursuant to subsection (18), whether or not selected by
13 the insurer, but only for those years when the TICL option is
14 available.
15 4. "FHELP payout multiple" means the factor or number
16 derived by dividing the difference in the industry FHELP
17 coverage limit and the industry FHELP retention by the
18 estimated aggregate FHCF premium paid by all insurers for the
19 mandatory FHCF coverage for the contract year calculated at
20 the time the premium formula is determined.
21 (d) There is created the Florida Hurricane Excess Loss
22 Program to be administered by the State Board of
23 Administration. The board may adopt such rules as are
24 reasonable and necessary to administer this subsection and
25 provide for the operation of the FHELP. The board may employ
26 or contract with such staff and professionals as the board
27 considers necessary for the administration of the FHELP. The
28 board shall administer the FHELP in conjunction with the FHCF;
29 however, in all other respects, the operation, accounts,
30 assets, liabilities, rights, and obligations of the FHELP
31 shall be segregated from those of the FHCF and shall not in

1 any way affect the operation, accounts, assets, liabilities,
2 rights, and obligations of the FHCF. Any moneys attributable
3 to the FHELP shall be subject to the same limitations and
4 investment restrictions as provide for under subsection (3).

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

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

22 3. The FHELP addendum shall also provide that the
23 obligation of the board with respect to all contracts covering
24 a particular contract year shall not exceed the industry FHELP
25 coverage limit. For the 2007 contract year, the industry FHELP
26 coverage limit is \$23 billion in excess of the industry FHELP
27 retention. The industry FHELP coverage limit shall be adjusted
28 each year based upon the reported exposure from the prior
29 contract year to reflect the percentage growth in exposure to
30 the fund.

31

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

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

7 (f) Insurers are not be required to pay premiums for
8 FHELP coverage, which shall be funded pursuant to subsection
9 (7). Such coverage shall be funded separately and apart from
10 the obligations of the Florida Hurricane Catastrophe Fund and
11 any revenue bonds issued by the Florida Hurricane Catastrophe
12 Fund Finance Corporation.

13 Section 5. (1) An insurer that elects the TEACO or
14 TICL coverage options offered by the Florida Hurricane
15 Catastrophe Fund, as required to be offered by this act, must
16 make a rate filing with the Office of Insurance Regulation,
17 pursuant to the "file and use" provisions of s.
18 627.062(2)(a)1., Florida Statutes, which reflects any savings
19 or reduction in loss exposure to the insurer. An insurer may
20 not obtain a rate increase due to the election of the TEACO or
21 TICL coverage options.

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

29 (3) The office shall specify, by order, the date or
30 dates on which the rate filings required by this section must
31

1 be made and be effective in order to provide rate relief to
2 policyholders as soon as practicable.

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

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

12 (6) In determining the presumed factor, the Office of
13 Insurance Regulation shall use generally accepted actuarial
14 techniques and standards in determining the expected impact on
15 losses, expenses, and investment income of insurers.

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

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

22 (9) The sum of \$250,000 in nonrecurring funds is
23 appropriated from the Insurance Regulatory Trust Fund in the
24 Department of Financial Services to the Office of Insurance
25 Regulation for the 2006-2007 fiscal year for the purpose of
26 implementing this section.

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

29 215.5586 Florida Comprehensive Hurricane Damage
30 Mitigation Program.--There is established within the
31 Department of Financial Services the Florida Comprehensive

1 Hurricane Damage Mitigation Program. This section does not
2 create an entitlement for property owners or obligate the
3 state in any way to fund the inspection or retrofitting of
4 residential property in this state. Implementation of this
5 program is subject to annual legislative appropriations. The
6 program shall be administered by an individual with prior
7 executive experience in the private sector in the areas of
8 insurance, business, or construction. The program shall
9 develop and implement a comprehensive and coordinated approach
10 for hurricane damage mitigation that shall include the
11 following:

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

16 (a) To be eligible for a grant, a residential property
17 must:

18 1. Have been granted a homestead exemption under
19 chapter 196.

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

22 3. Have undergone an acceptable wind certification and
23 hurricane mitigation inspection or use hurricane-protection
24 products tested by the International Hurricane Research Center
25 at Florida International University.

26
27 A residential property which is part of a multifamily
28 residential unit may receive a grant only if all homeowners
29 participate and the total number of units does not exceed
30 four.

31

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

4 (c) The program shall create a process in which
5 mitigation contractors agree to participate and seek
6 reimbursement from the state and homeowners select from a list
7 of participating contractors. All mitigation must be based
8 upon the securing of all required local permits and
9 inspections. Mitigation projects are subject to random
10 reinspection of up to at least 10 percent of all projects.

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

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

- 16 1. Roof deck attachment;
- 17 2. Secondary water barrier;
- 18 3. Roof covering, including a weighted roof-protection
19 system that may be installed by an approved contractor or
20 homeowner;
- 21 4. Brace gable ends;
- 22 5. Reinforce roof-to-wall connections;
- 23 6. Opening protection; and
- 24 7. Exterior doors, including garage doors.

25 (f) Low-income homeowners, as defined in s.
26 420.0004(9), who otherwise meet the requirements of paragraphs
27 (a) and (c) are eligible for a grant of up to \$5,000 and are
28 not required to provide a matching amount to receive the
29 grant. Such grants shall be used to retrofit single-family,
30 site-built, owner-occupied, residential properties in order to
31 make them less vulnerable to hurricane damage.

1 Section 7. Paragraph (a) of subsection (3) of section
2 215.559, Florida Statutes, is amended to read:

3 215.559 Hurricane Loss Mitigation Program.--

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

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

9 350.012 Committee on Public Service Commission and
10 Insurance Oversight; creation; membership; powers and
11 duties.--

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

31 (2) The committee shall:

1 (a) Recommend to the Governor nominees to fill a
2 vacancy on the Public Service Commission, as provided by
3 general law; ~~and~~

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

6 (c) Confirm or reject the appointment by the Chief
7 Financial Officer of the Insurance Consumer Advocate, as
8 provided in s. 350.0615.

9 (3) The committee is authorized to file a complaint
10 with the Commission on Ethics alleging a violation of this
11 chapter by a commissioner, former commissioner, former
12 commission employee, or member of the Public Service
13 Commission Nominating Council.

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

18 Section 9. Section 350.0611, Florida Statutes, is
19 amended to read:

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

28 (1) To recommend to the commission or the counties, by
29 petition, the commencement of any proceeding or action or to
30 appear, in the name of the state or its citizens, in any
31 proceeding or action before the commission or the counties and

1 | urge therein any position which he or she deems to be in the
2 | public interest, whether consistent or inconsistent with
3 | positions previously adopted by the commission or the
4 | counties, and utilize therein all forms of discovery available
5 | to attorneys in civil actions generally, subject to protective
6 | orders of the commission or the counties which shall be
7 | reviewable by summary procedure in the circuit courts of this
8 | state;

9 | (2) To have access to and use of all files, records,
10 | and data of the commission or the counties available to any
11 | other attorney representing parties in a proceeding before the
12 | commission or the counties;

13 | (3) In any proceeding in which he or she has
14 | participated as a party, to seek review of any determination,
15 | finding, or order of the commission or the counties, or of any
16 | hearing examiner designated by the commission or the counties,
17 | in the name of the state or its citizens;

18 | (4) To prepare and issue reports, recommendations, and
19 | proposed orders to the commission, the Governor, and the
20 | Legislature on any matter or subject within the jurisdiction
21 | of the commission, and to make such recommendations as he or
22 | she deems appropriate for legislation relative to commission
23 | procedures, rules, jurisdiction, personnel, and functions; ~~and~~

24 | (5) To appear before other state agencies, federal
25 | agencies, and state and federal courts in connection with
26 | matters under the jurisdiction of the commission, in the name
27 | of the state or its citizens; ~~and-~~

28 | (6) To represent, through the Insurance Consumer
29 | Advocate, the general public of the state on matters related
30 | to the regulation of insurance before the Office of Insurance

31 |

1 Regulation, the Department of Financial Services, and the
2 Financial Services Commission, as provided in s. 350.0615.

3 Section 10. Section 350.0613, Florida Statutes, is
4 amended to read:

5 350.0613 Public Counsel; employees; receipt of
6 pleadings.--The committee may authorize the Public Counsel to
7 employ clerical and technical assistants whose qualifications,
8 duties, and responsibilities the committee shall from time to
9 time prescribe. The committee may from time to time authorize
10 retention of the services of additional attorneys, actuaries,
11 economists, or experts to the extent that the best interests
12 of the people of the state will be better served thereby,
13 including the retention of expert witnesses and other
14 technical personnel for participation in contested proceedings
15 before the Public Service Commission, the Office of Insurance
16 Regulation, the Department of Financial Services, or the
17 Financial Services Commission. The Public Service Commission
18 shall furnish the Public Counsel with copies of the initial
19 pleadings in all proceedings before the commission. The Office
20 of Insurance Regulation, the Financial Services Commission,
21 and the Department of Financial Services shall furnish the
22 Public Counsel with copies of all filings, as requested by the
23 Public Counsel or under such criteria as requested by the
24 Public Counsel, which relate to the jurisdiction of the
25 Insurance Consumer Advocate pursuant to s. 350.0615., ~~and~~ If
26 the Public Counsel or Insurance Consumer Advocate intervenes
27 as a party in any proceeding he or she shall be served with
28 copies of all subsequent pleadings, exhibits, and prepared
29 testimony, if used. Upon filing notice of intervention, the
30 Public Counsel or Insurance Consumer Advocate shall serve all
31

1 interested parties with copies of such notice and all of his
2 or her subsequent pleadings and exhibits.

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

5 350.0615 Insurance Consumer Advocate.--The Chief
6 Financial Officer shall appoint the Insurance Consumer
7 Advocate, who shall be subject to confirmation by the
8 Committee on Public Service Commission and Insurance
9 Oversight. The Insurance Consumer Advocate shall represent the
10 general public of the state on matters related to the
11 regulation of insurance before the Office of Insurance
12 Regulation, the Department of Financial Services, and the
13 Financial Services Commission. The Insurance Consumer Advocate
14 shall report directly to and be engaged as an employee of the
15 Public Counsel as a Deputy Public Counsel. The Public Counsel
16 shall provide administrative and staff support to the
17 Insurance Consumer Advocate. The Insurance Consumer Advocate
18 has all powers that are necessary to carry out his or her
19 duties, including, but not limited to, the powers to:

20 (1) Recommend to the office, department, or
21 commission, by petition, the commencement of any proceeding or
22 action; to appear in any proceeding or action before the
23 office, department, or commission; and to appear in any
24 proceeding before the Division of Administrative Hearings
25 relating to insurance matters under the jurisdiction of the
26 office, department, or commission.

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

29 (3) Examine all rate and form filings submitted to the
30 office, hire consultants as necessary to aid in the review
31 process, and recommend to the office, department, commission,

1 or Legislature any position considered by the Insurance
2 Consumer Advocate to be in the public interest.

3 Section 12. Section 395.1060, Florida Statutes, is
4 created to read:

5 395.1060 Risk pooling by certain hospitals and
6 hospital systems.--

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

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

14 (b) Maintain a continuing program of premium
15 calculation and evaluation and reserve evaluation to protect
16 the financial stability of the alliance in an amount and
17 manner determined by consultants using catastrophic (CAT)
18 modeling criteria or other risk-estimating methodologies,
19 including those used by qualified and independent actuaries;

20 (c) Cause to be prepared annually a fiscal year-end
21 financial statement in accordance with generally accepted
22 accounting principles and audited by an independent certified
23 public accountant within 6 months after the end of the fiscal
24 year; and

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

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

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

1 (b) "Property coverage" means coverage provided by
 2 self-insurance or insurance for real or personal property of
 3 every kind and every interest in such property against loss or
 4 damage from any hazard or cause and against any loss
 5 consequential to such loss or damage.

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

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

16 Section 13. Section 553.73, Florida Statutes, is
 17 amended to read:

18 553.73 Florida Building Code.--

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

27 (b) The technical portions of the Florida
 28 Accessibility Code for Building Construction shall be
 29 contained in their entirety in the Florida Building Code. The
 30 civil rights portions and the technical portions of the
 31 accessibility laws of this state shall remain as currently

1 provided by law. Any revision or amendments to the Florida
2 Accessibility Code for Building Construction pursuant to part
3 II shall be considered adopted by the commission as part of
4 the Florida Building Code. Neither the commission nor any
5 local government shall revise or amend any standard of the
6 Florida Accessibility Code for Building Construction except as
7 provided for in part II.

8 (c) The Florida Fire Prevention Code and the Life
9 Safety Code shall be referenced in the Florida Building Code,
10 but shall be adopted, modified, revised, or amended,
11 interpreted, and maintained by the Department of Financial
12 Services by rule adopted pursuant to ss. 120.536(1) and
13 120.54. The Florida Building Commission may not adopt a fire
14 prevention or lifesafety code, and nothing in the Florida
15 Building Code shall affect the statutory powers, duties, and
16 responsibilities of any fire official or the Department of
17 Financial Services.

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

1 (e) Subject to the provisions of this act,
2 responsibility for enforcement, interpretation, and regulation
3 of the Florida Building Code shall be vested in a specified
4 local board or agency, and the words "local government" and
5 "local governing body" as used in this part shall be construed
6 to refer exclusively to such local board or agency.

7 (2) The Florida Building Code shall contain provisions
8 or requirements for public and private buildings, structures,
9 and facilities relative to structural, mechanical, electrical,
10 plumbing, energy, and gas systems, existing buildings,
11 historical buildings, manufactured buildings, elevators,
12 coastal construction, lodging facilities, food sales and food
13 service facilities, health care facilities, including assisted
14 living facilities, adult day care facilities, hospice
15 residential and inpatient facilities and units, and facilities
16 for the control of radiation hazards, public or private
17 educational facilities, swimming pools, and correctional
18 facilities and enforcement of and compliance with such
19 provisions or requirements. Further, the Florida Building Code
20 must provide for uniform implementation of ss. 515.25, 515.27,
21 and 515.29 by including standards and criteria for residential
22 swimming pool barriers, pool covers, latching devices, door
23 and window exit alarms, and other equipment required therein,
24 which are consistent with the intent of s. 515.23. Technical
25 provisions to be contained within the Florida Building Code
26 are restricted to requirements related to the types of
27 materials used and construction methods and standards employed
28 in order to meet criteria specified in the Florida Building
29 Code. Provisions relating to the personnel, supervision or
30 training of personnel, or any other professional qualification
31 requirements relating to contractors or their workforce may

1 not be included within the Florida Building Code, and
2 subsections (4), (5), (6), ~~and (7)~~, and (8) are not to be
3 construed to allow the inclusion of such provisions within the
4 Florida Building Code by amendment. This restriction applies
5 to both initial development and amendment of the Florida
6 Building Code.

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

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

28 (b) In order for a Technical Advisory Committee to
29 make a favorable recommendation to the commission, the
30 proposal must receive a three-fourths vote of the members
31 present at the Technical Advisory Committee meeting and at

1 | least half of the regular members must be present in order to
2 | conduct a meeting;

3 | (c) After Technical Advisory Committee consideration
4 | and a recommendation for approval of any proposed amendment,
5 | the proposal must be published on the commission's website for
6 | not less than 45 days before any consideration by the
7 | commission; and

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

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

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

1 governmental entities with respect to applying the Florida
2 Fire Prevention Code and the Life Safety Code.

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

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

24 2. Such additional requirements are not discriminatory
25 against materials, products, or construction techniques of
26 demonstrated capabilities.

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

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

1 5. Any amendment to the Florida Building Code shall be
2 transmitted within 30 days by the adopting local government to
3 the commission. The commission shall maintain copies of all
4 such amendments in a format that is usable and obtainable by
5 the public. Local technical amendments shall not become
6 effective until 30 days after the amendment has been received
7 and published by the commission.

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

20 7. Each county and municipality desiring to make local
21 technical amendments to the Florida Building Code shall by
22 interlocal agreement establish a countywide compliance review
23 board to review any amendment to the Florida Building Code,
24 adopted by a local government within the county pursuant to
25 this paragraph, that is challenged by any substantially
26 affected party for purposes of determining the amendment's
27 compliance with this paragraph. If challenged, the local
28 technical amendments shall not become effective until time for
29 filing an appeal pursuant to subparagraph 8. has expired or,
30 if there is an appeal, until the commission issues its final
31

1 order determining the adopted amendment is in compliance with
2 this subsection.

3 8. If the compliance review board determines such
4 amendment is not in compliance with this paragraph, the
5 compliance review board shall notify such local government of
6 the noncompliance and that the amendment is invalid and
7 unenforceable until the local government corrects the
8 amendment to bring it into compliance. The local government
9 may appeal the decision of the compliance review board to the
10 commission. If the compliance review board determines such
11 amendment to be in compliance with this paragraph, any
12 substantially affected party may appeal such determination to
13 the commission. Any such appeal shall be filed with the
14 commission within 14 days of the board's written
15 determination. The commission shall promptly refer the appeal
16 to the Division of Administrative Hearings for the assignment
17 of an administrative law judge. The administrative law judge
18 shall conduct the required hearing within 30 days, and shall
19 enter a recommended order within 30 days of the conclusion of
20 such hearing. The commission shall enter a final order within
21 30 days thereafter. The provisions of chapter 120 and the
22 uniform rules of procedure shall apply to such proceedings.
23 The local government adopting the amendment that is subject to
24 challenge has the burden of proving that the amendment
25 complies with this paragraph in proceedings before the
26 compliance review board and the commission, as applicable.
27 Actions of the commission are subject to judicial review
28 pursuant to s. 120.68. The compliance review board shall
29 determine whether its decisions apply to a respective local
30 jurisdiction or apply countywide.

31

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

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

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

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

30 (6)(a) The commission, by rule adopted pursuant to ss.
31 120.536(1) and 120.54, shall update the Florida Building Code

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

13 (b) Codes regarding noise contour lines shall be
14 reviewed annually, and the most current federal guidelines
15 shall be adopted.

16 (c) The commission may modify any portion of the
17 foundation codes only as needed to accommodate the specific
18 needs of this state, maintaining Florida-specific amendments
19 previously adopted by the commission and not addressed by the
20 updated foundation code. Standards or criteria referenced by
21 the codes shall be incorporated by reference. If a referenced
22 standard or criterion requires amplification or modification
23 to be appropriate for use in this state, only the
24 amplification or modification shall be set forth in the
25 Florida Building Code. The commission may approve technical
26 amendments to the updated Florida Building Code after the
27 amendments have been subject to the conditions set forth in
28 paragraphs (3)(a)-(d). Amendments to the foundation codes
29 which are adopted in accordance with this subsection shall be
30 clearly marked in printed versions of the Florida Building
31

1 Code so that the fact that the provisions are Florida-specific
2 amendments to the foundation codes is readily apparent.

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

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

26 (f) Provisions of the foundation codes, including
27 those contained in referenced standards and criteria, relating
28 to wind resistance or the prevention of water intrusion may
29 not be modified to diminish those construction requirements;
30 however, the commission may, subject to conditions in this
31

1 subsection, modify the provisions to enhance those
2 construction requirements.

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

21 ~~(a)1-~~ Conflicts within the updated code;

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

24 ~~(c)3-~~ The omission of previously adopted
25 Florida-specific amendments to the updated code if such
26 omission is not supported by a specific recommendation of a
27 technical advisory committee or particular action by the
28 commission; or

29 ~~(d)4-~~ Unintended results from the integration of
30 previously adopted Florida-specific amendments with the model
31 code.

1 ~~(8)(7)~~(a) The commission may approve technical
2 amendments to the Florida Building Code once each year for
3 statewide or regional application upon a finding that the
4 amendment:

5 1. Is needed in order to accommodate the specific
6 needs of this state.

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

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

13 4. Does not discriminate against materials, products,
14 methods, or systems of construction of demonstrated
15 capabilities.

16 5. Does not degrade the effectiveness of the Florida
17 Building Code.

18

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

31

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

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

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

28 ~~(9)(8)~~ The following buildings, structures, and
29 facilities are exempt from the Florida Building Code as
30 provided by law, and any further exemptions shall be as
31 determined by the Legislature and provided by law:

1 (a) Buildings and structures specifically regulated
2 and preempted by the Federal Government.

3 (b) Railroads and ancillary facilities associated with
4 the railroad.

5 (c) Nonresidential farm buildings on farms.

6 (d) Temporary buildings or sheds used exclusively for
7 construction purposes.

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

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

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

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

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

31

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

19 (10)~~(9)~~(a) In the event of a conflict between the
20 Florida Building Code and the Florida Fire Prevention Code and
21 the Life Safety Code as applied to a specific project, the
22 conflict shall be resolved by agreement between the local
23 building code enforcement official and the local fire code
24 enforcement official in favor of the requirement of the code
25 which offers the greatest degree of lifesafety or alternatives
26 which would provide an equivalent degree of lifesafety and an
27 equivalent method of construction.

28 (b) Any decision made by the local fire official and
29 the local building official may be appealed to a local
30 administrative board designated by the municipality, county,
31 or special district having firesafety responsibilities. If the

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

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

26 (d) All decisions of the local administrative board,
27 or if none exists, the decisions of the local building
28 official and the local fire official, are subject to review by
29 a joint committee composed of members of the Florida Building
30 Commission and the Fire Code Advisory Council. If the joint
31 committee is unable to resolve conflicts between the codes as

1 applied to a specific project, the matter shall be resolved
2 pursuant to the provisions of paragraph (1)(d).

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

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

15 ~~(11)~~~~(10)~~ Except within coastal building zones as
16 defined in s. 161.54, specification standards developed by
17 nationally recognized code promulgation organizations to
18 determine compliance with engineering criteria of the Florida
19 Building Code for wind load design shall not apply to one or
20 two family dwellings which are two stories or less in height
21 unless approved by the commission for use or unless expressly
22 made subject to said standards and criteria by local ordinance
23 adopted in accordance with the provisions of subsection (4).

24 ~~(12)~~~~(11)~~ The Florida Building Code does not apply to,
25 and no code enforcement action shall be brought with respect
26 to, zoning requirements, land use requirements, and owner
27 specifications or programmatic requirements which do not
28 pertain to and govern the design, construction, erection,
29 alteration, modification, repair, or demolition of public or
30 private buildings, structures, or facilities or to
31 programmatic requirements that do not pertain to enforcement

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

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

10 553.775 Interpretations.--

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

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

27 Section 16. (1) The Florida Building Commission shall
 28 amend the Florida Building Code to reflect the application of
 29 provisions identified in section 553.73, Florida Statutes, and
 30 to eliminate all exceptions that provide less stringent
 31 requirements. The amendments by the commission shall apply

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

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

18 Section 17. Paragraph (b) of subsection (3) of section
19 624.319, Florida Statutes, is amended to read:

20 624.319 Examination and investigation reports.--

21 (3)

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

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

19 Section 18. Paragraph (a) of subsection (2) of section
20 624.462, Florida Statutes, is amended to read:

21 624.462 Commercial self-insurance funds.--

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

26 (a) Established by:

27 1. A not-for-profit trade association, industry
28 association, or professional association of employers or
29 professionals which has a constitution or bylaws, which is
30 incorporated under the laws of this state, and which has been
31 organized for purposes other than that of obtaining or

1 providing insurance and operated in good faith for a
 2 continuous period of 1 year;

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

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

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

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

29 624.4622 Local government self-insurance funds.--

30 (1) Any two or more local governmental entities may
 31 enter into interlocal agreements for the purpose of securing

1 the payment of benefits under chapter 440, or insuring or
 2 self-insuring real or personal property of every kind and
 3 every interest in such property against loss or damage from
 4 any hazard or cause and against any loss consequential to such
 5 loss or damage, provided the local government self-insurance
 6 fund that is created must:

7 (a) Have annual normal premiums in excess of \$5
 8 million;

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

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

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

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

21 624.4625 Corporation not-for-profit self-insurance
 22 funds.--

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

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

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

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

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

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

24 1. Purchase excess insurance from authorized insurance
25 carriers.

26 2. Retain a per-loss occurrence that does not exceed
27 \$350,000.

28 (f) Submits to the office annually an audited fiscal
29 year-end financial statement by an independent certified
30 public accountant within 6 months after the end of the fiscal
31 year.

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

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

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

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

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

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

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

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

31

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

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

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

14 624.610 Reinsurance.--

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

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

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

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

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

30 d. Files annually with the office a copy of its annual
31 statement filed with the insurance department of its state of

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

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

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

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

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

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

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

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

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

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

28 (II) The insurance regulator of another state who,
29 pursuant to the terms of the trust instrument, has accepted
30 principal regulatory oversight of the trust.
31

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

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

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

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

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

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

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

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

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

28 (II) The incorporated members of the group must not be
29 engaged in any business other than underwriting of a member of
30 the group, and are subject to the same level of regulation and
31

1 solvency control by the group's domiciliary regulator as the
2 unincorporated members.

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

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

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

25 1. The domiciliary regulatory jurisdiction of the
26 assuming insurer;

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

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

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

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

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

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

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

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

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

1 of the court or of any appellate court in the event of an
2 appeal; and

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

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

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

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

29 2. The assets must be distributed by and claims must
30 be filed with and valued by the insurance regulator with
31 regulatory oversight in accordance with the laws of the state

1 in which the trust is domiciled which are applicable to the
2 liquidation of domestic insurance companies.

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

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

13 Section 22. Section 627.0613, Florida Statutes, is
14 repealed.

15 Section 23. Section 627.062, Florida Statutes, is
16 amended to read:

17 627.062 Rate standards.--

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

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

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

30 ~~1. If the filing is made~~ at least 90 days before the
31 proposed effective date and the filing may not be ~~is not~~

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

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

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

31

- 1 1. Past and prospective loss experience within and
2 without this state.
- 3 2. Past and prospective expenses.
- 4 3. The degree of competition among insurers for the
5 risk insured.
- 6 4. Investment income reasonably expected by the
7 insurer, consistent with the insurer's investment practices,
8 from investable premiums anticipated in the filing, plus any
9 other expected income from currently invested assets
10 representing the amount expected on unearned premium reserves
11 and loss reserves. The commission may adopt rules utilizing
12 reasonable techniques of actuarial science and economics to
13 specify the manner in which insurers shall calculate
14 investment income attributable to such classes of insurance
15 written in this state and the manner in which such investment
16 income shall be used in the calculation of insurance rates.
17 Such manner shall contemplate allowances for an underwriting
18 profit factor and full consideration of investment income
19 which produce a reasonable rate of return; however, investment
20 income from invested surplus shall not be considered.
- 21 5. The reasonableness of the judgment reflected in the
22 filing.
- 23 6. Dividends, savings, or unabsorbed premium deposits
24 allowed or returned to Florida policyholders, members, or
25 subscribers.
- 26 7. The adequacy of loss reserves.
- 27 8. The cost of reinsurance.
- 28 9. Trend factors, including trends in actual losses
29 per insured unit for the insurer making the filing.
- 30 10. Conflagration and catastrophe hazards, if
31 applicable.

1 11. A reasonable margin for underwriting profit and
2 contingencies. For that portion of the rate covering the risk
3 of hurricanes and other catastrophic losses for which the
4 insurer has not purchased reinsurance and has exposed its
5 capital and surplus to such risk, the office must approve a
6 rating factor that provides the insurer a reasonable rate of
7 return that is commensurate with such risk.

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

9 13. Other relevant factors which impact upon the
10 frequency or severity of claims or upon expenses.

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

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

27 (e) After consideration of the rate factors provided
28 in paragraphs (b), (c), and (d), a rate may be found by the
29 office to be excessive, inadequate, or unfairly discriminatory
30 based upon the following standards:
31

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

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

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

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

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

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

29 (f) In reviewing a rate filing, the office may require
30 the insurer to provide at the insurer's expense all
31 information necessary to evaluate the condition of the company

1 and the reasonableness of the filing according to the criteria
2 enumerated in this section.

3 (g) The office may at any time review a rate, rating
4 schedule, rating manual, or rate change; the pertinent records
5 of the insurer; and market conditions. If the office finds on
6 a preliminary basis that a rate may be excessive, inadequate,
7 or unfairly discriminatory, the office shall initiate
8 proceedings to disapprove the rate and shall so notify the
9 insurer. However, the office may not disapprove as excessive
10 any rate for which it has given final approval or which has
11 been deemed approved for a period of 1 year after the
12 effective date of the filing unless the office finds that a
13 material misrepresentation or material error was made by the
14 insurer or was contained in the filing. Upon being so
15 notified, the insurer or rating organization shall, within 60
16 days, file with the office all information which, in the
17 belief of the insurer or organization, proves the
18 reasonableness, adequacy, and fairness of the rate or rate
19 change. The office shall issue a notice of intent to approve
20 or a notice of intent to disapprove pursuant to the procedures
21 of paragraph (a) within 90 days after receipt of the insurer's
22 initial response. In such instances and in any administrative
23 proceeding relating to the legality of the rate, the insurer
24 or rating organization shall carry the burden of proof by a
25 preponderance of the evidence to show that the rate is not
26 excessive, inadequate, or unfairly discriminatory. After the
27 office notifies an insurer that a rate may be excessive,
28 inadequate, or unfairly discriminatory, unless the office
29 withdraws the notification, the insurer shall not alter the
30 rate except to conform with the office's notice until the
31 earlier of 120 days after the date the notification was

1 provided or 180 days after the date of the implementation of
2 the rate. The office may, subject to chapter 120, disapprove
3 without the 60-day notification any rate increase filed by an
4 insurer within the prohibited time period or during the time
5 that the legality of the increased rate is being contested.

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

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

28 (j) Within 24 months after an insurer receives
29 approval of a rate increase of 10 percent or more, the insurer
30 must file and the office must review the insurer's rate based
31 on a rate filing that addresses all elements of the current

1 rate. ~~Effective July 1, 2007, notwithstanding any other~~
2 ~~provision of this section:~~

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

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

1 ~~3. This paragraph does not affect the authority of the~~
2 ~~office to disapprove a rate as inadequate or to disapprove a~~
3 ~~filing for the unlawful use of unfairly discriminatory rating~~
4 ~~factors that are prohibited by the laws of this state. An~~
5 ~~insurer electing to implement a rate change under this~~
6 ~~paragraph shall submit a filing to the office at least 40 days~~
7 ~~prior to the effective date of the rate change. The office~~
8 ~~shall have 30 days after the filing's submission to review the~~
9 ~~filing and determine if the rate is inadequate or uses~~
10 ~~unfairly discriminatory rating factors. Absent a finding by~~
11 ~~the office within such 30 day period that the rate is~~
12 ~~inadequate or that the insurer has used unfairly~~
13 ~~discriminatory rating factors, the filing is deemed approved.~~
14 ~~If the office finds during the 30 day period that the filing~~
15 ~~will result in inadequate premiums or otherwise endanger the~~
16 ~~insurer's solvency, the office shall suspend the rate~~
17 ~~decrease. If the insurer is implementing an overall rate~~
18 ~~increase, the results of which continue to produce an~~
19 ~~inadequate rate, such increase shall proceed pending~~
20 ~~additional action by the office to ensure the adequacy of the~~
21 ~~rate.~~

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

24
25 The provisions of this subsection shall not apply to workers'
26 compensation and employer's liability insurance and to motor
27 vehicle insurance.

28 (3)(a) For individual risks that are not rated in
29 accordance with the insurer's rates, rating schedules, rating
30 manuals, and underwriting rules filed with the office and
31 which have been submitted to the insurer for individual

1 rating, the insurer must maintain documentation on each risk
2 subject to individual risk rating. The documentation must
3 identify the named insured and specify the characteristics and
4 classification of the risk supporting the reason for the risk
5 being individually risk rated, including any modifications to
6 existing approved forms to be used on the risk. The insurer
7 must maintain these records for a period of at least 5 years
8 after the effective date of the policy.

9 (b) Individual risk rates and modifications to
10 existing approved forms are not subject to this part or part
11 II, except for paragraph (a) and ss. 627.402, 627.403,
12 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085,
13 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417,
14 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but
15 are subject to all other applicable provisions of this code
16 and rules adopted thereunder.

17 (c) This subsection does not apply to private
18 passenger motor vehicle insurance.

19 (4) The establishment of any rate, rating
20 classification, rating plan or schedule, or variation thereof
21 in violation of part IX of chapter 626 is also in violation of
22 this section. In order to enhance the ability of consumers to
23 compare premiums and to increase the accuracy and usefulness
24 of rate-comparison information provided by the office to the
25 public, the office shall develop a proposed standard rating
26 territory plan to be used by all authorized property and
27 casualty insurers for residential property insurance. In
28 adopting the proposed plan, the office may consider
29 geographical characteristics relevant to risk, county lines,
30 major roadways, existing rating territories used by a
31 significant segment of the market, and other relevant factors.

1 Such plan shall be submitted to the President of the Senate
2 and the Speaker of the House of Representatives by January 15,
3 2006. The plan may not be implemented unless authorized by
4 further act of the Legislature.

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

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

1 ~~insurer does business in this state. The office and the~~
2 ~~insurer must treat the decision of the arbitrators as the~~
3 ~~final approval of a rate filing. Costs of arbitration shall be~~
4 ~~paid by the insurer.~~

5 ~~(b) Arbitration under this subsection shall be~~
6 ~~conducted pursuant to the procedures specified in ss.~~
7 ~~682.06 682.10. Either party may apply to the circuit court to~~
8 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~
9 ~~682.14. The commission shall adopt rules for arbitration under~~
10 ~~this subsection, which rules may not be inconsistent with the~~
11 ~~arbitration rules of the American Arbitration Association as~~
12 ~~of January 1, 1996.~~

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

19 (6)(7)(a) The provisions of this subsection apply only
20 with respect to rates for medical malpractice insurance and
21 shall control to the extent of any conflict with other
22 provisions of this section.

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

1 not be used to justify a rate or rate change. The portion of
2 the taxable costs and attorney's fees which is identified as
3 being related to the bad faith and punitive damages in these
4 judgments and settlements may not be included in the insurer's
5 rate base and may not be utilized to justify a rate or rate
6 change.

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

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

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

30
31

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

4 (7)~~(8)~~(a)1. No later than 60 days after the effective
5 date of medical malpractice legislation enacted during the
6 2003 Special Session D of the Florida Legislature, the office
7 shall calculate a presumed factor that reflects the impact
8 that the changes contained in such legislation will have on
9 rates for medical malpractice insurance and shall issue a
10 notice informing all insurers writing medical malpractice
11 coverage of such presumed factor. In determining the presumed
12 factor, the office shall use generally accepted actuarial
13 techniques and standards provided in this section in
14 determining the expected impact on losses, expenses, and
15 investment income of the insurer. To the extent that the
16 operation of a provision of medical malpractice legislation
17 enacted during the 2003 Special Session D of the Florida
18 Legislature is stayed pending a constitutional challenge, the
19 impact of that provision shall not be included in the
20 calculation of a presumed factor under this subparagraph.

21 2. No later than 60 days after the office issues its
22 notice of the presumed rate change factor under subparagraph
23 1., each insurer writing medical malpractice coverage in this
24 state shall submit to the office a rate filing for medical
25 malpractice insurance, which will take effect no later than
26 January 1, 2004, and apply retroactively to policies issued or
27 renewed on or after the effective date of medical malpractice
28 legislation enacted during the 2003 Special Session D of the
29 Florida Legislature. Except as authorized under paragraph (b),
30 the filing shall reflect an overall rate reduction at least as
31 great as the presumed factor determined under subparagraph 1.

1 With respect to policies issued on or after the effective date
2 of such legislation and prior to the effective date of the
3 rate filing required by this subsection, the office shall
4 order the insurer to make a refund of the amount that was
5 charged in excess of the rate that is approved.

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

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

31

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

5 (e) The calculation and notice by the office of the
6 presumed factor pursuant to paragraph (a) is not an order or
7 rule that is subject to chapter 120. If the office enters into
8 a contract with an independent consultant to assist the office
9 in calculating the presumed factor, such contract shall not be
10 subject to the competitive solicitation requirements of s.
11 287.057.

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

17 1. The signing officer and actuary have reviewed the
18 rate filing;

19 2. Based on the signing officer's and actuary's
20 knowledge, the rate filing does not contain any untrue
21 statement of a material fact or omit to state a material fact
22 necessary in order to make the statements made, in light of
23 the circumstances under which such statements were made, not
24 misleading;

25 3. Based on the signing officer's and actuary's
26 knowledge, the information and other factors described in s.
27 627.062(2)(b), including, but not limited to, investment
28 income, fairly present in all material respects the basis of
29 the rate filing for the periods presented in the filing; and

30 4. Based on the signing officer's and actuary's
31 knowledge, the rate filing reflects all premium savings that

1 are reasonably expected to result from legislative enactments
 2 and are in accordance with generally accepted and reasonable
 3 actuarial techniques.

4 (b) A signing officer or actuary knowingly making a
 5 false certification under this subsection commits a violation
 6 of s. 626.9541(1)(e) and is subject to the penalties under s.
 7 626.9521.

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

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

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

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

23 626.9541 Unfair methods of competition and unfair or
 24 deceptive acts or practices defined.--

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

28 (ee) Selectively limiting insurance
 29 offerings.--Failing to offer in this state a kind or line of
 30 insurance which all insurers or affiliated insurers, as
 31 defined by the Financial Services Commission, offer in another

1 jurisdiction. An insurer need not offer every kind or line of
 2 insurance, or any particular kind or line of insurance, in
 3 this state; however, if, on July 1, 2007, an insurer offers a
 4 particular kind or line of insurance anywhere it does
 5 business, it must offer the same kind or line in this state.
 6 The commission shall adopt rules to administer this paragraph.

7 Section 25. Paragraph (c) of subsection (3) of section
 8 627.0628, Florida Statutes, is amended to read:

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

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

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

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

3 Section 26. 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 27. 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 or medical malpractice. As used in the
16 sub-subparagraph, the term "property and casualty lines of
17 business" includes all lines of business identified on Form 2,
18 Exhibit of Premiums and Losses, in the annual statement
19 required of authorized insurers by s. 624.424 and any rule
20 adopted under this section, except for those lines identified
21 as accident and health insurance and except for policies
22 written under the National Flood Insurance program or the
23 Federal Crop Insurance Program. For purposes of this
24 sub-subparagraph, the term "workers' compensation" includes
25 both workers' compensation insurance and excess workers'
26 compensation insurance. ~~on real or personal property, as~~
27 defined in s. 624.604, including insurance for fire,
28 industrial fire, allied lines, farmowners multiperil,
29 homeowners multiperil, commercial multiperil, and mobile
30 homes, and including liability coverage on all such insurance,
31 but excluding inland marine as defined in s. 624.607(3) and

1 ~~excluding vehicle insurance as defined in s. 624.605(1) other~~
2 ~~than insurance on mobile homes used as 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 28. 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 29. 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 30. 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 31. 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 32. 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 33. 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 34. 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 35. 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 36. 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 37. Effective July 1, 2007, subsection (6) of
2 section 627.0629, Florida Statutes, is repealed.

3 Section 38. 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;

31 (k) Research on windstorm mitigation; and

1 (1) The development of a form for uniform mitigation
2 verification inspection to be used by insurers when factoring
3 discounts for wind insurance which clearly specifies the
4 procedures necessary to receive the full value of a discount.

5
6 The commission may develop any other solutions and programs
7 that it considers appropriate.

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

13 (6) The commission shall review, evaluate, and make
14 recommendations regarding existing and proposed programs and
15 initiatives for mitigating windstorm damage.

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

21 Section 39. Florida Disaster Recovery Initiative.--

22 (1) There is established within the Department of
23 Community Affairs the Florida Disaster Recovery Initiative for
24 the purpose of assisting local governments in satisfying
25 disaster-recovery needs in the areas of low-income housing and
26 infrastructure, with a primary focus on the hardening of
27 single-family and multifamily housing units, not only to
28 ensure that affordable housing can withstand the effects of
29 hurricane-force winds, but also to mitigate the increasing
30 costs of insurance, which may ultimately render existing
31 affordable homes unaffordable or uninsurable. This section

1 does not create an entitlement for local governments or
2 property owners or obligate the state in any way to fund
3 disaster-recovery needs. Implementation of this initiative is
4 subject to annual legislative appropriations.

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

12 (3) Entitlement and nonentitlement counties identified
13 under the Federal Disaster Declaration (FEMA-1609-DR),
14 federally recognized Indian tribes, and nonprofit
15 organizations are eligible to apply for funding.

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

30 Section 40. For the 2006-2007 fiscal year, the sum of
31 \$100,066,518 is appropriated in a Grant in Aid--Fixed Capital

1 Outlay appropriation category from the Florida Small Cities
2 Community Development Block Grant Program Fund to the
3 Department of Community Affairs for the purpose of
4 implementing the provisions of section 39 of this act. These
5 funds shall be used in a manner consistent with Federal
6 Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the
7 State of Florida Action Plan for Disaster Recovery as approved
8 by the United States Department of Housing and Urban
9 Development.

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

12 718.111 The association.--

13 (11) INSURANCE.--In order to protect the safety,
14 health, and welfare of the people of the State of Florida and
15 to ensure consistency in the provision of insurance coverage
16 to condominiums and their unit owners, paragraphs (b) and (c)
17 are deemed to apply to every residential condominium in the
18 state, regardless of the date of its declaration of
19 condominium. It is the intent of the Legislature to encourage
20 lower or stable insurance premiums for associations described
21 in this section. Therefore, the Legislature requires a report
22 to be prepared by the Office of Insurance Regulation of the
23 Department of Financial Services for publication 18 months
24 from the effective date of this act, evaluating premium
25 increases or decreases for associations, unit owner premium
26 increases or decreases, recommended changes to better define
27 common areas, or any other information the Office of Insurance
28 Regulation deems appropriate.

29 (a) A unit-owner controlled association operating a
30 residential condominium shall use its best efforts to obtain
31 and maintain adequate insurance to protect the association,

1 the association property, the common elements, and the
2 condominium property required to be insured by the association
3 pursuant to paragraph (b). If the association is developer
4 controlled, the association shall exercise due diligence to
5 obtain and maintain such insurance. Failure to obtain and
6 maintain adequate insurance during any period of developer
7 control shall constitute a breach of fiduciary responsibility
8 by the developer-appointed members of the board of directors
9 of the association, unless said members can show that despite
10 such failure, they have exercised due diligence. The
11 declaration of condominium as originally recorded, or amended
12 pursuant to procedures provided therein, may require that
13 condominium property consisting of freestanding buildings
14 where there is no more than one building in or on such unit
15 need not be insured by the association if the declaration
16 requires the unit owner to obtain adequate insurance for the
17 condominium property. An association may also obtain and
18 maintain liability insurance for directors and officers,
19 insurance for the benefit of association employees, and flood
20 insurance for common elements, association property, and
21 units. Adequate insurance, regardless of any requirement in
22 the declaration of condominium for coverage by the association
23 for "full insurable value," "replacement cost," or the like,
24 may include reasonable deductibles as determined by the board
25 based upon available funds or predetermined assessment
26 authority at the time that the insurance is obtained.

27 1. Windstorm insurance coverage for a group of no
28 fewer than three communities created and operating under
29 chapter 718, chapter 719, chapter 720, or chapter 721 may be
30 obtained and maintained for the communities if the insurance
31 coverage is sufficient to cover an amount equal to the

1 probable maximum loss for the communities for a 250-year
2 windstorm event. Such probable maximum loss must be determined
3 through the use of a competent model that has been accepted by
4 the Florida Commission on Hurricane Loss Project Methodology.
5 Such insurance coverage is deemed adequate windstorm insurance
6 for the purposes of this section.

7 2. An association or group of associations may
8 self-insure against claims against the association, the
9 association property, and the condominium property required to
10 be insured by an association, upon compliance with the
11 applicable provisions of ss. 624.460-624.488, which shall be
12 considered adequate insurance for the purposes of this
13 section. A copy of each policy of insurance in effect shall be
14 made available for inspection by unit owners at reasonable
15 times.

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

19 1. All portions of the condominium property located
20 outside the units;

21 2. The condominium property located inside the units
22 as such property was initially installed, or replacements
23 thereof of like kind and quality and in accordance with the
24 original plans and specifications or, if the original plans
25 and specifications are not available, as they existed at the
26 time the unit was initially conveyed; and

27 3. All portions of the condominium property for which
28 the declaration of condominium requires coverage by the
29 association.

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1 Anything to the contrary notwithstanding, the terms
2 "condominium property," "building," "improvements," "insurable
3 improvements," "common elements," "association property," or
4 any other term found in the declaration of condominium which
5 defines the scope of property or casualty insurance that a
6 condominium association must obtain shall exclude all floor,
7 wall, and ceiling coverings, electrical fixtures, appliances,
8 air conditioner or heating equipment, water heaters, water
9 filters, built-in cabinets and countertops, and window
10 treatments, including curtains, drapes, blinds, hardware, and
11 similar window treatment components, or replacements of any of
12 the foregoing which are located within the boundaries of a
13 unit and serve only one unit and all air conditioning
14 compressors that service only an individual unit, whether or
15 not located within the unit boundaries. The foregoing is
16 intended to establish the property or casualty insuring
17 responsibilities of the association and those of the
18 individual unit owner and do not serve to broaden or extend
19 the perils of coverage afforded by any insurance contract
20 provided to the individual unit owner. Beginning January 1,
21 2004, the association shall have the authority to amend the
22 declaration of condominium, without regard to any requirement
23 for mortgagee approval of amendments affecting insurance
24 requirements, to conform the declaration of condominium to the
25 coverage requirements of this section.

26 (c) Every hazard insurance policy issued or renewed on
27 or after January 1, 2004, to an individual unit owner shall
28 provide that the coverage afforded by such policy is excess
29 over the amount recoverable under any other policy covering
30 the same property. Each insurance policy issued to an
31 individual unit owner providing such coverage shall be without

1 | rights of subrogation against the condominium association that
2 | operates the condominium in which such unit owner's unit is
3 | located. All real or personal property located within the
4 | boundaries of the unit owner's unit which is excluded from the
5 | coverage to be provided by the association as set forth in
6 | paragraph (b) shall be insured by the individual unit owner.

7 | (d) The association shall obtain and maintain adequate
8 | insurance or fidelity bonding of all persons who control or
9 | disburse funds of the association. The insurance policy or
10 | fidelity bond must cover the maximum funds that will be in the
11 | custody of the association or its management agent at any one
12 | time. As used in this paragraph, the term "persons who control
13 | or disburse funds of the association" includes, but is not
14 | limited to, those individuals authorized to sign checks and
15 | the president, secretary, and treasurer of the association.
16 | The association shall bear the cost of bonding.

17 | Section 42. Section 627.711, Florida Statutes, is
18 | amended to read:

19 | 627.711 Notice of premium discounts for hurricane loss
20 | mitigation; uniform mitigation verification inspection form--

21 | (1) Using a form prescribed by the Office of Insurance
22 | Regulation, the insurer shall clearly notify the applicant or
23 | policyholder of any personal lines residential property
24 | insurance policy, at the time of the issuance of the policy
25 | and at each renewal, of the availability and the range of each
26 | premium discount, credit, other rate differential, or
27 | reduction in deductibles for properties on which fixtures or
28 | construction techniques demonstrated to reduce the amount of
29 | loss in a windstorm can be or have been installed or
30 | implemented. The prescribed form shall describe generally what
31 | actions the policyholders may be able to take to reduce their

1 windstorm premium. The prescribed form and a list of such
2 ranges approved by the office for each insurer licensed in the
3 state and providing such discounts, credits, other rate
4 differentials, or reductions in deductibles for properties
5 described in this subsection shall be available for electronic
6 viewing and download from the Department of Financial
7 Services' or the Office of Insurance Regulation's Internet
8 website. The Financial Services Commission may adopt rules to
9 implement this subsection.

10 (2) The Financial Services Commission shall develop by
11 rule a uniform mitigation verification inspection form that
12 shall be used by all insurers when factoring discounts for
13 wind insurance. In developing the form, the commission shall
14 seek input from insurance, construction, and building code
15 representatives. Further, the commission shall provide
16 guidance as to the length of time the inspection results are
17 valid.

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

24 Section 44. Section 350.06151, Florida Statutes, is
25 created to read:

26 350.06151 Beginning July 1, 2007, funds shall be
27 transferred by the Department of Financial Services from the
28 Insurance Regulatory Trust Fund to the Grants and Donations
29 Trust Fund in the legislative branch for the purpose of
30 funding the Office of Insurance Consumer Advocate. The
31 transfer amount is equal to the approved operating budget for

1 the Office of Insurance Consumer Advocate within the Office of
2 Public Counsel.
3 Section 45. Except as otherwise expressly provided in
4 this act, this act shall take effect upon becoming a law.
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