

Bill No. CS/HB 9-A, 1st Eng.

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	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2		.	01/18/2007 10:48:30
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11 Senator Posey moved the following amendment:

12
13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15
16 and insert:

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

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

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

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

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

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

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

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

15 163.01 Florida Interlocal Cooperation Act of 1969.--

16 (3) As used in this section:

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

28 (7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 | 215.555 Florida Hurricane Catastrophe Fund.--

7 | (4) REIMBURSEMENT CONTRACTS.--

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

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

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

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

13 (a) General provisions.--

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

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

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

27 | (b) Emergency assessments.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (e) Protection of bondholders.--

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

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

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

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

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

20 (a) General provisions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) Protection of bondholders.--

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

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

31 3. Notwithstanding any other provision of law, any

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

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

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

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

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

30 (a) Findings and intent.--

31 1. The Legislature finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) TICL options addendum.--

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

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

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

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

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

16 (e) TICL reimbursement premiums.--

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

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

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

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

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

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

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

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

1 disruption in the reinsurance and property insurance market.

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

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

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

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

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

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

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

1 the time the premium formula is determined.

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

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

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

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

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

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

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

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

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

1 TICL coverage options.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 215.559 Hurricane Loss Mitigation Program.--

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

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

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

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

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

9 (2) The committee shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 553.73 Florida Building Code.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18

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

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

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

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

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

31 2. Such additional requirements are not discriminatory

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (c) Nonresidential farm buildings on farms.

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

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

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

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

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

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

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1 | electrical, plumbing, or other nonwood features.

2 |

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

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

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

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

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

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

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

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

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

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

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

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

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

12 553.775 Interpretations.--

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

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

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

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

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

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

22 624.319 Examination and investigation reports.--

23 (3)

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

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

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

23 624.462 Commercial self-insurance funds.--

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

28 (a) Established by:

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

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

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

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

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

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

31 624.4622 Local government self-insurance funds.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 s. 624.4621.

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

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

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

15 624.610 Reinsurance.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 627.062 Rate standards.--

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

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

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

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

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

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

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

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

31 2. Past and prospective expenses.

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

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

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

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

23 7. The adequacy of loss reserves.

24 8. The cost of reinsurance.

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

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

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

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

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

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

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

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

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

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

1 rendered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) Any insurer or rating organization that contends

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 627.0628, Florida Statutes, is amended to read:

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

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

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

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

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

31 (5)

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

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

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

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

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

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

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

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

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

8 627.351 Insurance risk apportionment plans.--

9 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

31 Because it is essential for the corporation to have the

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

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

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

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

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

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

14 d. Tenant's coverage;

15 e. Commercial lines residential property; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 to the documents governing such bonds or other indebtedness.

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

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

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

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

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

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

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

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1 adopt the following policy forms:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (II) When the corporation enters into a contractual

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

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

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

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

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

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

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

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

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

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

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

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

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

31 |

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 eligibility for coverage.

2 (m)1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 627.706 Sinkhole insurance; definitions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 627.713 Report of hurricane loss data.--

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

14 (a) Number of claims;

15 (b) Amount of claim payments made;

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

17 (d) Amount and percentage of losses covered by

18 reinsurance or other loss-transfer agreements;

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

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

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

23 (h) Claims and payments for specified types of

24 construction or mitigation features;

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

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

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

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

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

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

6 631.57 Powers and duties of the association.--

7 (3)

8 (e)1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 631.912 Board of directors.--

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

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

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

15 Section 38. Windstorm Mitigation Study Commission.--

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

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

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

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

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

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

1 Florida Statutes.

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

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

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

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

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

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

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

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

1 initiatives;

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

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

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

8 (i) Tax incentives for windstorm mitigation;

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

12 (k) Research on windstorm mitigation; and

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

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

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

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

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

1 Regulation by March 30, 2007.

2 Section 39. Florida Disaster Recovery Initiative.--

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

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

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

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

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

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

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

24 718.111 The association.--

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

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

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

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

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

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

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

31 1. All portions of the condominium property located

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1 outside the units;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16
17

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

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21

22 and insert:

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

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

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

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

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

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

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

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

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1 Financial Officer; amending s. 627.062, F.S.;

2 deleting provisions allowing property and

3 casualty insurers to use and file rates;

4 deleting provisions exempting certain rate

5 filings from review by the Office of Insurance

6 Regulation; deleting provisions authorizing an

7 insurer to require the arbitration of a rate

8 filing following agency action under the

9 Administrative Procedure Act; requiring the

10 chief executive officer, chief financial

11 officer, or chief actuary of a property insurer

12 to certify the information contained in a rate

13 filing; providing penalties for knowingly

14 making a false certification; authorizing the

15 Financial Services Commission to adopt rules;

16 deleting provisions placing the burden on the

17 Office of Insurance Regulation to establish

18 that certain rates are excessive; amending s.

19 627.0628, F.S., relating to hurricane loss

20 projection; conforming references to changes

21 made by the act; amending s. 627.311, F.S.;

22 providing for the Insurance Consumer Advocate

23 to be a member of the board of governors

24 supervising joint underwriting associations;

25 amending s. 627.351, F.S., relating to the

26 Citizens Property Insurance Corporation;

27 deleting provisions that deny certain

28 nonhomestead property eligibility for coverage

29 by the corporation; including commercial

30 nonresidential policies into an account of the

31 corporation; authorizing the corporation to

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

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1 County under certain circumstances; deleting a
2 requirement that the corporation certify to the
3 office that its rates comply with certain
4 requirements; deleting a requirement for a
5 notice to policyholders and applicants;
6 rescinding certain rate filings by the
7 corporation which took effect January 1, 2007;
8 reinstating certain rates in effect on December
9 31, 2006; clarifying the effect of a policy
10 that is taken out, assumed, or removed from the
11 corporation; providing legislative intent that
12 commercial nonresidential property insurance be
13 made available from Citizens Property Insurance
14 Corporation; requiring that Citizens Property
15 Insurance Corporation adopt a plan providing
16 for the transition of such coverage from the
17 Property and Casualty Joint Underwriting
18 Association to Citizens; providing requirements
19 for the plan; amending s. 627.701, F.S.;

20 revising requirements for the deductible amount
21 applicable to hurricane loss for policies of
22 residential property insurance and personal
23 lines residential property insurance;
24 prohibiting a hurricane deductible in excess of
25 a specified percentage for personal lines
26 residential property insurance policies of less
27 than a certain value unless the policyholder
28 signs a statement acknowledging the lack of
29 insurance or provides a statement from the
30 mortgageholder or lienholder; requiring that
31 the insurer keep documentation of such

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

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1 authorization exists for the Florida Insurance
 2 Guaranty Association to certify and for the
 3 Office of Insurance Regulation to levy an
 4 emergency assessment; amending s. 631.912,
 5 F.S., relating to the board of directors of the
 6 Florida Workers' Compensation Insurance
 7 Guaranty Association, Inc.; conforming
 8 provisions to changes made by the act; amending
 9 s. 718.111, F.S.; providing for windstorm
 10 insurance for condominium associations;
 11 repealing s. 627.0629(6), F.S., relating to
 12 requirements for hurricane or windstorm
 13 coverage; creating the Windstorm Mitigation
 14 Study Commission for the purpose of analyzing
 15 solutions and programs that could address the
 16 state's need to mitigate the effects of
 17 windstorms on structures; providing for
 18 membership and qualifications; providing that
 19 the members are entitled to reimbursement for
 20 expenses incurred in connection with their
 21 duties; requiring the Department of Financial
 22 Services, the Office of Insurance Regulation,
 23 the Citizens Property Insurance Corporation,
 24 and other state agencies to supply information,
 25 assistance, and facilities to the commission;
 26 requiring that the Executive Office of the
 27 Governor provide staff assistance; specifying
 28 duties of the commission; requiring that the
 29 commission report to the Governor, the
 30 Legislature, the Chief Financial Officer, and
 31 the Commissioner of Insurance Regulation by a

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1 specified date; establishing the Florida
2 Disaster Recovery Initiative within the
3 Department of Community Affairs for the purpose
4 of assisting local governments in hardening
5 affordable housing against the effects of
6 hurricanes; specifying that the act does not
7 create an entitlement or obligate the state;
8 providing for program administration;
9 specifying the entities that are eligible to
10 apply for funding; providing components and
11 requirements of the initiative; providing an
12 appropriation; amending s. 627.711, F.S.;

13 requiring the Financial Services Commission to
14 develop uniform mitigation verification
15 inspection forms; providing duties of the
16 commission; expressing the intent of the
17 Legislature to create a grant program to assist
18 low-income persons in purchasing property
19 insurance; creating s. 350.06151, F.S.;

20 providing for transfer of funds from the
21 Insurance Regulatory Trust Fund to the Grants
22 and Donations Trust Fund of the legislative
23 branch to fund the Office of Insurance Consumer
24 Advocate; providing effective dates.

25

26 WHEREAS, homeowners in the State of Florida are
27 struggling under increased insurance costs and increased
28 housing prices as a result of damage caused by hurricanes and
29 tropical storms, and

30 WHEREAS, this increase in the cost of property
31 insurance for the state's residents demands immediate

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1 attention, and

2 WHEREAS, the affordability of property insurance
3 creates financial burdens for Florida's residents and
4 financial crises for some property owners, and

5 WHEREAS, in addition to affordability, the availability
6 and stability of property insurance rates are critical issues
7 to the residents of this state, and

8 WHEREAS, because there is no single, quick, or easy
9 solution to the current crisis, a comprehensive and creative
10 approach is required, and

11 WHEREAS, property insurance is so interwoven with other
12 forms of insurance, through business, regulation, advocacy,
13 purchasing, and other interactions, that the viability of the
14 insurance market in Florida is at risk, and

15 WHEREAS, expanding coverage offered by the Florida
16 Hurricane Catastrophe Fund can help to address this crisis,
17 and

18 WHEREAS, taking steps to control or reduce the premiums
19 charged by Citizens Property Insurance Corporation can help to
20 address this crisis, and

21 WHEREAS, strengthening the Florida Building Code and
22 providing for voluntary guidelines in addition to the
23 requirements of the code can help to address this crisis, and

24 WHEREAS, sinkhole coverage is a critical part of the
25 crisis in certain areas of the state and must be addressed as
26 part of any comprehensive solution, and

27 WHEREAS, requiring property insurers to offer
28 additional deductibles and exclusions that apply at the option
29 of the property owner can help to address this crisis, and

30 WHEREAS, authorizing various groups of public and
31 private entities to enter into forms of self-insurance or

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1 guaranty groups can help to address this crisis, and

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

4 WHEREAS, the role of consumer advocacy is a critical
5 part of addressing this crisis and consumer advocacy for
6 property insurance is a critical, if not the predominant, part
7 of consumer advocacy regarding insurance, and

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

11 WHEREAS, promoting, through financial and regulatory
12 incentives for property owners, the strengthening of property
13 to withstand the effects of windstorm damage can help to
14 address this crisis, NOW, THEREFORE,

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