

1 A bill to be entitled

2 An act relating to hurricane preparedness and insurance;
3 providing a short title; amending s. 163.01, F.S.,
4 relating to the Florida Interlocal Cooperation Act;
5 redefining the term "public agency" to include certain
6 legal or administrative entities; authorizing such
7 entities to finance the provision of property coverage
8 contracts for or from local government property insurance
9 pools or property coverage contracts; providing a
10 definition; authorizing certain hospitals to jointly issue
11 bonds to finance windstorm coverages and claims; granting
12 authority to individual hospitals and teaching hospitals
13 to jointly issue bond anticipation notes; authorizing
14 validation of bonds issued to certain hospital entities;
15 specifying that a hospital's immunity caps are not waived
16 through issuance of bonds to pay windstorm coverage or
17 claims; amending s. 215.5595, F.S.; including manufactured
18 housing insurers in the Insurance Capital Build-Up
19 Incentive Program; providing manufactured housing insurer
20 program contribution requirements; providing surplus
21 requirements; prioritizing funding for manufactured
22 housing insurers; providing premium to surplus ratio
23 requirements for certain manufactured housing insurers;
24 amending s. 624.462, F.S.; revising requirements for the
25 establishment of a commercial self-insurance fund by a
26 not-for-profit group; specifying required rules of the
27 commission; amending s. 624.4622, F.S.; authorizing local
28 government self-insurance funds to insure or self-insure

29 | real or personal property against loss or damage; creating
30 | s. 395.106, F.S.; authorizing certain hospitals and
31 | hospital systems to pool and spread windstorm property
32 | exposure risk among members; providing criteria for
33 | participation; providing definitions; subjecting alliances
34 | not in compliance with risk pooling requirements to the
35 | Insurance Code; excluding an alliance meeting provision
36 | requirements from participation in or coverage by an
37 | insurance guaranty association established by ch. 631,
38 | F.S.; creating s. 624.4625, F.S.; authorizing two or more
39 | corporations not for profit to form a self-insurance fund
40 | for certain purposes; providing specific requirements;
41 | providing a definition; providing limitations; providing
42 | for application of certain provisions to certain premiums,
43 | contributions, and assessments; providing for payment of
44 | insurance premium tax at a reduced rate by corporation
45 | not-for-profit self-insurance funds; subjecting a
46 | corporation not for profit self-insurance fund to certain
47 | group self-insurance fund provisions under certain
48 | circumstances; amending s. 624.610, F.S.; prescribing
49 | responsibilities of the Commissioner of Insurance
50 | Regulation relating to allowing credit for reinsurance;
51 | amending s. 627.062, F.S.; delaying the effective date of
52 | certain provisions relating to residential property
53 | insurance rate filings; amending s. 627.351, F.S.;
54 | prohibiting the Property and Casualty Joint Underwriting
55 | Association and Citizens Property Insurance Corporation
56 | from insuring certain properties under certain

57 | circumstances; providing exceptions; requiring that
58 | Citizens' rates must be adequate; rescinding certain rate
59 | filings of the corporation; requiring the corporation to
60 | use certain other rates; requiring the corporation to
61 | refund certain portions of rates; providing for effect of
62 | certain rates; providing for new rate filings; requiring
63 | the Department of Financial Services to review the
64 | corporation's insurance agent commission structure and
65 | make recommendations for commission standards; requiring a
66 | report; creating the Task Force on Citizens Property
67 | Insurance Claims Handling and Resolution; providing for
68 | administration of the task force; providing for
69 | membership; providing for reimbursement of expenses but no
70 | compensation; providing purpose and intent; requiring the
71 | task force to address certain issues; requiring reports
72 | and recommendations; providing additional responsibilities
73 | of the task force; providing for expiration of the task
74 | force; abolishing the existing board of governors of
75 | Citizens Property Insurance Corporation; providing for
76 | appointment of new members; amending s. 631.57, F.S.;
77 | revising criteria and requirements for levy of emergency
78 | assessments by the Florida Insurance Guaranty Association;
79 | revising characterizations of emergency assessments;
80 | providing legislative intent; amending s. 627.706, F.S.;
81 | revising sinkhole insurance provisions to include coverage
82 | for losses due to catastrophic ground cover collapse;
83 | authorizing certain deductibles; revising definitions;
84 | providing an effective date.

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

Section 1. This act may be cited as the "Citizens Reform and Private Market Restoration Act."

Section 2. Paragraph (b) of subsection (3) and paragraph (e) of subsection (7) of section 163.01, Florida Statutes, are amended, and paragraph (h) is added to subsection (7) of that section, to read:

163.01 Florida Interlocal Cooperation Act of 1969.--

(3) As used in this section:

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

(7)

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing the provision or acquisition of liability or property

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113 coverage contracts for or from one or more local government
114 liability or property pools to provide liability or property
115 coverage for counties, municipalities, or other public agencies
116 of this state, exercise all powers in connection with the
117 authorization, issuance, and sale of bonds. All of the
118 privileges, benefits, powers, and terms of s. 125.01 relating to
119 counties and s. 166.021 relating to municipalities shall be
120 fully applicable to such entity and such entity shall be
121 considered a unit of local government for all of the privileges,
122 benefits, powers, and terms of part I of chapter 159. Bonds
123 issued by such entity shall be deemed issued on behalf of
124 counties, municipalities, or public agencies which enter into
125 loan agreements with such entity as provided in this paragraph.
126 Proceeds of bonds issued by such entity may be loaned to
127 counties, municipalities, or other public agencies of this
128 state, whether or not such counties, municipalities, or other
129 public agencies are also members of the entity issuing the
130 bonds, and such counties, municipalities, or other public
131 agencies may in turn deposit such loan proceeds with a separate
132 local government liability or property pool for purposes of
133 providing or acquiring liability or property coverage contracts.

134 2. Counties or municipalities of this state are authorized
135 pursuant to this section, in addition to the authority provided
136 by s. 125.01, part II of chapter 166, and other applicable law,
137 to issue bonds for the purpose of acquiring liability coverage
138 contracts from a local government liability pool. Any individual
139 county or municipality may, by entering into interlocal
140 agreements with other counties, municipalities, or public

141 agencies of this state, issue bonds on behalf of itself and
142 other counties, municipalities, or other public agencies, for
143 purposes of acquiring a liability coverage contract or contracts
144 from a local government liability pool. Counties,
145 municipalities, or other public agencies are also authorized to
146 enter into loan agreements with any entity created pursuant to
147 subparagraph 1., or with any county or municipality issuing
148 bonds pursuant to this subparagraph, for the purpose of
149 obtaining bond proceeds with which to acquire liability coverage
150 contracts from a local government liability pool. No county,
151 municipality, or other public agency shall at any time have more
152 than one loan agreement outstanding for the purpose of obtaining
153 bond proceeds with which to acquire liability coverage contracts
154 from a local government liability pool. Obligations of any
155 county, municipality, or other public agency of this state
156 pursuant to a loan agreement as described above may be validated
157 as provided in chapter 75. Prior to the issuance of any bonds
158 pursuant to subparagraph 1. or this subparagraph for the purpose
159 of acquiring liability coverage contracts from a local
160 government liability pool, the reciprocal insurer or the manager
161 of any self-insurance program shall demonstrate to the
162 satisfaction of the Office of Insurance Regulation of the
163 Financial Services Commission that excess liability coverage for
164 counties, municipalities, or other public agencies is reasonably
165 unobtainable in the amounts provided by such pool or that the
166 liability coverage obtained through acquiring contracts from a
167 local government liability pool, after taking into account costs
168 of issuance of bonds and any other administrative fees, is less

169 expensive to counties, municipalities, or special districts than
 170 similar commercial coverage then reasonably available.

171 3. Any entity created pursuant to this section or any
 172 county or municipality may also issue bond anticipation notes,
 173 as provided by s. 215.431, in connection with the authorization,
 174 issuance, and sale of such bonds. In addition, the governing
 175 body of such legal entity or the governing body of such county
 176 or municipality may also authorize bonds to be issued and sold
 177 from time to time and may delegate, to such officer, official,
 178 or agent of such legal entity as the governing body of such
 179 legal entity may select, the power to determine the time; manner
 180 of sale, public or private; maturities; rate or rates of
 181 interest, which may be fixed or may vary at such time or times
 182 and in accordance with a specified formula or method of
 183 determination; and other terms and conditions as may be deemed
 184 appropriate by the officer, official, or agent so designated by
 185 the governing body of such legal entity. However, the amounts
 186 and maturities of such bonds and the interest rate or rates of
 187 such bonds shall be within the limits prescribed by the
 188 governing body of such legal entity and its resolution
 189 delegating to such officer, official, or agent the power to
 190 authorize the issuance and sale of such bonds. Any series of
 191 bonds issued pursuant to this paragraph for liability coverage
 192 shall mature no later than 7 years following the date of
 193 issuance ~~thereof~~. A series of bonds issued pursuant to this
 194 paragraph for property coverage shall mature no later than 30
 195 years following the date of issuance.

196 4. Bonds issued pursuant to subparagraph 1. may be

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197 validated as provided in chapter 75. The complaint in any
198 action to validate such bonds shall be filed only in the Circuit
199 Court for Leon County. The notice required to be published by
200 s. 75.06 shall be published in Leon County and in each county
201 which is an owner of the entity issuing the bonds, or in which a
202 member of the entity is located, and the complaint and order of
203 the circuit court shall be served only on the State Attorney of
204 the Second Judicial Circuit and on the state attorney of each
205 circuit in each county or municipality which is an owner of the
206 entity issuing the bonds or in which a member of the entity is
207 located.

208 5. Bonds issued pursuant to subparagraph 2. may be
209 validated as provided in chapter 75. The complaint in any action
210 to validate such bonds shall be filed in the circuit court of
211 the county or municipality which will issue the bonds. The
212 notice required to be published by s. 75.06 shall be published
213 only in the county where the complaint is filed, and the
214 complaint and order of the circuit court shall be served only on
215 the state attorney of the circuit in the county or municipality
216 which will issue the bonds.

217 6. The participation by any county, municipality, or other
218 public agency of this state in a local government liability pool
219 shall not be deemed a waiver of immunity to the extent of
220 liability coverage, nor shall any contract entered regarding
221 such a local government liability pool be required to contain
222 any provision for waiver.

223 (h)1. Notwithstanding the provisions of paragraph (c), any
224 separate legal entity consisting of an alliance, as defined in

225 s. 395.106(2)(a), created pursuant to this paragraph and
226 controlled by and whose members consist of eligible entities
227 comprised of special districts created pursuant to a special act
228 and having the authority to own or operate one or more hospitals
229 licensed in this state or hospitals licensed in this state that
230 are owned, operated, or funded by a county or municipality, for
231 the purpose of providing property insurance coverage as defined
232 in s. 395.106(2)(c), for such eligible entities, may exercise
233 all powers under this subsection in connection with borrowing
234 funds for such purposes, including, without limitation, the
235 authorization, issuance, and sale of bonds, notes, or other
236 obligations of indebtedness. Borrowed funds, including, but not
237 limited to, bonds issued by such alliance shall be deemed issued
238 on behalf of such eligible entities that enter into loan
239 agreements with such separate legal entity as provided in this
240 paragraph.

241 2. Any such separate legal entity shall have all the
242 powers that are provided by the interlocal agreement under which
243 the entity is created or that are necessary to finance, operate,
244 or manage the alliance's property insurance coverage program.
245 Proceeds of bonds, notes, or other obligations issued by such an
246 entity may be loaned to any one or more eligible entities. Such
247 eligible entities are authorized to enter into loan agreements
248 with any separate legal entity created pursuant to this
249 paragraph for the purpose of obtaining moneys with which to
250 finance property insurance coverage or claims. Obligations of
251 any eligible entity pursuant to a loan agreement as described in
252 this paragraph may be validated as provided in chapter 75.

253 3. Any bonds, notes, or other obligations to be issued or
254 incurred by a separate legal entity created pursuant to this
255 paragraph shall be authorized by resolution of the governing
256 body of such entity and bear the date or dates; mature at the
257 time or times, not exceeding 30 years from their respective
258 dates; bear interest at the rate or rates, which may be fixed or
259 vary at such time or times and in accordance with a specified
260 formula or method of determination; be payable at the time or
261 times; be in the denomination; be in the form; carry the
262 registration privileges; be executed in the manner; be payable
263 from the sources and in the medium of payment and at the place;
264 and be subject to redemption, including redemption prior to
265 maturity, as the resolution may provide. The bonds, notes, or
266 other obligations may be sold at public or private sale for such
267 price as the governing body of the separate legal entity shall
268 determine. The bonds may be secured by such credit enhancement,
269 if any, as the governing body of the separate legal entity deems
270 appropriate. The bonds may be secured by an indenture of trust
271 or trust agreement. In addition, the governing body of the
272 separate legal entity may delegate, to such officer or official
273 of such entity as the governing body may select, the power to
274 determine the time; manner of sale, public or private;
275 maturities; rate or rates of interest, which may be fixed or may
276 vary at such time or times and in accordance with a specified
277 formula or method of determination; and other terms and
278 conditions as may be deemed appropriate by the officer or
279 official so designated by the governing body of such separate
280 legal entity. However, the amounts and maturities of such bonds,

281 the interest rate or rates, and the purchase price of such bonds
282 shall be within the limits prescribed by the governing body of
283 such separate legal entity in its resolution delegating to such
284 officer or official the power to authorize the issuance and sale
285 of such bonds.

286 4. Bonds issued pursuant to this paragraph may be
287 validated as provided in chapter 75. The complaint in any action
288 to validate such bonds shall be filed only in the Circuit Court
289 for Leon County. The notice required to be published by s. 75.06
290 shall be published in Leon County and in each county in which an
291 eligible entity that is a member of an alliance is located. The
292 complaint and order of the circuit court shall be served only on
293 the state attorney of the Second Judicial Circuit and on the
294 state attorney of each circuit in each county in which an
295 eligible entity receiving bond proceeds is located.

296 5. The accomplishment of the authorized purposes of a
297 separate legal entity created under this paragraph is deemed in
298 all respects for the benefit, increase of the commerce and
299 prosperity, and improvement of the health and living conditions
300 of the people of this state. Inasmuch as the separate legal
301 entity performs essential public functions in accomplishing its
302 purposes, the separate legal entity is not required to pay any
303 taxes or assessments of any kind upon any property acquired or
304 used by the entity for such purposes or upon any revenues at any
305 time received by the entity. The bonds, notes, and other
306 obligations of such separate legal entity, the transfer of and
307 income from such bonds, notes, and other obligations, including
308 any profits made on the sale of such bonds, notes, and other

309 obligations, are at all times free from taxation of any kind of
 310 the state or by any political subdivision or other agency or
 311 instrumentality if the state. The exemption granted in this
 312 paragraph does not apply to any tax imposed by chapter 220 on
 313 interest, income, or profits on debt obligations owned by
 314 corporations.

315 6. The participation by any eligible entity in an alliance
 316 or a separate legal entity created pursuant to this paragraph
 317 may not be deemed a waiver of immunity to the extent of
 318 liability or any other coverage and a contract entered regarding
 319 such alliance is not required to contain any provision for
 320 waiver.

321 Section 3. Paragraphs (a), (c), and (g) of subsection (2)
 322 of section 215.5595, Florida Statutes, are amended, and
 323 paragraph (i) is added to that subsection, to read:

324 215.5595 Insurance Capital Build-Up Incentive Program.--

325 (2) The purpose of this section is to provide surplus
 326 notes to new or existing authorized residential property
 327 insurers under the Insurance Capital Build-Up Incentive Program
 328 administered by the State Board of Administration, under the
 329 following conditions:

330 (a) The amount of the surplus note for any insurer or
 331 insurer group, other than an insurer writing only manufactured
 332 housing policies, may not exceed \$25 million or 20 percent of
 333 the total amount of funds available under the program, whichever
 334 is greater. The amount of the surplus note for any insurer or
 335 insurer group writing residential property insurance covering
 336 only manufactured housing may not exceed \$7 million.

337 (c) The insurer's surplus, new capital, and the surplus
338 note must total at least \$50 million, except for insurers
339 writing residential property insurance covering only
340 manufactured housing. The insurer's surplus, new capital, and
341 the surplus note must total at least \$14 million for insurers
342 writing only residential property insurance covering
343 manufactured housing policies as provided in paragraph (a).

344 (g) The total amount of funds available for the program is
345 limited to the amount appropriated by the Legislature for this
346 purpose. If the amount of surplus notes requested by insurers
347 exceeds the amount of funds available, the board may prioritize
348 insurers that are eligible and approved, with priority for
349 funding given to insurers writing only manufactured housing
350 policies, regardless of the date of application, based on the
351 financial strength of the insurer, the viability of its proposed
352 business plan for writing additional residential property
353 insurance in the state, and the effect on competition in the
354 residential property insurance market.

355 (i) Notwithstanding paragraph (d), a newly formed
356 manufactured housing insurer that is eligible for a surplus note
357 under this section shall meet the premium to surplus ratio
358 provisions of s. 624.4095.

359 Section 4. Paragraph (a) of subsection (2) of section
360 624.462, Florida Statutes, is amended to read:

361 624.462 Commercial self-insurance funds.--

362 (2) As used in ss. 624.460-624.488, "commercial self-
363 insurance fund" or "fund" means a group of members, operating
364 individually and collectively through a trust or corporation,

365 that must be:

366 (a) Established by:

367 1. A not-for-profit trade association, industry
 368 association, or professional association of employers or
 369 professionals which has a constitution or bylaws, which is
 370 incorporated under the laws of this state, and which has been
 371 organized for purposes other than that of obtaining or providing
 372 insurance and operated in good faith for a continuous period of
 373 1 year;

374 2. A self-insurance trust fund organized pursuant to s.
 375 627.357 and maintained in good faith for a continuous period of
 376 1 year for purposes other than that of obtaining or providing
 377 insurance pursuant to this section. Each member of a commercial
 378 self-insurance trust fund established pursuant to this
 379 subsection must maintain membership in the self-insurance trust
 380 fund organized pursuant to s. 627.357;

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

384 4. A not-for-profit group comprised of no fewer ~~less~~ than
 385 10 community condominium associations created and operating
 386 under chapter 718, chapter 719, chapter 720, chapter 721, or
 387 chapter 723 that as defined in s. 718.103(2), which is
 388 ~~incorporated under the laws of this state, which~~ restricts its
 389 membership to community condominium associations only, ~~and that~~
 390 ~~which~~ has been organized and maintained in good faith for the
 391 purpose of pooling and spreading the liabilities of its group
 392 members relating to property or casualty risk a continuous

393 ~~period of 1 year for purposes other than that of obtaining or~~
394 ~~providing insurance. However, a not-for-profit group comprised~~
395 of fewer than 10 community associations may establish a
396 commercial self-insurance fund if the commission has adopted
397 rules:

398 a. Requiring monetary reserves to be maintained by such
399 self-insurers to ensure their financial solvency and governing
400 their organization and operation to ensure compliance with such
401 requirements.

402 b. Implementing the reserve requirements in accordance
403 with accepted actuarial techniques.

404 c. Requiring the office to establish procedures by which
405 notice is acknowledged by applicants for the commercial self-
406 insurance fund, as well as individual property owners, of the
407 assessability of membership in the self-insurance fund and that
408 contributing additional moneys to meet unfilled obligations of
409 the fund may be necessary.

410 d. Prohibiting the office from denying a fund's
411 application solely because of the geographical proximity of the
412 fund's associational membership, provided the fund possesses
413 sufficient financial resources to operate in a fiscally
414 responsible manner.

415 Section 5. Subsection (1) of section 624.4622, Florida
416 Statutes, is amended to read:

417 624.4622 Local government self-insurance funds.--

418 (1) Any two or more local governmental entities may enter
419 into interlocal agreements for the purpose of securing the
420 payment of benefits under chapter 440, or insuring or self-

421 insuring real or personal property of every kind and every
 422 interest in such property against loss or damage from any hazard
 423 or cause and against any loss consequential to such loss or
 424 damage, provided the local government self-insurance fund that
 425 is created must:

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

427 (b) Maintain a continuing program of excess insurance
 428 coverage and reserve evaluation to protect the financial
 429 stability of the fund in an amount and manner determined by a
 430 qualified and independent actuary;

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

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

436 Section 6. Section 395.106, Florida Statutes, is created
 437 to read:

438 395.106 Risk pooling by certain hospitals and hospital
 439 systems.--

440 (1) Notwithstanding an other provision of law, any two or
 441 more hospitals licensed in this state and located in this state
 442 may form an alliance for the purpose of pooling and spreading
 443 liabilities of its members relative to windstorm property
 444 exposure or securing such windstorm property insurance coverage
 445 for the benefit of its members, provided an alliance that is
 446 created:

447 (a) Has annual premiums in excess of \$3 million.

448 (b) Maintains a continuing program of premium calculation

449 and evaluation and reserve evaluation to protect the financial
450 stability of the alliance in an amount and manner determined by
451 consultants using catastrophic (CAT) modeling criteria or other
452 risk-estimating methodologies, including those used by qualified
453 and independent actuaries.

454 (c) Causes to be prepared annually a fiscal year-end
455 financial statement based upon generally accepted accounting
456 principles and audited by an independent certified public
457 accountant within 6 months after the end of the fiscal year.

458 (d) Has a governing body comprised entirely of member
459 entities whose representatives on such governing body are
460 specified by the organizational documents of the alliance.

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

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

465 (b) "Property coverage" means property coverage provided
466 by self-insurance or insurance for real or personal property of
467 every kind and every interest in such property against loss or
468 damage from any hazard or cause and against any loss
469 consequential to such loss or damage.

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

472 (4) An alliance that meets the requirements of this
473 section is not an insurer for purposes of participation in or
474 coverage by the Florida Insurance Guaranty Association
475 established in part II of chapter 631. Alliance self-insured
476 coverage is not subject to insurance premium tax, and any such

477 alliance formed pursuant to this section may not be assessed for
 478 purposes of s. 627.351 or s. 215.555.

479 Section 7. Section 624.4625, Florida Statutes, is created
 480 to read:

481 624.4625 Corporation not-for-profit self-insurance
 482 funds.--

483 (1) Notwithstanding any other provision of law, any two or
 484 more corporations not for profit located in and organized under
 485 the laws of this state may form a self-insurance fund for the
 486 purpose of pooling and spreading liabilities of its group
 487 members in any one or combination of property or casualty risk,
 488 provided the corporation not for profit self-insurance fund that
 489 is created:

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

491 (b) Requires for qualification that each participating
 492 member receive at least 75 percent of its revenues from local,
 493 state, or federal governmental sources or a combination of such
 494 sources.

495 (c) Uses a qualified actuary to determine rates using
 496 accepted actuarial principles and annually submits to the office
 497 a certification by the actuary that the rates are actuarially
 498 sound and are not inadequate, as defined in s. 627.062.

499 (d) Uses a qualified actuary to establish reserves for
 500 loss and loss adjustment expenses and annually submits to the
 501 office a certification by the actuary that the loss and loss
 502 adjustment expense reserves are adequate. If the actuary
 503 determines that reserves are not adequate, the fund shall file
 504 with the office a remedial plan for increasing the reserves or

505 otherwise addressing the financial condition of the fund,
506 subject to a determination by the office that the fund will
507 operate on an actuarially sound basis and the fund does not pose
508 a significant risk of insolvency.

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

513 1. Purchase excess insurance from authorized insurance
514 carriers.

515 2. Retain a per-loss occurrence that does not exceed
516 \$350,000.

517 (f) Submits to the office annually an audited fiscal year-
518 end financial statement by an independent certified public
519 accountant within 6 months after the end of the fiscal year.

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

523 (h) Uses knowledgeable persons or business entities to
524 administer or service the fund in the areas of claims
525 administration, claims adjusting, underwriting, risk management,
526 loss control, policy administration, financial audit, and legal
527 areas. Such persons must meet all applicable requirements of law
528 for state licensure and must have at least 5 years' experience
529 with commercial self-insurance funds formed under s. 624.462,
530 self-insurance funds formed under s. 624.4622, or domestic
531 insurers.

532 (i) Submits to the office copies of contracts used for its

533 members that clearly establish the liability of each member for
534 the obligations of the fund.

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

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

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

543 (a) An insurer for purposes of participation in or
544 coverage by any insurance guaranty association established by
545 chapter 631; or

546 (b) Subject to s. 624.4621 and is not required to file any
547 report with the department under s. 440.38(2)(b) that is
548 uniquely required of group self-insurer funds qualified under s.
549 624.4621.

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

555 (5) If any of the requirements of subsection (1) are not
556 met, a corporation not-for-profit self-insurance fund is subject
557 to the requirements of s. 624.4621 if the fund provides only
558 workers' compensation coverage or is subject to the requirements
559 of ss. 624.460-624.488 if the fund provides coverage for other
560 property, casualty, or surety risks.

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

563 624.610 Reinsurance.--

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

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

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

572 b. Submits to this state's authority to examine its books
 573 and records;

574 c. Is licensed or authorized to transact insurance or
 575 reinsurance in at least one state or, in the case of a United
 576 States branch of an alien assuming insurer, is entered through,
 577 licensed, or authorized to transact insurance or reinsurance in
 578 at least one state;

579 d. Files annually with the office a copy of its annual
 580 statement filed with the insurance department of its state of
 581 domicile any quarterly statements if required by its state of
 582 domicile or such quarterly statements if specifically requested
 583 by the office, and a copy of its most recent audited financial
 584 statement; and

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

588 or

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

592 2. The office may deny or revoke an assuming insurer's
593 accreditation if the assuming insurer does not submit the
594 required documentation pursuant to subparagraph 1., if the
595 assuming insurer fails to meet all of the standards required of
596 an accredited reinsurer, or if the assuming insurer's
597 accreditation would be hazardous to the policyholders of this
598 state. In determining whether to deny or revoke accreditation,
599 the office may consider the qualifications of the assuming
600 insurer with respect to all the following subjects:

- 601 a. Its financial stability;
- 602 b. The lawfulness and quality of its investments;
- 603 c. The competency, character, and integrity of its
604 management;
- 605 d. The competency, character, and integrity of persons who
606 own or have a controlling interest in the assuming insurer; and
- 607 e. Whether claims under its contracts are promptly and
608 fairly adjusted and are promptly and fairly paid in accordance
609 with the law and the terms of the contracts.

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

613 4. The actual costs and expenses incurred by the office to
614 review a reinsurer's request for accreditation and subsequent
615 reviews must be charged to and collected from the requesting
616 reinsurer. If the reinsurer fails to pay the actual costs and

617 expenses promptly when due, the office may refuse to accredit
618 the reinsurer or may revoke the reinsurer's accreditation.

619 (c)1. Credit must be allowed when the reinsurance is ceded
620 to an assuming insurer that maintains a trust fund in a
621 qualified United States financial institution, as defined in
622 paragraph (5)(b), for the payment of the valid claims of its
623 United States ceding insurers and their assigns and successors
624 in interest. To enable the office to determine the sufficiency
625 of the trust fund, the assuming insurer shall report annually to
626 the office information substantially the same as that required
627 to be reported on the NAIC Annual Statement form by authorized
628 insurers. The assuming insurer shall submit to examination of
629 its books and records by the office and bear the expense of
630 examination.

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

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

636 (II) The insurance regulator of another state who,
637 pursuant to the terms of the trust instrument, has accepted
638 principal regulatory oversight of the trust.

639 b. The form of the trust and any trust amendments must be
640 filed with the insurance regulator of every state in which the
641 ceding insurer beneficiaries of the trust are domiciled. The
642 trust instrument must provide that contested claims are valid
643 and enforceable upon the final order of any court of competent
644 jurisdiction in the United States. The trust must vest legal

645 title to its assets in its trustees for the benefit of the
646 assuming insurer's United States ceding insurers and their
647 assigns and successors in interest. The trust and the assuming
648 insurer are subject to examination as determined by the
649 insurance regulator.

650 c. The trust remains in effect for as long as the assuming
651 insurer has outstanding obligations due under the reinsurance
652 agreements subject to the trust. No later than February 28 of
653 each year, the trustee of the trust shall report to the
654 insurance regulator in writing the balance of the trust and list
655 the trust's investments at the preceding year end, and shall
656 certify that the trust will not expire prior to the following
657 December 31.

658 3. The following requirements apply to the following
659 categories of assuming insurer:

660 a. The trust fund for a single assuming insurer consists
661 of funds in trust in an amount not less than the assuming
662 insurer's liabilities attributable to reinsurance ceded by
663 United States ceding insurers, and, in addition, the assuming
664 insurer shall maintain a trusteed surplus of not less than \$20
665 million. Not less than 50 percent of the funds in the trust
666 covering the assuming insurer's liabilities attributable to
667 reinsurance ceded by United States ceding insurers and trusteed
668 surplus shall consist of assets of a quality substantially
669 similar to that required in part II of chapter 625. Clean,
670 irrevocable, unconditional, and evergreen letters of credit,
671 issued or confirmed by a qualified United States financial
672 institution, as defined in paragraph (5) (a), effective no later

673 than December 31 of the year for which the filing is made and in
674 the possession of the trust on or before the filing date of its
675 annual statement, may be used to fund the remainder of the trust
676 and trusted surplus.

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

679 (A) For reinsurance ceded under reinsurance agreements
680 with an inception, amendment, or renewal date on or after August
681 1, 1995, the trust consists of a trusted account in an amount
682 not less than the group's several liabilities attributable to
683 business ceded by United States domiciled ceding insurers to any
684 member of the group;

685 (B) For reinsurance ceded under reinsurance agreements
686 with an inception date on or before July 31, 1995, and not
687 amended or renewed after that date, notwithstanding the other
688 provisions of this section, the trust consists of a trusted
689 account in an amount not less than the group's several insurance
690 and reinsurance liabilities attributable to business written in
691 the United States; and

692 (C) In addition to these trusts, the group shall maintain
693 in trust a trusted surplus of which \$100 million must be held
694 jointly for the benefit of the United States domiciled ceding
695 insurers of any member of the group for all years of account.

696 (II) The incorporated members of the group must not be
697 engaged in any business other than underwriting of a member of
698 the group, and are subject to the same level of regulation and
699 solvency control by the group's domiciliary regulator as the
700 unincorporated members.

701 (III) Within 90 days after its financial statements are
702 due to be filed with the group's domiciliary regulator, the
703 group shall provide to the insurance regulator an annual
704 certification by the group's domiciliary regulator of the
705 solvency of each underwriter member or, if a certification is
706 unavailable, financial statements, prepared by independent
707 public accountants, of each underwriter member of the group.

708 (d) Credit must be allowed when the reinsurance is ceded
709 to an assuming insurer not meeting the requirements of paragraph
710 (a), paragraph (b), or paragraph (c), but only as to the
711 insurance of risks located in jurisdictions in which the
712 reinsurance is required to be purchased by a particular entity
713 by applicable law or regulation of that jurisdiction.

714 (e) If the reinsurance is ceded to an assuming insurer not
715 meeting the requirements of paragraph (a), paragraph (b),
716 paragraph (c), or paragraph (d), the commissioner may allow
717 credit, but only if the assuming insurer holds surplus in excess
718 of \$100 million and has a secure financial strength rating from
719 at least two nationally recognized statistical rating
720 organizations deemed acceptable by the commissioner. In
721 determining whether credit should be allowed, the commissioner
722 shall consider the following:

723 1. The domiciliary regulatory jurisdiction of the assuming
724 insurer.

725 2. The structure and authority of the domiciliary
726 regulator with regard to solvency regulation requirements and
727 the financial surveillance of the reinsurer.

728 3. The substance of financial and operating standards for

729 reinsurers in the domiciliary jurisdiction.

730 4. The form and substance of financial reports required to
731 be filed by the reinsurers in the domiciliary jurisdiction or
732 other public financial statements filed in accordance with
733 generally accepted accounting principles.

734 5. The domiciliary regulator's willingness to cooperate
735 with United States regulators in general and the office in
736 particular.

737 6. The history of performance by reinsurers in the
738 domiciliary jurisdiction.

739 7. Any documented evidence of substantial problems with
740 the enforcement of valid United States judgments in the
741 domiciliary jurisdiction.

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

747 (f)(e) If the assuming insurer is not authorized or
748 accredited to transact insurance or reinsurance in this state
749 pursuant to paragraph (a) or paragraph (b), the credit permitted
750 by paragraph (c) or paragraph (d) must not be allowed unless the
751 assuming insurer agrees in the reinsurance agreements:

752 1.a. That in the event of the failure of the assuming
753 insurer to perform its obligations under the terms of the
754 reinsurance agreement, the assuming insurer, at the request of
755 the ceding insurer, shall submit to the jurisdiction of any
756 court of competent jurisdiction in any state of the United

757 States, will comply with all requirements necessary to give the
758 court jurisdiction, and will abide by the final decision of the
759 court or of any appellate court in the event of an appeal; and

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

765 2. This paragraph is not intended to conflict with or
766 override the obligation of the parties to a reinsurance
767 agreement to arbitrate their disputes, if this obligation is
768 created in the agreement.

769 (g) ~~(f)~~ If the assuming insurer does not meet the
770 requirements of paragraph (a) or paragraph (b), the credit
771 permitted by paragraph (c) or paragraph (d) is not allowed
772 unless the assuming insurer agrees in the trust agreements, in
773 substance, to the following conditions:

774 1. Notwithstanding any other provisions in the trust
775 instrument, if the trust fund is inadequate because it contains
776 an amount less than the amount required by paragraph (c), or if
777 the grantor of the trust has been declared insolvent or placed
778 into receivership, rehabilitation, liquidation, or similar
779 proceedings under the laws of its state or country of domicile,
780 the trustee shall comply with an order of the insurance
781 regulator with regulatory oversight over the trust or with an
782 order of a United States court of competent jurisdiction
783 directing the trustee to transfer to the insurance regulator
784 with regulatory oversight all of the assets of the trust fund.

785 2. The assets must be distributed by and claims must be
 786 filed with and valued by the insurance regulator with regulatory
 787 oversight in accordance with the laws of the state in which the
 788 trust is domiciled which are applicable to the liquidation of
 789 domestic insurance companies.

790 3. If the insurance regulator with regulatory oversight
 791 determines that the assets of the trust fund or any part thereof
 792 are not necessary to satisfy the claims of the United States
 793 ceding insurers of the grantor of the trust, the assets or part
 794 thereof must be returned by the insurance regulator with
 795 regulatory oversight to the trustee for distribution in
 796 accordance with the trust agreement.

797 4. The grantor shall waive any right otherwise available
 798 to it under United States law which is inconsistent with this
 799 provision.

800 Section 9. Paragraph (j) of subsection (2) of section
 801 627.062, Florida Statutes, is amended to read:

802 627.062 Rate standards.--

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

804 (j) Effective July 1, 2009 ~~2007~~, notwithstanding any other
 805 provision of this section:

806 1. With respect to any residential property insurance
 807 subject to regulation under this section for any area for which
 808 the office determines a reasonable degree of competition exists,
 809 a rate filing, including, but not limited to, any rate changes,
 810 rating factors, territories, classification, discounts, and
 811 credits, with respect to any policy form, including endorsements
 812 issued with the form, that results in an overall average

813 statewide premium increase or decrease of no more than 5 percent
814 above or below the premium that would result from the insurer's
815 rates then in effect shall not be subject to a determination by
816 the office that the rate is excessive or unfairly discriminatory
817 except as provided in subparagraph 3., or any other provision of
818 law, provided all changes specified in the filing do not result
819 in an overall premium increase of more than 10 percent for any
820 one territory, for reasons related solely to the rate change. As
821 used in this subparagraph, the term "insurer's rates then in
822 effect" includes only rates that have been lawfully in effect
823 under this section or rates that have been determined to be
824 lawful through administrative proceedings or judicial
825 proceedings.

826 2. An insurer may not make filings under this paragraph
827 with respect to any policy form, including endorsements issued
828 with the form, if the overall premium changes resulting from
829 such filings exceed the amounts specified in this paragraph in
830 any 12-month period. An insurer may proceed under other
831 provisions of this section or other provisions of law if the
832 insurer seeks to exceed the premium or rate limitations of this
833 paragraph.

834 3. This paragraph does not affect the authority of the
835 office to disapprove a rate as inadequate or to disapprove a
836 filing for the unlawful use of unfairly discriminatory rating
837 factors that are prohibited by the laws of this state. An
838 insurer electing to implement a rate change under this paragraph
839 shall submit a filing to the office at least 40 days prior to
840 the effective date of the rate change. The office shall have 30

841 days after the filing's submission to review the filing and
 842 determine if the rate is inadequate or uses unfairly
 843 discriminatory rating factors. Absent a finding by the office
 844 within such 30-day period that the rate is inadequate or that
 845 the insurer has used unfairly discriminatory rating factors, the
 846 filing is deemed approved. If the office finds during the 30-day
 847 period that the filing will result in inadequate premiums or
 848 otherwise endanger the insurer's solvency, the office shall
 849 suspend the rate decrease. If the insurer is implementing an
 850 overall rate increase, the results of which continue to produce
 851 an inadequate rate, such increase shall proceed pending
 852 additional action by the office to ensure the adequacy of the
 853 rate.

854 4. This paragraph does not apply to rate filings for any
 855 insurance other than residential property insurance.

856

857 The provisions of this subsection shall not apply to workers'
 858 compensation and employer's liability insurance and to motor
 859 vehicle insurance.

860 Section 10. Paragraph (a) of subsection (5) and subsection
 861 (6) of section 627.351, Florida Statutes, are amended to read:

862 627.351 Insurance risk apportionment plans.--

863 (5) PROPERTY AND CASUALTY INSURANCE RISK

864 APPORTIONMENT.--The commission shall adopt by rule a joint
 865 underwriting plan to equitably apportion among insurers
 866 authorized in this state to write property insurance as defined
 867 in s. 624.604 or casualty insurance as defined in s. 624.605,
 868 the underwriting of one or more classes of property insurance or

869 casualty insurance, except for the types of insurance that are
 870 included within property insurance or casualty insurance for
 871 which an equitable apportionment plan, assigned risk plan, or
 872 joint underwriting plan is authorized under s. 627.311 or
 873 subsection (1), subsection (2), subsection (3), subsection (4),
 874 or subsection (5) and except for risks eligible for flood
 875 insurance written through the federal flood insurance program to
 876 persons with risks eligible under subparagraph (a)1. and who are
 877 in good faith entitled to, but are unable to, obtain such
 878 property or casualty insurance coverage, including excess
 879 coverage, through the voluntary market. For purposes of this
 880 subsection, an adequate level of coverage means that coverage
 881 which is required by state law or by responsible or prudent
 882 business practices. The Joint Underwriting Association shall not
 883 be required to provide coverage for any type of risk for which
 884 there are no insurers providing similar coverage in this state.
 885 The office may designate one or more participating insurers who
 886 agree to provide policyholder and claims service, including the
 887 issuance of policies, on behalf of the participating insurers.

888 (a) The plan shall provide:

889 1. A means of establishing eligibility of a risk for
 890 obtaining insurance through the plan, which provides that:

891 a. A risk shall be eligible for such property insurance or
 892 casualty insurance as is required by Florida law if the
 893 insurance is unavailable in the voluntary market, including the
 894 market assistance program and the surplus lines market.

895 b. A commercial risk not eligible under sub-subparagraph
 896 a. shall be eligible for property or casualty insurance if:

897 (I) The insurance is unavailable in the voluntary market,
898 including the market assistance plan and the surplus lines
899 market;

900 (II) Failure to secure the insurance would substantially
901 impair the ability of the entity to conduct its affairs; and

902 (III) The risk is not determined by the Risk Underwriting
903 Committee to be uninsurable.

904 c. In the event the Federal Government terminates the
905 Federal Crime Insurance Program established under 44 C.F.R. ss.
906 80-83, Florida commercial and residential risks previously
907 insured under the federal program shall be eligible under the
908 plan.

909 d.(I) In the event a risk is eligible under this paragraph
910 and in the event the market assistance plan receives a minimum
911 of 100 applications for coverage within a 3-month period, or 200
912 applications for coverage within a 1-year period or less, for a
913 given class of risk contained in the classification system
914 defined in the plan of operation of the Joint Underwriting
915 Association, and unless the market assistance plan provides a
916 quotation for at least 80 percent of such applicants, such
917 classification shall immediately be eligible for coverage in the
918 Joint Underwriting Association.

919 (II) Any market assistance plan application which is
920 rejected because an individual risk is so hazardous as to be
921 practically uninsurable, considering whether the likelihood of a
922 loss for such a risk is substantially higher than for other
923 risks of the same class due to individual risk characteristics,
924 prior loss experience, unwillingness to cooperate with a prior

925 insurer, physical characteristics and physical location shall
 926 not be included in the minimum percentage calculation provided
 927 above. In the event that there is any legal or administrative
 928 challenge to a determination by the office that the conditions
 929 of this subparagraph have been met for eligibility for coverage
 930 in the Joint Underwriting Association for a given
 931 classification, any eligible risk may obtain coverage during the
 932 pendency of any such challenge.

933 e. In order to qualify as a quotation for the purpose of
 934 meeting the minimum percentage calculation in this subparagraph,
 935 the quoted premium must meet the following criteria:

936 (I) In the case of an admitted carrier, the quoted premium
 937 must not exceed the premium available for a given classification
 938 currently in use by the Joint Underwriting Association or the
 939 premium developed by using the rates and rating plans on file
 940 with the office by the quoting insurer, whichever is greater.

941 (II) In the case of an authorized surplus lines insurer,
 942 the quoted premium must not exceed the premium available for a
 943 given classification currently in use by the Joint Underwriting
 944 Association by more than 25 percent, after consideration of any
 945 individual risk surcharge or credit.

946 f. Any agent who falsely certifies the unavailability of
 947 coverage as provided by sub-subparagraphs a. and b., is subject
 948 to the penalties provided in s. 626.611.

949 g. For properties constructed on or after January 1, 2009,
 950 the association shall not insure any property located within 500
 951 feet seaward or landward of the coastal construction control
 952 line created pursuant to s. 161.053 and shall not insure any

953 property located over 500 to 2,500 feet landward of the coastal
954 construction control line unless the property meets the
955 requirements of the code-plus building standards developed by
956 the Florida Building Commission or the standards contained in
957 the Miami-Dade Building Code pending the adoption of code-plus
958 standards by the commission. However, this sub-subparagraph
959 shall not apply to properties for which a building permit has
960 been issued prior to January 1, 2009.

961 2. A means for the equitable apportionment of profits or
962 losses and expenses among participating insurers.

963 3. Rules for the classification of risks and rates which
964 reflect the past and prospective loss experience.

965 4. A rating plan which reasonably reflects the prior
966 claims experience of the insureds. Such rating plan shall
967 include at least two levels of rates for risks that have
968 favorable loss experience and risks that have unfavorable loss
969 experience, as established by the plan.

970 5. Reasonable limits to available amounts of insurance.
971 Such limits may not be less than the amounts of insurance
972 required of eligible risks by Florida law.

973 6. Risk management requirements for insurance where such
974 requirements are reasonable and are expected to reduce losses.

975 7. Deductibles as may be necessary to meet the needs of
976 insureds.

977 8. Policy forms which are consistent with the forms in use
978 by the majority of the insurers providing coverage in the
979 voluntary market for the coverage requested by the applicant.

980 9. A means to remove risks from the plan once such risks

981 no longer meet the eligibility requirements of this paragraph.
982 For this purpose, the plan shall include the following
983 requirements: At each 6-month interval after the activation of
984 any class of insureds, the board of governors or its designated
985 committee shall review the number of applications to the market
986 assistance plan for that class. If, based on these latest
987 numbers, at least 90 percent of such applications have been
988 provided a quotation, the Joint Underwriting Association shall
989 cease underwriting new applications for such class within 30
990 days, and notification of this decision shall be sent to the
991 office, the major agents' associations, and the board of
992 directors of the market assistance plan. A quotation for the
993 purpose of this subparagraph shall meet the same criteria for a
994 quotation as provided in sub-subparagraph 1.e. All policies
995 which were previously written for that class shall continue in
996 force until their normal expiration date, at which time, subject
997 to the required timely notification of nonrenewal by the Joint
998 Underwriting Association, the insured may then elect to reapply
999 to the Joint Underwriting Association according to the
1000 requirements of eligibility. If, upon reapplication, those
1001 previously insured Joint Underwriting Association risks meet the
1002 eligibility requirements, the Joint Underwriting Association
1003 shall provide the coverage requested.

1004 10. A means for providing credits to insurers against any
1005 deficit assessment levied pursuant to paragraph (c), for risks
1006 voluntarily written through the market assistance plan by such
1007 insurers.

1008 11. That the Joint Underwriting Association shall operate

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1009 subject to the supervision and approval of a board of governors
1010 consisting of 13 individuals appointed by the Chief Financial
1011 Officer, and shall have an executive or underwriting committee.
1012 At least four of the members shall be representatives of
1013 insurance trade associations as follows: one member from the
1014 American Insurance Association, one member from the Alliance of
1015 American Insurers, one member from the National Association of
1016 Independent Insurers, and one member from an unaffiliated
1017 insurer writing coverage on a national basis. Two
1018 representatives shall be from two of the statewide agents'
1019 associations. Each board member shall be appointed to serve for
1020 2-year terms beginning on a date designated by the plan and
1021 shall serve at the pleasure of the Chief Financial Officer.
1022 Members may be reappointed for subsequent terms.

1023 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1024 (a)1. The Legislature finds that actual and threatened
1025 catastrophic losses to property in this state from hurricanes
1026 have caused insurers to be unwilling or unable to provide
1027 property insurance coverage to the extent sought and needed. It
1028 is in the public interest and a public purpose to assist in
1029 assuring that property in the state is insured so as to
1030 facilitate the remediation, reconstruction, and replacement of
1031 damaged or destroyed property in order to reduce or avoid the
1032 negative effects otherwise resulting to the public health,
1033 safety, and welfare; to the economy of the state; and to the
1034 revenues of the state and local governments needed to provide
1035 for the public welfare. It is necessary, therefore, to provide
1036 property insurance to applicants who are in good faith entitled

1037 to procure insurance through the voluntary market but are unable
 1038 to do so. The Legislature intends by this subsection that
 1039 property insurance be provided and that it continues, as long as
 1040 necessary, through an entity organized to achieve efficiencies
 1041 and economies, while providing service to policyholders,
 1042 applicants, and agents that is no less than the quality
 1043 generally provided in the voluntary market, all toward the
 1044 achievement of the foregoing public purposes. Because it is
 1045 essential for the corporation to have the maximum financial
 1046 resources to pay claims following a catastrophic hurricane, it
 1047 is the intent of the Legislature that the income of the
 1048 corporation be exempt from federal income taxation and that
 1049 interest on the debt obligations issued by the corporation be
 1050 exempt from federal income taxation.

1051 2. The Residential Property and Casualty Joint
 1052 Underwriting Association originally created by this statute
 1053 shall be known, as of July 1, 2002, as the Citizens Property
 1054 Insurance Corporation. The corporation shall provide insurance
 1055 for residential ~~and commercial~~ property, for applicants who are
 1056 in good faith entitled, but are unable, to procure insurance
 1057 through the voluntary market. The corporation shall operate
 1058 pursuant to a plan of operation approved by order of the
 1059 Financial Services Commission. The plan is subject to continuous
 1060 review by the commission. The commission may, by order, withdraw
 1061 approval of all or part of a plan if the commission determines
 1062 that conditions have changed since approval was granted and that
 1063 the purposes of the plan require changes in the plan. The
 1064 corporation shall continue to operate pursuant to the plan of

1065 operation approved by the Office of Insurance Regulation until
 1066 October 1, 2006. For the purposes of this subsection,
 1067 residential coverage includes both personal lines residential
 1068 coverage, which consists of the type of coverage provided by
 1069 homeowner's, mobile home owner's, dwelling, tenant's,
 1070 condominium unit owner's, and similar policies, and commercial
 1071 lines residential coverage, which consists of the type of
 1072 coverage provided by condominium association, apartment
 1073 building, and similar policies.

1074 3. For the purposes of this subsection, the term
 1075 "homestead property" means:

1076 a. Property that has been granted a homestead exemption
 1077 under chapter 196;

1078 b. Property for which the owner has a current, written
 1079 lease with a renter for a term of at least 7 months and for
 1080 which the dwelling is insured by the corporation for \$200,000 or
 1081 less;

1082 c. An owner-occupied mobile home or manufactured home, as
 1083 defined in s. 320.01, which is permanently affixed to real
 1084 property, is owned by a Florida resident, and has been granted a
 1085 homestead exemption under chapter 196 or, if the owner does not
 1086 own the real property, the owner certifies that the mobile home
 1087 or manufactured home is his or her principal place of residence.

1088 d. Tenant's coverage;

1089 e. Commercial lines residential property; or

1090 f. Any county, district, or municipal hospital; a hospital
 1091 licensed by any not-for-profit corporation qualified under s.
 1092 501(c)(3) of the United States Internal Revenue Code; or a

1093 continuing care retirement community that is certified under
1094 chapter 651 and that receives an exemption from ad valorem taxes
1095 under chapter 196.

1096 4. For the purposes of this subsection, the term
1097 "nonhomestead property" means property that is not homestead
1098 property.

1099 5. Effective July 1, 2008, a personal lines residential
1100 structure that has a dwelling replacement cost of \$1 million or
1101 more, or a single condominium unit that has a combined dwelling
1102 and content replacement cost of \$1 million or more is not
1103 eligible for coverage by the corporation. Such dwellings insured
1104 by the corporation on June 30, 2008, may continue to be covered
1105 by the corporation until the end of the policy term. However,
1106 such dwellings that are insured by the corporation and become
1107 ineligible for coverage due to the provisions of this
1108 subparagraph may reapply and obtain coverage in the high-risk
1109 account and be considered "nonhomestead property" if the
1110 property owner provides the corporation with a sworn affidavit
1111 from one or more insurance agents, on a form provided by the
1112 corporation, stating that the agents have made their best
1113 efforts to obtain coverage and that the property has been
1114 rejected for coverage by at least one authorized insurer and at
1115 least three surplus lines insurers. If such conditions are met,
1116 the dwelling may be insured by the corporation for up to 3
1117 years, after which time the dwelling is ineligible for coverage.
1118 The office shall approve the method used by the corporation for
1119 valuing the dwelling replacement cost for the purposes of this
1120 subparagraph. If a policyholder is insured by the corporation

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1121 prior to being determined to be ineligible pursuant to this
1122 subparagraph and such policyholder files a lawsuit challenging
1123 the determination, the policyholder may remain insured by the
1124 corporation until the conclusion of the litigation.

1125 6. Effective March 1, 2007, nonhomestead property is not
1126 eligible for coverage by the corporation and is not eligible for
1127 renewal of such coverage unless the property owner provides the
1128 corporation with a sworn affidavit from one or more insurance
1129 agents, on a form provided by the corporation, stating that the
1130 agents have made their best efforts to obtain coverage and that
1131 the property has been rejected for coverage by at least one
1132 authorized insurer and at least three surplus lines insurers.

1133 7. For properties constructed on or after January 1, 2009,
1134 the corporation shall not insure any property located within 500
1135 feet seaward or landward of the coastal construction control
1136 line created pursuant to s.161.053 and shall not insure any
1137 property located over 500 to 2,500 feet landward of the coastal
1138 construction control line unless the property meets the
1139 requirements of the code-plus building standards developed by
1140 the Florida Building Commission or the standards contained in
1141 the Miami-Dade Building Code pending the adoption of code-plus
1142 standards by the commission. However, this subparagraph shall
1143 not apply to properties for which a building permit has been
1144 issued prior to January 1, 2009.

1145 ~~8.7.~~ It is the intent of the Legislature that
1146 policyholders, applicants, and agents of the corporation receive
1147 service and treatment of the highest possible level but never
1148 less than that generally provided in the voluntary market. It

1149 | also is intended that the corporation be held to service
 1150 | standards no less than those applied to insurers in the
 1151 | voluntary market by the office with respect to responsiveness,
 1152 | timeliness, customer courtesy, and overall dealings with
 1153 | policyholders, applicants, or agents of the corporation.

1154 | (b)1. All insurers authorized to write one or more subject
 1155 | lines of business in this state are subject to assessment by the
 1156 | corporation and, for the purposes of this subsection, are
 1157 | referred to collectively as "assessable insurers." Insurers
 1158 | writing one or more subject lines of business in this state
 1159 | pursuant to part VIII of chapter 626 are not assessable
 1160 | insurers, but insureds who procure one or more subject lines of
 1161 | business in this state pursuant to part VIII of chapter 626 are
 1162 | subject to assessment by the corporation and are referred to
 1163 | collectively as "assessable insureds." An authorized insurer's
 1164 | assessment liability shall begin on the first day of the
 1165 | calendar year following the year in which the insurer was issued
 1166 | a certificate of authority to transact insurance for subject
 1167 | lines of business in this state and shall terminate 1 year after
 1168 | the end of the first calendar year during which the insurer no
 1169 | longer holds a certificate of authority to transact insurance
 1170 | for subject lines of business in this state.

1171 | 2.a. All revenues, assets, liabilities, losses, and
 1172 | expenses of the corporation shall be divided into three separate
 1173 | accounts as follows:

1174 | (I) A personal lines account for personal residential
 1175 | policies issued by the corporation or issued by the Residential
 1176 | Property and Casualty Joint Underwriting Association and renewed

1177 | by the corporation that provide comprehensive, multiperil
 1178 | coverage on risks that are not located in areas eligible for
 1179 | coverage in the Florida Windstorm Underwriting Association as
 1180 | those areas were defined on January 1, 2002, and for such
 1181 | policies that do not provide coverage for the peril of wind on
 1182 | risks that are located in such areas;

1183 | (II) A commercial lines account for commercial residential
 1184 | policies issued by the corporation or issued by the Residential
 1185 | Property and Casualty Joint Underwriting Association and renewed
 1186 | by the corporation that provide coverage for basic property
 1187 | perils on risks that are not located in areas eligible for
 1188 | coverage in the Florida Windstorm Underwriting Association as
 1189 | those areas were defined on January 1, 2002, and for such
 1190 | policies that do not provide coverage for the peril of wind on
 1191 | risks that are located in such areas; and

1192 | (III) A high-risk account for personal residential
 1193 | policies and commercial residential ~~and commercial~~
 1194 | ~~nonresidential~~ property policies issued by the corporation or
 1195 | transferred to the corporation that provide coverage for the
 1196 | peril of wind on risks that are located in areas eligible for
 1197 | coverage in the Florida Windstorm Underwriting Association as
 1198 | those areas were defined on January 1, 2002. The high-risk
 1199 | account must also include quota share primary insurance under
 1200 | subparagraph (c)2. The area eligible for coverage under the
 1201 | high-risk account also includes the area within Port Canaveral,
 1202 | which is bordered on the south by the City of Cape Canaveral,
 1203 | bordered on the west by the Banana River, and bordered on the
 1204 | north by Federal Government property. The office may remove

1205 territory from the area eligible for wind-only and quota share
 1206 coverage if, after a public hearing, the office finds that
 1207 authorized insurers in the voluntary market are willing and able
 1208 to write sufficient amounts of personal and commercial
 1209 residential coverage for all perils in the territory, including
 1210 coverage for the peril of wind, such that risks covered by wind-
 1211 only policies in the removed territory could be issued a policy
 1212 by the corporation in either the personal lines or commercial
 1213 lines account without a significant increase in the
 1214 corporation's probable maximum loss in such account. Removal of
 1215 territory from the area eligible for wind-only or quota share
 1216 coverage does not alter the assignment of wind coverage written
 1217 in such areas to the high-risk account.

1218 b. The three separate accounts must be maintained as long
 1219 as financing obligations entered into by the Florida Windstorm
 1220 Underwriting Association or Residential Property and Casualty
 1221 Joint Underwriting Association are outstanding, in accordance
 1222 with the terms of the corresponding financing documents. When
 1223 the financing obligations are no longer outstanding, in
 1224 accordance with the terms of the corresponding financing
 1225 documents, the corporation may use a single account for all
 1226 revenues, assets, liabilities, losses, and expenses of the
 1227 corporation. Consistent with the requirement of this
 1228 subparagraph and prudent investment policies that minimize the
 1229 cost of carrying debt, the board shall exercise its best efforts
 1230 to retire existing debt or to obtain approval of necessary
 1231 parties to amend the terms of existing debt, so as to structure
 1232 the most efficient plan to consolidate the three separate

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1233 accounts into a single account. By February 1, 2007, the board
1234 shall submit a report to the Financial Services Commission, the
1235 President of the Senate, and the Speaker of the House of
1236 Representatives which includes an analysis of consolidating the
1237 accounts, the actions the board has taken to minimize the cost
1238 of carrying debt, and its recommendations for executing the most
1239 efficient plan.

1240 c. Creditors of the Residential Property and Casualty
1241 Joint Underwriting Association shall have a claim against, and
1242 recourse to, the accounts referred to in sub-sub-subparagraphs
1243 a.(I) and (II) and shall have no claim against, or recourse to,
1244 the account referred to in sub-sub-subparagraph a.(III).
1245 Creditors of the Florida Windstorm Underwriting Association
1246 shall have a claim against, and recourse to, the account
1247 referred to in sub-sub-subparagraph a.(III) and shall have no
1248 claim against, or recourse to, the accounts referred to in sub-
1249 sub-subparagraphs a.(I) and (II).

1250 d. Revenues, assets, liabilities, losses, and expenses not
1251 attributable to particular accounts shall be prorated among the
1252 accounts.

1253 e. The Legislature finds that the revenues of the
1254 corporation are revenues that are necessary to meet the
1255 requirements set forth in documents authorizing the issuance of
1256 bonds under this subsection.

1257 f. No part of the income of the corporation may inure to
1258 the benefit of any private person.

1259 3. With respect to a deficit in an account:

1260 a. When the deficit incurred in a particular calendar year
 1261 is not greater than 10 percent of the aggregate statewide direct
 1262 written premium for the subject lines of business for the prior
 1263 calendar year, the entire deficit shall be recovered through
 1264 regular assessments of assessable insurers under paragraph (p)
 1265 and assessable insureds.

1266 b. When the deficit incurred in a particular calendar year
 1267 exceeds 10 percent of the aggregate statewide direct written
 1268 premium for the subject lines of business for the prior calendar
 1269 year, the corporation shall levy regular assessments on
 1270 assessable insurers under paragraph (p) and on assessable
 1271 insureds in an amount equal to the greater of 10 percent of the
 1272 deficit or 10 percent of the aggregate statewide direct written
 1273 premium for the subject lines of business for the prior calendar
 1274 year. Any remaining deficit shall be recovered through emergency
 1275 assessments under sub-subparagraph d.

1276 c. Each assessable insurer's share of the amount being
 1277 assessed under sub-subparagraph a. or sub-subparagraph b. shall
 1278 be in the proportion that the assessable insurer's direct
 1279 written premium for the subject lines of business for the year
 1280 preceding the assessment bears to the aggregate statewide direct
 1281 written premium for the subject lines of business for that year.
 1282 The assessment percentage applicable to each assessable insured
 1283 is the ratio of the amount being assessed under sub-subparagraph
 1284 a. or sub-subparagraph b. to the aggregate statewide direct
 1285 written premium for the subject lines of business for the prior
 1286 year. Assessments levied by the corporation on assessable
 1287 insurers under sub-subparagraphs a. and b. shall be paid as

1288 required by the corporation's plan of operation and paragraph
 1289 (p). Notwithstanding any other provision of this subsection, the
 1290 aggregate amount of a regular assessment for a deficit incurred
 1291 in a particular calendar year shall be reduced by the estimated
 1292 amount to be received by the corporation from the Citizens
 1293 policyholder surcharge under subparagraph (c)11. and the amount
 1294 collected or estimated to be collected from the assessment on
 1295 Citizens policyholders pursuant to sub-subparagraph i.
 1296 Assessments levied by the corporation on assessable insureds
 1297 under sub-subparagraphs a. and b. shall be collected by the
 1298 surplus lines agent at the time the surplus lines agent collects
 1299 the surplus lines tax required by s. 626.932 and shall be paid
 1300 to the Florida Surplus Lines Service Office at the time the
 1301 surplus lines agent pays the surplus lines tax to the Florida
 1302 Surplus Lines Service Office. Upon receipt of regular
 1303 assessments from surplus lines agents, the Florida Surplus Lines
 1304 Service Office shall transfer the assessments directly to the
 1305 corporation as determined by the corporation.

1306 d. Upon a determination by the board of governors that a
 1307 deficit in an account exceeds the amount that will be recovered
 1308 through regular assessments under sub-subparagraph a. or sub-
 1309 subparagraph b., the board shall levy, after verification by the
 1310 office, emergency assessments, for as many years as necessary to
 1311 cover the deficits, to be collected by assessable insurers and
 1312 the corporation and collected from assessable insureds upon
 1313 issuance or renewal of policies for subject lines of business,
 1314 excluding National Flood Insurance policies. The amount of the
 1315 emergency assessment collected in a particular year shall be a

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1316 uniform percentage of that year's direct written premium for
1317 subject lines of business and all accounts of the corporation,
1318 excluding National Flood Insurance Program policy premiums, as
1319 annually determined by the board and verified by the office. The
1320 office shall verify the arithmetic calculations involved in the
1321 board's determination within 30 days after receipt of the
1322 information on which the determination was based.

1323 Notwithstanding any other provision of law, the corporation and
1324 each assessable insurer that writes subject lines of business
1325 shall collect emergency assessments from its policyholders
1326 without such obligation being affected by any credit,
1327 limitation, exemption, or deferment. Emergency assessments
1328 levied by the corporation on assessable insureds shall be
1329 collected by the surplus lines agent at the time the surplus
1330 lines agent collects the surplus lines tax required by s.
1331 626.932 and shall be paid to the Florida Surplus Lines Service
1332 Office at the time the surplus lines agent pays the surplus
1333 lines tax to the Florida Surplus Lines Service Office. The
1334 emergency assessments so collected shall be transferred directly
1335 to the corporation on a periodic basis as determined by the
1336 corporation and shall be held by the corporation solely in the
1337 applicable account. The aggregate amount of emergency
1338 assessments levied for an account under this sub-subparagraph in
1339 any calendar year may not exceed the greater of 10 percent of
1340 the amount needed to cover the original deficit, plus interest,
1341 fees, commissions, required reserves, and other costs associated
1342 with financing of the original deficit, or 10 percent of the
1343 aggregate statewide direct written premium for subject lines of

1344 business and for all accounts of the corporation for the prior
 1345 year, plus interest, fees, commissions, required reserves, and
 1346 other costs associated with financing the original deficit.

1347 e. The corporation may pledge the proceeds of assessments,
 1348 projected recoveries from the Florida Hurricane Catastrophe
 1349 Fund, other insurance and reinsurance recoverables, policyholder
 1350 surcharges and other surcharges, and other funds available to
 1351 the corporation as the source of revenue for and to secure bonds
 1352 issued under paragraph (p), bonds or other indebtedness issued
 1353 under subparagraph (c)3., or lines of credit or other financing
 1354 mechanisms issued or created under this subsection, or to retire
 1355 any other debt incurred as a result of deficits or events giving
 1356 rise to deficits, or in any other way that the board determines
 1357 will efficiently recover such deficits. The purpose of the lines
 1358 of credit or other financing mechanisms is to provide additional
 1359 resources to assist the corporation in covering claims and
 1360 expenses attributable to a catastrophe. As used in this
 1361 subsection, the term "assessments" includes regular assessments
 1362 under sub-subparagraph a., sub-subparagraph b., or subparagraph
 1363 (p)1. and emergency assessments under sub-subparagraph d.
 1364 Emergency assessments collected under sub-subparagraph d. are
 1365 not part of an insurer's rates, are not premium, and are not
 1366 subject to premium tax, fees, or commissions; however, failure
 1367 to pay the emergency assessment shall be treated as failure to
 1368 pay premium. The emergency assessments under sub-subparagraph d.
 1369 shall continue as long as any bonds issued or other indebtedness
 1370 incurred with respect to a deficit for which the assessment was
 1371 imposed remain outstanding, unless adequate provision has been

1372 made for the payment of such bonds or other indebtedness
 1373 pursuant to the documents governing such bonds or other
 1374 indebtedness.

1375 f. As used in this subsection, the term "subject lines of
 1376 business" means insurance written by assessable insurers or
 1377 procured by assessable insureds on real or personal property, as
 1378 defined in s. 624.604, including insurance for fire, industrial
 1379 fire, allied lines, farmowners multiperil, homeowners
 1380 multiperil, commercial residential multiperil, and mobile homes,
 1381 and including liability coverage on all such insurance, but
 1382 excluding inland marine as defined in s. 624.607(3) and
 1383 excluding vehicle insurance as defined in s. 624.605(1) other
 1384 than insurance on mobile homes used as permanent dwellings.

1385 g. The Florida Surplus Lines Service Office shall
 1386 determine annually the aggregate statewide written premium in
 1387 subject lines of business procured by assessable insureds and
 1388 shall report that information to the corporation in a form and
 1389 at a time the corporation specifies to ensure that the
 1390 corporation can meet the requirements of this subsection and the
 1391 corporation's financing obligations.

1392 h. The Florida Surplus Lines Service Office shall verify
 1393 the proper application by surplus lines agents of assessment
 1394 percentages for regular assessments and emergency assessments
 1395 levied under this subparagraph on assessable insureds and shall
 1396 assist the corporation in ensuring the accurate, timely
 1397 collection and payment of assessments by surplus lines agents as
 1398 required by the corporation.

1399 i. If a deficit is incurred in any account, the board of
 1400 governors shall levy an immediate assessment against the premium
 1401 of each nonhomestead property policyholder in all accounts of
 1402 the corporation, as a uniform percentage of the premium of the
 1403 policy of up to 10 percent of such premium, which funds shall be
 1404 used to offset the deficit. If this assessment is insufficient
 1405 to eliminate the deficit, the board of governors shall levy an
 1406 additional assessment against all policyholders of the
 1407 corporation, which shall be collected at the time of issuance or
 1408 renewal of a policy, as a uniform percentage of the premium for
 1409 the policy of up to 10 percent of such premium, which funds
 1410 shall be used to further offset the deficit.

1411 j. The board of governors shall maintain separate
 1412 accounting records that consolidate data for nonhomestead
 1413 properties, including, but not limited to, number of policies,
 1414 insured values, premiums written, and losses. The board of
 1415 governors shall annually report to the office and the
 1416 Legislature a summary of such data.

1417 (c) The plan of operation of the corporation:

1418 1. Must provide for adoption of residential property and
 1419 casualty insurance policy forms and commercial residential ~~and~~
 1420 ~~nonresidential~~ property insurance forms, which forms must be
 1421 approved by the office prior to use. The corporation shall adopt
 1422 the following policy forms:

1423 a. Standard personal lines policy forms that are
 1424 comprehensive multiperil policies providing full coverage of a
 1425 residential property equivalent to the coverage provided in the
 1426 private insurance market under an HO-3, HO-4, or HO-6 policy.

1427 b. Basic personal lines policy forms that are policies
 1428 similar to an HO-8 policy or a dwelling fire policy that provide
 1429 coverage meeting the requirements of the secondary mortgage
 1430 market, but which coverage is more limited than the coverage
 1431 under a standard policy.

1432 c. Commercial lines residential policy forms that are
 1433 generally similar to the basic perils of full coverage
 1434 obtainable for commercial residential structures in the admitted
 1435 voluntary market.

1436 d. Personal lines and commercial lines residential
 1437 property insurance forms that cover the peril of wind only. The
 1438 forms are applicable only to residential properties located in
 1439 areas eligible for coverage under the high-risk account referred
 1440 to in sub-subparagraph (b)2.a.

1441 ~~e. Commercial lines nonresidential property insurance~~
 1442 ~~forms that cover the peril of wind only. The forms are~~
 1443 ~~applicable only to nonresidential properties located in areas~~
 1444 ~~eligible for coverage under the high risk account referred to in~~
 1445 ~~sub-subparagraph (b)2.a.~~

1446 e.f. The corporation may adopt variations of the policy
 1447 forms listed in sub-subparagraphs a.-d. ~~a.-e.~~ that contain more
 1448 restrictive coverage.

1449 2.a. Must provide that the corporation adopt a program in
 1450 which the corporation and authorized insurers enter into quota
 1451 share primary insurance agreements for hurricane coverage, as
 1452 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1453 property insurance forms for eligible risks which cover the
 1454 peril of wind only. As used in this subsection, the term:

1455 (I) "Quota share primary insurance" means an arrangement
1456 in which the primary hurricane coverage of an eligible risk is
1457 provided in specified percentages by the corporation and an
1458 authorized insurer. The corporation and authorized insurer are
1459 each solely responsible for a specified percentage of hurricane
1460 coverage of an eligible risk as set forth in a quota share
1461 primary insurance agreement between the corporation and an
1462 authorized insurer and the insurance contract. The
1463 responsibility of the corporation or authorized insurer to pay
1464 its specified percentage of hurricane losses of an eligible
1465 risk, as set forth in the quota share primary insurance
1466 agreement, may not be altered by the inability of the other
1467 party to the agreement to pay its specified percentage of
1468 hurricane losses. Eligible risks that are provided hurricane
1469 coverage through a quota share primary insurance arrangement
1470 must be provided policy forms that set forth the obligations of
1471 the corporation and authorized insurer under the arrangement,
1472 clearly specify the percentages of quota share primary insurance
1473 provided by the corporation and authorized insurer, and
1474 conspicuously and clearly state that neither the authorized
1475 insurer nor the corporation may be held responsible beyond its
1476 specified percentage of coverage of hurricane losses.

1477 (II) "Eligible risks" means personal lines residential and
1478 commercial lines residential risks that meet the underwriting
1479 criteria of the corporation and are located in areas that were
1480 eligible for coverage by the Florida Windstorm Underwriting
1481 Association on January 1, 2002.

1482 b. The corporation may enter into quota share primary
1483 insurance agreements with authorized insurers at corporation
1484 coverage levels of 90 percent and 50 percent.

1485 c. If the corporation determines that additional coverage
1486 levels are necessary to maximize participation in quota share
1487 primary insurance agreements by authorized insurers, the
1488 corporation may establish additional coverage levels. However,
1489 the corporation's quota share primary insurance coverage level
1490 may not exceed 90 percent.

1491 d. Any quota share primary insurance agreement entered
1492 into between an authorized insurer and the corporation must
1493 provide for a uniform specified percentage of coverage of
1494 hurricane losses, by county or territory as set forth by the
1495 corporation board, for all eligible risks of the authorized
1496 insurer covered under the quota share primary insurance
1497 agreement.

1498 e. Any quota share primary insurance agreement entered
1499 into between an authorized insurer and the corporation is
1500 subject to review and approval by the office. However, such
1501 agreement shall be authorized only as to insurance contracts
1502 entered into between an authorized insurer and an insured who is
1503 already insured by the corporation for wind coverage.

1504 f. For all eligible risks covered under quota share
1505 primary insurance agreements, the exposure and coverage levels
1506 for both the corporation and authorized insurers shall be
1507 reported by the corporation to the Florida Hurricane Catastrophe
1508 Fund. For all policies of eligible risks covered under quota
1509 share primary insurance agreements, the corporation and the

1510 authorized insurer shall maintain complete and accurate records
1511 for the purpose of exposure and loss reimbursement audits as
1512 required by Florida Hurricane Catastrophe Fund rules. The
1513 corporation and the authorized insurer shall each maintain
1514 duplicate copies of policy declaration pages and supporting
1515 claims documents.

1516 g. The corporation board shall establish in its plan of
1517 operation standards for quota share agreements which ensure that
1518 there is no discriminatory application among insurers as to the
1519 terms of quota share agreements, pricing of quota share
1520 agreements, incentive provisions if any, and consideration paid
1521 for servicing policies or adjusting claims.

1522 h. The quota share primary insurance agreement between the
1523 corporation and an authorized insurer must set forth the
1524 specific terms under which coverage is provided, including, but
1525 not limited to, the sale and servicing of policies issued under
1526 the agreement by the insurance agent of the authorized insurer
1527 producing the business, the reporting of information concerning
1528 eligible risks, the payment of premium to the corporation, and
1529 arrangements for the adjustment and payment of hurricane claims
1530 incurred on eligible risks by the claims adjuster and personnel
1531 of the authorized insurer. Entering into a quota sharing
1532 insurance agreement between the corporation and an authorized
1533 insurer shall be voluntary and at the discretion of the
1534 authorized insurer.

1535 3. May provide that the corporation may employ or
1536 otherwise contract with individuals or other entities to provide
1537 administrative or professional services that may be appropriate

1538 to effectuate the plan. The corporation shall have the power to
 1539 borrow funds, by issuing bonds or by incurring other
 1540 indebtedness, and shall have other powers reasonably necessary
 1541 to effectuate the requirements of this subsection, including,
 1542 without limitation, the power to issue bonds and incur other
 1543 indebtedness in order to refinance outstanding bonds or other
 1544 indebtedness. The corporation may, but is not required to, seek
 1545 judicial validation of its bonds or other indebtedness under
 1546 chapter 75. The corporation may issue bonds or incur other
 1547 indebtedness, or have bonds issued on its behalf by a unit of
 1548 local government pursuant to subparagraph (p)~~(g)~~2., in the
 1549 absence of a hurricane or other weather-related event, upon a
 1550 determination by the corporation, subject to approval by the
 1551 office, that such action would enable it to efficiently meet the
 1552 financial obligations of the corporation and that such
 1553 financings are reasonably necessary to effectuate the
 1554 requirements of this subsection. The corporation is authorized
 1555 to take all actions needed to facilitate tax-free status for any
 1556 such bonds or indebtedness, including formation of trusts or
 1557 other affiliated entities. The corporation shall have the
 1558 authority to pledge assessments, projected recoveries from the
 1559 Florida Hurricane Catastrophe Fund, other reinsurance
 1560 recoverables, market equalization and other surcharges, and
 1561 other funds available to the corporation as security for bonds
 1562 or other indebtedness. In recognition of s. 10, Art. I of the
 1563 State Constitution, prohibiting the impairment of obligations of
 1564 contracts, it is the intent of the Legislature that no action be
 1565 taken whose purpose is to impair any bond indenture or financing

1566 agreement or any revenue source committed by contract to such
1567 bond or other indebtedness.

1568 4.a. Must require that the corporation operate subject to
1569 the supervision and approval of a board of governors consisting
1570 of eight individuals who are residents of this state, from
1571 different geographical areas of this state. The Governor, the
1572 Chief Financial Officer, the President of the Senate, and the
1573 Speaker of the House of Representatives shall each appoint two
1574 members of the board. At least one of the two members appointed
1575 by each appointing officer must have demonstrated expertise in
1576 insurance. The Chief Financial Officer shall designate one of
1577 the appointees as chair. All board members serve at the pleasure
1578 of the appointing officer. All board members, including the
1579 chair, must be appointed to serve for 3-year terms beginning
1580 annually on a date designated by the plan. Any board vacancy
1581 shall be filled for the unexpired term by the appointing
1582 officer. The Chief Financial Officer shall appoint a technical
1583 advisory group to provide information and advice to the board of
1584 governors in connection with the board's duties under this
1585 subsection. The executive director and senior managers of the
1586 corporation shall be engaged by the board and serve at the
1587 pleasure of the board. Any executive director appointed on or
1588 after July 1, 2006, is subject to confirmation by the Senate.
1589 The executive director is responsible for employing other staff
1590 as the corporation may require, subject to review and
1591 concurrence by the board.

1592 b. The board shall create a Market Accountability Advisory
1593 Committee to assist the corporation in developing awareness of

1594 its rates and its customer and agent service levels in
 1595 relationship to the voluntary market insurers writing similar
 1596 coverage. The members of the advisory committee shall consist of
 1597 the following 11 persons, one of whom must be elected chair by
 1598 the members of the committee: four representatives, one
 1599 appointed by the Florida Association of Insurance Agents, one by
 1600 the Florida Association of Insurance and Financial Advisors, one
 1601 by the Professional Insurance Agents of Florida, and one by the
 1602 Latin American Association of Insurance Agencies; three
 1603 representatives appointed by the insurers with the three highest
 1604 voluntary market share of residential property insurance
 1605 business in the state; one representative from the Office of
 1606 Insurance Regulation; one consumer appointed by the board who is
 1607 insured by the corporation at the time of appointment to the
 1608 committee; one representative appointed by the Florida
 1609 Association of Realtors; and one representative appointed by the
 1610 Florida Bankers Association. All members must serve for 3-year
 1611 terms and may serve for consecutive terms. The committee shall
 1612 report to the corporation at each board meeting on insurance
 1613 market issues which may include rates and rate competition with
 1614 the voluntary market; service, including policy issuance, claims
 1615 processing, and general responsiveness to policyholders,
 1616 applicants, and agents; and matters relating to depopulation.

- 1617 5. Must provide a procedure for determining the
 1618 eligibility of a risk for coverage, as follows:
- 1619 a. Subject to the provisions of s. 627.3517, with respect
 1620 to personal lines residential risks, if the risk is offered
 1621 coverage from an authorized insurer at the insurer's approved

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1622 rate under either a standard policy including wind coverage or,
1623 if consistent with the insurer's underwriting rules as filed
1624 with the office, a basic policy including wind coverage, the
1625 risk is not eligible for any policy issued by the corporation.
1626 If the risk is not able to obtain any such offer, the risk is
1627 eligible for either a standard policy including wind coverage or
1628 a basic policy including wind coverage issued by the
1629 corporation; however, if the risk could not be insured under a
1630 standard policy including wind coverage regardless of market
1631 conditions, the risk shall be eligible for a basic policy
1632 including wind coverage unless rejected under subparagraph 8.
1633 The corporation shall determine the type of policy to be
1634 provided on the basis of objective standards specified in the
1635 underwriting manual and based on generally accepted underwriting
1636 practices.

1637 (I) If the risk accepts an offer of coverage through the
1638 market assistance plan or an offer of coverage through a
1639 mechanism established by the corporation before a policy is
1640 issued to the risk by the corporation or during the first 30
1641 days of coverage by the corporation, and the producing agent who
1642 submitted the application to the plan or to the corporation is
1643 not currently appointed by the insurer, the insurer shall:

1644 (A) Pay to the producing agent of record of the policy,
1645 for the first year, an amount that is the greater of the
1646 insurer's usual and customary commission for the type of policy
1647 written or a fee equal to the usual and customary commission of
1648 the corporation; or

1649 (B) Offer to allow the producing agent of record of the
 1650 policy to continue servicing the policy for a period of not less
 1651 than 1 year and offer to pay the agent the greater of the
 1652 insurer's or the corporation's usual and customary commission
 1653 for the type of policy written.

1654
 1655 If the producing agent is unwilling or unable to accept
 1656 appointment, the new insurer shall pay the agent in accordance
 1657 with sub-sub-sub-subparagraph (A).

1658 (II) When the corporation enters into a contractual
 1659 agreement for a take-out plan, the producing agent of record of
 1660 the corporation policy is entitled to retain any unearned
 1661 commission on the policy, and the insurer shall:

1662 (A) Pay to the producing agent of record of the
 1663 corporation policy, for the first year, an amount that is the
 1664 greater of the insurer's usual and customary commission for the
 1665 type of policy written or a fee equal to the usual and customary
 1666 commission of the corporation; or

1667 (B) Offer to allow the producing agent of record of the
 1668 corporation policy to continue servicing the policy for a period
 1669 of not less than 1 year and offer to pay the agent the greater
 1670 of the insurer's or the corporation's usual and customary
 1671 commission for the type of policy written.

1672
 1673 If the producing agent is unwilling or unable to accept
 1674 appointment, the new insurer shall pay the agent in accordance
 1675 with sub-sub-sub-subparagraph (A).

1676 b. With respect to commercial lines residential risks, if
 1677 the risk is offered coverage under a policy including wind
 1678 coverage from an authorized insurer at its approved rate, the
 1679 risk is not eligible for any policy issued by the corporation.
 1680 If the risk is not able to obtain any such offer, the risk is
 1681 eligible for a policy including wind coverage issued by the
 1682 corporation.

1683 (I) If the risk accepts an offer of coverage through the
 1684 market assistance plan or an offer of coverage through a
 1685 mechanism established by the corporation before a policy is
 1686 issued to the risk by the corporation or during the first 30
 1687 days of coverage by the corporation, and the producing agent who
 1688 submitted the application to the plan or the corporation is not
 1689 currently appointed by the insurer, the insurer shall:

1690 (A) Pay to the producing agent of record of the policy,
 1691 for the first year, an amount that is the greater of the
 1692 insurer's usual and customary commission for the type of policy
 1693 written or a fee equal to the usual and customary commission of
 1694 the corporation; or

1695 (B) Offer to allow the producing agent of record of the
 1696 policy to continue servicing the policy for a period of not less
 1697 than 1 year and offer to pay the agent the greater of the
 1698 insurer's or the corporation's usual and customary commission
 1699 for the type of policy written.

1700
 1701 If the producing agent is unwilling or unable to accept
 1702 appointment, the new insurer shall pay the agent in accordance
 1703 with sub-sub-sub-subparagraph (A).

1704 (II) When the corporation enters into a contractual
 1705 agreement for a take-out plan, the producing agent of record of
 1706 the corporation policy is entitled to retain any unearned
 1707 commission on the policy, and the insurer shall:

1708 (A) Pay to the producing agent of record of the
 1709 corporation policy, for the first year, an amount that is the
 1710 greater of the insurer's usual and customary commission for the
 1711 type of policy written or a fee equal to the usual and customary
 1712 commission of the corporation; or

1713 (B) Offer to allow the producing agent of record of the
 1714 corporation policy to continue servicing the policy for a period
 1715 of not less than 1 year and offer to pay the agent the greater
 1716 of the insurer's or the corporation's usual and customary
 1717 commission for the type of policy written.

1718
 1719 If the producing agent is unwilling or unable to accept
 1720 appointment, the new insurer shall pay the agent in accordance
 1721 with sub-sub-sub-subparagraph (A).

1722 6. Must provide by July 1, 2007, that an application for
 1723 coverage for a new policy is subject to a waiting period of 10
 1724 days before coverage is effective, during which time the
 1725 corporation shall make such application available for review by
 1726 general lines agents and authorized property and casualty
 1727 insurers. The board shall ~~may~~ approve an exception ~~exceptions~~
 1728 that allows ~~allow~~ for coverage to be effective before the end of
 1729 the 10-day waiting period, ~~for coverage issued in conjunction~~
 1730 with a real estate closing. The board may approve ~~and for~~ such

1731 other exceptions as the board determines are necessary to
 1732 prevent lapses in coverage.

1733 7. Must include rules for classifications of risks and
 1734 rates therefor.

1735 8. Must provide that if premium and investment income for
 1736 an account attributable to a particular calendar year are in
 1737 excess of projected losses and expenses for the account
 1738 attributable to that year, such excess shall be held in surplus
 1739 in the account. Such surplus shall be available to defray
 1740 deficits in that account as to future years and shall be used
 1741 for that purpose prior to assessing assessable insurers and
 1742 assessable insureds as to any calendar year.

1743 9. Must provide objective criteria and procedures to be
 1744 uniformly applied for all applicants in determining whether an
 1745 individual risk is so hazardous as to be uninsurable. In making
 1746 this determination and in establishing the criteria and
 1747 procedures, the following shall be considered:

1748 a. Whether the likelihood of a loss for the individual
 1749 risk is substantially higher than for other risks of the same
 1750 class; and

1751 b. Whether the uncertainty associated with the individual
 1752 risk is such that an appropriate premium cannot be determined.

1753
 1754 The acceptance or rejection of a risk by the corporation shall
 1755 be construed as the private placement of insurance, and the
 1756 provisions of chapter 120 shall not apply.

1757 10. Must provide that the corporation shall make its best
 1758 efforts to procure catastrophe reinsurance at reasonable rates,

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1759 to cover its projected 100-year probable maximum loss as
1760 determined by the board of governors.

1761 11. Must provide that in the event of regular deficit
1762 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
1763 (b)3.b., in the personal lines account, the commercial lines
1764 residential account, or the high-risk account, the corporation
1765 shall levy upon corporation policyholders in its next rate
1766 filing, or by a separate rate filing solely for this purpose, a
1767 Citizens policyholder surcharge arising from a regular
1768 assessment in such account in a percentage equal to the total
1769 amount of such regular assessments divided by the aggregate
1770 statewide direct written premium for subject lines of business
1771 for the prior calendar year. For purposes of calculating the
1772 Citizens policyholder surcharge to be levied under this
1773 subparagraph, the total amount of the regular assessment to
1774 which this surcharge is related shall be determined as set forth
1775 in subparagraph (b)3., without deducting the estimated Citizens
1776 policyholder surcharge. Citizens policyholder surcharges under
1777 this subparagraph are not considered premium and are not subject
1778 to commissions, fees, or premium taxes; however, failure to pay
1779 a market equalization surcharge shall be treated as failure to
1780 pay premium.

1781 12. The policies issued by the corporation must provide
1782 that, if the corporation or the market assistance plan obtains
1783 an offer from an authorized insurer to cover the risk at its
1784 approved rates, the risk is no longer eligible for renewal
1785 through the corporation.

1786 13. Corporation policies and applications must include a
 1787 notice that the corporation policy could, under this section, be
 1788 replaced with a policy issued by an authorized insurer that does
 1789 not provide coverage identical to the coverage provided by the
 1790 corporation. The notice shall also specify that acceptance of
 1791 corporation coverage creates a conclusive presumption that the
 1792 applicant or policyholder is aware of this potential.

1793 14. May establish, subject to approval by the office,
 1794 different eligibility requirements and operational procedures
 1795 for any line or type of coverage for any specified county or
 1796 area if the board determines that such changes to the
 1797 eligibility requirements and operational procedures are
 1798 justified due to the voluntary market being sufficiently stable
 1799 and competitive in such area or for such line or type of
 1800 coverage and that consumers who, in good faith, are unable to
 1801 obtain insurance through the voluntary market through ordinary
 1802 methods would continue to have access to coverage from the
 1803 corporation. When coverage is sought in connection with a real
 1804 property transfer, such requirements and procedures shall not
 1805 provide for an effective date of coverage later than the date of
 1806 the closing of the transfer as established by the transferor,
 1807 the transferee, and, if applicable, the lender.

1808 15. Must provide that, with respect to the high-risk
 1809 account, any assessable insurer with a surplus as to
 1810 policyholders of \$25 million or less writing 25 percent or more
 1811 of its total countrywide property insurance premiums in this
 1812 state may petition the office, within the first 90 days of each
 1813 calendar year, to qualify as a limited apportionment company. A

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1814 regular assessment levied by the corporation on a limited
1815 apportionment company for a deficit incurred by the corporation
1816 for the high-risk account in 2006 or thereafter may be paid to
1817 the corporation on a monthly basis as the assessments are
1818 collected by the limited apportionment company from its insureds
1819 pursuant to s. 627.3512, but the regular assessment must be paid
1820 in full within 12 months after being levied by the corporation.
1821 A limited apportionment company shall collect from its
1822 policyholders any emergency assessment imposed under sub-
1823 subparagraph (b)3.d. The plan shall provide that, if the office
1824 determines that any regular assessment will result in an
1825 impairment of the surplus of a limited apportionment company,
1826 the office may direct that all or part of such assessment be
1827 deferred as provided in subparagraph (p)~~(g)~~4. However, there
1828 shall be no limitation or deferment of an emergency assessment
1829 to be collected from policyholders under sub-subparagraph
1830 (b)3.d.

1831 16. Must provide that the corporation appoint as its
1832 licensed agents only those agents who also hold an appointment
1833 as defined in s. 626.015(3) with an insurer who at the time of
1834 the agent's initial appointment by the corporation is authorized
1835 to write and is actually writing personal lines residential
1836 property coverage, or commercial residential property coverage,
1837 ~~or commercial nonresidential property coverage~~ within the state.

1838 17. Must provide, by July 1, 2007, a premium payment plan
1839 option to its policyholders which allows for monthly, quarterly,
1840 and semiannual payment of premiums.

1841 18. Must provide, effective June 1, 2007, that the
1842 corporation contract with each insurer providing the non-wind
1843 coverage for risks insured by the corporation in the high-risk
1844 account, requiring that the insurer provide claims adjusting
1845 services for the wind coverage provided by the corporation for
1846 such risks. An insurer is required to enter into this contract
1847 as a condition of providing non-wind coverage for a risk that is
1848 insured by the corporation in the high-risk account unless the
1849 board finds, after a hearing, that the insurer is not capable of
1850 providing adjusting services at an acceptable level of quality
1851 to corporation policyholders. The terms and conditions of such
1852 contracts must be substantially the same as the contracts that
1853 the corporation executed with insurers under the "adjust-your-
1854 own" program in 2006, except as may be mutually agreed to by the
1855 parties and except for such changes that the board determines
1856 are necessary to ensure that claims are adjusted appropriately.
1857 The corporation shall provide a process for neutral arbitration
1858 of any dispute between the corporation and the insurer regarding
1859 the terms of the contract. The corporation shall review and
1860 monitor the performance of insurers under these contracts.

1861 19. Must limit coverage on mobile homes or manufactured
1862 homes built prior to 1994 to actual cash value of the dwelling
1863 rather than replacement costs of the dwelling.

1864 (d)1. All prospective employees for senior management
1865 positions, as defined by the plan of operation, are subject to
1866 background checks as a prerequisite for employment. The office
1867 shall conduct background checks on such prospective employees
1868 pursuant to ss. 624.34, 624.404(3), and 628.261.

1869 2. On or before July 1 of each year, employees of the
1870 corporation are required to sign and submit a statement
1871 attesting that they do not have a conflict of interest, as
1872 defined in part III of chapter 112. As a condition of
1873 employment, all prospective employees are required to sign and
1874 submit to the corporation a conflict-of-interest statement.

1875 3. Senior managers and members of the board of governors
1876 are subject to the provisions of part III of chapter 112,
1877 including, but not limited to, the code of ethics and public
1878 disclosure and reporting of financial interests, pursuant to s.
1879 112.3145. Senior managers and board members are also required to
1880 file such disclosures with the Office of Insurance Regulation.
1881 The executive director of the corporation or his or her designee
1882 shall notify each newly appointed and existing appointed member
1883 of the board of governors and senior managers of their duty to
1884 comply with the reporting requirements of part III of chapter
1885 112. At least quarterly, the executive director or his or her
1886 designee shall submit to the Commission on Ethics a list of
1887 names of the senior managers and members of the board of
1888 governors who are subject to the public disclosure requirements
1889 under s. 112.3145.

1890 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
1891 other provision of law, an employee or board member may not
1892 knowingly accept, directly or indirectly, any gift or
1893 expenditure from a person or entity, or an employee or
1894 representative of such person or entity, that has a contractual
1895 relationship with the corporation or who is under consideration
1896 for a contract. An employee or board member who fails to comply

1897 with this subparagraph is subject to penalties provided under
 1898 ss. 112.317 and 112.3173.

1899 5. Any senior manager of the corporation who is employed
 1900 on or after January 1, 2007, regardless of the date of hire, who
 1901 subsequently retires or terminates employment is prohibited from
 1902 representing another person or entity before the corporation for
 1903 2 years after retirement or termination of employment from the
 1904 corporation.

1905 6. Any employee of the corporation who is employed on or
 1906 after January 1, 2007, regardless of the date of hire, who
 1907 subsequently retires or terminates employment is prohibited from
 1908 having any employment or contractual relationship for 2 years
 1909 with an insurer that has received a take-out bonus from the
 1910 corporation.

1911 (e) Purchases that equal or exceed \$2,500, but are less
 1912 than \$25,000, shall be made by receipt of written quotes,
 1913 written record of telephone quotes, or informal bids, whenever
 1914 practical. The procurement of goods or services valued at or
 1915 over \$25,000 shall be subject to competitive solicitation,
 1916 except in situations where the goods or services are provided by
 1917 a sole source or are deemed an emergency purchase; the services
 1918 are exempted from competitive solicitation requirements under s.
 1919 287.057(5)(f); or the procurement of services is subject to s.
 1920 627.3513. Justification for the sole-sourcing or emergency
 1921 procurement must be documented. Contracts for goods or services
 1922 valued at or over \$100,000 are subject to approval by the board.

1923 (f) The board shall determine whether it is more cost-
 1924 effective and in the best interests of the corporation to use

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1925 | legal services provided by in-house attorneys employed by the
1926 | corporation rather than contracting with outside counsel. In
1927 | making such determination, the board shall document its findings
1928 | and shall consider: the expertise needed; whether time
1929 | commitments exceed in-house staff resources; whether local
1930 | representation is needed; the travel, lodging and other costs
1931 | associated with in-house representation; and such other factors
1932 | that the board determines are relevant.

1933 | (g) The corporation may not retain a lobbyist to represent
1934 | it before the legislative branch or executive branch. However,
1935 | full-time employees of the corporation may register as lobbyists
1936 | and represent the corporation before the legislative branch or
1937 | executive branch.

1938 | (h)1. The Office of the Internal Auditor is established
1939 | within the corporation to provide a central point for
1940 | coordination of and responsibility for activities that promote
1941 | accountability, integrity, and efficiency to the policyholders
1942 | and to the taxpayers of this state. The internal auditor shall
1943 | be appointed by the board of governors, shall report to and be
1944 | under the general supervision of the board of governors, and is
1945 | not subject to supervision by any employee of the corporation.
1946 | Administrative staff and support shall be provided by the
1947 | corporation. The internal auditor shall be appointed without
1948 | regard to political affiliation. It is the duty and
1949 | responsibility of the internal auditor to:

1950 | a. Provide direction for, supervise, conduct, and
1951 | coordinate audits, investigations, and management reviews
1952 | relating to the programs and operations of the corporation.

1953 b. Conduct, supervise, or coordinate other activities
1954 carried out or financed by the corporation for the purpose of
1955 promoting efficiency in the administration of, or preventing and
1956 detecting fraud, abuse, and mismanagement in, its programs and
1957 operations.

1958 c. Submit final audit reports, reviews, or investigative
1959 reports to the board of governors, the executive director, the
1960 members of the Financial Services Commission, and the President
1961 of the Senate and the Speaker of the House of Representatives.

1962 d. Keep the board of governors informed concerning fraud,
1963 abuses, and internal control deficiencies relating to programs
1964 and operations administered or financed by the corporation,
1965 recommend corrective action, and report on the progress made in
1966 implementing corrective action.

1967 e. Report expeditiously to the Department of Law
1968 Enforcement or other law enforcement agencies, as appropriate,
1969 whenever the internal auditor has reasonable grounds to believe
1970 there has been a violation of criminal law.

1971 2. On or before February 15, the internal auditor shall
1972 prepare an annual report evaluating the effectiveness of the
1973 internal controls of the corporation and providing
1974 recommendations for corrective action, if necessary, and
1975 summarizing the audits, reviews, and investigations conducted by
1976 the office during the preceding fiscal year. The final report
1977 shall be furnished to the board of governors and the executive
1978 director, the President of the Senate, the Speaker of the House
1979 of Representatives, and the Financial Services Commission.

1980 (i) All records of the corporation, except as otherwise
 1981 provided by law, are subject to the record retention
 1982 requirements of s. 119.021.

1983 (j)1. The corporation shall establish and maintain a unit
 1984 or division to investigate possible fraudulent claims by
 1985 insureds or by persons making claims for services or repairs
 1986 against policies held by insureds; or it may contract with
 1987 others to investigate possible fraudulent claims for services or
 1988 repairs against policies held by the corporation pursuant to s.
 1989 626.9891. The corporation must comply with reporting
 1990 requirements of s. 626.9891. An employee of the corporation
 1991 shall notify the Division of Insurance Fraud within 48 hours
 1992 after having information that would lead a reasonable person to
 1993 suspect that fraud may have been committed by any employee of
 1994 the corporation.

1995 2. The corporation shall establish a unit or division
 1996 responsible for receiving and responding to consumer complaints,
 1997 which unit or division is the sole responsibility of a senior
 1998 manager of the corporation.

1999 (k) The office shall conduct a comprehensive market
 2000 conduct examination of the corporation every 2 years to
 2001 determine compliance with its plan of operation and internal
 2002 operations procedures. The first market conduct examination
 2003 report shall be submitted to the President of the Senate and the
 2004 Speaker of the House of Representatives no later than February
 2005 1, 2009. Subsequent reports shall be submitted on or before
 2006 February 1 every 2 years thereafter.

2007 (1) The Auditor General shall conduct an operational audit
 2008 of the corporation every 3 years to evaluate management's
 2009 performance in administering laws, policies, and procedures
 2010 governing the operations of the corporation in an efficient and
 2011 effective manner. The scope of the review shall include, but is
 2012 not limited to, evaluating claims handling, customer service,
 2013 take-out programs and bonuses, financing arrangements,
 2014 procurement of goods and services, internal controls, and the
 2015 internal audit function. The initial audit must be completed by
 2016 February 1, 2009.

2017 (m)1.a. Rates for coverage provided by the corporation
 2018 shall be actuarially adequate ~~sound and not competitive with~~
 2019 ~~approved rates charged in the admitted voluntary market, so that~~
 2020 ~~the corporation functions as a residual market mechanism to~~
 2021 ~~provide insurance only when the insurance cannot be procured in~~
 2022 ~~the voluntary market.~~ Rates shall include an appropriate
 2023 catastrophe loading factor that reflects the actual catastrophic
 2024 exposure of the corporation. For policies in the personal lines
 2025 account and the commercial lines account issued or renewed on or
 2026 after March 1, 2007, a rate is deemed inadequate if the rate,
 2027 including investment income, is not sufficient to provide for
 2028 the procurement of coverage under the Florida Hurricane
 2029 Catastrophe Fund ~~and private reinsurance costs, whether or not~~
 2030 ~~reinsurance is procured,~~ and to pay all claims and expenses
 2031 reasonably expected to result from a 100-year probable maximum
 2032 loss event without resort to any regular or emergency
 2033 assessments, long-term debt, state revenues, or other funding
 2034 sources. For policies in the high-risk account issued or renewed

2035 on or after January 1, 2008 ~~March 1, 2007~~, a rate is deemed
 2036 inadequate if the rate, including investment income, is not
 2037 sufficient to provide for the procurement of coverage under the
 2038 Florida Hurricane Catastrophe Fund ~~and private reinsurance~~
 2039 ~~costs, whether or not reinsurance is procured~~, and to pay all
 2040 claims and expenses reasonably expected to result from a 50-year
 2041 ~~70-year~~ probable maximum loss event without ~~with~~ resort to any
 2042 regular or emergency assessments, long-term debt, state
 2043 revenues, or other funding sources. For policies in the high-
 2044 risk account issued or renewed in ~~2008 and~~ 2009, 2010, 2011,
 2045 2012, and 2013, the rate must be based upon a 60-year, 70-year,
 2046 80-year, 90-year, an 85-year and 100-year probable maximum loss
 2047 event, respectively.

2048 b. It is the intent of the Legislature to reaffirm the
 2049 requirement of rate adequacy in the residual market. Recognizing
 2050 that rates may comply with the intent expressed in sub-
 2051 subparagraph a. and yet be inadequate and recognizing the public
 2052 need to limit subsidies within the residual market, it is the
 2053 further intent of the Legislature to establish statutory
 2054 standards for rate adequacy. Such standards are intended to
 2055 supplement the standard specified in s. 627.062(2)(e)3.,
 2056 providing that rates are inadequate if they are clearly
 2057 insufficient to sustain projected losses and expenses in the
 2058 class of business to which they apply.

2059 ~~2. For each county, the average rates of the corporation~~
 2060 ~~for each line of business for personal lines residential~~
 2061 ~~policies excluding rates for wind only policies shall be no~~
 2062 ~~lower than the average rates charged by the insurer that had the~~

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2063 ~~highest average rate in that county among the 20 insurers with~~
2064 ~~the greatest total direct written premium in the state for that~~
2065 ~~line of business in the preceding year, except that with respect~~
2066 ~~to mobile home coverages, the average rates of the corporation~~
2067 ~~shall be no lower than the average rates charged by the insurer~~
2068 ~~that had the highest average rate in that county among the 5~~
2069 ~~insurers with the greatest total written premium for mobile home~~
2070 ~~owner's policies in the state in the preceding year.~~

2071 2.3- Rates for personal lines residential wind-only
2072 policies must be actuarially adequate ~~sound and not competitive~~
2073 ~~with approved rates charged by authorized insurers.~~ If the
2074 filing under this subparagraph is made at least 90 days before
2075 the proposed effective date and the filing is not implemented
2076 during the office's review of the filing and any proceeding and
2077 judicial review, such filing shall be considered a "file and
2078 use" filing. In such case, the office shall finalize its review
2079 by issuance of a notice of intent to approve or a notice of
2080 intent to disapprove within 90 days after receipt of the filing.
2081 The notice of intent to approve and the notice of intent to
2082 disapprove constitute agency action for purposes of the
2083 Administrative Procedure Act. Requests for supporting
2084 information, requests for mathematical or mechanical
2085 corrections, or notification to the insurer by the office of its
2086 preliminary findings shall not toll the 90-day period during any
2087 such proceedings and subsequent judicial review. The rate shall
2088 be deemed approved if the office does not issue a notice of
2089 intent to approve or a notice of intent to disapprove within 90
2090 days after receipt of the filing. Corporation rate manuals shall

2091 include a rate surcharge for seasonal occupancy. ~~To ensure that~~
2092 ~~personal lines residential wind-only rates are not competitive~~
2093 ~~with approved rates charged by authorized insurers, the~~
2094 ~~corporation, in conjunction with the office, shall develop a~~
2095 ~~wind-only ratemaking methodology, which methodology shall be~~
2096 ~~contained in each rate filing made by the corporation with the~~
2097 ~~office. If the office determines that the wind-only rates or~~
2098 ~~rating factors filed by the corporation fail to comply with the~~
2099 ~~wind-only ratemaking methodology provided for in this~~
2100 ~~subsection, it shall so notify the corporation and require the~~
2101 ~~corporation to amend its rates or rating factors to come into~~
2102 ~~compliance within 90 days of notice from the office.~~

2103 ~~4. The requirements of this paragraph that rates not be~~
2104 ~~competitive with approved rates charged by authorized insurers~~
2105 ~~do not apply in a county or area for which the office determines~~
2106 ~~that no authorized insurer is offering coverage. The corporation~~
2107 ~~shall amend its rates or rating factors for the affected county~~
2108 ~~or area in conjunction with its next rate filing after such~~
2109 ~~determination is made.~~

2110 ~~5. For the purposes of establishing a pilot program to~~
2111 ~~evaluate issues relating to the availability and affordability~~
2112 ~~of insurance in an area where historically there has been little~~
2113 ~~market competition, the provisions of subparagraph 2. do not~~
2114 ~~apply to coverage provided by the corporation in Monroe County~~
2115 ~~if the office determines that a reasonable degree of competition~~
2116 ~~does not exist for personal lines residential policies. The~~
2117 ~~provisions of subparagraph 3. do not apply to coverage provided~~
2118 ~~by the corporation in Monroe County if the office determines~~

2119 ~~that a reasonable degree of competition does not exist for~~
 2120 ~~personal lines residential policies in the area of that county~~
 2121 ~~which is eligible for wind only coverage. In this county, the~~
 2122 ~~rates for personal lines residential coverage shall be~~
 2123 ~~actuarially sound and not excessive, inadequate, or unfairly~~
 2124 ~~discriminatory and are subject to the other provisions of the~~
 2125 ~~paragraph and s. 627.062. The commission shall adopt rules~~
 2126 ~~establishing the criteria for determining whether a reasonable~~
 2127 ~~degree of competition exists for personal lines residential~~
 2128 ~~policies in Monroe County. By March 1, 2006, the office shall~~
 2129 ~~submit a report to the Legislature providing an evaluation of~~
 2130 ~~the implementation of the pilot program affecting Monroe County.~~

2131 ~~6. Rates for commercial lines coverage shall not be~~
 2132 ~~subject to the requirements of subparagraph 2., but shall be~~
 2133 ~~subject to all other requirements of this paragraph and s.~~
 2134 ~~627.062.~~

2135 ~~3.7.~~ Nothing in this paragraph shall require or allow the
 2136 corporation to adopt a rate that is inadequate under s. 627.062.

2137 ~~4.8.~~ The corporation shall certify to the office at least
 2138 twice annually that its personal lines rates comply with the
 2139 requirements of subparagraphs 1. and, 2., ~~and 3.~~ If any
 2140 adjustment in the rates or rating factors of the corporation is
 2141 necessary to ensure such compliance, the corporation shall make
 2142 and implement such adjustments and file its revised rates and
 2143 rating factors with the office. If the office thereafter
 2144 determines that the revised rates and rating factors fail to
 2145 comply with the provisions of subparagraphs 1. and, 2., ~~and 3.~~
 2146 it shall notify the corporation and require the corporation to

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2147 amend its rates or rating factors in conjunction with its next
 2148 rate filing. ~~The office must notify the corporation by~~
 2149 ~~electronic means of any rate filing it approves for any insurer~~
 2150 ~~among the insurers referred to in subparagraph 2.~~

2151 5.9. In addition to the rates otherwise determined
 2152 pursuant to this paragraph, the corporation shall impose and
 2153 collect an amount equal to the premium tax provided for in s.
 2154 624.509 to augment the financial resources of the corporation.

2155 ~~6.10.~~ The corporation shall develop a notice to
 2156 policyholders or applicants that the rates of Citizens Property
 2157 Insurance Corporation are intended to be higher than the rates
 2158 of any admitted carrier and providing other information the
 2159 corporation deems necessary to assist consumers in finding other
 2160 voluntary admitted insurers willing to insure their property.

2161 ~~7.11.~~ After the public hurricane loss-projection model
 2162 under s. 627.06281 has been found to be accurate and reliable by
 2163 the Florida Commission on Hurricane Loss Projection Methodology,
 2164 that model shall serve as the minimum benchmark for determining
 2165 the windstorm portion of the corporation's rates. This
 2166 subparagraph does not require or allow the corporation to adopt
 2167 rates lower than the rates otherwise required or allowed by this
 2168 paragraph.

2169 8. Except as provided in subparagraph 9., the rate filings
 2170 for the corporation which were approved by the office and which
 2171 took effect January 1, 2007, are rescinded. As soon as possible,
 2172 the corporation shall begin using the rates that were in effect
 2173 on December 31, 2006, and shall provide refunds to policyholders
 2174 who have paid higher rates as a result of those rate filings.

2175 The rates in effect on December 31, 2006, shall remain in effect
 2176 for the 2007 calendar year. The next rate change shall take
 2177 effect January 1, 2008, pursuant to a new rate filing
 2178 recommended by the corporation and approved by the office,
 2179 subject to the requirements of this paragraph.

2180 9. Through December 31, 2007, the corporation shall use
 2181 the lower territorial rates for the hurricane portion of the
 2182 rates for high-risk account homeowners (HO3) policies approved
 2183 for use by the office in Monroe County beginning January 1,
 2184 2007. Nothing in subparagraph 8. is intended to prevent the
 2185 corporation from implementing prior to January 1, 2008, rates
 2186 pursuant to subparagraph 1. that are lower than rates in effect
 2187 on December 31, 2006, including by territory, coverage, and
 2188 mitigation factors and other discounts. Prior to January 1,
 2189 2008, such lower rates shall be determined to meet the
 2190 requirements of subparagraph 1. by comparing such lower rates to
 2191 the rates in effect on December 31, 2006.

2192 (n) If coverage in an account is deactivated pursuant to
 2193 paragraph (o)~~(f)~~, coverage through the corporation shall be
 2194 reactivated by order of the office only under one of the
 2195 following circumstances:

2196 1. If the market assistance plan receives a minimum of 100
 2197 applications for coverage within a 3-month period, or 200
 2198 applications for coverage within a 1-year period or less for
 2199 residential coverage, unless the market assistance plan provides
 2200 a quotation from admitted carriers at their filed rates for at
 2201 least 90 percent of such applicants. Any market assistance plan
 2202 application that is rejected because an individual risk is so

2203 hazardous as to be uninsurable using the criteria specified in
 2204 subparagraph (c) 9.8 shall not be included in the minimum
 2205 percentage calculation provided herein. In the event that there
 2206 is a legal or administrative challenge to a determination by the
 2207 office that the conditions of this subparagraph have been met
 2208 for eligibility for coverage in the corporation, any eligible
 2209 risk may obtain coverage during the pendency of such challenge.

2210 2. In response to a state of emergency declared by the
 2211 Governor under s. 252.36, the office may activate coverage by
 2212 order for the period of the emergency upon a finding by the
 2213 office that the emergency significantly affects the availability
 2214 of residential property insurance.

2215 (o)1. The corporation shall file with the office quarterly
 2216 statements of financial condition, an annual statement of
 2217 financial condition, and audited financial statements in the
 2218 manner prescribed by law. In addition, the corporation shall
 2219 report to the office monthly on the types, premium, exposure,
 2220 and distribution by county of its policies in force, and shall
 2221 submit other reports as the office requires to carry out its
 2222 oversight of the corporation.

2223 2. The activities of the corporation shall be reviewed at
 2224 least annually by the office to determine whether coverage shall
 2225 be deactivated in an account on the basis that the conditions
 2226 giving rise to its activation no longer exist.

2227 (p)1. The corporation shall certify to the office its
 2228 needs for annual assessments as to a particular calendar year,
 2229 and for any interim assessments that it deems to be necessary to
 2230 sustain operations as to a particular year pending the receipt

2231 of annual assessments. Upon verification, the office shall
2232 approve such certification, and the corporation shall levy such
2233 annual or interim assessments. Such assessments shall be
2234 prorated as provided in paragraph (b). The corporation shall
2235 take all reasonable and prudent steps necessary to collect the
2236 amount of assessment due from each assessable insurer,
2237 including, if prudent, filing suit to collect such assessment.
2238 If the corporation is unable to collect an assessment from any
2239 assessable insurer, the uncollected assessments shall be levied
2240 as an additional assessment against the assessable insurers and
2241 any assessable insurer required to pay an additional assessment
2242 as a result of such failure to pay shall have a cause of action
2243 against such nonpaying assessable insurer. Assessments shall be
2244 included as an appropriate factor in the making of rates. The
2245 failure of a surplus lines agent to collect and remit any
2246 regular or emergency assessment levied by the corporation is
2247 considered to be a violation of s. 626.936 and subjects the
2248 surplus lines agent to the penalties provided in that section.

2249 2. The governing body of any unit of local government, any
2250 residents of which are insured by the corporation, may issue
2251 bonds as defined in s. 125.013 or s. 166.101 from time to time
2252 to fund an assistance program, in conjunction with the
2253 corporation, for the purpose of defraying deficits of the
2254 corporation. In order to avoid needless and indiscriminate
2255 proliferation, duplication, and fragmentation of such assistance
2256 programs, any unit of local government, any residents of which
2257 are insured by the corporation, may provide for the payment of
2258 losses, regardless of whether or not the losses occurred within

2259 or outside of the territorial jurisdiction of the local
 2260 government. Revenue bonds under this subparagraph may not be
 2261 issued until validated pursuant to chapter 75, unless a state of
 2262 emergency is declared by executive order or proclamation of the
 2263 Governor pursuant to s. 252.36 making such findings as are
 2264 necessary to determine that it is in the best interests of, and
 2265 necessary for, the protection of the public health, safety, and
 2266 general welfare of residents of this state and declaring it an
 2267 essential public purpose to permit certain municipalities or
 2268 counties to issue such bonds as will permit relief to claimants
 2269 and policyholders of the corporation. Any such unit of local
 2270 government may enter into such contracts with the corporation
 2271 and with any other entity created pursuant to this subsection as
 2272 are necessary to carry out this paragraph. Any bonds issued
 2273 under this subparagraph shall be payable from and secured by
 2274 moneys received by the corporation from emergency assessments
 2275 under sub-subparagraph (b)3.d., and assigned and pledged to or
 2276 on behalf of the unit of local government for the benefit of the
 2277 holders of such bonds. The funds, credit, property, and taxing
 2278 power of the state or of the unit of local government shall not
 2279 be pledged for the payment of such bonds. If any of the bonds
 2280 remain unsold 60 days after issuance, the office shall require
 2281 all insurers subject to assessment to purchase the bonds, which
 2282 shall be treated as admitted assets; each insurer shall be
 2283 required to purchase that percentage of the unsold portion of
 2284 the bond issue that equals the insurer's relative share of
 2285 assessment liability under this subsection. An insurer shall not
 2286 be required to purchase the bonds to the extent that the office

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2287 determines that the purchase would endanger or impair the
2288 solvency of the insurer.

2289 3.a. The corporation shall adopt one or more programs
2290 subject to approval by the office for the reduction of both new
2291 and renewal writings in the corporation. Beginning January 1,
2292 2008, any program the corporation adopts for the payment of
2293 bonuses to an insurer for each risk the insurer removes from the
2294 corporation shall comply with s. 627.3511(2) and may not exceed
2295 the amount referenced in s. 627.3511(2) for each risk removed.
2296 The corporation may consider any prudent and not unfairly
2297 discriminatory approach to reducing corporation writings, and
2298 may adopt a credit against assessment liability or other
2299 liability that provides an incentive for insurers to take risks
2300 out of the corporation and to keep risks out of the corporation
2301 by maintaining or increasing voluntary writings in counties or
2302 areas in which corporation risks are highly concentrated and a
2303 program to provide a formula under which an insurer voluntarily
2304 taking risks out of the corporation by maintaining or increasing
2305 voluntary writings will be relieved wholly or partially from
2306 assessments under sub-subparagraphs (b)3.a. and b. However, any
2307 "take-out bonus" or payment to an insurer must be conditioned on
2308 the property being insured for at least 5 years by the insurer,
2309 unless canceled or nonrenewed by the policyholder. If the policy
2310 is canceled or nonrenewed by the policyholder before the end of
2311 the 5-year period, the amount of the take-out bonus must be
2312 prorated for the time period the policy was insured. When the
2313 corporation enters into a contractual agreement for a take-out
2314 plan, the producing agent of record of the corporation policy is

2315 entitled to retain any unearned commission on such policy, and
 2316 the insurer shall either:

2317 (I) Pay to the producing agent of record of the policy,
 2318 for the first year, an amount which is the greater of the
 2319 insurer's usual and customary commission for the type of policy
 2320 written or a policy fee equal to the usual and customary
 2321 commission of the corporation; or

2322 (II) Offer to allow the producing agent of record of the
 2323 policy to continue servicing the policy for a period of not less
 2324 than 1 year and offer to pay the agent the insurer's usual and
 2325 customary commission for the type of policy written. If the
 2326 producing agent is unwilling or unable to accept appointment by
 2327 the new insurer, the new insurer shall pay the agent in
 2328 accordance with sub-sub-subparagraph (I).

2329 b. Any credit or exemption from regular assessments
 2330 adopted under this subparagraph shall last no longer than the 3
 2331 years following the cancellation or expiration of the policy by
 2332 the corporation. With the approval of the office, the board may
 2333 extend such credits for an additional year if the insurer
 2334 guarantees an additional year of renewability for all policies
 2335 removed from the corporation, or for 2 additional years if the
 2336 insurer guarantees 2 additional years of renewability for all
 2337 policies so removed.

2338 c. There shall be no credit, limitation, exemption, or
 2339 deferment from emergency assessments to be collected from
 2340 policyholders pursuant to sub-subparagraph (b)3.d.

2341 4. The plan shall provide for the deferment, in whole or
 2342 in part, of the assessment of an assessable insurer, other than

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2343 an emergency assessment collected from policyholders pursuant to
2344 sub-subparagraph (b)3.d., if the office finds that payment of
2345 the assessment would endanger or impair the solvency of the
2346 insurer. In the event an assessment against an assessable
2347 insurer is deferred in whole or in part, the amount by which
2348 such assessment is deferred may be assessed against the other
2349 assessable insurers in a manner consistent with the basis for
2350 assessments set forth in paragraph (b).

2351 5. Effective July 1, 2007, in order to evaluate the costs
2352 and benefits of approved take-out plans, if the corporation pays
2353 a bonus or other payment to an insurer for an approved take-out
2354 plan, it shall maintain a record of the address or such other
2355 identifying information on the property or risk removed in order
2356 to track if and when the property or risk is later insured by
2357 the corporation.

2358 (q) Nothing in this subsection shall be construed to
2359 preclude the issuance of residential property insurance coverage
2360 pursuant to part VIII of chapter 626.

2361 (r) There shall be no liability on the part of, and no
2362 cause of action of any nature shall arise against, any
2363 assessable insurer or its agents or employees, the corporation
2364 or its agents or employees, members of the board of governors or
2365 their respective designees at a board meeting, corporation
2366 committee members, or the office or its representatives, for any
2367 action taken by them in the performance of their duties or
2368 responsibilities under this subsection. Such immunity does not
2369 apply to:

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2370 1. Any of the foregoing persons or entities for any
 2371 willful tort;
 2372 2. The corporation or its producing agents for breach of
 2373 any contract or agreement pertaining to insurance coverage;
 2374 3. The corporation with respect to issuance or payment of
 2375 debt; or
 2376 4. Any assessable insurer with respect to any action to
 2377 enforce an assessable insurer's obligations to the corporation
 2378 under this subsection.
 2379 (s) For the purposes of s. 199.183(1), the corporation
 2380 shall be considered a political subdivision of the state and
 2381 shall be exempt from the corporate income tax. The premiums,
 2382 assessments, investment income, and other revenue of the
 2383 corporation are funds received for providing property insurance
 2384 coverage as required by this subsection, paying claims for
 2385 Florida citizens insured by the corporation, securing and
 2386 repaying debt obligations issued by the corporation, and
 2387 conducting all other activities of the corporation, and shall
 2388 not be considered taxes, fees, licenses, or charges for services
 2389 imposed by the Legislature on individuals, businesses, or
 2390 agencies outside state government. Bonds and other debt
 2391 obligations issued by or on behalf of the corporation are not to
 2392 be considered "state bonds" within the meaning of s. 215.58(8).
 2393 The corporation is not subject to the procurement provisions of
 2394 chapter 287, and policies and decisions of the corporation
 2395 relating to incurring debt, levying of assessments and the sale,
 2396 issuance, continuation, terms and claims under corporation
 2397 policies, and all services relating thereto, are not subject to

2398 the provisions of chapter 120. The corporation is not required
2399 to obtain or to hold a certificate of authority issued by the
2400 office, nor is it required to participate as a member insurer of
2401 the Florida Insurance Guaranty Association. However, the
2402 corporation is required to pay, in the same manner as an
2403 authorized insurer, assessments pledged by the Florida Insurance
2404 Guaranty Association to secure bonds issued or other
2405 indebtedness incurred to pay covered claims arising from insurer
2406 insolvencies caused by, or proximately related to, hurricane
2407 losses. It is the intent of the Legislature that the tax
2408 exemptions provided in this paragraph will augment the financial
2409 resources of the corporation to better enable the corporation to
2410 fulfill its public purposes. Any debt obligations issued by the
2411 corporation, their transfer, and the income therefrom, including
2412 any profit made on the sale thereof, shall at all times be free
2413 from taxation of every kind by the state and any political
2414 subdivision or local unit or other instrumentality thereof;
2415 however, this exemption does not apply to any tax imposed by
2416 chapter 220 on interest, income, or profits on debt obligations
2417 owned by corporations other than the corporation.

2418 (t) Upon a determination by the office that the conditions
2419 giving rise to the establishment and activation of the
2420 corporation no longer exist, the corporation is dissolved. Upon
2421 dissolution, the assets of the corporation shall be applied
2422 first to pay all debts, liabilities, and obligations of the
2423 corporation, including the establishment of reasonable reserves
2424 for any contingent liabilities or obligations, and all remaining
2425 assets of the corporation shall become property of the state and

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2426 shall be deposited in the Florida Hurricane Catastrophe Fund.
2427 However, no dissolution shall take effect as long as the
2428 corporation has bonds or other financial obligations outstanding
2429 unless adequate provision has been made for the payment of the
2430 bonds or other financial obligations pursuant to the documents
2431 authorizing the issuance of the bonds or other financial
2432 obligations.

2433 (u)1. Effective July 1, 2002, policies of the Residential
2434 Property and Casualty Joint Underwriting Association shall
2435 become policies of the corporation. All obligations, rights,
2436 assets and liabilities of the Residential Property and Casualty
2437 Joint Underwriting Association, including bonds, note and debt
2438 obligations, and the financing documents pertaining to them
2439 become those of the corporation as of July 1, 2002. The
2440 corporation is not required to issue endorsements or
2441 certificates of assumption to insureds during the remaining term
2442 of in-force transferred policies.

2443 2. Effective July 1, 2002, policies of the Florida
2444 Windstorm Underwriting Association are transferred to the
2445 corporation and shall become policies of the corporation. All
2446 obligations, rights, assets, and liabilities of the Florida
2447 Windstorm Underwriting Association, including bonds, note and
2448 debt obligations, and the financing documents pertaining to them
2449 are transferred to and assumed by the corporation on July 1,
2450 2002. The corporation is not required to issue endorsements or
2451 certificates of assumption to insureds during the remaining term
2452 of in-force transferred policies.

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2453 3. The Florida Windstorm Underwriting Association and the
2454 Residential Property and Casualty Joint Underwriting Association
2455 shall take all actions as may be proper to further evidence the
2456 transfers and shall provide the documents and instruments of
2457 further assurance as may reasonably be requested by the
2458 corporation for that purpose. The corporation shall execute
2459 assumptions and instruments as the trustees or other parties to
2460 the financing documents of the Florida Windstorm Underwriting
2461 Association or the Residential Property and Casualty Joint
2462 Underwriting Association may reasonably request to further
2463 evidence the transfers and assumptions, which transfers and
2464 assumptions, however, are effective on the date provided under
2465 this paragraph whether or not, and regardless of the date on
2466 which, the assumptions or instruments are executed by the
2467 corporation. Subject to the relevant financing documents
2468 pertaining to their outstanding bonds, notes, indebtedness, or
2469 other financing obligations, the moneys, investments,
2470 receivables, choses in action, and other intangibles of the
2471 Florida Windstorm Underwriting Association shall be credited to
2472 the high-risk account of the corporation, and those of the
2473 personal lines residential coverage account and the commercial
2474 lines residential coverage account of the Residential Property
2475 and Casualty Joint Underwriting Association shall be credited to
2476 the personal lines account and the commercial lines account,
2477 respectively, of the corporation.

2478 4. Effective July 1, 2002, a new applicant for property
2479 insurance coverage who would otherwise have been eligible for
2480 coverage in the Florida Windstorm Underwriting Association is

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2481 eligible for coverage from the corporation as provided in this
2482 subsection.

2483 5. The transfer of all policies, obligations, rights,
2484 assets, and liabilities from the Florida Windstorm Underwriting
2485 Association to the corporation and the renaming of the
2486 Residential Property and Casualty Joint Underwriting Association
2487 as the corporation shall in no way affect the coverage with
2488 respect to covered policies as defined in s. 215.555(2)(c)
2489 provided to these entities by the Florida Hurricane Catastrophe
2490 Fund. The coverage provided by the Florida Hurricane Catastrophe
2491 Fund to the Florida Windstorm Underwriting Association based on
2492 its exposures as of June 30, 2002, and each June 30 thereafter
2493 shall be redesignated as coverage for the high-risk account of
2494 the corporation. Notwithstanding any other provision of law, the
2495 coverage provided by the Florida Hurricane Catastrophe Fund to
2496 the Residential Property and Casualty Joint Underwriting
2497 Association based on its exposures as of June 30, 2002, and each
2498 June 30 thereafter shall be transferred to the personal lines
2499 account and the commercial lines account of the corporation.
2500 Notwithstanding any other provision of law, the high-risk
2501 account shall be treated, for all Florida Hurricane Catastrophe
2502 Fund purposes, as if it were a separate participating insurer
2503 with its own exposures, reimbursement premium, and loss
2504 reimbursement. Likewise, the personal lines and commercial lines
2505 accounts shall be viewed together, for all Florida Hurricane
2506 Catastrophe Fund purposes, as if the two accounts were one and
2507 represent a single, separate participating insurer with its own
2508 exposures, reimbursement premium, and loss reimbursement. The

2509 coverage provided by the Florida Hurricane Catastrophe Fund to
 2510 the corporation shall constitute and operate as a full transfer
 2511 of coverage from the Florida Windstorm Underwriting Association
 2512 and Residential Property and Casualty Joint Underwriting to the
 2513 corporation.

2514 (v) Notwithstanding any other provision of law:

2515 1. The pledge or sale of, the lien upon, and the security
 2516 interest in any rights, revenues, or other assets of the
 2517 corporation created or purported to be created pursuant to any
 2518 financing documents to secure any bonds or other indebtedness of
 2519 the corporation shall be and remain valid and enforceable,
 2520 notwithstanding the commencement of and during the continuation
 2521 of, and after, any rehabilitation, insolvency, liquidation,
 2522 bankruptcy, receivership, conservatorship, reorganization, or
 2523 similar proceeding against the corporation under the laws of
 2524 this state.

2525 2. No such proceeding shall relieve the corporation of its
 2526 obligation, or otherwise affect its ability to perform its
 2527 obligation, to continue to collect, or levy and collect,
 2528 assessments, market equalization or other surcharges under
 2529 subparagraph (c) 11.10, or any other rights, revenues, or other
 2530 assets of the corporation pledged pursuant to any financing
 2531 documents.

2532 3. Each such pledge or sale of, lien upon, and security
 2533 interest in, including the priority of such pledge, lien, or
 2534 security interest, any such assessments, market equalization or
 2535 other surcharges, or other rights, revenues, or other assets
 2536 which are collected, or levied and collected, after the

2537 commencement of and during the pendency of, or after, any such
 2538 proceeding shall continue unaffected by such proceeding. As used
 2539 in this subsection, the term "financing documents" means any
 2540 agreement or agreements, instrument or instruments, or other
 2541 document or documents now existing or hereafter created
 2542 evidencing any bonds or other indebtedness of the corporation or
 2543 pursuant to which any such bonds or other indebtedness has been
 2544 or may be issued and pursuant to which any rights, revenues, or
 2545 other assets of the corporation are pledged or sold to secure
 2546 the repayment of such bonds or indebtedness, together with the
 2547 payment of interest on such bonds or such indebtedness, or the
 2548 payment of any other obligation or financial product, as defined
 2549 in the plan of operation of the corporation related to such
 2550 bonds or indebtedness.

2551 4. Any such pledge or sale of assessments, revenues,
 2552 contract rights, or other rights or assets of the corporation
 2553 shall constitute a lien and security interest, or sale, as the
 2554 case may be, that is immediately effective and attaches to such
 2555 assessments, revenues, or contract rights or other rights or
 2556 assets, whether or not imposed or collected at the time the
 2557 pledge or sale is made. Any such pledge or sale is effective,
 2558 valid, binding, and enforceable against the corporation or other
 2559 entity making such pledge or sale, and valid and binding against
 2560 and superior to any competing claims or obligations owed to any
 2561 other person or entity, including policyholders in this state,
 2562 asserting rights in any such assessments, revenues, or contract
 2563 rights or other rights or assets to the extent set forth in and
 2564 in accordance with the terms of the pledge or sale contained in

2565 the applicable financing documents, whether or not any such
2566 person or entity has notice of such pledge or sale and without
2567 the need for any physical delivery, recordation, filing, or
2568 other action.

2569 5. As long as the corporation has any bonds outstanding,
2570 the corporation may not file a voluntary petition under chapter
2571 9 of the federal Bankruptcy Code or such corresponding chapter
2572 or sections as may be in effect, from time to time, and a public
2573 officer or any organization, entity, or other person may not
2574 authorize the corporation to be or become a debtor under chapter
2575 9 of the federal Bankruptcy Code or such corresponding chapter
2576 or sections as may be in effect, from time to time, during any
2577 such period.

2578 6. If ordered by a court of competent jurisdiction, the
2579 corporation may assume policies or otherwise provide coverage
2580 for policyholders of an insurer placed in liquidation under
2581 chapter 631, under such forms, rates, terms, and conditions as
2582 the corporation deems appropriate, subject to approval by the
2583 office.

2584 (w)1. The following records of the corporation are
2585 confidential and exempt from the provisions of s. 119.07(1) and
2586 s. 24(a), Art. I of the State Constitution:

2587 a. Underwriting files, except that a policyholder or an
2588 applicant shall have access to his or her own underwriting
2589 files.

2590 b. Claims files, until termination of all litigation and
2591 settlement of all claims arising out of the same incident,
2592 although portions of the claims files may remain exempt, as

2593 otherwise provided by law. Confidential and exempt claims file
2594 records may be released to other governmental agencies upon
2595 written request and demonstration of need; such records held by
2596 the receiving agency remain confidential and exempt as provided
2597 for herein.

2598 c. Records obtained or generated by an internal auditor
2599 pursuant to a routine audit, until the audit is completed, or if
2600 the audit is conducted as part of an investigation, until the
2601 investigation is closed or ceases to be active. An investigation
2602 is considered "active" while the investigation is being
2603 conducted with a reasonable, good faith belief that it could
2604 lead to the filing of administrative, civil, or criminal
2605 proceedings.

2606 d. Matters reasonably encompassed in privileged attorney-
2607 client communications.

2608 e. Proprietary information licensed to the corporation
2609 under contract and the contract provides for the confidentiality
2610 of such proprietary information.

2611 f. All information relating to the medical condition or
2612 medical status of a corporation employee which is not relevant
2613 to the employee's capacity to perform his or her duties, except
2614 as otherwise provided in this paragraph. Information which is
2615 exempt shall include, but is not limited to, information
2616 relating to workers' compensation, insurance benefits, and
2617 retirement or disability benefits.

2618 g. Upon an employee's entrance into the employee
2619 assistance program, a program to assist any employee who has a
2620 behavioral or medical disorder, substance abuse problem, or

2621 emotional difficulty which affects the employee's job
2622 performance, all records relative to that participation shall be
2623 confidential and exempt from the provisions of s. 119.07(1) and
2624 s. 24(a), Art. I of the State Constitution, except as otherwise
2625 provided in s. 112.0455(11).

2626 h. Information relating to negotiations for financing,
2627 reinsurance, depopulation, or contractual services, until the
2628 conclusion of the negotiations.

2629 i. Minutes of closed meetings regarding underwriting
2630 files, and minutes of closed meetings regarding an open claims
2631 file until termination of all litigation and settlement of all
2632 claims with regard to that claim, except that information
2633 otherwise confidential or exempt by law will be redacted.

2634
2635 When an authorized insurer is considering underwriting a risk
2636 insured by the corporation, relevant underwriting files and
2637 confidential claims files may be released to the insurer
2638 provided the insurer agrees in writing, notarized and under
2639 oath, to maintain the confidentiality of such files. When a file
2640 is transferred to an insurer that file is no longer a public
2641 record because it is not held by an agency subject to the
2642 provisions of the public records law. Underwriting files and
2643 confidential claims files may also be released to staff of and
2644 the board of governors of the market assistance plan established
2645 pursuant to s. 627.3515, who must retain the confidentiality of
2646 such files, except such files may be released to authorized
2647 insurers that are considering assuming the risks to which the
2648 files apply, provided the insurer agrees in writing, notarized

2649 and under oath, to maintain the confidentiality of such files.
 2650 Finally, the corporation or the board or staff of the market
 2651 assistance plan may make the following information obtained from
 2652 underwriting files and confidential claims files available to
 2653 licensed general lines insurance agents: name, address, and
 2654 telephone number of the residential property owner or insured;
 2655 location of the risk; rating information; loss history; and
 2656 policy type. The receiving licensed general lines insurance
 2657 agent must retain the confidentiality of the information
 2658 received.

2659 2. Portions of meetings of the corporation are exempt from
 2660 the provisions of s. 286.011 and s. 24(b), Art. I of the State
 2661 Constitution wherein confidential underwriting files or
 2662 confidential open claims files are discussed. All portions of
 2663 corporation meetings which are closed to the public shall be
 2664 recorded by a court reporter. The court reporter shall record
 2665 the times of commencement and termination of the meeting, all
 2666 discussion and proceedings, the names of all persons present at
 2667 any time, and the names of all persons speaking. No portion of
 2668 any closed meeting shall be off the record. Subject to the
 2669 provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
 2670 notes of any closed meeting shall be retained by the corporation
 2671 for a minimum of 5 years. A copy of the transcript, less any
 2672 exempt matters, of any closed meeting wherein claims are
 2673 discussed shall become public as to individual claims after
 2674 settlement of the claim.

2675 (x) It is the intent of the Legislature that the
 2676 amendments to this subsection enacted in 2002 should, over time,

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2677 | reduce the probable maximum windstorm losses in the residual
2678 | markets and should reduce the potential assessments to be levied
2679 | on property insurers and policyholders statewide. In furtherance
2680 | of this intent:

2681 | 1. The board shall, on or before February 1 of each year,
2682 | provide a report to the President of the Senate and the Speaker
2683 | of the House of Representatives showing the reduction or
2684 | increase in the 100-year probable maximum loss attributable to
2685 | wind-only coverages and the quota share program under this
2686 | subsection combined, as compared to the benchmark 100-year
2687 | probable maximum loss of the Florida Windstorm Underwriting
2688 | Association. For purposes of this paragraph, the benchmark 100-
2689 | year probable maximum loss of the Florida Windstorm Underwriting
2690 | Association shall be the calculation dated February 2001 and
2691 | based on November 30, 2000, exposures. In order to ensure
2692 | comparability of data, the board shall use the same methods for
2693 | calculating its probable maximum loss as were used to calculate
2694 | the benchmark probable maximum loss.

2695 | 2. Beginning February 1, 2010, if the report under
2696 | subparagraph 1. for any year indicates that the 100-year
2697 | probable maximum loss attributable to wind-only coverages and
2698 | the quota share program combined does not reflect a reduction of
2699 | at least 25 percent from the benchmark, the board shall reduce
2700 | the boundaries of the high-risk area eligible for wind-only
2701 | coverages under this subsection in a manner calculated to reduce
2702 | such probable maximum loss to an amount at least 25 percent
2703 | below the benchmark.

2704 3. Beginning February 1, 2015, if the report under
2705 subparagraph 1. for any year indicates that the 100-year
2706 probable maximum loss attributable to wind-only coverages and
2707 the quota share program combined does not reflect a reduction of
2708 at least 50 percent from the benchmark, the boundaries of the
2709 high-risk area eligible for wind-only coverages under this
2710 subsection shall be reduced by the elimination of any area that
2711 is not seaward of a line 1,000 feet inland from the Intracoastal
2712 Waterway.

2713 (y) In enacting the provisions of this section, the
2714 Legislature recognizes that both the Florida Windstorm
2715 Underwriting Association and the Residential Property and
2716 Casualty Joint Underwriting Association have entered into
2717 financing arrangements that obligate each entity to service its
2718 debts and maintain the capacity to repay funds secured under
2719 these financing arrangements. It is the intent of the
2720 Legislature that nothing in this section be construed to
2721 compromise, diminish, or interfere with the rights of creditors
2722 under such financing arrangements. It is further the intent of
2723 the Legislature to preserve the obligations of the Florida
2724 Windstorm Underwriting Association and Residential Property and
2725 Casualty Joint Underwriting Association with regard to
2726 outstanding financing arrangements, with such obligations
2727 passing entirely and unchanged to the corporation and,
2728 specifically, to the applicable account of the corporation. So
2729 long as any bonds, notes, indebtedness, or other financing
2730 obligations of the Florida Windstorm Underwriting Association or
2731 the Residential Property and Casualty Joint Underwriting

2732 Association are outstanding, under the terms of the financing
2733 documents pertaining to them, the governing board of the
2734 corporation shall have and shall exercise the authority to levy,
2735 charge, collect, and receive all premiums, assessments,
2736 surcharges, charges, revenues, and receipts that the
2737 associations had authority to levy, charge, collect, or receive
2738 under the provisions of subsection (2) and this subsection,
2739 respectively, as they existed on January 1, 2002, to provide
2740 moneys, without exercise of the authority provided by this
2741 subsection, in at least the amounts, and by the times, as would
2742 be provided under those former provisions of subsection (2) or
2743 this subsection, respectively, so that the value, amount, and
2744 collectability of any assets, revenues, or revenue source
2745 pledged or committed to, or any lien thereon securing such
2746 outstanding bonds, notes, indebtedness, or other financing
2747 obligations will not be diminished, impaired, or adversely
2748 affected by the amendments made by this act and to permit
2749 compliance with all provisions of financing documents pertaining
2750 to such bonds, notes, indebtedness, or other financing
2751 obligations, or the security or credit enhancement for them, and
2752 any reference in this subsection to bonds, notes, indebtedness,
2753 financing obligations, or similar obligations, of the
2754 corporation shall include like instruments or contracts of the
2755 Florida Windstorm Underwriting Association and the Residential
2756 Property and Casualty Joint Underwriting Association to the
2757 extent not inconsistent with the provisions of the financing
2758 documents pertaining to them.

2759 (z) The corporation shall not require the securing of
2760 flood insurance as a condition of coverage if the insured or
2761 applicant executes a form approved by the office affirming that
2762 flood insurance is not provided by the corporation and that if
2763 flood insurance is not secured by the applicant or insured in
2764 addition to coverage by the corporation, the risk will not be
2765 covered for flood damage. A corporation policyholder electing
2766 not to secure flood insurance and executing a form as provided
2767 herein making a claim for water damage against the corporation
2768 shall have the burden of proving the damage was not caused by
2769 flooding. Notwithstanding other provisions of this subsection,
2770 the corporation may deny coverage to an applicant or insured who
2771 refuses to execute the form described herein.

2772 (aa) A salaried employee of the corporation who performs
2773 policy administration services subsequent to the effectuation of
2774 a corporation policy is not required to be licensed as an agent
2775 under the provisions of s. 626.112.

2776 (bb) By February 1, 2007, the corporation shall submit a
2777 report to the President of the Senate, the Speaker of the House
2778 of Representatives, the minority party leaders of the Senate and
2779 the House of Representatives, and the chairs of the standing
2780 committees of the Senate and the House of Representatives having
2781 jurisdiction over matters relating to property and casualty
2782 insurance. In preparing the report, the corporation shall
2783 consult with the Office of Insurance Regulation, the Department
2784 of Financial Services, and any other party the corporation
2785 determines appropriate. The report must include all findings and
2786 recommendations on the feasibility of requiring authorized

2787 insurers that issue and service personal and commercial
 2788 residential policies ~~and commercial nonresidential policies~~ that
 2789 provide coverage for basic property perils except for the peril
 2790 of wind to issue and service for a fee personal and commercial
 2791 residential policies ~~and commercial nonresidential policies~~
 2792 providing coverage for the peril of wind issued by the
 2793 corporation. The report must include:

2794 1. The expense savings to the corporation of issuing and
 2795 servicing such policies as determined by a cost-benefit
 2796 analysis.

2797 2. The expenses and liability to authorized insurers
 2798 associated with issuing and servicing such policies.

2799 3. The effect on service to policyholders of the
 2800 corporation relating to issuing and servicing such policies.

2801 4. The effect on the producing agent of the corporation of
 2802 issuing and servicing such policies.

2803 5. Recommendations as to the amount of the fee which
 2804 should be paid to authorized insurers for issuing and servicing
 2805 such policies.

2806 6. The effect that issuing and servicing such policies
 2807 will have on the corporation's number of policies, total insured
 2808 value, and probable maximum loss.

2809 (cc) There shall be no liability on the part of, and no
 2810 cause of action of any nature shall arise against, producing
 2811 agents of record of the corporation or employees of such agents
 2812 for insolvency of any take-out insurer.

2813 (dd)1. For policies subject to nonrenewal as a result of
 2814 the risk being no longer eligible for coverage due to being

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2815 valued at \$1 million or more, the corporation shall, directly or
2816 through the market assistance plan, make information from
2817 confidential underwriting and claims files of policyholders
2818 available only to licensed general lines agents who register
2819 with the corporation to receive such information according to
2820 the following procedures:

2821 2. By August 1, 2006, the corporation shall provide such
2822 policyholders who are not eligible for renewal the opportunity
2823 to request in writing, within 30 days after the notification is
2824 sent, that information from their confidential underwriting and
2825 claims files not be released to licensed general lines agents
2826 registered pursuant to this paragraph.

2827 3. By August 1, 2006, the corporation shall make available
2828 to licensed general lines agents the registration procedures to
2829 be used to obtain confidential information from underwriting and
2830 claims files for such policies not eligible for renewal. As a
2831 condition of registration, the corporation shall require the
2832 licensed general lines agent to attest that the agent has the
2833 experience and relationships with authorized or surplus lines
2834 carriers to attempt to offer replacement coverage for such
2835 policies.

2836 4. By September 1, 2006, the corporation shall make
2837 available through a secured website to licensed general lines
2838 agents registered pursuant to this paragraph application,
2839 rating, loss history, mitigation, and policy type information
2840 relating to such policies not eligible for renewal and for which
2841 the policyholder has not requested the corporation withhold such
2842 information. The registered licensed general lines agent may use

2843 such information to contact and assist the policyholder in
 2844 securing replacement policies, and the agent may disclose to the
 2845 policyholder that such information was obtained from the
 2846 corporation.

2847 (ee) Effective June 1, 2007, all commercial nonresidential
 2848 policies issued by the corporation as of May 31, 2007, shall
 2849 become policies of the Property and Casualty Joint Underwriting
 2850 Association created pursuant to subsection (5).

2851 Section 11. The Department of Financial Services shall
 2852 review how insurance agent commissions for the placement and
 2853 renewal of property insurance policies in Citizens Property
 2854 Insurance Corporation are established and applied and shall make
 2855 recommendations, based on industry best practices, for standards
 2856 to ensure that agent commissions are justified on a market basis
 2857 based on the nature and amount of work performed by the agents.
 2858 The department shall report its findings and recommendations to
 2859 the Governor, the President of the Senate, and the Speaker of
 2860 the House of Representatives by July 1, 2007.

2861 Section 12. Task Force on Citizens Property Insurance
 2862 Claims Handling and Resolution.--

2863 (1) TASK FORCE CREATED.--There is created the Task Force
 2864 on Citizens Property Insurance Claims Handling and Resolution.

2865 (2) ADMINISTRATION.--The task force shall be
 2866 administratively housed within the Office of the Chief Financial
 2867 Officer but shall operate independently of any state officer or
 2868 agency. The Office of the Chief Financial Officer shall provide
 2869 such administrative support as the task force deems necessary to
 2870 accomplish its mission and shall provide necessary funding for

2871 the task force within its existing resources. The Executive
 2872 Office of the Governor, the Department of Financial Services,
 2873 and the Office of Insurance Regulation shall provide substantive
 2874 staff support for the task force.

2875 (3) MEMBERSHIP.--The members of the task force shall be
 2876 appointed as follows:

2877 (a) The Governor shall appoint one member who is a
 2878 representative of insurance consumers.

2879 (b) The Chief Financial Officer shall appoint one member
 2880 who has expertise in claims handling.

2881 (c) The President of the Senate shall appoint one member.

2882 (d) The Speaker of the House of Representatives shall
 2883 appoint one member.

2884 (e) The Commissioner of Insurance Regulation, or his or
 2885 her designee, shall serve as an ex officio voting member of the
 2886 task force.

2887 (f) The Insurance Consumer Advocate, or his or her
 2888 designee, shall serve as an ex officio voting member of the task
 2889 force.

2890 (g) The Executive Director of Citizens Property Insurance
 2891 Corporation, or his or her designee, shall serve as an ex
 2892 officio voting member of the task force.

2893
 2894 Members of the task force shall serve without compensation but
 2895 are entitled to receive reimbursement for per diem and travel
 2896 expenses as provided in s. 112.061, Florida Statutes.

2897 (4) PURPOSE AND INTENT.--The Legislature recognizes that
 2898 policyholders and applicants of Citizens Property Insurance

2899 Corporation should receive the highest possible level of service
 2900 and treatment. This level should never be less than the private
 2901 market. The Legislature further recognizes that Citizens
 2902 Property Insurance Corporation's service standards should be no
 2903 less than those applied to insurers in the voluntary market with
 2904 respect to responsiveness, timeliness, customer courtesy, and
 2905 overall dealings with policyholders and applicants. The purpose
 2906 of the task force is to make recommendations to the legislative
 2907 and executive branches of this state's government relating to
 2908 the handling, service, and resolution of claims by Citizens
 2909 Property Insurance Corporation that are sufficient to ensure
 2910 that all Citizens' policyholders and applicants in this state
 2911 are able to obtain appropriate handling, service, and resolution
 2912 of claims, as further described in this section.

2913 (5) SPECIFIC ISSUES.--The task force shall conduct such
 2914 research and hearings as it deems necessary to achieve the
 2915 purposes specified in subsection (4) and shall develop
 2916 information on relevant issues, including, but not limited to,
 2917 the following:

2918 (a) How Citizens Property Insurance Corporation can
 2919 improve its customer service.

2920 (b) How Citizens Property Insurance Corporation can
 2921 improve its adjuster response time after a hurricane.

2922 (c) How Citizens Property Insurance Corporation can
 2923 efficiently use its available adjusting sources for claims.

2924 (d) How Citizens Property Insurance Corporation can
 2925 improve the time it takes to conduct damage assessments.

2926 (e) How Citizens Property Insurance Corporation can

2927 dispose of and settle claims remaining from the 2004 and 2005
 2928 hurricane seasons and can improve the time it takes to dispose
 2929 of and settle claims remaining from the 2004 and 2005 hurricane
 2930 seasons.

2931 (f) How Citizens Property Insurance Corporation can
 2932 improve the time it takes to dispose of and settle claims.

2933 (g) Whether Citizens Property Insurance Corporation has
 2934 hired an adequate level of permanent claims and adjusting staff
 2935 in addition to outsourcing its claims-adjusting functions to
 2936 independent adjusting firms.

2937 (6) REPORTS AND RECOMMENDATIONS.--By July 1, 2007, the
 2938 task force shall provide a report containing recommendations
 2939 regarding the process Citizens Property Insurance Corporation
 2940 should use to dispose of the claims remaining open from the 2004
 2941 and 2005 hurricane seasons. By July 1, 2008, the task force
 2942 shall provide a report containing findings relating to the
 2943 issues identified in subsection (5) and recommendations
 2944 consistent with the purposes of this section and also consistent
 2945 with such findings. The report shall include recommendations
 2946 regarding the process Citizens Property Insurance Corporation
 2947 should use to dispose of claims. The task force shall submit the
 2948 reports to the Governor, the Chief Financial Officer, the
 2949 President of the Senate, and the Speaker of the House of
 2950 Representatives. The task force may also submit such interim
 2951 reports as it deems appropriate.

2952 (7) ADDITIONAL ACTIVITIES.--The task force shall monitor
 2953 the implementation of the provisions of chapter 2006-12, Laws of
 2954 Florida, relating to the creation of the Office of Internal

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2955 Auditor in Citizens Property Insurance Corporation and shall
 2956 make such additional recommendations as it deems appropriate for
 2957 further legislative action during the 2006-2008 legislative
 2958 biennium.

2959 (8) EXPIRATION.--The task force shall expire at the end of
 2960 the 2006-2008 legislative biennium.

2961 Section 13. Notwithstanding the provisions of s.
 2962 627.351(6), Florida Statutes, the existing board of governors of
 2963 Citizens Property Insurance Corporation appointed under s.
 2964 627.351(6)(c)4.a., Florida Statutes, is abolished effective
 2965 March 1, 2007. By March 2, 2007, pursuant to s.
 2966 627.351(6)(c)4.a., Florida Statutes, each appointing officer
 2967 shall appoint new members or reappoint existing members of the
 2968 board of governors of the corporation for the unexpired portions
 2969 of the terms of the existing board of governors.

2970 Section 14. Paragraph (e) of subsection (3) and subsection
 2971 (4) of section 631.57, Florida Statutes, are amended to read:

2972 631.57 Powers and duties of the association.--

2973 (3)

2974 (e)1.a. In addition to assessments otherwise authorized in
 2975 paragraph (a) and to the extent necessary to secure the funds
 2976 for the account specified in s. 631.55(2)(c) for the direct
 2977 payment of covered claims of insolvent homeowners insurers and
 2978 to pay the reasonable costs to administer such claims, or to
 2979 retire indebtedness, including, without limitation, the
 2980 principal, redemption premium, if any, and interest on, and
 2981 related costs of issuance of, bonds issued under s. 631.695 and
 2982 the funding of any reserves and other payments required under

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2983 the bond resolution or trust indenture pursuant to which such
 2984 bonds have been issued, the office, upon certification of the
 2985 board of directors, shall levy emergency assessments upon
 2986 insurers holding a certificate of authority. The emergency
 2987 assessments payable under this paragraph by any insurer shall
 2988 not exceed in any single year more than 2 percent of that
 2989 insurer's direct written premiums, net of refunds, in this state
 2990 during the preceding calendar year for the kinds of insurance
 2991 within the account specified in s. 631.55(2)(c).

2992 b. Any emergency assessments authorized under this
 2993 paragraph shall be levied by the office upon insurers referred
 2994 to in sub-subparagraph a., upon certification as to the need for
 2995 such assessments by the board of directors. In the event the
 2996 board of directors participates in the issuance of bonds in
 2997 accordance with s. 631.695, emergency assessments shall be
 2998 levied, in each year that bonds issued under s. 631.695 and
 2999 secured by such emergency assessments are outstanding, in such
 3000 amounts up to such 2-percent limit as required in order to
 3001 provide for the full and timely payment of the principal of,
 3002 redemption premium, if any, and interest on, and related costs
 3003 of issuance of, such bonds. The emergency assessments provided
 3004 for in this paragraph are assigned and pledged to the
 3005 municipality, county, or legal entity issuing bonds under s.
 3006 631.695 for the benefit of the holders of such bonds, in order
 3007 to enable such municipality, county, or legal entity to provide
 3008 for the payment of the principal of, redemption premium, if any,
 3009 and interest on such bonds, the cost of issuance of such bonds,
 3010 and the funding of any reserves and other payments required

3011 under the bond resolution or trust indenture pursuant to which
 3012 such bonds have been issued, without the necessity of any
 3013 further action by the association, the office, or any other
 3014 party. To the extent bonds are issued under s. 631.695 and the
 3015 association determines to secure such bonds by a pledge of
 3016 revenues received from the emergency assessments, such bonds,
 3017 upon such pledge of revenues, shall be secured by and payable
 3018 from the proceeds of such emergency assessments, and the
 3019 proceeds of emergency assessments levied under this paragraph
 3020 shall be remitted directly to and administered by the trustee or
 3021 custodian appointed for such bonds.

3022 c. Emergency assessments under this paragraph may be
 3023 payable in a single payment or, at the option of the
 3024 association, may be payable in 12 monthly installments with the
 3025 first installment being due and payable at the end of the month
 3026 after an emergency assessment is levied and subsequent
 3027 installments being due not later than the end of each succeeding
 3028 month.

3029 d. If emergency assessments are imposed, the report
 3030 required by s. 631.695(7) shall include an analysis of the
 3031 revenues generated from the emergency assessments imposed under
 3032 this paragraph.

3033 e. If emergency assessments are imposed, the references in
 3034 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
 3035 assessments levied under paragraph (a) shall include emergency
 3036 assessments imposed under this paragraph.

3037 2. In order to ensure that insurers paying emergency
 3038 assessments levied under this paragraph continue to charge rates

3039 that are neither inadequate nor excessive, within 90 days after
 3040 being notified of such assessments, each insurer that is to be
 3041 assessed pursuant to this paragraph shall submit a rate filing
 3042 for coverage included within the account specified in s.
 3043 631.55(2)(c) and for which rates are required to be filed under
 3044 s. 627.062. If the filing reflects a rate change that, as a
 3045 percentage, is equal to the difference between the rate of such
 3046 assessment and the rate of the previous year's assessment under
 3047 this paragraph, the filing shall consist of a certification so
 3048 stating and shall be deemed approved when made. Any rate change
 3049 of a different percentage shall be subject to the standards and
 3050 procedures of s. 627.062.

3051 3. In the event the board of directors participates in the
 3052 issuance of bonds in accordance with s. 631.695, an annual
 3053 assessment under this paragraph shall continue while the bonds
 3054 issued with respect to which the assessment was imposed are
 3055 outstanding, including any bonds the proceeds of which were used
 3056 to refund bonds issued pursuant to s. 631.695, unless adequate
 3057 provision has been made for the payment of the bonds in the
 3058 documents authorizing the issuance of such bonds.

3059 4. Emergency assessments under this paragraph are not
 3060 premium and are not subject to the premium tax, to any fees, or
 3061 to any commissions. An insurer is liable for all emergency
 3062 assessments that the insurer collects and shall treat the
 3063 failure of an insured to pay an emergency assessment as a
 3064 failure to pay the premium. An insurer is not liable for
 3065 uncollectible emergency assessments.

3066 (4) The department may exempt any insurer from any regular
 3067 or emergency ~~an~~ assessment if an assessment would result in such
 3068 insurer's financial statement reflecting an amount of capital or
 3069 surplus less than the sum of the minimum amount required by any
 3070 jurisdiction in which the insurer is authorized to transact
 3071 insurance.

3072 Section 15. It is the intent of the Legislature that the
 3073 amendments to s. 631.57, Florida Statutes, by s. 34, chapter
 3074 2006-12, Laws of Florida, authorized the Florida Insurance
 3075 Guaranty Association to certify, and the Office of Insurance
 3076 Regulation to levy, an emergency assessment of up to 2 percent
 3077 to directly pay the covered claims out of the account specified
 3078 in s. 631.55(2)(c), Florida Statutes, or use such emergency
 3079 assessment proceeds to retire the indebtedness and costs of
 3080 bonds issued to pay such claims and reasonable claims
 3081 administration costs.

3082 Section 16. Subsections (1) and (2) of section 627.706,
 3083 Florida Statutes, are amended to read:

3084 627.706 Sinkhole insurance; definitions.--

3085 (1) Every insurer authorized to transact property
 3086 insurance in this state shall make available coverage for
 3087 insurable ~~sinkhole~~ losses on any structure, including contents
 3088 of personal property contained therein, resulting from a
 3089 catastrophic ground cover collapse ~~to the extent provided in the~~
 3090 ~~form to which the sinkhole coverage attaches.~~ A policy for
 3091 residential property insurance may include a deductible amount
 3092 applicable to sinkhole losses equal to 1 percent, 2 percent, 5
 3093 percent, or 10 percent of the policy dwelling limits, with

3094 appropriate premium discounts offered with each deductible
 3095 amount.

3096 (2) As used in ss. 627.706-627.7074, and as used in
 3097 connection with any policy providing coverage for ~~sinkhole~~
 3098 losses resulting from a catastrophic ground cover collapse:

3099 (a) "Catastrophic ground cover collapse" means geological
 3100 activity that, within a period of 7 days or less, results in the
 3101 collapse of the ground cover that renders the insured structure
 3102 uninhabitable. The term "catastrophic ground cover collapse"
 3103 does not include ground cover subsidence caused when, during a
 3104 period exceeding 7 days, the upper surface of limestone is
 3105 dissolved away and the ground cover slowly subsides to occupy
 3106 the space once occupied by limestone.

3107 (b) ~~"Sinkhole Loss"~~ means structural damage to a structure
 3108 or the building, including the foundation, caused by a
 3109 catastrophic ground cover collapse or sinkhole activity.

3110 Contents coverage shall apply only if there is structural damage
 3111 to a structure or the building caused by a catastrophic ground
 3112 cover collapse or sinkhole activity. Structural damage
 3113 consisting merely of the settling or cracking of a foundation,
 3114 structure, or building does not constitute a loss resulting from
 3115 a catastrophic ground cover collapse or sinkhole activity.

3116 (c) ~~(d)~~ "Professional engineer" means a person, as defined
 3117 in s. 471.005, who has a bachelor's degree or higher in
 3118 engineering with a specialty in the geotechnical engineering
 3119 field. A professional engineer must have geotechnical experience
 3120 and expertise in the identification of sinkhole activity as well
 3121 as other potential causes of damage to the structure.

3122 (d)~~(e)~~ "Professional geologist" means a person, as defined
 3123 by s. 492.102, who has a bachelor's degree or higher in geology
 3124 or related earth science with expertise in the geology of
 3125 Florida. A professional geologist must have geological
 3126 experience and expertise in the identification of sinkhole
 3127 activity as well as other potential geologic causes of damage to
 3128 the structure.

3129 (e)~~(a)~~ "Sinkhole" means a depression in the ground cover,
 3130 visible to the naked eye, ~~landform~~ created by subsidence of
 3131 soil, sediment, or rock as underlying strata are dissolved by
 3132 groundwater. A sinkhole may form by collapse into subterranean
 3133 voids created by dissolution of limestone or dolostone or by
 3134 subsidence as these strata are dissolved.

3135 (f)~~(e)~~ "Sinkhole activity" means settlement or systematic
 3136 weakening of the earth supporting such property only when such
 3137 settlement or systematic weakening results from movement or
 3138 raveling of soils, sediments, or rock materials into
 3139 subterranean voids created by the effect of water on a limestone
 3140 or similar rock formation.

3141 (g) "Uninhabitable" means condemned and ordered vacated by
 3142 the governmental agency charged with making such findings and
 3143 issuing such orders in the county in which the insured structure
 3144 is located.

3145 Section 17. This act shall take effect upon becoming a
 3146 law.