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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/25/2008	.	
	.	
	.	

1 The Committee on Banking and Insurance (Atwater and Posey)
 2 recommended the following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Section 215.5595, Florida Statutes, is amended
 8 to read:

9 215.5595 Insurance Capital Build-Up Incentive Program.--

10 (1) Upon entering the 2008 ~~2006~~ hurricane season, the
 11 Legislature finds that:

12 (a) The losses in Florida from eight hurricanes in 2004 and
 13 2005 have seriously strained the resources of both the voluntary
 14 insurance market and the public sector mechanisms of Citizens
 15 Property Insurance Corporation and the Florida Hurricane
 16 Catastrophe Fund.

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17 ~~(b) Private reinsurance is much less available and at a~~
18 ~~significantly greater cost to residential property insurers as~~
19 ~~compared to 1 year ago, particularly for amounts below the~~
20 ~~insurer's retention or retained losses that must be paid before~~
21 ~~reimbursement is provided by the Florida Hurricane Catastrophe~~
22 ~~Fund.~~

23 ~~(c) The Office of Insurance Regulation has reported that~~
24 ~~the insolvency of certain insurers may be imminent.~~

25 ~~(d) Hurricane forecast experts predict that the 2006~~
26 ~~hurricane season will be an active hurricane season and that the~~
27 ~~Atlantic and Gulf Coast regions face an active hurricane cycle of~~
28 ~~10 to 20 years or longer.~~

29 (b)(e) Citizens Property Insurance Corporation has over 1.2
30 million policies in force and has the largest market share of any
31 insurer writing residential property insurer in the state, and
32 faces the threat of a catastrophic loss that ~~The number of~~
33 ~~cancellations or nonrenewals of residential property insurance~~
34 ~~policies is expected to increase and the number of new~~
35 ~~residential policies written in the voluntary market are likely~~
36 ~~to decrease, causing increased policy growth and exposure to the~~
37 ~~state insurer of last resort, Citizens Property Insurance~~
38 ~~Corporation, and threatening to increase the deficit of the~~
39 ~~corporation, currently estimated to be over \$1.7 billion. This~~
40 ~~deficit must be funded by assessments against insurers and~~
41 ~~policyholders, unless otherwise funded by the state.~~

42 (c)(f) Policyholders are subject to high increased premiums
43 and assessments that are increasingly making such coverage
44 unaffordable and that may force policyholders to sell their homes
45 and even leave the state.



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46 ~~(d)(g)~~ The increased risk to the public sector and private
47 sector continues to pose ~~poses~~ a serious threat to the economy of
48 this state, particularly the building and financing of
49 residential structures, and existing mortgages may be placed in
50 default.

51 ~~(h) The losses from 2004 and 2005, combined with the~~
52 ~~expectation that the increase in hurricane activity will continue~~
53 ~~for the foreseeable future, have caused both insurers and~~
54 ~~reinsurers to limit the capital they are willing to commit to~~
55 ~~covering the hurricane risk in Florida; attracting new capital to~~
56 ~~the Florida market is a critical priority; and providing a low-~~
57 ~~cost source of capital would enable insurers to write additional~~
58 ~~residential property insurance coverage and act to mitigate~~
59 ~~premium increases.~~

60 ~~(e)(i)~~ Appropriating state funds to be exchanged for used
61 ~~as~~ surplus notes issued by ~~for~~ residential property insurers,
62 under conditions requiring the insurer to contribute additional
63 private sector capital and to write a minimum level of premiums
64 for residential hurricane coverage, is a valid and important
65 public purpose.

66 (f) Extending the Insurance Capital Build-up Incentive
67 Program will provide an incentive for investors to commit
68 additional capital to Florida's residential insurance market.

69 (2) The purpose of this section is to provide funds in
70 exchange for surplus notes to be issued by ~~to~~ new or existing
71 authorized residential property insurers under the Insurance
72 Capital Build-Up Incentive Program administered by the State
73 Board of Administration, under the following conditions:

74 (a) The amount of state funds provided in exchange for a
75 ~~the~~ surplus note to ~~for~~ any insurer or insurer group, other than

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76 an insurer writing only manufactured housing policies, may not
77 exceed \$25 million or 20 percent of the total amount of funds
78 appropriated for available under the program, whichever is
79 greater. The amount of the surplus note for any insurer or
80 insurer group writing residential property insurance covering
81 only manufactured housing may not exceed \$7 million.

82 (b) The insurer must contribute an amount of new capital to
83 its surplus which is at least equal to the amount of the surplus
84 note and ~~must apply to the board by July 1, 2006. If an insurer~~
85 ~~applies after July 1, 2006, but before June 1, 2007, the amount~~
86 ~~of the surplus note is limited to one-half of the new capital~~
87 ~~that the insurer contributes to its surplus, except that an~~
88 ~~insurer writing only manufactured housing policies is eligible to~~
89 ~~receive a surplus note of up to \$7 million.~~ For purposes of this
90 section, new capital must be in the form of cash or cash
91 equivalents as specified in s. 625.012(1).

92 (c) The insurer's surplus, new capital, and the surplus
93 note must total at least \$50 million, except for insurers writing
94 residential property insurance covering only manufactured
95 housing. The insurer's surplus, new capital, and the surplus note
96 must total at least \$14 million for insurers writing only
97 residential property insurance covering manufactured housing
98 policies as provided in paragraph (a).

99 (d) The insurer must commit to increase its writings of
100 residential property insurance, including the peril of wind, and
101 to meet meeting a minimum writing ratio of net written premium to
102 surplus of at least 1:1 for the first year after receiving the
103 state funds, 1.5:1 for the second year, and 2:1 for the remaining
104 term of the surplus note. Alternatively, the insurer must meet a
105 minimum writing ratio of gross written premium to surplus of at



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106 least 3:1 for the first year after receiving the state funds,
107 4.5:1 for the second year, and 6:1 for the remaining term of the
108 surplus note. The writing ratios, which shall be determined by
109 the Office of Insurance Regulation and certified quarterly to the
110 board. For this purpose, the term "premium" "net written premium"
111 means net written premium for residential property insurance in
112 Florida, including the peril of wind, and "surplus" refers to the
113 entire surplus of the insurer. The insurer must also commit to
114 writing at least one-third of its net or gross written premium
115 for new policies, not including renewal premiums, for policies
116 taken out of Citizens Property Insurance Corporation, during each
117 of the first 3 years after receiving the state funds in exchange
118 for the surplus note, which shall be determined by the Office of
119 Insurance Regulation and certified annually to the board. The
120 office may determine that an insurer meets the requirement for
121 taking policies out of Citizens, by written notice to the board,
122 upon a finding that the insurer made offers of coverage to
123 policyholders of Citizens which would have resulted in meeting
124 this requirement had the policyholders accepted the offer. If the
125 required ratio or the required writings for policies taken out of
126 Citizens is not maintained during the term of the surplus note,
127 the board may increase the interest rate, accelerate the
128 repayment of interest and principal, or shorten the term of the
129 surplus note, subject to approval by the Commissioner of
130 Insurance of payments by the insurer of principal and interest as
131 provided in paragraph (f).

132 (e) If the requirements of this section are met, the board
133 may approve an application by an insurer for funds in exchange
134 for issuance of a surplus note, unless the board determines that
135 the financial condition of the insurer and its business plan for



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136 writing residential property insurance in Florida places an
137 unreasonably high level of financial risk to the state of
138 nonpayment in full of the interest and principal. The board shall
139 consult with the Office of Insurance Regulation and may contract
140 with independent financial and insurance consultants in making
141 this determination.

142 (f) The surplus note must be repayable to the state with a
143 term of 20 years. The surplus note shall accrue interest on the
144 unpaid principal balance at a rate equivalent to the 10-year U.S.
145 Treasury Bond rate, require the payment only of interest during
146 the first 3 years, and include such other terms as approved by
147 the board. The board may charge late fees up to 5 percent for
148 late payments or other late remittances. Payment of principal, ~~or~~
149 interest, or late fees by the insurer on the surplus note must be
150 approved by the Commissioner of Insurance, who shall approve such
151 payment unless the commissioner determines that such payment will
152 substantially impair the financial condition of the insurer. If
153 such a determination is made, the commissioner shall approve such
154 payment that will not substantially impair the financial
155 condition of the insurer.

156 (g) The total amount of funds available for the program is
157 limited to the amount appropriated by the Legislature for this
158 purpose. If the amount of surplus notes requested by insurers
159 exceeds the amount of funds available, the board may prioritize
160 insurers that are eligible and approved, with priority for
161 funding given to insurers writing only manufactured housing
162 policies, regardless of the date of application, based on the
163 financial strength of the insurer, the viability of its proposed
164 business plan for writing additional residential property
165 insurance in the state, and the effect on competition in the



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166 residential property insurance market. Between insurers writing
167 residential property insurance covering manufactured housing,
168 priority shall be given to the insurer writing the highest
169 percentage of its policies covering manufactured housing.

170 ~~(h) The board may allocate portions of the funds available~~
171 ~~for the program and establish dates for insurers to apply for~~
172 ~~surplus notes from such allocation which are earlier than the~~
173 ~~dates established in paragraph (b).~~

174 (h) ~~(i)~~ Notwithstanding paragraph (d), a newly formed
175 manufactured housing insurer that is eligible for a surplus note
176 under this section shall meet the premium to surplus ratio
177 provisions of s. 624.4095.

178 (i) ~~(j)~~ As used in this section, "an insurer writing only
179 manufactured housing policies" includes:

180 1. A Florida domiciled insurer that begins writing personal
181 lines residential manufactured housing policies in Florida after
182 March 1, 2007, and that removes a minimum of 50,000 policies from
183 Citizens Property Insurance Corporation without accepting a
184 bonus, provided at least 25 percent of its policies cover
185 manufactured housing. Such an insurer may count any funds above
186 the minimum capital and surplus requirement that were contributed
187 into the insurer after March 1, 2007, as new capital under this
188 section.

189 2. A Florida domiciled insurer that writes at least 40
190 percent of its policies covering manufactured housing in Florida.

191 (3) As used in this section, the term:

192 (a) "Board" means the State Board of Administration.

193 (b) "Program" means the Insurance Capital Build-Up
194 Incentive Program established by this section.



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195 (4) The state funds provided to the insurer in exchange for
196 the A surplus note ~~provided to an insurer~~ pursuant to this
197 section are ~~is~~ considered borrowed surplus ~~an asset~~ of the
198 insurer pursuant to s. 628.401 ~~s. 625.012~~.

199 (5) If an insurer that receives funds in exchange for
200 issuance of a surplus note pursuant to this section is rendered
201 insolvent, the state is a class 3 creditor pursuant to s. 631.271
202 for the unpaid principal and interest on the surplus note.

203 (6) The board shall adopt rules prescribing the procedures,
204 administration, and criteria for approving the applications of
205 insurers to receive funds in exchange for issuance of surplus
206 notes pursuant to this section, which may be adopted pursuant to
207 the procedures for emergency rules of chapter 120. Otherwise,
208 actions and determinations by the board pursuant to this section
209 are exempt from chapter 120.

210 (7) The board shall invest and reinvest the funds
211 appropriated for the program in accordance with s. 215.47 and
212 consistent with board policy.

213 (8) The amendments to this section enacted in 2008 do not
214 affect the terms or conditions of the surplus notes that were
215 approved prior to January 1, 2008. However, the board may
216 renegotiate the terms of any surplus note issued by an insurer
217 prior to January 2008 under this program, upon the agreement of
218 the insurer and the board, consistent with the requirements of
219 this section as amended in 2008.

220 Section 2. Section 542.20, Florida Statutes, is amended to
221 read:

222 542.20 Exemptions.--

223 (1) Any activity or conduct exempt under Florida statutory
224 or common law or exempt from the provisions of the antitrust laws



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225 of the United States is exempt from the provisions of this
226 chapter, except as provided in subsection (2).

227 (2) The business of insurance is subject to the provisions
228 of this chapter. This chapter does not prohibit a rating
229 organization or advisory organization from collecting claims,
230 loss, or expense data from insurers and filing rates or advisory
231 rates with the Office of Insurance Regulation.

232 Section 3. Subsection (6) is added to section 624.3161,
233 Florida Statutes, to read:

234 624.3161 Market conduct examinations.--

235 (6) Based on the findings of a market conduct examination,
236 the office may require an insurer to file its claims-handling
237 practices and procedures with the office for review and
238 inspection. Such claims-handling practices and procedures are
239 public records and are not trade secrets or otherwise exempt from
240 the provisions of s. 119.07(1). As used in this section, "claims-
241 handling practices and procedures" are any policies, guidelines,
242 rules, protocols, standard operating procedures, instructions, or
243 directives that govern or guide how and the manner in which an
244 insured's claims for benefits under any policy will be processed.

245 Section 4. Subsection (4) is added to section 624.418,
246 Florida Statutes, to read:

247 624.418 Suspension, revocation of certificate of authority
248 for violations and special grounds.--

249 (4) The failure of an insurer to provide documents or
250 information subpoenaed by the office constitutes an immediate and
251 serious danger to the public health, safety, and welfare; and the
252 office may, at its discretion, without prior notice or the
253 opportunity for a hearing immediately suspend the insurer's
254 certificate of authority.

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255 Section 5. Subsections (2) and (3) of section 624.4211,
256 Florida Statutes, are amended, and subsections (5) and (6) are
257 added to that section, to read:

258 624.4211 Administrative fine in lieu of suspension or
259 revocation.--

260 (2) With respect to any nonwillful violation, such fine may
261 ~~shall~~ not exceed \$25,000 ~~\$2,500~~ per violation. ~~In no event shall~~
262 ~~such fine exceed an aggregate amount of \$10,000 for all~~
263 ~~nonwillful violations arising out of the same action. If~~ When an
264 insurer discovers a nonwillful violation, the insurer shall
265 correct the violation and, if restitution is due, make
266 restitution to all affected persons. Such restitution shall
267 include interest at 12 percent per year from either the date of
268 the violation or the date of inception of the affected person's
269 policy, at the insurer's option. The restitution may be a credit
270 against future premiums due provided that ~~the~~ interest
271 accumulates ~~shall accumulate~~ until the premiums are due. If the
272 amount of restitution due to any person is \$50 or more and the
273 insurer wishes to credit it against future premiums, it shall
274 notify such person that she or he may receive a check instead of
275 a credit. If the credit is on a policy that ~~which~~ is not renewed,
276 the insurer shall pay the restitution to the person to whom it is
277 due.

278 (3) With respect to any knowing and willful violation of a
279 lawful order or rule of the office or commission or a provision
280 of this code, the office may impose a fine upon the insurer in an
281 amount not to exceed \$100,000 ~~\$20,000~~ for each such violation. ~~In~~
282 ~~no event shall such fine exceed an aggregate amount of \$100,000~~
283 ~~for all knowing and willful violations arising out of the same~~
284 ~~action.~~ In addition to such fines, the ~~such~~ insurer shall make

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285 restitution when due in accordance with ~~the provisions of~~
286 subsection (2).

287 (5) The office may impose an administrative fine for each
288 day the insurer is not in compliance with the Florida Insurance
289 Code up to a maximum of \$25,000 per violation per day.

290 (6) In determining the amount of the fine, the office shall
291 consider:

292 (a) The degree of consumer harm caused or potentially
293 caused by the violation;

294 (b) Whether the violation constitutes an immediate danger
295 to the public;

296 (c) Whether the violation is a repeat violation or similar
297 to past violations by the insurer;

298 (d) The effect on the solvency of the insurer;

299 (e) The premium volume of the insurer; and

300 (f) The effect that fining the insurer will have on the
301 insurer's compliance with the Florida Insurance Code.

302 Section 6. Section 624.4213, Florida Statutes, is created to
303 read:

304 624.4213 Trade secret documents.--

305 (1) If any person who is required to submit documents or
306 other information to the office or department pursuant to the
307 Insurance Code or by rule or order of the office, department, or
308 commission claims that such submission contains a trade secret,
309 such person may file with the office or department a notice of
310 trade secret as provided in this section. Failure to do so
311 constitutes a waiver of any claim by such person that the
312 document or information is a trade secret.



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313 (a) Each page of such document or specific portion of a
314 document claimed to be a trade secret must be clearly marked as
315 "trade secret."

316 (b) All material marked as a trade secret must be separated
317 from all non-trade secret material, such as being submitted in a
318 separate envelope clearly marked as "trade secret."

319 (c) In submitting a notice of trade secret to the office or
320 department, the submitting party must include an affidavit
321 certifying under oath to the truth of the following statements
322 concerning all documents or information that are claimed to be
323 trade secrets:

324 1. [I consider/My company considers] this information a
325 trade secret that has value and provides an advantage or an
326 opportunity to obtain an advantage over those who do not know or
327 use it.

328 2. [I have/My company has] taken measures to prevent the
329 disclosure of the information to anyone other than those who have
330 been selected to have access for limited purposes, and [I
331 intend/my company intends] to continue to take such measures.

332 3. The information is not, and has not been, reasonably
333 obtainable without [my/our] consent by other persons by use of
334 legitimate means.

335 4. The information is not publicly available elsewhere.

336 (2) If a court or administrative tribunal finds that any
337 document or information certified as a trade secret, submitted to
338 the office or department under this section, and subsequently
339 requested by a third party is not a trade secret, the company or
340 the person certifying such document or information as a trade
341 secret is liable for an award of reasonable attorney's fees and
342 costs to the third party seeking access to such documents. In

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343 addition, it is a violation of the Florida Insurance Code if the
344 office or department finds that the person submitting the
345 document or information knew, or should have known, that the
346 document or information is not a trade secret.

347 (3) The office or department may disclose a trade secret,
348 together with the claim that it is a trade secret, to an officer
349 or employee of another governmental agency whose use of the trade
350 secret is within the scope of his or her employment.

351 Section 7. Section 624.4305, Florida Statutes, is created to
352 read:

353 624.4305 Nonrenewal of residential property insurance
354 policies.--

355 (1) Any insurer planning to nonrenew more than 10,000
356 residential property insurance policies in this state shall give
357 90 days' notice in writing to the office prior to the issuance of
358 any notices of nonrenewal. The notice must set forth the
359 insurer's reasons for such action, the effective dates of
360 nonrenewal, and any arrangements that have been made for other
361 insurers to offer coverage to affected policyholders.

362 (2) The insurer may not issue a notice of nonrenewal to
363 such policyholders unless the office approves or fails to
364 disapprove the nonrenewal plan within 90 days after receiving the
365 notice from the insurer. The office may not approve the plan
366 unless it finds that the insurer has staggered the nonrenewals
367 over a reasonable period relative to the number of nonrenewals,
368 or has made arrangements for offers of replacement coverage, such
369 that the actions are not hazardous to policyholders or the
370 public.

371 Section 8. Subsection (2) of section 626.9521, Florida
372 Statutes, is amended to read:

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373 626.9521 Unfair methods of competition and unfair or
374 deceptive acts or practices prohibited; penalties.--

375 (2) Any person who violates any provision of this part
376 shall be subject to a fine in an amount not greater than \$25,000
377 ~~\$2,500~~ for each nonwillful violation and not greater than
378 \$100,000 ~~\$20,000~~ for each willful violation. ~~Fines under this~~
379 ~~subsection may not exceed an aggregate amount of \$10,000 for all~~
380 ~~nonwillful violations arising out of the same action or an~~
381 ~~aggregate amount of \$100,000 for all willful violations arising~~
382 ~~out of the same action.~~ The fines authorized by this subsection
383 may be imposed in addition to any other applicable penalty.

384 Section 9. Paragraph (i) of subsection (1) of section
385 626.9541, Florida Statutes, is amended to read:

386 626.9541 Unfair methods of competition and unfair or
387 deceptive acts or practices defined.--

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

391 (i) Unfair claim settlement practices.--

392 1. Attempting to settle claims on the basis of an
393 application, ~~when~~ serving as a binder or intended to become a
394 part of the policy, or any other material document that is ~~which~~
395 ~~was~~ altered without notice to, or knowledge or consent of, the
396 insured;

397 2. A material misrepresentation made to an insured or any
398 other person having an interest in the proceeds payable under a
399 ~~such~~ contract or policy, for the purpose and with the intent of
400 effecting settlement of such claims, loss, or damage under such
401 contract or policy on less favorable terms than those provided
402 in, and contemplated by, the ~~such~~ contract or policy; ~~or~~



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403 3. Committing or performing with such frequency as to
404 indicate a general business practice any of the following:

405 a. Failing to adopt and implement standards for the proper
406 investigation of claims.~~†~~

407 b. Misrepresenting pertinent facts or insurance policy
408 provisions relating to coverages at issue.~~†~~

409 c. Failing to acknowledge and act promptly upon
410 communications with respect to claims.~~†~~

411 d. Denying claims without conducting reasonable
412 investigations based upon available information.~~†~~

413 e. Failing to affirm or deny full or partial coverage of
414 claims, and, as to partial coverage, the dollar amount or extent
415 of coverage, or failing to provide a written statement that the
416 claim is being investigated, upon the written request of the
417 insured within 30 days after proof-of-loss statements have been
418 completed.~~†~~

419 f. Failing to promptly provide a reasonable explanation in
420 writing to the insured of the basis in the insurance policy, in
421 relation to the facts or applicable law, for denial of a claim or
422 for the offer of a compromise settlement.~~†~~

423 g. Failing to promptly notify the insured of any additional
424 information necessary for the processing of a claim.~~†~~~~or~~

425 h. Failing to clearly explain the nature of the requested
426 information and the reasons why such information is necessary.

427 i. Failing to promptly provide to the insured estimates of
428 damage and a good faith explanation in writing of the insurer's
429 evaluation of benefits and the basis for the evaluation.

430 4. Giving consideration to the age, race, income level,
431 education, credit score, or any other personal characteristic of

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432 | a policyholder when evaluating, adjusting, settling, or
433 | attempting to settle a property insurance claim; or
434 | 5. Failing to pay undisputed amounts of partial or full
435 | benefits owed under first-party property insurance policies
436 | within 30 days after determining the amounts of partial or full
437 | benefits and agreeing to coverage. This subparagraph controls to
438 | the extent of any conflict with any other provision of law.

439 | Section 10. Paragraphs (a), (b), and (g) of subsection (2)
440 | and subsection (9) of section 627.062, Florida Statutes, are
441 | amended to read:

442 | 627.062 Rate standards.--

443 | (2) As to all such classes of insurance:

444 | (a) Insurers or rating organizations shall establish and
445 | use rates, rating schedules, or rating manuals to allow the
446 | insurer a reasonable rate of return on such classes of insurance
447 | written in this state. A copy of rates, rating schedules, rating
448 | manuals, premium credits or discount schedules, and surcharge
449 | schedules, and changes thereto, shall be filed with the office
450 | under one of the following procedures except as provided in
451 | subparagraph 3.:

452 | 1. If the filing is made at least 90 days before the
453 | proposed effective date and the filing is not implemented during
454 | the office's review of the filing and any proceeding and judicial
455 | review, then such filing shall be considered a "file and use"
456 | filing. In such case, the office shall finalize its review by
457 | issuance of a notice of intent to approve or a notice of intent
458 | to disapprove within 90 days after receipt of the filing. The
459 | notice of intent to approve and the notice of intent to
460 | disapprove constitute agency action for purposes of the
461 | Administrative Procedure Act. Requests for supporting



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462 information, requests for mathematical or mechanical corrections,
463 or notification to the insurer by the office of its preliminary
464 findings shall not toll the 90-day period during any such
465 proceedings and subsequent judicial review. The rate shall be
466 deemed approved if the office does not issue a notice of intent
467 to approve or a notice of intent to disapprove within 90 days
468 after receipt of the filing.

469 2. If the filing is not made in accordance with the
470 provisions of subparagraph 1., such filing shall be made as soon
471 as practicable, but no later than 30 days after the effective
472 date, and shall be considered a "use and file" filing. An insurer
473 making a "use and file" filing is potentially subject to an order
474 by the office to return to policyholders portions of rates found
475 to be excessive, as provided in paragraph (h).

476 3. For all property insurance filings ~~made or submitted~~
477 ~~after January 25, 2007, but before December 31, 2008~~, an insurer
478 seeking a rate that is greater than the rate most recently
479 approved by the office shall make a "file and use" filing. ~~This~~
480 ~~subparagraph applies to property insurance only.~~ For purposes of
481 this subparagraph, motor vehicle collision and comprehensive
482 coverages are not considered to be property coverages.

483 (b) Upon receiving a rate filing, the office shall review
484 the rate filing to determine if a rate is excessive, inadequate,
485 or unfairly discriminatory. In making that determination, the
486 office shall, in accordance with generally accepted and
487 reasonable actuarial techniques, consider the following factors:

488 1. Past and prospective loss experience within and without
489 this state.

490 2. Past and prospective expenses.

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491 3. The degree of competition among insurers for the risk
492 insured.

493 4. Investment income reasonably expected by the insurer,
494 consistent with the insurer's investment practices, from
495 investable premiums anticipated in the filing, plus any other
496 expected income from currently invested assets representing the
497 amount expected on unearned premium reserves and loss reserves.
498 The commission may adopt rules using ~~utilizing~~ reasonable
499 techniques of actuarial science and economics to specify the
500 manner in which insurers shall calculate investment income
501 attributable to such classes of insurance written in this state
502 and the manner in which such investment income shall be used to
503 calculate ~~in the calculation of~~ insurance rates. Such manner
504 shall contemplate allowances for an underwriting profit factor
505 and full consideration of investment income which produce a
506 reasonable rate of return; however, investment income from
507 invested surplus may ~~shall~~ not be considered.

508 5. The reasonableness of the judgment reflected in the
509 filing.

510 6. Dividends, savings, or unabsorbed premium deposits
511 allowed or returned to Florida policyholders, members, or
512 subscribers.

513 7. The adequacy of loss reserves.

514 8. The cost of reinsurance, subject to the following
515 conditions:-

516 a. The cost of reinsurance shall be presumed to be
517 excessive if the annual expected recoveries are less than 40
518 percent of the annual reinsurance premium for reinsurance
519 purchased from affiliated reinsurers, or less than 20 percent of
520 the annual reinsurance premium for reinsurance purchased from



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521 unaffiliated reinsurers after excluding the Florida Hurricane
522 Catastrophe Fund. The insurer may rebut this presumption by
523 providing documentation to the office demonstrating that the
524 annual expected recovery must deviate from such requirements in
525 order to ensure the financial soundness of the insurer.

526 b. For reinsurance purchased from affiliated reinsurers,
527 the costs may not include any broker fees.

528 c. The cost of catastrophe reinsurance shall be presumed to
529 be excessive to the extent that the amount of reinsurance
530 coverage was based on estimates of probable maximum loss which
531 are in excess of estimates using a hurricane loss model or method
532 found to be acceptable or reliable by the Florida Commission on
533 Hurricane Loss Projection Methodology, as provided in s.
534 627.0628.

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

537 10. Conflagration and catastrophe hazards, if applicable.

538 11. Projected hurricane losses, if applicable, which must
539 be estimated using a model or method found to be acceptable or
540 reliable by the Florida Commission on Hurricane Loss Projection
541 Methodology, and as further provided in s. 627.0628.

542 ~~12.11. A reasonable margin for underwriting profit and~~
543 ~~contingencies. For that portion of the rate covering the risk of~~
544 ~~hurricanes and other catastrophic losses for which the insurer~~
545 ~~has not purchased reinsurance and has exposed its capital and~~
546 ~~surplus to such risk, the office must approve a rating factor~~
547 ~~that provides the insurer a reasonable rate of return that is~~
548 ~~commensurate with such risk.~~

549 ~~13.12. The cost of medical services, if applicable.~~



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550 ~~14.13.~~ Other relevant factors which impact upon the
551 frequency or severity of claims or upon expenses.

552 (g) The office may at any time review a rate, rating
553 schedule, rating manual, or rate change; the pertinent records of
554 the insurer; and market conditions. If the office finds on a
555 preliminary basis that a rate may be excessive, inadequate, or
556 unfairly discriminatory, the office shall initiate proceedings to
557 disapprove the rate and shall so notify the insurer. However, the
558 office may not disapprove as excessive any rate for which it has
559 given final approval or which has been deemed approved for a
560 period of 1 year after the effective date of the filing unless
561 the office finds that a material misrepresentation or material
562 error was made by the insurer or was contained in the filing, or
563 unless the insurer has nonrenewed a number or percentage of
564 policies which the office determines may result in the insurer
565 having an excessive rate. Upon being so notified, the insurer or
566 rating organization shall, within 60 days, file with the office
567 all information which, in the belief of the insurer or
568 organization, proves the reasonableness, adequacy, and fairness
569 of the rate or rate change. The office shall issue a notice of
570 intent to approve or a notice of intent to disapprove pursuant to
571 the procedures of paragraph (a) within 90 days after receipt of
572 the insurer's initial response. In such instances and in any
573 administrative proceeding relating to the legality of the rate,
574 the insurer or rating organization shall carry the burden of
575 proof by a preponderance of the evidence to show that the rate is
576 not excessive, inadequate, or unfairly discriminatory. After the
577 office notifies an insurer that a rate may be excessive,
578 inadequate, or unfairly discriminatory, unless the office
579 withdraws the notification, the insurer shall not alter the rate



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580 | except to conform with the office's notice until the earlier of
581 | 120 days after the date the notification was provided or 180 days
582 | after the date of the implementation of the rate. The office may,
583 | subject to chapter 120, disapprove without the 60-day
584 | notification any rate increase filed by an insurer within the
585 | prohibited time period or during the time that the legality of
586 | the increased rate is being contested.

587

588 | The provisions of this subsection shall not apply to workers'
589 | compensation and employer's liability insurance and to motor
590 | vehicle insurance.

591 | (9) (a) ~~Effective March 1, 2007,~~ The chief executive officer
592 | or chief financial officer of a property insurer and the chief
593 | actuary of a property insurer must certify under oath and subject
594 | to the penalty of perjury, on a form approved by the commission,
595 | the following information, which must accompany a rate filing:

596 | 1. The signing officer and actuary have reviewed the rate
597 | filing;

598 | 2. Based on the signing officer's and actuary's knowledge,
599 | the rate filing does not contain any untrue statement of a
600 | material fact or omit to state a material fact necessary in order
601 | to make the statements made, in light of the circumstances under
602 | which such statements were made, not misleading;

603 | 3. Based on the signing officer's and actuary's knowledge,
604 | the information and other factors described in paragraph (2) (b),
605 | including, but not limited to, investment income, fairly present
606 | in all material respects the basis of the rate filing for the
607 | periods presented in the filing; ~~and~~

608 | 4. Based on the signing officer's and actuary's knowledge,
609 | the rate filing reflects all premium savings that are reasonably

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610 expected to result from legislative enactments and are in
611 accordance with generally accepted and reasonable actuarial
612 techniques; ~~and~~

613 5. Based on the signing officer's and actuary's knowledge,
614 the actuary responsible for preparing the rate filing reviewed
615 the rate indications used by the office in approving the
616 insurer's last rate filing, if made available to the insurer for
617 review, and identified factors used in the current rate filing
618 which are inconsistent with the factors used by the office in
619 developing such rate indications; and

620 6. Based on the signing officer's and actuary's knowledge,
621 the number and type of policies that the insurer intends to
622 nonrenew during the year following the proposed effective date of
623 the rate filing, and that the rate filing reflects the reduced
624 risk of loss associated with such nonrenewals.

625 (b) A signing officer or actuary knowingly making a false
626 certification under this subsection commits a violation of s.
627 626.9541(1)(e) and is subject to the penalties under s. 626.9521.

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

631 (d) A properly certified rate filing must contain all
632 information that the insurer intends to support the rate filing,
633 unless the office requests additional information to support the
634 filing. If the office issues a notice of intent to disapprove the
635 filing, additional information related to the rate filing is not
636 admissible to justify the rate in any subsequent administrative
637 or legal proceeding, other than expert opinion.

638 (e) ~~(d)~~ The commission may adopt rules and forms pursuant to
639 ss. 120.536(1) and 120.54 to administer this subsection.

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640 Section 11. Subsection (6) of section 627.062, Florida
641 Statutes, is repealed.

642 Section 12. Subsection (1) of section 627.0613, Florida
643 Statutes, is amended to read:

644 627.0613 Consumer advocate.--The Chief Financial Officer
645 must appoint a consumer advocate who must represent the general
646 public of the state before the department and the office. The
647 consumer advocate must report directly to the Chief Financial
648 Officer, but is not otherwise under the authority of the
649 department or of any employee of the department. The consumer
650 advocate has such powers as are necessary to carry out the duties
651 of the office of consumer advocate, including, but not limited
652 to, the powers to:

653 (1) Recommend to the department or office, by petition, the
654 commencement of any proceeding or action; appear in any
655 proceeding or action before the department or office; or appear
656 in any proceeding before the Division of Administrative Hearings
657 ~~or arbitration panel specified in s. 627.062(6)~~ relating to
658 subject matter under the jurisdiction of the department or
659 office.

660 Section 13. Paragraph (c) of subsection (1) and paragraph
661 (c) of subsection (3) of section 627.0628, Florida Statutes, are
662 amended to read:

663 627.0628 Florida Commission on Hurricane Loss Projection
664 Methodology; public records exemption; public meetings
665 exemption.--

666 (1) LEGISLATIVE FINDINGS AND INTENT.--

667 (c) It is the intent of the Legislature to create the
668 Florida Commission on Hurricane Loss Projection Methodology as a
669 panel of experts to provide the most actuarially sophisticated

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670 guidelines and standards for projection of hurricane losses
671 possible, given the current state of actuarial science. It is the
672 further intent of the Legislature that such standards and
673 guidelines must be used by the State Board of Administration in
674 developing reimbursement premium rates for the Florida Hurricane
675 Catastrophe Fund, and, subject to paragraph (3)(c), must ~~may~~ be
676 used by insurers in rate filings under s. 627.062 unless the way
677 in which such standards and guidelines were applied by the
678 insurer was erroneous, as shown by a preponderance of the
679 evidence.

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

681 (c) With respect to a rate filing under s. 627.062, an
682 insurer must ~~may~~ employ and may not modify or adjust actuarial
683 methods, principles, standards, models, or output ranges found by
684 the commission to be accurate or reliable in determining ~~to~~
685 ~~determine~~ hurricane loss factors used for use in a rate filing
686 and in determining probable maximum loss levels for reinsurance
687 costs included in a rate filing under s. 627.062. However, such
688 findings and factors are admissible and relevant in consideration
689 of a rate filing by the office or in any arbitration or
690 administrative or judicial review only if the office and the
691 consumer advocate appointed pursuant to s. 627.0613 have access
692 to all of the assumptions and factors that were used in
693 developing the actuarial methods, principles, standards, models,
694 or output ranges, and are not precluded from disclosing such
695 information in a rate proceeding. In any rate hearing under s.
696 120.57 ~~or in any arbitration proceeding under s. 627.062(6)~~, the
697 hearing officer or ~~judge, or arbitration panel~~ may determine
698 whether the office and the consumer advocate were provided with
699 access to all of the assumptions and factors that were used in

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700 developing the actuarial methods, principles, standards, models,
701 or output ranges and may ~~to~~ determine their admissibility.

702 Section 14. Subsection (1) of section 627.0629, Florida
703 Statutes, is amended to read:

704 627.0629 Residential property insurance; rate filings.--

705 (1) (a) It is the intent of the Legislature that insurers
706 must provide savings to consumers who install or implement
707 windstorm damage mitigation techniques, alterations, or solutions
708 to their properties to prevent windstorm losses. A rate filing
709 for residential property insurance must include actuarially
710 reasonable discounts, credits, or other rate differentials, or
711 appropriate reductions in deductibles, for properties on which
712 fixtures or construction techniques demonstrated to reduce the
713 amount of loss in a windstorm have been installed or implemented.
714 The fixtures or construction techniques shall include, but not be
715 limited to, fixtures or construction techniques which enhance
716 roof strength, roof covering performance, roof-to-wall strength,
717 wall-to-floor-to-foundation strength, opening protection, and
718 window, door, and skylight strength. Credits, discounts, or other
719 rate differentials, or appropriate reductions in deductibles, for
720 fixtures and construction techniques which meet the minimum
721 requirements of the Florida Building Code must be included in the
722 rate filing. All insurance companies must make a rate filing
723 which includes the credits, discounts, or other rate
724 differentials or reductions in deductibles by February 28, 2003.
725 By July 1, 2007, the office shall reevaluate the discounts,
726 credits, other rate differentials, and appropriate reductions in
727 deductibles for fixtures and construction techniques that meet
728 the minimum requirements of the Florida Building Code, based upon
729 actual experience or any other loss relativity studies available



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730 to the office. The office shall determine the discounts, credits,
731 other rate differentials, and appropriate reductions in
732 deductibles that reflect the full actuarial value of such
733 revaluation, which may be used by insurers in rate filings.

734 (b) By February 1, 2009, the Office of Insurance
735 Regulation, in consultation with the Department of Financial
736 Services and the Department of Community Affairs, shall develop
737 and make publicly available a proposed method for insurers to
738 establish discounts, credits, or other rate differentials for
739 hurricane mitigation measures which directly correlate to the
740 numerical rating assigned to a structure pursuant to the uniform
741 home grading scale adopted by the Financial Services Commission
742 pursuant to s. 215.55865, including any proposed changes to the
743 uniform home grading scale. By October 1, 2009, the commission
744 shall adopt rules requiring insurers to make rate filings for
745 residential property insurance which revise insurers' discounts,
746 credits, or other rate differentials for hurricane mitigation
747 measures so that such rate differentials correlate directly to
748 the uniform home grading scale. The rules may include such
749 changes to the uniform home grading scale as the commission
750 determines are necessary, and may specify the minimum required
751 discounts, credits, or other rate differentials. Such rate
752 differentials must be consistent with generally accepted
753 actuarial principles and wind-loss mitigation studies.

754 Section 15. Paragraph (b) of subsection (2) and subsection
755 (6) of section 627.351, Florida Statutes, are amended to read:

756 627.351 Insurance risk apportionment plans.--

757 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

758 (b) The department shall require all insurers holding a
759 certificate of authority to transact property insurance on a



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760 direct basis in this state, other than joint underwriting
761 associations and other entities formed pursuant to this section,
762 to provide windstorm coverage to applicants from areas determined
763 to be eligible pursuant to paragraph (c) who in good faith are
764 entitled to, but are unable to procure, such coverage through
765 ordinary means; or it shall adopt a reasonable plan or plans for
766 the equitable apportionment or sharing among such insurers of
767 windstorm coverage, which may include formation of an association
768 for this purpose. As used in this subsection, the term "property
769 insurance" means insurance on real or personal property, as
770 defined in s. 624.604, including insurance for fire, industrial
771 fire, allied lines, farmowners multiperil, homeowners'
772 multiperil, commercial multiperil, and mobile homes, and
773 including liability coverages on all such insurance, but
774 excluding inland marine as defined in s. 624.607(3) and excluding
775 vehicle insurance as defined in s. 624.605(1)(a) other than
776 insurance on mobile homes used as permanent dwellings. The
777 department shall adopt rules that provide a formula for the
778 recovery and repayment of any deferred assessments.

779 1. For the purpose of this section, properties eligible for
780 such windstorm coverage are defined as dwellings, buildings, and
781 other structures, including mobile homes which are used as
782 dwellings and which are tied down in compliance with mobile home
783 tie-down requirements prescribed by the Department of Highway
784 Safety and Motor Vehicles pursuant to s. 320.8325, and the
785 contents of all such properties. An applicant or policyholder is
786 eligible for coverage only if an offer of coverage cannot be
787 obtained by or for the applicant or policyholder from an admitted
788 insurer at approved rates.



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789 2.a.(I) All insurers required to be members of such
790 association shall participate in its writings, expenses, and
791 losses. Surplus of the association shall be retained for the
792 payment of claims and shall not be distributed to the member
793 insurers. Such participation by member insurers shall be in the
794 proportion that the net direct premiums of each member insurer
795 written for property insurance in this state during the preceding
796 calendar year bear to the aggregate net direct premiums for
797 property insurance of all member insurers, as reduced by any
798 credits for voluntary writings, in this state during the
799 preceding calendar year. For the purposes of this subsection, the
800 term "net direct premiums" means direct written premiums for
801 property insurance, reduced by premium for liability coverage and
802 for the following if included in allied lines: rain and hail on
803 growing crops; livestock; association direct premiums booked;
804 National Flood Insurance Program direct premiums; and similar
805 deductions specifically authorized by the plan of operation and
806 approved by the department. A member's participation shall begin
807 on the first day of the calendar year following the year in which
808 it is issued a certificate of authority to transact property
809 insurance in the state and shall terminate 1 year after the end
810 of the calendar year during which it no longer holds a
811 certificate of authority to transact property insurance in the
812 state. The commissioner, after review of annual statements, other
813 reports, and any other statistics that the commissioner deems
814 necessary, shall certify to the association the aggregate direct
815 premiums written for property insurance in this state by all
816 member insurers.

817 (II) Effective July 1, 2002, the association shall operate
818 subject to the supervision and approval of a board of governors



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819 | who are the same individuals that have been appointed by the
820 | Treasurer to serve on the board of governors of the Citizens
821 | Property Insurance Corporation.

822 | (III) The plan of operation shall provide a formula whereby
823 | a company voluntarily providing windstorm coverage in affected
824 | areas will be relieved wholly or partially from apportionment of
825 | a regular assessment pursuant to sub-sub-subparagraph d.(I) or
826 | sub-sub-subparagraph d.(II).

827 | (IV) A company which is a member of a group of companies
828 | under common management may elect to have its credits applied on
829 | a group basis, and any company or group may elect to have its
830 | credits applied to any other company or group.

831 | (V) There shall be no credits or relief from apportionment
832 | to a company for emergency assessments collected from its
833 | policyholders under sub-sub-subparagraph d.(III).

834 | (VI) The plan of operation may also provide for the award
835 | of credits, for a period not to exceed 3 years, from a regular
836 | assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
837 | subparagraph d.(II) as an incentive for taking policies out of
838 | the Residential Property and Casualty Joint Underwriting
839 | Association. In order to qualify for the exemption under this
840 | sub-sub-subparagraph, the take-out plan must provide that at
841 | least 40 percent of the policies removed from the Residential
842 | Property and Casualty Joint Underwriting Association cover risks
843 | located in Dade, Broward, and Palm Beach Counties or at least 30
844 | percent of the policies so removed cover risks located in Dade,
845 | Broward, and Palm Beach Counties and an additional 50 percent of
846 | the policies so removed cover risks located in other coastal
847 | counties, and must also provide that no more than 15 percent of
848 | the policies so removed may exclude windstorm coverage. With the

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849 approval of the department, the association may waive these
850 geographic criteria for a take-out plan that removes at least the
851 lesser of 100,000 Residential Property and Casualty Joint
852 Underwriting Association policies or 15 percent of the total
853 number of Residential Property and Casualty Joint Underwriting
854 Association policies, provided the governing board of the
855 Residential Property and Casualty Joint Underwriting Association
856 certifies that the take-out plan will materially reduce the
857 Residential Property and Casualty Joint Underwriting
858 Association's 100-year probable maximum loss from hurricanes.
859 With the approval of the department, the board may extend such
860 credits for an additional year if the insurer guarantees an
861 additional year of renewability for all policies removed from the
862 Residential Property and Casualty Joint Underwriting Association,
863 or for 2 additional years if the insurer guarantees 2 additional
864 years of renewability for all policies removed from the
865 Residential Property and Casualty Joint Underwriting Association.

866 b. Assessments to pay deficits in the association under
867 this subparagraph shall be included as an appropriate factor in
868 the making of rates as provided in s. 627.3512.

869 c. The Legislature finds that the potential for unlimited
870 deficit assessments under this subparagraph may induce insurers
871 to attempt to reduce their writings in the voluntary market, and
872 that such actions would worsen the availability problems that the
873 association was created to remedy. It is the intent of the
874 Legislature that insurers remain fully responsible for paying
875 regular assessments and collecting emergency assessments for any
876 deficits of the association; however, it is also the intent of
877 the Legislature to provide a means by which assessment
878 liabilities may be amortized over a period of years.

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879 | d.(I) When the deficit incurred in a particular calendar
880 | year is 10 percent or less of the aggregate statewide direct
881 | written premium for property insurance for the prior calendar
882 | year for all member insurers, the association shall levy an
883 | assessment on member insurers in an amount equal to the deficit.

884 | (II) When the deficit incurred in a particular calendar
885 | year exceeds 10 percent of the aggregate statewide direct written
886 | premium for property insurance for the prior calendar year for
887 | all member insurers, the association shall levy an assessment on
888 | member insurers in an amount equal to the greater of 10 percent
889 | of the deficit or 10 percent of the aggregate statewide direct
890 | written premium for property insurance for the prior calendar
891 | year for member insurers. Any remaining deficit shall be
892 | recovered through emergency assessments under sub-sub-
893 | subparagraph (III).

894 | (III) Upon a determination by the board of directors that a
895 | deficit exceeds the amount that will be recovered through regular
896 | assessments on member insurers, pursuant to sub-sub-subparagraph
897 | (I) or sub-sub-subparagraph (II), the board shall levy, after
898 | verification by the department, emergency assessments to be
899 | collected by member insurers and by underwriting associations
900 | created pursuant to this section which write property insurance,
901 | upon issuance or renewal of property insurance policies other
902 | than National Flood Insurance policies in the year or years
903 | following levy of the regular assessments. The amount of the
904 | emergency assessment collected in a particular year shall be a
905 | uniform percentage of that year's direct written premium for
906 | property insurance for all member insurers and underwriting
907 | associations, excluding National Flood Insurance policy premiums,
908 | as annually determined by the board and verified by the

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909 | department. The department shall verify the arithmetic
910 | calculations involved in the board's determination within 30 days
911 | after receipt of the information on which the determination was
912 | based. Notwithstanding any other provision of law, each member
913 | insurer and each underwriting association created pursuant to
914 | this section shall collect emergency assessments from its
915 | policyholders without such obligation being affected by any
916 | credit, limitation, exemption, or deferment. The emergency
917 | assessments so collected shall be transferred directly to the
918 | association on a periodic basis as determined by the association.
919 | The aggregate amount of emergency assessments levied under this
920 | sub-sub-subparagraph in any calendar year may not exceed the
921 | greater of 10 percent of the amount needed to cover the original
922 | deficit, plus interest, fees, commissions, required reserves, and
923 | other costs associated with financing of the original deficit, or
924 | 10 percent of the aggregate statewide direct written premium for
925 | property insurance written by member insurers and underwriting
926 | associations for the prior year, plus interest, fees,
927 | commissions, required reserves, and other costs associated with
928 | financing the original deficit. The board may pledge the proceeds
929 | of the emergency assessments under this sub-sub-subparagraph as
930 | the source of revenue for bonds, to retire any other debt
931 | incurred as a result of the deficit or events giving rise to the
932 | deficit, or in any other way that the board determines will
933 | efficiently recover the deficit. The emergency assessments under
934 | this sub-sub-subparagraph shall continue as long as any bonds
935 | issued or other indebtedness incurred with respect to a deficit
936 | for which the assessment was imposed remain outstanding, unless
937 | adequate provision has been made for the payment of such bonds or
938 | other indebtedness pursuant to the document governing such bonds



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939 or other indebtedness. Emergency assessments collected under this
940 sub-sub-subparagraph are not part of an insurer's rates, are not
941 premium, and are not subject to premium tax, fees, or
942 commissions; however, failure to pay the emergency assessment
943 shall be treated as failure to pay premium.

944 (IV) Each member insurer's share of the total regular
945 assessments under sub-sub-subparagraph (I) or sub-sub-
946 subparagraph (II) shall be in the proportion that the insurer's
947 net direct premium for property insurance in this state, for the
948 year preceding the assessment bears to the aggregate statewide
949 net direct premium for property insurance of all member insurers,
950 as reduced by any credits for voluntary writings for that year.

951 (V) If regular deficit assessments are made under sub-sub-
952 subparagraph (I) or sub-sub-subparagraph (II), or by the
953 Residential Property and Casualty Joint Underwriting Association
954 under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b.,
955 the association shall levy upon the association's policyholders,
956 as part of its next rate filing, or by a separate rate filing
957 solely for this purpose, a market equalization surcharge in a
958 percentage equal to the total amount of such regular assessments
959 divided by the aggregate statewide direct written premium for
960 property insurance for member insurers for the prior calendar
961 year. Market equalization surcharges under this sub-sub-
962 subparagraph are not considered premium and are not subject to
963 commissions, fees, or premium taxes; however, failure to pay a
964 market equalization surcharge shall be treated as failure to pay
965 premium.

966 e. The governing body of any unit of local government, any
967 residents of which are insured under the plan, may issue bonds as
968 defined in s. 125.013 or s. 166.101 to fund an assistance

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969 program, in conjunction with the association, for the purpose of
970 defraying deficits of the association. In order to avoid needless
971 and indiscriminate proliferation, duplication, and fragmentation
972 of such assistance programs, any unit of local government, any
973 residents of which are insured by the association, may provide
974 for the payment of losses, regardless of whether or not the
975 losses occurred within or outside of the territorial jurisdiction
976 of the local government. Revenue bonds may not be issued until
977 validated pursuant to chapter 75, unless a state of emergency is
978 declared by executive order or proclamation of the Governor
979 pursuant to s. 252.36 making such findings as are necessary to
980 determine that it is in the best interests of, and necessary for,
981 the protection of the public health, safety, and general welfare
982 of residents of this state and the protection and preservation of
983 the economic stability of insurers operating in this state, and
984 declaring it an essential public purpose to permit certain
985 municipalities or counties to issue bonds as will provide relief
986 to claimants and policyholders of the association and insurers
987 responsible for apportionment of plan losses. Any such unit of
988 local government may enter into such contracts with the
989 association and with any other entity created pursuant to this
990 subsection as are necessary to carry out this paragraph. Any
991 bonds issued under this sub-subparagraph shall be payable from
992 and secured by moneys received by the association from
993 assessments under this subparagraph, and assigned and pledged to
994 or on behalf of the unit of local government for the benefit of
995 the holders of such bonds. The funds, credit, property, and
996 taxing power of the state or of the unit of local government
997 shall not be pledged for the payment of such bonds. If any of the
998 bonds remain unsold 60 days after issuance, the department shall

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999 | require all insurers subject to assessment to purchase the bonds,
1000 | which shall be treated as admitted assets; each insurer shall be
1001 | required to purchase that percentage of the unsold portion of the
1002 | bond issue that equals the insurer's relative share of assessment
1003 | liability under this subsection. An insurer shall not be required
1004 | to purchase the bonds to the extent that the department
1005 | determines that the purchase would endanger or impair the
1006 | solvency of the insurer. The authority granted by this sub-
1007 | subparagraph is additional to any bonding authority granted by
1008 | subparagraph 6.

1009 | 3. The plan shall also provide that any member with a
1010 | surplus as to policyholders of \$20 million or less writing 25
1011 | percent or more of its total countrywide property insurance
1012 | premiums in this state may petition the department, within the
1013 | first 90 days of each calendar year, to qualify as a limited
1014 | apportionment company. The apportionment of such a member company
1015 | in any calendar year for which it is qualified shall not exceed
1016 | its gross participation, which shall not be affected by the
1017 | formula for voluntary writings. In no event shall a limited
1018 | apportionment company be required to participate in any
1019 | apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
1020 | or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
1021 | \$50 million after payment of available plan funds in any calendar
1022 | year. However, a limited apportionment company shall collect from
1023 | its policyholders any emergency assessment imposed under sub-sub-
1024 | subparagraph 2.d.(III). The plan shall provide that, if the
1025 | department determines that any regular assessment will result in
1026 | an impairment of the surplus of a limited apportionment company,
1027 | the department may direct that all or part of such assessment be
1028 | deferred. However, there shall be no limitation or deferment of

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1029 an emergency assessment to be collected from policyholders under
1030 sub-sub-subparagraph 2.d.(III).

1031 4. The plan shall provide for the deferment, in whole or in
1032 part, of a regular assessment of a member insurer under sub-sub-
1033 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
1034 for an emergency assessment collected from policyholders under
1035 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
1036 commissioner, payment of such regular assessment would endanger
1037 or impair the solvency of the member insurer. In the event a
1038 regular assessment against a member insurer is deferred in whole
1039 or in part, the amount by which such assessment is deferred may
1040 be assessed against the other member insurers in a manner
1041 consistent with the basis for assessments set forth in sub-sub-
1042 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

1043 5.a. The plan of operation may include deductibles and
1044 rules for classification of risks and rate modifications
1045 consistent with the objective of providing and maintaining funds
1046 sufficient to pay catastrophe losses.

1047 b. ~~The association may require arbitration of a rate filing~~
1048 ~~under s. 627.062(6).~~ It is the intent of the Legislature that the
1049 rates for coverage provided by the association be actuarially
1050 sound and not competitive with approved rates charged in the
1051 admitted voluntary market such that the association functions as
1052 a residual market mechanism to provide insurance only when the
1053 insurance cannot be procured in the voluntary market. The plan of
1054 operation shall provide a mechanism to assure that, beginning no
1055 later than January 1, 1999, the rates charged by the association
1056 for each line of business are reflective of approved rates in the
1057 voluntary market for hurricane coverage for each line of business
1058 in the various areas eligible for association coverage.



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1059 c. The association shall provide for windstorm coverage on
1060 residential properties in limits up to \$10 million for commercial
1061 lines residential risks and up to \$1 million for personal lines
1062 residential risks. If coverage with the association is sought for
1063 a residential risk valued in excess of these limits, coverage
1064 shall be available to the risk up to the replacement cost or
1065 actual cash value of the property, at the option of the insured,
1066 if coverage for the risk cannot be located in the authorized
1067 market. The association must accept a commercial lines
1068 residential risk with limits above \$10 million or a personal
1069 lines residential risk with limits above \$1 million if coverage
1070 is not available in the authorized market. The association may
1071 write coverage above the limits specified in this subparagraph
1072 with or without facultative or other reinsurance coverage, as the
1073 association determines appropriate.

1074 d. The plan of operation must provide objective criteria
1075 and procedures, approved by the department, to be uniformly
1076 applied for all applicants in determining whether an individual
1077 risk is so hazardous as to be uninsurable. In making this
1078 determination and in establishing the criteria and procedures,
1079 the following shall be considered:

1080 (I) Whether the likelihood of a loss for the individual
1081 risk is substantially higher than for other risks of the same
1082 class; and

1083 (II) Whether the uncertainty associated with the individual
1084 risk is such that an appropriate premium cannot be determined.

1085
1086 The acceptance or rejection of a risk by the association pursuant
1087 to such criteria and procedures must be construed as the private

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1088 placement of insurance, and the provisions of chapter 120 do not
1089 apply.

1090 e. If the risk accepts an offer of coverage through the
1091 market assistance program or through a mechanism established by
1092 the association, either before the policy is issued by the
1093 association or during the first 30 days of coverage by the
1094 association, and the producing agent who submitted the
1095 application to the association is not currently appointed by the
1096 insurer, the insurer shall:

1097 (I) Pay to the producing agent of record of the policy, for
1098 the first year, an amount that is the greater of the insurer's
1099 usual and customary commission for the type of policy written or
1100 a fee equal to the usual and customary commission of the
1101 association; or

1102 (II) Offer to allow the producing agent of record of the
1103 policy to continue servicing the policy for a period of not less
1104 than 1 year and offer to pay the agent the greater of the
1105 insurer's or the association's usual and customary commission for
1106 the type of policy written.

1107
1108 If the producing agent is unwilling or unable to accept
1109 appointment, the new insurer shall pay the agent in accordance
1110 with sub-sub-subparagraph (I). Subject to the provisions of s.
1111 627.3517, the policies issued by the association must provide
1112 that if the association obtains an offer from an authorized
1113 insurer to cover the risk at its approved rates under either a
1114 standard policy including wind coverage or, if consistent with
1115 the insurer's underwriting rules as filed with the department, a
1116 basic policy including wind coverage, the risk is no longer
1117 eligible for coverage through the association. Upon termination

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1118 of eligibility, the association shall provide written notice to
1119 the policyholder and agent of record stating that the association
1120 policy must be canceled as of 60 days after the date of the
1121 notice because of the offer of coverage from an authorized
1122 insurer. Other provisions of the insurance code relating to
1123 cancellation and notice of cancellation do not apply to actions
1124 under this sub-subparagraph.

1125 f. When the association enters into a contractual agreement
1126 for a take-out plan, the producing agent of record of the
1127 association policy is entitled to retain any unearned commission
1128 on the policy, and the insurer shall:

1129 (I) Pay to the producing agent of record of the association
1130 policy, for the first year, an amount that is the greater of the
1131 insurer's usual and customary commission for the type of policy
1132 written or a fee equal to the usual and customary commission of
1133 the association; or

1134 (II) Offer to allow the producing agent of record of the
1135 association policy to continue servicing the policy for a period
1136 of not less than 1 year and offer to pay the agent the greater of
1137 the insurer's or the association's usual and customary commission
1138 for the type of policy written.

1139
1140 If the producing agent is unwilling or unable to accept
1141 appointment, the new insurer shall pay the agent in accordance
1142 with sub-sub-subparagraph (I).

1143 6.a. The plan of operation may authorize the formation of a
1144 private nonprofit corporation, a private nonprofit unincorporated
1145 association, a partnership, a trust, a limited liability company,
1146 or a nonprofit mutual company which may be empowered, among other
1147 things, to borrow money by issuing bonds or by incurring other



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1148 indebtedness and to accumulate reserves or funds to be used for
1149 the payment of insured catastrophe losses. The plan may authorize
1150 all actions necessary to facilitate the issuance of bonds,
1151 including the pledging of assessments or other revenues.

1152 b. Any entity created under this subsection, or any entity
1153 formed for the purposes of this subsection, may sue and be sued,
1154 may borrow money; issue bonds, notes, or debt instruments; pledge
1155 or sell assessments, market equalization surcharges and other
1156 surcharges, rights, premiums, contractual rights, projected
1157 recoveries from the Florida Hurricane Catastrophe Fund, other
1158 reinsurance recoverables, and other assets as security for such
1159 bonds, notes, or debt instruments; enter into any contracts or
1160 agreements necessary or proper to accomplish such borrowings; and
1161 take other actions necessary to carry out the purposes of this
1162 subsection. The association may issue bonds or incur other
1163 indebtedness, or have bonds issued on its behalf by a unit of
1164 local government pursuant to subparagraph (6)(p)2., in the
1165 absence of a hurricane or other weather-related event, upon a
1166 determination by the association subject to approval by the
1167 department that such action would enable it to efficiently meet
1168 the financial obligations of the association and that such
1169 financings are reasonably necessary to effectuate the
1170 requirements of this subsection. Any such entity may accumulate
1171 reserves and retain surpluses as of the end of any association
1172 year to provide for the payment of losses incurred by the
1173 association during that year or any future year. The association
1174 shall incorporate and continue the plan of operation and articles
1175 of agreement in effect on the effective date of chapter 76-96,
1176 Laws of Florida, to the extent that it is not inconsistent with
1177 chapter 76-96, and as subsequently modified consistent with



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1178 chapter 76-96. The board of directors and officers currently
1179 serving shall continue to serve until their successors are duly
1180 qualified as provided under the plan. The assets and obligations
1181 of the plan in effect immediately prior to the effective date of
1182 chapter 76-96 shall be construed to be the assets and obligations
1183 of the successor plan created herein.

1184 c. In recognition of s. 10, Art. I of the State
1185 Constitution, prohibiting the impairment of obligations of
1186 contracts, it is the intent of the Legislature that no action be
1187 taken whose purpose is to impair any bond indenture or financing
1188 agreement or any revenue source committed by contract to such
1189 bond or other indebtedness issued or incurred by the association
1190 or any other entity created under this subsection.

1191 7. On such coverage, an agent's remuneration shall be that
1192 amount of money payable to the agent by the terms of his or her
1193 contract with the company with which the business is placed.
1194 However, no commission will be paid on that portion of the
1195 premium which is in excess of the standard premium of that
1196 company.

1197 8. Subject to approval by the department, the association
1198 may establish different eligibility requirements and operational
1199 procedures for any line or type of coverage for any specified
1200 eligible area or portion of an eligible area if the board
1201 determines that such changes to the eligibility requirements and
1202 operational procedures are justified due to the voluntary market
1203 being sufficiently stable and competitive in such area or for
1204 such line or type of coverage and that consumers who, in good
1205 faith, are unable to obtain insurance through the voluntary
1206 market through ordinary methods would continue to have access to
1207 coverage from the association. When coverage is sought in



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1208 connection with a real property transfer, such requirements and
1209 procedures shall not provide for an effective date of coverage
1210 later than the date of the closing of the transfer as established
1211 by the transferor, the transferee, and, if applicable, the
1212 lender.

1213 9. Notwithstanding any other provision of law:

1214 a. The pledge or sale of, the lien upon, and the security
1215 interest in any rights, revenues, or other assets of the
1216 association created or purported to be created pursuant to any
1217 financing documents to secure any bonds or other indebtedness of
1218 the association shall be and remain valid and enforceable,
1219 notwithstanding the commencement of and during the continuation
1220 of, and after, any rehabilitation, insolvency, liquidation,
1221 bankruptcy, receivership, conservatorship, reorganization, or
1222 similar proceeding against the association under the laws of this
1223 state or any other applicable laws.

1224 b. No such proceeding shall relieve the association of its
1225 obligation, or otherwise affect its ability to perform its
1226 obligation, to continue to collect, or levy and collect,
1227 assessments, market equalization or other surcharges, projected
1228 recoveries from the Florida Hurricane Catastrophe Fund,
1229 reinsurance recoverables, or any other rights, revenues, or other
1230 assets of the association pledged.

1231 c. Each such pledge or sale of, lien upon, and security
1232 interest in, including the priority of such pledge, lien, or
1233 security interest, any such assessments, emergency assessments,
1234 market equalization or renewal surcharges, projected recoveries
1235 from the Florida Hurricane Catastrophe Fund, reinsurance
1236 recoverables, or other rights, revenues, or other assets which
1237 are collected, or levied and collected, after the commencement of



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1238 and during the pendency of or after any such proceeding shall
1239 continue unaffected by such proceeding.

1240 d. As used in this subsection, the term "financing
1241 documents" means any agreement, instrument, or other document now
1242 existing or hereafter created evidencing any bonds or other
1243 indebtedness of the association or pursuant to which any such
1244 bonds or other indebtedness has been or may be issued and
1245 pursuant to which any rights, revenues, or other assets of the
1246 association are pledged or sold to secure the repayment of such
1247 bonds or indebtedness, together with the payment of interest on
1248 such bonds or such indebtedness, or the payment of any other
1249 obligation of the association related to such bonds or
1250 indebtedness.

1251 e. Any such pledge or sale of assessments, revenues,
1252 contract rights or other rights or assets of the association
1253 shall constitute a lien and security interest, or sale, as the
1254 case may be, that is immediately effective and attaches to such
1255 assessments, revenues, contract, or other rights or assets,
1256 whether or not imposed or collected at the time the pledge or
1257 sale is made. Any such pledge or sale is effective, valid,
1258 binding, and enforceable against the association or other entity
1259 making such pledge or sale, and valid and binding against and
1260 superior to any competing claims or obligations owed to any other
1261 person or entity, including policyholders in this state,
1262 asserting rights in any such assessments, revenues, contract, or
1263 other rights or assets to the extent set forth in and in
1264 accordance with the terms of the pledge or sale contained in the
1265 applicable financing documents, whether or not any such person or
1266 entity has notice of such pledge or sale and without the need for
1267 any physical delivery, recordation, filing, or other action.



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1268 f. There shall be no liability on the part of, and no cause
1269 of action of any nature shall arise against, any member insurer
1270 or its agents or employees, agents or employees of the
1271 association, members of the board of directors of the
1272 association, or the department or its representatives, for any
1273 action taken by them in the performance of their duties or
1274 responsibilities under this subsection. Such immunity does not
1275 apply to actions for breach of any contract or agreement
1276 pertaining to insurance, or any willful tort.

1277 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1278 (a)1. It is the public purpose of this subsection to ensure
1279 the existence of an orderly market for property insurance for
1280 Floridians and Florida businesses. The Legislature finds that
1281 private insurers are unwilling or unable to provide affordable
1282 property insurance coverage in this state to the extent sought
1283 and needed. The absence of affordable property insurance
1284 threatens the public health, safety, and welfare and likewise
1285 threatens the economic health of the state. The state therefore
1286 has a compelling public interest and a public purpose to assist
1287 in assuring that property in the state is insured and that it is
1288 insured at affordable rates so as to facilitate the remediation,
1289 reconstruction, and replacement of damaged or destroyed property
1290 in order to reduce or avoid the negative effects otherwise
1291 resulting to the public health, safety, and welfare, to the
1292 economy of the state, and to the revenues of the state and local
1293 governments which are needed to provide for the public welfare.
1294 It is necessary, therefore, to provide affordable property
1295 insurance to applicants who are in good faith entitled to procure
1296 insurance through the voluntary market but are unable to do so.
1297 The Legislature intends by this subsection that affordable

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1298 | property insurance be provided and that it continue to be
1299 | provided, as long as necessary, through Citizens Property
1300 | Insurance Corporation, a government entity that is an integral
1301 | part of the state, and that is not a private insurance company.
1302 | To that end, Citizens Property Insurance Corporation shall strive
1303 | to increase the availability of affordable property insurance in
1304 | this state, while achieving efficiencies and economies, and while
1305 | providing service to policyholders, applicants, and agents which
1306 | is no less than the quality generally provided in the voluntary
1307 | market, for the achievement of the foregoing public purposes.
1308 | Because it is essential for this government entity to have the
1309 | maximum financial resources to pay claims following a
1310 | catastrophic hurricane, it is the intent of the Legislature that
1311 | Citizens Property Insurance Corporation continue to be an
1312 | integral part of the state and that the income of the corporation
1313 | be exempt from federal income taxation and that interest on the
1314 | debt obligations issued by the corporation be exempt from federal
1315 | income taxation.

1316 | 2. The Residential Property and Casualty Joint Underwriting
1317 | Association originally created by this statute shall be known, as
1318 | of July 1, 2002, as the Citizens Property Insurance Corporation.
1319 | The corporation shall provide insurance for residential and
1320 | commercial property, for applicants who are in good faith
1321 | entitled, but are unable, to procure insurance through the
1322 | voluntary market. The corporation shall operate pursuant to a
1323 | plan of operation approved by order of the Financial Services
1324 | Commission. The plan is subject to continuous review by the
1325 | commission. The commission may, by order, withdraw approval of
1326 | all or part of a plan if the commission determines that
1327 | conditions have changed since approval was granted and that the



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1328 purposes of the plan require changes in the plan. The corporation
1329 shall continue to operate pursuant to the plan of operation
1330 approved by the Office of Insurance Regulation until October 1,
1331 2006. For the purposes of this subsection, residential coverage
1332 includes both personal lines residential coverage, which consists
1333 of the type of coverage provided by homeowner's, mobile home
1334 owner's, dwelling, tenant's, condominium unit owner's, and
1335 similar policies, and commercial lines residential coverage,
1336 which consists of the type of coverage provided by condominium
1337 association, apartment building, and similar policies.

1338 ~~3. For the purposes of this subsection, the term "homestead~~
1339 ~~property" means:~~

1340 ~~a. Property that has been granted a homestead exemption~~
1341 ~~under chapter 196;~~

1342 ~~b. Property for which the owner has a current, written~~
1343 ~~lease with a renter for a term of at least 7 months and for which~~
1344 ~~the dwelling is insured by the corporation for \$200,000 or less;~~

1345 ~~c. An owner-occupied mobile home or manufactured home, as~~
1346 ~~defined in s. 320.01, which is permanently affixed to real~~
1347 ~~property, is owned by a Florida resident, and has been granted a~~
1348 ~~homestead exemption under chapter 196 or, if the owner does not~~
1349 ~~own the real property, the owner certifies that the mobile home~~
1350 ~~or manufactured home is his or her principal place of residence;~~

1351 ~~d. Tenant's coverage;~~

1352 ~~e. Commercial lines residential property; or~~

1353 ~~f. Any county, district, or municipal hospital; a hospital~~
1354 ~~licensed by any not for profit corporation qualified under s.~~
1355 ~~501(c) (3) of the United States Internal Revenue Code; or a~~
1356 ~~continuing care retirement community that is certified under~~



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1357 ~~chapter 651 and that receives an exemption from ad valorem taxes~~
1358 ~~under chapter 196.~~

1359 ~~4. For the purposes of this subsection, the term~~
1360 ~~"nonhomestead property" means property that is not homestead~~
1361 ~~property.~~

1362 ~~5. Effective January 1, 2009, a personal lines residential~~
1363 ~~structure that has a dwelling replacement cost of \$1 million or~~
1364 ~~more, or a single condominium unit that has a combined dwelling~~
1365 ~~and content replacement cost of \$1 million or more is not~~
1366 ~~eligible for coverage by the corporation. Such dwellings insured~~
1367 ~~by the corporation on December 31, 2008, may continue to be~~
1368 ~~covered by the corporation until the end of the policy term.~~
1369 ~~However, such dwellings that are insured by the corporation and~~
1370 ~~become ineligible for coverage due to the provisions of this~~
1371 ~~subparagraph may reapply and obtain coverage in the high-risk~~
1372 ~~account and be considered "nonhomestead property" if the property~~
1373 ~~owner provides the corporation with a sworn affidavit from one or~~
1374 ~~more insurance agents, on a form provided by the corporation,~~
1375 ~~stating that the agents have made their best efforts to obtain~~
1376 ~~coverage and that the property has been rejected for coverage by~~
1377 ~~at least one authorized insurer and at least three surplus lines~~
1378 ~~insurers. If such conditions are met, the dwelling may be insured~~
1379 ~~by the corporation for up to 3 years, after which time the~~
1380 ~~dwelling is ineligible for coverage. The office shall approve the~~
1381 ~~method used by the corporation for valuing the dwelling~~
1382 ~~replacement cost for the purposes of this subparagraph. If a~~
1383 ~~policyholder is insured by the corporation prior to being~~
1384 ~~determined to be ineligible pursuant to this subparagraph and~~
1385 ~~such policyholder files a lawsuit challenging the determination,~~

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1386 ~~the policyholder may remain insured by the corporation until the~~
1387 ~~conclusion of the litigation.~~

1388 3.6. For properties constructed on or after January 1,
1389 2009, the corporation may not insure any property located within
1390 2,500 feet landward of the coastal construction control line
1391 created pursuant to s. 161.053 unless the property meets the
1392 requirements of the code-plus building standards developed by the
1393 Florida Building Commission.

1394 4.7. It is the intent of the Legislature that
1395 policyholders, applicants, and agents of the corporation receive
1396 service and treatment of the highest possible level but never
1397 less than that generally provided in the voluntary market. It
1398 also is intended that the corporation be held to service
1399 standards no less than those applied to insurers in the voluntary
1400 market by the office with respect to responsiveness, timeliness,
1401 customer courtesy, and overall dealings with policyholders,
1402 applicants, or agents of the corporation.

1403 5.8. Effective January 1, 2009, a personal lines
1404 residential structure that is located in the "wind-borne debris
1405 region," as defined in s. 1609.2, International Building Code
1406 (2006), and that has an insured value on the structure of
1407 \$750,000 or more is not eligible for coverage by the corporation
1408 unless the structure has opening protections as required under
1409 the Florida Building Code for a newly constructed residential
1410 structure in that area. A residential structure shall be deemed
1411 to comply with the requirements of this subparagraph if it has
1412 shutters or opening protections on all openings and if such
1413 opening protections complied with the Florida Building Code at
1414 the time they were installed. Effective January 1, 2011, the
1415 requirements of this subparagraph apply to a personal lines

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1416 residential structure that is located in the wind-borne debris
1417 region and that has an insured value on the structure of \$300,000
1418 or more.

1419 (b)1. All insurers authorized to write one or more subject
1420 lines of business in this state are subject to assessment by the
1421 corporation and, for the purposes of this subsection, are
1422 referred to collectively as "assessable insurers." Insurers
1423 writing one or more subject lines of business in this state
1424 pursuant to part VIII of chapter 626 are not assessable insurers,
1425 but insureds who procure one or more subject lines of business in
1426 this state pursuant to part VIII of chapter 626 are subject to
1427 assessment by the corporation and are referred to collectively as
1428 "assessable insureds." An authorized insurer's assessment
1429 liability shall begin on the first day of the calendar year
1430 following the year in which the insurer was issued a certificate
1431 of authority to transact insurance for subject lines of business
1432 in this state and shall terminate 1 year after the end of the
1433 first calendar year during which the insurer no longer holds a
1434 certificate of authority to transact insurance for subject lines
1435 of business in this state.

1436 2.a. All revenues, assets, liabilities, losses, and
1437 expenses of the corporation shall be divided into three separate
1438 accounts as follows:

1439 (I) A personal lines account for personal residential
1440 policies issued by the corporation or issued by the Residential
1441 Property and Casualty Joint Underwriting Association and renewed
1442 by the corporation that provide comprehensive, multiperil
1443 coverage on risks that are not located in areas eligible for
1444 coverage in the Florida Windstorm Underwriting Association as
1445 those areas were defined on January 1, 2002, and for such



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1446 policies that do not provide coverage for the peril of wind on
1447 risks that are located in such areas;

1448 (II) A commercial lines account for commercial residential
1449 and commercial nonresidential policies issued by the corporation
1450 or issued by the Residential Property and Casualty Joint
1451 Underwriting Association and renewed by the corporation that
1452 provide coverage for basic property perils on risks that are not
1453 located in areas eligible for coverage in the Florida Windstorm
1454 Underwriting Association as those areas were defined on January
1455 1, 2002, and for such policies that do not provide coverage for
1456 the peril of wind on risks that are located in such areas; and

1457 (III) A high-risk account for personal residential policies
1458 and commercial residential and commercial nonresidential property
1459 policies issued by the corporation or transferred to the
1460 corporation that provide coverage for the peril of wind on risks
1461 that are located in areas eligible for coverage in the Florida
1462 Windstorm Underwriting Association as those areas were defined on
1463 January 1, 2002. ~~Subject to the approval of a business plan by
1464 the Financial Services Commission and Legislative Budget
1465 Commission as provided in this sub-sub-subparagraph, but no
1466 earlier than March 31, 2007,~~ The corporation shall ~~may~~ offer
1467 policies that provide multiperil coverage and the corporation
1468 shall ~~continue to~~ offer policies that provide coverage only for
1469 the peril of wind for risks located in areas eligible for
1470 coverage in the high-risk account. Beginning July 1, 2008, the
1471 corporation may not issue new policies that provide coverage only
1472 for the peril of wind, but may continue to renew such policies
1473 that were in force on that date. In issuing multiperil coverage,
1474 the corporation may use its approved policy forms and rates for
1475 the personal lines account. An applicant or insured who is

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1476 eligible to purchase a multiperil policy from the corporation may
1477 purchase a multiperil policy from an authorized insurer without
1478 prejudice to the applicant's or insured's eligibility to
1479 prospectively purchase a policy that provides coverage only for
1480 the peril of wind from the corporation prior to July 1, 2008. An
1481 applicant or insured who is eligible for a corporation policy
1482 that provides coverage only for the peril of wind may elect to
1483 purchase or retain such policy and also purchase or retain
1484 coverage excluding wind from an authorized insurer without
1485 prejudice to the applicant's or insured's eligibility to
1486 prospectively purchase a policy that provides multiperil coverage
1487 from the corporation. It is the goal of the Legislature that
1488 there would be an overall average savings of 10 percent or more
1489 for a policyholder who currently has a wind-only policy with the
1490 corporation, and an ex-wind policy with a voluntary insurer or
1491 the corporation, and who then obtains a multiperil policy from
1492 the corporation. It is the intent of the Legislature that the
1493 offer of multiperil coverage in the high-risk account be made and
1494 implemented in a manner that does not adversely affect the tax-
1495 exempt status of the corporation or creditworthiness of or
1496 security for currently outstanding financing obligations or
1497 credit facilities of the high-risk account, the personal lines
1498 account, or the commercial lines account. ~~By March 1, 2007, the~~
1499 ~~corporation shall prepare and submit for approval by the~~
1500 ~~Financial Services Commission and Legislative Budget Commission a~~
1501 ~~report detailing the corporation's business plan for issuing~~
1502 ~~multiperil coverage in the high-risk account. The business plan~~
1503 ~~shall be approved or disapproved within 30 days after receipt, as~~
1504 ~~submitted or modified and resubmitted by the corporation. The~~
1505 ~~business plan must include: the impact of such multiperil~~

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1506 ~~coverage on the corporation's financial resources, the impact of~~
1507 ~~such multiperil coverage on the corporation's tax exempt status,~~
1508 ~~the manner in which the corporation plans to implement the~~
1509 ~~processing of applications and policy forms for new and existing~~
1510 ~~policyholders, the impact of such multiperil coverage on the~~
1511 ~~corporation's ability to deliver customer service at the high~~
1512 ~~level required by this subsection, the ability of the corporation~~
1513 ~~to process claims, the ability of the corporation to quote and~~
1514 ~~issue policies, the impact of such multiperil coverage on the~~
1515 ~~corporation's agents, the impact of such multiperil coverage on~~
1516 ~~the corporation's existing policyholders, and the impact of such~~
1517 ~~multiperil coverage on rates and premium.~~ The high-risk account
1518 must also include quota share primary insurance under
1519 subparagraph (c)2. The area eligible for coverage under the high-
1520 risk account also includes the area within Port Canaveral, which
1521 is bordered on the south by the City of Cape Canaveral, bordered
1522 on the west by the Banana River, and bordered on the north by
1523 Federal Government property.

1524 b. The three separate accounts must be maintained as long
1525 as financing obligations entered into by the Florida Windstorm
1526 Underwriting Association or Residential Property and Casualty
1527 Joint Underwriting Association are outstanding, in accordance
1528 with the terms of the corresponding financing documents. When the
1529 financing obligations are no longer outstanding, in accordance
1530 with the terms of the corresponding financing documents, the
1531 corporation may use a single account for all revenues, assets,
1532 liabilities, losses, and expenses of the corporation. Consistent
1533 with the requirement of this subparagraph and prudent investment
1534 policies that minimize the cost of carrying debt, the board shall
1535 exercise its best efforts to retire existing debt or to obtain



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1536 approval of necessary parties to amend the terms of existing
1537 debt, so as to structure the most efficient plan to consolidate
1538 the three separate accounts into a single account. By February 1,
1539 2007, the board shall submit a report to the Financial Services
1540 Commission, the President of the Senate, and the Speaker of the
1541 House of Representatives which includes an analysis of
1542 consolidating the accounts, the actions the board has taken to
1543 minimize the cost of carrying debt, and its recommendations for
1544 executing the most efficient plan.

1545 c. Creditors of the Residential Property and Casualty Joint
1546 Underwriting Association and of the accounts specified in sub-
1547 sub-subparagraphs a.(I) and (II) may have a claim against, and
1548 recourse to, the accounts referred to in sub-sub-subparagraphs
1549 a.(I) and (II) and shall have no claim against, or recourse to,
1550 the account referred to in sub-sub-subparagraph a.(III).
1551 Creditors of the Florida Windstorm Underwriting Association shall
1552 have a claim against, and recourse to, the account referred to in
1553 sub-sub-subparagraph a.(III) and shall have no claim against, or
1554 recourse to, the accounts referred to in sub-sub-subparagraphs
1555 a.(I) and (II).

1556 d. Revenues, assets, liabilities, losses, and expenses not
1557 attributable to particular accounts shall be prorated among the
1558 accounts.

1559 e. The Legislature finds that the revenues of the
1560 corporation are revenues that are necessary to meet the
1561 requirements set forth in documents authorizing the issuance of
1562 bonds under this subsection.

1563 f. No part of the income of the corporation may inure to
1564 the benefit of any private person.

1565 3. With respect to a deficit in an account:

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1566 a. When the deficit incurred in a particular calendar year
1567 is not greater than 8 ~~10~~ percent of the aggregate statewide
1568 direct written premium for the subject lines of business for the
1569 prior calendar year, the entire deficit shall be recovered
1570 through regular assessments of assessable insurers under
1571 paragraph (p) and assessable insureds.

1572 b. When the deficit incurred in a particular calendar year
1573 exceeds 8 ~~10~~ percent of the aggregate statewide direct written
1574 premium for the subject lines of business for the prior calendar
1575 year, the corporation shall levy regular assessments on
1576 assessable insurers under paragraph (p) and on assessable
1577 insureds in an amount equal to the greater of 8 ~~10~~ percent of the
1578 deficit or 8 ~~10~~ percent of the aggregate statewide direct written
1579 premium for the subject lines of business for the prior calendar
1580 year. Any remaining deficit shall be recovered through emergency
1581 assessments under sub-subparagraph d.

1582 c. Each assessable insurer's share of the amount being
1583 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1584 be in the proportion that the assessable insurer's direct written
1585 premium for the subject lines of business for the year preceding
1586 the assessment bears to the aggregate statewide direct written
1587 premium for the subject lines of business for that year. The
1588 assessment percentage applicable to each assessable insured is
1589 the ratio of the amount being assessed under sub-subparagraph a.
1590 or sub-subparagraph b. to the aggregate statewide direct written
1591 premium for the subject lines of business for the prior year.
1592 Assessments levied by the corporation on assessable insurers
1593 under sub-subparagraphs a. and b. shall be paid as required by
1594 the corporation's plan of operation and paragraph (p).
1595 notwithstanding any other provision of this subsection, the



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1596 aggregate amount of a regular assessment for a deficit incurred
1597 in a particular calendar year shall be reduced by the estimated
1598 amount to be received by the corporation from the Citizens
1599 policyholder surcharge ~~under subparagraph (c)10. and the amount~~
1600 ~~collected or estimated to be collected from the assessment on~~
1601 ~~Citizens policyholders~~ pursuant to sub-subparagraph i.
1602 Assessments levied by the corporation on assessable insureds
1603 under sub-subparagraphs a. and b. shall be collected by the
1604 surplus lines agent at the time the surplus lines agent collects
1605 the surplus lines tax required by s. 626.932 and shall be paid to
1606 the Florida Surplus Lines Service Office at the time the surplus
1607 lines agent pays the surplus lines tax to the Florida Surplus
1608 Lines Service Office. Upon receipt of regular assessments from
1609 surplus lines agents, the Florida Surplus Lines Service Office
1610 shall transfer the assessments directly to the corporation as
1611 determined by the corporation.

1612 d. Upon a determination by the board of governors that a
1613 deficit in an account exceeds the amount that will be recovered
1614 through regular assessments under sub-subparagraph a. or sub-
1615 subparagraph b., plus the amount that is expected to be recovered
1616 through surcharges under sub-subparagraph i., as to the remaining
1617 projected deficit the board shall levy, after verification by the
1618 office, emergency assessments, for as many years as necessary to
1619 cover the deficits, to be collected by assessable insurers and
1620 the corporation and collected from assessable insureds upon
1621 issuance or renewal of policies for subject lines of business,
1622 excluding National Flood Insurance policies. The amount of the
1623 emergency assessment collected in a particular year shall be a
1624 uniform percentage of that year's direct written premium for
1625 subject lines of business and all accounts of the corporation,

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1626 | excluding National Flood Insurance Program policy premiums, as
1627 | annually determined by the board and verified by the office. The
1628 | office shall verify the arithmetic calculations involved in the
1629 | board's determination within 30 days after receipt of the
1630 | information on which the determination was based. Notwithstanding
1631 | any other provision of law, the corporation and each assessable
1632 | insurer that writes subject lines of business shall collect
1633 | emergency assessments from its policyholders without such
1634 | obligation being affected by any credit, limitation, exemption,
1635 | or deferment. Emergency assessments levied by the corporation on
1636 | assessable insureds shall be collected by the surplus lines agent
1637 | at the time the surplus lines agent collects the surplus lines
1638 | tax required by s. 626.932 and shall be paid to the Florida
1639 | Surplus Lines Service Office at the time the surplus lines agent
1640 | pays the surplus lines tax to the Florida Surplus Lines Service
1641 | Office. The emergency assessments so collected shall be
1642 | transferred directly to the corporation on a periodic basis as
1643 | determined by the corporation and shall be held by the
1644 | corporation solely in the applicable account. The aggregate
1645 | amount of emergency assessments levied for an account under this
1646 | sub-subparagraph in any calendar year may, at the discretion of
1647 | the board of governors, be less than but may not exceed the
1648 | greater of 10 percent of the amount needed to cover the ~~original~~
1649 | deficit, plus interest, fees, commissions, required reserves, and
1650 | other costs associated with financing of the original deficit, or
1651 | 10 percent of the aggregate statewide direct written premium for
1652 | subject lines of business and for all accounts of the corporation
1653 | for the prior year, plus interest, fees, commissions, required
1654 | reserves, and other costs associated with financing the ~~original~~
1655 | deficit.



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1656 e. The corporation may pledge the proceeds of assessments,
1657 projected recoveries from the Florida Hurricane Catastrophe Fund,
1658 other insurance and reinsurance recoverables, policyholder
1659 surcharges and other surcharges, and other funds available to the
1660 corporation as the source of revenue for and to secure bonds
1661 issued under paragraph (p), bonds or other indebtedness issued
1662 under subparagraph (c)3., or lines of credit or other financing
1663 mechanisms issued or created under this subsection, or to retire
1664 any other debt incurred as a result of deficits or events giving
1665 rise to deficits, or in any other way that the board determines
1666 will efficiently recover such deficits. The purpose of the lines
1667 of credit or other financing mechanisms is to provide additional
1668 resources to assist the corporation in covering claims and
1669 expenses attributable to a catastrophe. As used in this
1670 subsection, the term "assessments" includes regular assessments
1671 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1672 (p)1. and emergency assessments under sub-subparagraph d.
1673 Emergency assessments collected under sub-subparagraph d. are not
1674 part of an insurer's rates, are not premium, and are not subject
1675 to premium tax, fees, or commissions; however, failure to pay the
1676 emergency assessment shall be treated as failure to pay premium.
1677 The emergency assessments under sub-subparagraph d. shall
1678 continue as long as any bonds issued or other indebtedness
1679 incurred with respect to a deficit for which the assessment was
1680 imposed remain outstanding, unless adequate provision has been
1681 made for the payment of such bonds or other indebtedness pursuant
1682 to the documents governing such bonds or other indebtedness.

1683 f. As used in this subsection for purposes of any deficit
1684 incurred on or after January 25, 2007, the term "subject lines of
1685 business" means insurance written by assessable insurers or



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1686 procured by assessable insureds for all property and casualty
1687 lines of business in this state, but not including workers'
1688 compensation or medical malpractice. As used in the sub-
1689 subparagraph, the term "property and casualty lines of business"
1690 includes all lines of business identified on Form 2, Exhibit of
1691 Premiums and Losses, in the annual statement required of
1692 authorized insurers by s. 624.424 and any rule adopted under this
1693 section, except for those lines identified as accident and health
1694 insurance and except for policies written under the National
1695 Flood Insurance Program or the Federal Crop Insurance Program.
1696 For purposes of this sub-subparagraph, the term "workers'
1697 compensation" includes both workers' compensation insurance and
1698 excess workers' compensation insurance.

1699 g. The Florida Surplus Lines Service Office shall determine
1700 annually the aggregate statewide written premium in subject lines
1701 of business procured by assessable insureds and shall report that
1702 information to the corporation in a form and at a time the
1703 corporation specifies to ensure that the corporation can meet the
1704 requirements of this subsection and the corporation's financing
1705 obligations.

1706 h. The Florida Surplus Lines Service Office shall verify
1707 the proper application by surplus lines agents of assessment
1708 percentages for regular assessments and emergency assessments
1709 levied under this subparagraph on assessable insureds and shall
1710 assist the corporation in ensuring the accurate, timely
1711 collection and payment of assessments by surplus lines agents as
1712 required by the corporation.

1713 i. If a deficit is incurred in any account in 2008 or
1714 thereafter, the board of governors shall levy a Citizens
1715 policyholder surcharge ~~an immediate assessment against the~~

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1716 ~~premium of each nonhomestead property policyholder in all~~
1717 ~~accounts of the corporation, as a uniform percentage of the~~
1718 ~~premium of the policy of up to 10 percent of such premium, which~~
1719 ~~funds shall be used to offset the deficit. If this assessment is~~
1720 ~~insufficient to eliminate the deficit, the board of governors~~
1721 ~~shall levy an additional assessment against all policyholders of~~
1722 ~~the corporation for a 12-month period, which shall be collected~~
1723 ~~at the time of issuance or renewal of a policy, as a uniform~~
1724 ~~percentage of the premium for the policy of up to 10 percent of~~
1725 ~~such premium, which funds shall be used to ~~further~~ offset the~~
1726 ~~deficit and reduce the amount of the regular assessment as~~
1727 ~~provided in sub-subparagraphs a. and b. Citizens policyholder~~
1728 ~~surcharges under this sub-subparagraph are not considered premium~~
1729 ~~and are not subject to commissions, fees, or premium taxes.~~
1730 ~~However, failure to pay such surcharges shall be treated as~~
1731 ~~failure to pay premium.~~

1732 j. If the amount of any assessments or surcharges collected
1733 from corporation policyholders, assessable insurers or their
1734 policyholders, or assessable insureds exceeds the amount of the
1735 deficits, such excess amounts shall be remitted to and retained
1736 by the corporation in a reserve to be used by the corporation, as
1737 determined by the board of governors and approved by the office,
1738 to pay claims or reduce any past, present, or future plan-year
1739 deficits or to reduce outstanding debt. The board of governors
1740 ~~shall maintain separate accounting records that consolidate data~~
1741 ~~for nonhomestead properties, including, but not limited to,~~
1742 ~~number of policies, insured values, premiums written, and losses.~~
1743 ~~The board of governors shall annually report to the office and~~
1744 ~~the Legislature a summary of such data.~~

1745 (c) The plan of operation of the corporation:



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1746 1. Must provide for adoption of residential property and
1747 casualty insurance policy forms and commercial residential and
1748 nonresidential property insurance forms, which forms must be
1749 approved by the office prior to use. The corporation shall adopt
1750 the following policy forms:

1751 a. Standard personal lines policy forms that are
1752 comprehensive multiperil policies providing full coverage of a
1753 residential property equivalent to the coverage provided in the
1754 private insurance market under an HO-3, HO-4, or HO-6 policy.

1755 b. Basic personal lines policy forms that are policies
1756 similar to an HO-8 policy or a dwelling fire policy that provide
1757 coverage meeting the requirements of the secondary mortgage
1758 market, but which coverage is more limited than the coverage
1759 under a standard policy.

1760 c. Commercial lines residential and nonresidential policy
1761 forms that are generally similar to the basic perils of full
1762 coverage obtainable for commercial residential structures and
1763 commercial nonresidential structures in the admitted voluntary
1764 market.

1765 d. Personal lines and commercial lines residential property
1766 insurance forms that cover the peril of wind only. The forms are
1767 applicable only to residential properties located in areas
1768 eligible for coverage under the high-risk account referred to in
1769 sub-subparagraph (b)2.a.

1770 e. Commercial lines nonresidential property insurance forms
1771 that cover the peril of wind only. The forms are applicable only
1772 to nonresidential properties located in areas eligible for
1773 coverage under the high-risk account referred to in sub-
1774 subparagraph (b)2.a.



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1775 f. The corporation may adopt variations of the policy forms
1776 listed in sub-subparagraphs a.-e. that contain more restrictive
1777 coverage.

1778 2.a. Must provide that the corporation adopt a program in
1779 which the corporation and authorized insurers enter into quota
1780 share primary insurance agreements for hurricane coverage, as
1781 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1782 property insurance forms for eligible risks which cover the peril
1783 of wind only. As used in this subsection, the term:

1784 (I) "Quota share primary insurance" means an arrangement in
1785 which the primary hurricane coverage of an eligible risk is
1786 provided in specified percentages by the corporation and an
1787 authorized insurer. The corporation and authorized insurer are
1788 each solely responsible for a specified percentage of hurricane
1789 coverage of an eligible risk as set forth in a quota share
1790 primary insurance agreement between the corporation and an
1791 authorized insurer and the insurance contract. The responsibility
1792 of the corporation or authorized insurer to pay its specified
1793 percentage of hurricane losses of an eligible risk, as set forth
1794 in the quota share primary insurance agreement, may not be
1795 altered by the inability of the other party to the agreement to
1796 pay its specified percentage of hurricane losses. Eligible risks
1797 that are provided hurricane coverage through a quota share
1798 primary insurance arrangement must be provided policy forms that
1799 set forth the obligations of the corporation and authorized
1800 insurer under the arrangement, clearly specify the percentages of
1801 quota share primary insurance provided by the corporation and
1802 authorized insurer, and conspicuously and clearly state that
1803 neither the authorized insurer nor the corporation may be held



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1804 responsible beyond its specified percentage of coverage of
1805 hurricane losses.

1806 (II) "Eligible risks" means personal lines residential and
1807 commercial lines residential risks that meet the underwriting
1808 criteria of the corporation and are located in areas that were
1809 eligible for coverage by the Florida Windstorm Underwriting
1810 Association on January 1, 2002.

1811 b. The corporation may enter into quota share primary
1812 insurance agreements with authorized insurers at corporation
1813 coverage levels of 90 percent and 50 percent.

1814 c. If the corporation determines that additional coverage
1815 levels are necessary to maximize participation in quota share
1816 primary insurance agreements by authorized insurers, the
1817 corporation may establish additional coverage levels. However,
1818 the corporation's quota share primary insurance coverage level
1819 may not exceed 90 percent.

1820 d. Any quota share primary insurance agreement entered into
1821 between an authorized insurer and the corporation must provide
1822 for a uniform specified percentage of coverage of hurricane
1823 losses, by county or territory as set forth by the corporation
1824 board, for all eligible risks of the authorized insurer covered
1825 under the quota share primary insurance agreement.

1826 e. Any quota share primary insurance agreement entered into
1827 between an authorized insurer and the corporation is subject to
1828 review and approval by the office. However, such agreement shall
1829 be authorized only as to insurance contracts entered into between
1830 an authorized insurer and an insured who is already insured by
1831 the corporation for wind coverage.

1832 f. For all eligible risks covered under quota share primary
1833 insurance agreements, the exposure and coverage levels for both



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1834 the corporation and authorized insurers shall be reported by the
1835 corporation to the Florida Hurricane Catastrophe Fund. For all
1836 policies of eligible risks covered under quota share primary
1837 insurance agreements, the corporation and the authorized insurer
1838 shall maintain complete and accurate records for the purpose of
1839 exposure and loss reimbursement audits as required by Florida
1840 Hurricane Catastrophe Fund rules. The corporation and the
1841 authorized insurer shall each maintain duplicate copies of policy
1842 declaration pages and supporting claims documents.

1843 g. The corporation board shall establish in its plan of
1844 operation standards for quota share agreements which ensure that
1845 there is no discriminatory application among insurers as to the
1846 terms of quota share agreements, pricing of quota share
1847 agreements, incentive provisions if any, and consideration paid
1848 for servicing policies or adjusting claims.

1849 h. The quota share primary insurance agreement between the
1850 corporation and an authorized insurer must set forth the specific
1851 terms under which coverage is provided, including, but not
1852 limited to, the sale and servicing of policies issued under the
1853 agreement by the insurance agent of the authorized insurer
1854 producing the business, the reporting of information concerning
1855 eligible risks, the payment of premium to the corporation, and
1856 arrangements for the adjustment and payment of hurricane claims
1857 incurred on eligible risks by the claims adjuster and personnel
1858 of the authorized insurer. Entering into a quota sharing
1859 insurance agreement between the corporation and an authorized
1860 insurer shall be voluntary and at the discretion of the
1861 authorized insurer.

1862 3. May provide that the corporation may employ or otherwise
1863 contract with individuals or other entities to provide

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1864 administrative or professional services that may be appropriate
1865 to effectuate the plan. The corporation shall have the power to
1866 borrow funds, by issuing bonds or by incurring other
1867 indebtedness, and shall have other powers reasonably necessary to
1868 effectuate the requirements of this subsection, including,
1869 without limitation, the power to issue bonds and incur other
1870 indebtedness in order to refinance outstanding bonds or other
1871 indebtedness. The corporation may, but is not required to, seek
1872 judicial validation of its bonds or other indebtedness under
1873 chapter 75. The corporation may issue bonds or incur other
1874 indebtedness, or have bonds issued on its behalf by a unit of
1875 local government pursuant to subparagraph (p)2., in the absence
1876 of a hurricane or other weather-related event, upon a
1877 determination by the corporation, subject to approval by the
1878 office, that such action would enable it to efficiently meet the
1879 financial obligations of the corporation and that such financings
1880 are reasonably necessary to effectuate the requirements of this
1881 subsection. The corporation is authorized to take all actions
1882 needed to facilitate tax-free status for any such bonds or
1883 indebtedness, including formation of trusts or other affiliated
1884 entities. The corporation shall have the authority to pledge
1885 assessments, projected recoveries from the Florida Hurricane
1886 Catastrophe Fund, other reinsurance recoverables, market
1887 equalization and other surcharges, and other funds available to
1888 the corporation as security for bonds or other indebtedness. In
1889 recognition of s. 10, Art. I of the State Constitution,
1890 prohibiting the impairment of obligations of contracts, it is the
1891 intent of the Legislature that no action be taken whose purpose
1892 is to impair any bond indenture or financing agreement or any

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1893 revenue source committed by contract to such bond or other
1894 indebtedness.

1895 4.a. Must require that the corporation operate subject to
1896 the supervision and approval of a board of governors consisting
1897 of eight individuals who are residents of this state, from
1898 different geographical areas of this state. The Governor, the
1899 Chief Financial Officer, the President of the Senate, and the
1900 Speaker of the House of Representatives shall each appoint two
1901 members of the board. At least one of the two members appointed
1902 by each appointing officer must have demonstrated expertise in
1903 insurance. The Chief Financial Officer shall designate one of the
1904 appointees as chair. All board members serve at the pleasure of
1905 the appointing officer. All members of the board of governors are
1906 subject to removal at will by the officers who appointed them.
1907 All board members, including the chair, must be appointed to
1908 serve for 3-year terms beginning annually on a date designated by
1909 the plan. Any board vacancy shall be filled for the unexpired
1910 term by the appointing officer. The Chief Financial Officer shall
1911 appoint a technical advisory group to provide information and
1912 advice to the board of governors in connection with the board's
1913 duties under this subsection. The executive director and senior
1914 managers of the corporation shall be engaged by the board and
1915 serve at the pleasure of the board. Any executive director
1916 appointed on or after July 1, 2006, is subject to confirmation by
1917 the Senate. The executive director is responsible for employing
1918 other staff as the corporation may require, subject to review and
1919 concurrence by the board.

1920 b. The board shall create a Market Accountability Advisory
1921 Committee to assist the corporation in developing awareness of
1922 its rates and its customer and agent service levels in

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1923 relationship to the voluntary market insurers writing similar
1924 coverage. The members of the advisory committee shall consist of
1925 the following 11 persons, one of whom must be elected chair by
1926 the members of the committee: four representatives, one appointed
1927 by the Florida Association of Insurance Agents, one by the
1928 Florida Association of Insurance and Financial Advisors, one by
1929 the Professional Insurance Agents of Florida, and one by the
1930 Latin American Association of Insurance Agencies; three
1931 representatives appointed by the insurers with the three highest
1932 voluntary market share of residential property insurance business
1933 in the state; one representative from the Office of Insurance
1934 Regulation; one consumer appointed by the board who is insured by
1935 the corporation at the time of appointment to the committee; one
1936 representative appointed by the Florida Association of Realtors;
1937 and one representative appointed by the Florida Bankers
1938 Association. All members must serve for 3-year terms and may
1939 serve for consecutive terms. The committee shall report to the
1940 corporation at each board meeting on insurance market issues
1941 which may include rates and rate competition with the voluntary
1942 market; service, including policy issuance, claims processing,
1943 and general responsiveness to policyholders, applicants, and
1944 agents; and matters relating to depopulation.

1945 5. Must provide a procedure for determining the eligibility
1946 of a risk for coverage, as follows:

1947 a. Subject to the provisions of s. 627.3517, with respect
1948 to personal lines residential risks, if the risk is offered
1949 coverage from an authorized insurer at the insurer's approved
1950 rate under either a standard policy including wind coverage or,
1951 if consistent with the insurer's underwriting rules as filed with
1952 the office, a basic policy including wind coverage, for a new

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1953 application to the corporation for coverage, the risk is not
1954 eligible for any policy issued by the corporation unless the
1955 premium for coverage from the authorized insurer is more than 15
1956 percent greater than the premium for comparable coverage from the
1957 corporation. If the risk is not able to obtain any such offer,
1958 the risk is eligible for either a standard policy including wind
1959 coverage or a basic policy including wind coverage issued by the
1960 corporation; however, if the risk could not be insured under a
1961 standard policy including wind coverage regardless of market
1962 conditions, the risk shall be eligible for a basic policy
1963 including wind coverage unless rejected under subparagraph 9.
1964 However, with regard to a policyholder of the corporation or a
1965 policyholder removed from the corporation through an assumption
1966 agreement until the end of the assumption period, the
1967 policyholder remains eligible for coverage from the corporation
1968 regardless of any offer of coverage from an authorized insurer or
1969 surplus lines insurer. The corporation shall determine the type
1970 of policy to be provided on the basis of objective standards
1971 specified in the underwriting manual and based on generally
1972 accepted underwriting practices.

1973 (I) If the risk accepts an offer of coverage through the
1974 market assistance plan or an offer of coverage through a
1975 mechanism established by the corporation before a policy is
1976 issued to the risk by the corporation or during the first 30 days
1977 of coverage by the corporation, and the producing agent who
1978 submitted the application to the plan or to the corporation is
1979 not currently appointed by the insurer, the insurer shall:

1980 (A) Pay to the producing agent of record of the policy, for
1981 the first year, an amount that is the greater of the insurer's
1982 usual and customary commission for the type of policy written or



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1983 a fee equal to the usual and customary commission of the
1984 corporation; or

1985 (B) Offer to allow the producing agent of record of the
1986 policy to continue servicing the policy for a period of not less
1987 than 1 year and offer to pay the agent the greater of the
1988 insurer's or the corporation's usual and customary commission for
1989 the type of policy written.

1990

1991 If the producing agent is unwilling or unable to accept
1992 appointment, the new insurer shall pay the agent in accordance
1993 with sub-sub-sub-subparagraph (A).

1994 (II) When the corporation enters into a contractual
1995 agreement for a take-out plan, the producing agent of record of
1996 the corporation policy is entitled to retain any unearned
1997 commission on the policy, and the insurer shall:

1998 (A) Pay to the producing agent of record of the corporation
1999 policy, for the first year, an amount that is the greater of the
2000 insurer's usual and customary commission for the type of policy
2001 written or a fee equal to the usual and customary commission of
2002 the corporation; or

2003 (B) Offer to allow the producing agent of record of the
2004 corporation policy to continue servicing the policy for a period
2005 of not less than 1 year and offer to pay the agent the greater of
2006 the insurer's or the corporation's usual and customary commission
2007 for the type of policy written.

2008

2009 If the producing agent is unwilling or unable to accept
2010 appointment, the new insurer shall pay the agent in accordance
2011 with sub-sub-sub-subparagraph (A).

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2012 | b. With respect to commercial lines residential risks, for
2013 | a new application to the corporation for coverage, if the risk is
2014 | offered coverage under a policy including wind coverage from an
2015 | authorized insurer at its approved rate, the risk is not eligible
2016 | for any policy issued by the corporation unless the premium for
2017 | coverage from the authorized insurer is more than 15 percent
2018 | greater than the premium for comparable coverage from the
2019 | corporation. If the risk is not able to obtain any such offer,
2020 | the risk is eligible for a policy including wind coverage issued
2021 | by the corporation. However, with regard to a policyholder of the
2022 | corporation or a policyholder removed from the corporation
2023 | through an assumption agreement until the end of the assumption
2024 | period, the policyholder remains eligible for coverage from the
2025 | corporation regardless of any offer of coverage from an
2026 | authorized insurer or surplus lines insurer.

2027 | (I) If the risk accepts an offer of coverage through the
2028 | market assistance plan or an offer of coverage through a
2029 | mechanism established by the corporation before a policy is
2030 | issued to the risk by the corporation or during the first 30 days
2031 | of coverage by the corporation, and the producing agent who
2032 | submitted the application to the plan or the corporation is not
2033 | currently appointed by the insurer, the insurer shall:

2034 | (A) Pay to the producing agent of record of the policy, for
2035 | the first year, an amount that is the greater of the insurer's
2036 | usual and customary commission for the type of policy written or
2037 | a fee equal to the usual and customary commission of the
2038 | corporation; or

2039 | (B) Offer to allow the producing agent of record of the
2040 | policy to continue servicing the policy for a period of not less
2041 | than 1 year and offer to pay the agent the greater of the

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2042 insurer's or the corporation's usual and customary commission for
2043 the type of policy written.

2044

2045 If the producing agent is unwilling or unable to accept
2046 appointment, the new insurer shall pay the agent in accordance
2047 with sub-sub-sub-subparagraph (A).

2048 (II) When the corporation enters into a contractual
2049 agreement for a take-out plan, the producing agent of record of
2050 the corporation policy is entitled to retain any unearned
2051 commission on the policy, and the insurer shall:

2052 (A) Pay to the producing agent of record of the corporation
2053 policy, for the first year, an amount that is the greater of the
2054 insurer's usual and customary commission for the type of policy
2055 written or a fee equal to the usual and customary commission of
2056 the corporation; or

2057 (B) Offer to allow the producing agent of record of the
2058 corporation policy to continue servicing the policy for a period
2059 of not less than 1 year and offer to pay the agent the greater of
2060 the insurer's or the corporation's usual and customary commission
2061 for the type of policy written.

2062

2063 If the producing agent is unwilling or unable to accept
2064 appointment, the new insurer shall pay the agent in accordance
2065 with sub-sub-sub-subparagraph (A).

2066 c. For purposes of determining comparable coverage under
2067 sub-subparagraphs a. and b., the comparison shall be based on
2068 those forms and coverages that are reasonably comparable. The
2069 corporation may rely on a determination of comparable coverage
2070 and premium made by the producing agent who submits the
2071 application to the corporation, made in the agent's capacity as



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2072 the corporation's agent. A comparison may be made solely of the
2073 premium with respect to the main building or structure only on
2074 the following basis: the same coverage A or other building
2075 limits; the same percentage hurricane deductible that applies on
2076 an annual basis or that applies to each hurricane for commercial
2077 residential property; the same percentage of ordinance and law
2078 coverage, if the same limit is offered by both the corporation
2079 and the authorized insurer; the same mitigation credits, to the
2080 extent the same types of credits are offered both by the
2081 corporation and the authorized insurer; the same method for loss
2082 payment, such as replacement cost or actual cash value, if the
2083 same method is offered both by the corporation and the authorized
2084 insurer in accordance with underwriting rules; and any other form
2085 or coverage that is reasonably comparable as determined by the
2086 board. If an application is submitted to the corporation for
2087 wind-only coverage in the high-risk account, the premium for the
2088 corporation's wind-only policy plus the premium for the ex-wind
2089 policy that is offered by an authorized insurer to the applicant
2090 shall be compared to the premium for multiperil coverage offered
2091 by an authorized insurer, subject to the standards for comparison
2092 specified in this subparagraph. If the corporation or the
2093 applicant requests from the authorized insurer a breakdown of the
2094 premium of the offer by types of coverage so that a comparison
2095 may be made by the corporation or its agent and the authorized
2096 insurer refuses or is unable to provide such information, the
2097 corporation may treat the offer as not being an offer of coverage
2098 from an authorized insurer at the insurer's approved rate.

2099 6. Must include rules for classifications of risks and
2100 rates therefor.

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2101 7. Must provide that if premium and investment income for
2102 an account attributable to a particular calendar year are in
2103 excess of projected losses and expenses for the account
2104 attributable to that year, such excess shall be held in surplus
2105 in the account. Such surplus shall be available to defray
2106 deficits in that account as to future years and shall be used for
2107 that purpose prior to assessing assessable insurers and
2108 assessable insureds as to any calendar year.

2109 8. Must provide objective criteria and procedures to be
2110 uniformly applied for all applicants in determining whether an
2111 individual risk is so hazardous as to be uninsurable. In making
2112 this determination and in establishing the criteria and
2113 procedures, the following shall be considered:

2114 a. Whether the likelihood of a loss for the individual risk
2115 is substantially higher than for other risks of the same class;
2116 and

2117 b. Whether the uncertainty associated with the individual
2118 risk is such that an appropriate premium cannot be determined.

2119
2120 The acceptance or rejection of a risk by the corporation shall be
2121 construed as the private placement of insurance, and the
2122 provisions of chapter 120 shall not apply.

2123 9. Must provide that the corporation shall make its best
2124 efforts to procure catastrophe reinsurance at reasonable rates,
2125 to cover its projected 100-year probable maximum loss as
2126 determined by the board of governors.

2127 ~~10. Must provide that in the event of regular deficit~~
2128 ~~assessments under sub-subparagraph (b)3.a. or sub-subparagraph~~
2129 ~~(b)3.b., in the personal lines account, the commercial lines~~
2130 ~~residential account, or the high-risk account, the corporation~~

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2131 ~~shall levy upon corporation policyholders in its next rate~~
2132 ~~filing, or by a separate rate filing solely for this purpose, a~~
2133 ~~Citizens policyholder surcharge arising from a regular assessment~~
2134 ~~in such account in a percentage equal to the total amount of such~~
2135 ~~regular assessments divided by the aggregate statewide direct~~
2136 ~~written premium for subject lines of business for the prior~~
2137 ~~calendar year. For purposes of calculating the Citizens~~
2138 ~~policyholder surcharge to be levied under this subparagraph, the~~
2139 ~~total amount of the regular assessment to which this surcharge is~~
2140 ~~related shall be determined as set forth in subparagraph (b)3.,~~
2141 ~~without deducting the estimated Citizens policyholder surcharge.~~
2142 ~~Citizens policyholder surcharges under this subparagraph are not~~
2143 ~~considered premium and are not subject to commissions, fees, or~~
2144 ~~premium taxes; however, failure to pay a market equalization~~
2145 ~~surcharge shall be treated as failure to pay premium.~~

2146 10.11. The policies issued by the corporation must provide
2147 that, if the corporation or the market assistance plan obtains an
2148 offer from an authorized insurer to cover the risk at its
2149 approved rates, the risk is no longer eligible for renewal
2150 through the corporation, except as otherwise provided in this
2151 subsection.

2152 11.12. Corporation policies and applications must include a
2153 notice that the corporation policy could, under this section, be
2154 replaced with a policy issued by an authorized insurer that does
2155 not provide coverage identical to the coverage provided by the
2156 corporation. The notice shall also specify that acceptance of
2157 corporation coverage creates a conclusive presumption that the
2158 applicant or policyholder is aware of this potential.

2159 12.13. May establish, subject to approval by the office,
2160 different eligibility requirements and operational procedures for

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2161 any line or type of coverage for any specified county or area if
2162 the board determines that such changes to the eligibility
2163 requirements and operational procedures are justified due to the
2164 voluntary market being sufficiently stable and competitive in
2165 such area or for such line or type of coverage and that consumers
2166 who, in good faith, are unable to obtain insurance through the
2167 voluntary market through ordinary methods would continue to have
2168 access to coverage from the corporation. When coverage is sought
2169 in connection with a real property transfer, such requirements
2170 and procedures shall not provide for an effective date of
2171 coverage later than the date of the closing of the transfer as
2172 established by the transferor, the transferee, and, if
2173 applicable, the lender.

2174 ~~13.14.~~ Must provide that, with respect to the high-risk
2175 account, any assessable insurer with a surplus as to
2176 policyholders of \$25 million or less writing 25 percent or more
2177 of its total countrywide property insurance premiums in this
2178 state may petition the office, within the first 90 days of each
2179 calendar year, to qualify as a limited apportionment company. A
2180 regular assessment levied by the corporation on a limited
2181 apportionment company for a deficit incurred by the corporation
2182 for the high-risk account in 2006 or thereafter may be paid to
2183 the corporation on a monthly basis as the assessments are
2184 collected by the limited apportionment company from its insureds
2185 pursuant to s. 627.3512, but the regular assessment must be paid
2186 in full within 12 months after being levied by the corporation. A
2187 limited apportionment company shall collect from its
2188 policyholders any emergency assessment imposed under sub-
2189 subparagraph (b)3.d. The plan shall provide that, if the office
2190 determines that any regular assessment will result in an



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2191 impairment of the surplus of a limited apportionment company, the
2192 office may direct that all or part of such assessment be deferred
2193 as provided in subparagraph (p)4. However, there shall be no
2194 limitation or deferment of an emergency assessment to be
2195 collected from policyholders under sub-subparagraph (b)3.d.

2196 ~~14.15.~~ Must provide that the corporation appoint as its
2197 licensed agents only those agents who also hold an appointment as
2198 defined in s. 626.015(3) with an insurer who at the time of the
2199 agent's initial appointment by the corporation is authorized to
2200 write and is actually writing personal lines residential property
2201 coverage, commercial residential property coverage, or commercial
2202 nonresidential property coverage within the state.

2203 ~~15.16.~~ Must provide, by July 1, 2007, a premium payment
2204 plan option to its policyholders which allows at a minimum for
2205 quarterly and semiannual payment of premiums. A monthly payment
2206 plan may, but is not required to, be offered.

2207 ~~16.17.~~ Must limit coverage on mobile homes or manufactured
2208 homes built prior to 1994 to actual cash value of the dwelling
2209 rather than replacement costs of the dwelling.

2210 ~~17.18.~~ May provide such limits of coverage as the board
2211 determines, consistent with the requirements of this subsection.

2212 ~~18.19.~~ May require commercial property to meet specified
2213 hurricane mitigation construction features as a condition of
2214 eligibility for coverage.

2215 (d)1. All prospective employees for senior management
2216 positions, as defined by the plan of operation, are subject to
2217 background checks as a prerequisite for employment. The office
2218 shall conduct background checks on such prospective employees
2219 pursuant to ss. 624.34, 624.404(3), and 628.261.

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2220 2. On or before July 1 of each year, employees of the
2221 corporation are required to sign and submit a statement attesting
2222 that they do not have a conflict of interest, as defined in part
2223 III of chapter 112. As a condition of employment, all prospective
2224 employees are required to sign and submit to the corporation a
2225 conflict-of-interest statement.

2226 3. Senior managers and members of the board of governors
2227 are subject to the provisions of part III of chapter 112,
2228 including, but not limited to, the code of ethics and public
2229 disclosure and reporting of financial interests, pursuant to s.
2230 112.3145. Senior managers and board members are also required to
2231 file such disclosures with the Commission on Ethics and the
2232 Office of Insurance Regulation. The executive director of the
2233 corporation or his or her designee shall notify each newly
2234 appointed and existing appointed member of the board of governors
2235 and senior managers of their duty to comply with the reporting
2236 requirements of part III of chapter 112. At least quarterly, the
2237 executive director or his or her designee shall submit to the
2238 Commission on Ethics a list of names of the senior managers and
2239 members of the board of governors who are subject to the public
2240 disclosure requirements under s. 112.3145.

2241 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other
2242 provision of law, an employee or board member may not knowingly
2243 accept, directly or indirectly, any gift or expenditure from a
2244 person or entity, or an employee or representative of such person
2245 or entity, that has a contractual relationship with the
2246 corporation or who is under consideration for a contract. An
2247 employee or board member who fails to comply with subparagraph 3.
2248 or this subparagraph is subject to penalties provided under ss.
2249 112.317 and 112.3173.

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2250 5. Any senior manager of the corporation who is employed on
2251 or after January 1, 2007, regardless of the date of hire, who
2252 subsequently retires or terminates employment is prohibited from
2253 representing another person or entity before the corporation for
2254 2 years after retirement or termination of employment from the
2255 corporation.

2256 6. Any senior manager of the corporation who is employed on
2257 or after January 1, 2007, regardless of the date of hire, who
2258 subsequently retires or terminates employment is prohibited from
2259 having any employment or contractual relationship for 2 years
2260 with an insurer that has entered into a take-out bonus agreement
2261 with the corporation.

2262 (e) Purchases that equal or exceed \$2,500, but are less
2263 than \$25,000, shall be made by receipt of written quotes, written
2264 record of telephone quotes, or informal bids, whenever practical.
2265 The procurement of goods or services valued at or over \$25,000
2266 shall be subject to competitive solicitation, except in
2267 situations where the goods or services are provided by a sole
2268 source or are deemed an emergency purchase; the services are
2269 exempted from competitive solicitation requirements under s.
2270 287.057(5)(f); or the procurement of services is subject to s.
2271 627.3513. Justification for the sole-sourcing or emergency
2272 procurement must be documented. Contracts for goods or services
2273 valued at or over \$100,000 are subject to approval by the board.

2274 (f) The board shall determine whether it is more cost-
2275 effective and in the best interests of the corporation to use
2276 legal services provided by in-house attorneys employed by the
2277 corporation rather than contracting with outside counsel. In
2278 making such determination, the board shall document its findings
2279 and shall consider: the expertise needed; whether time

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2280 commitments exceed in-house staff resources; whether local
2281 representation is needed; the travel, lodging and other costs
2282 associated with in-house representation; and such other factors
2283 that the board determines are relevant.

2284 (g) The corporation may not retain a lobbyist to represent
2285 it before the legislative branch or executive branch. However,
2286 full-time employees of the corporation may register as lobbyists
2287 and represent the corporation before the legislative branch or
2288 executive branch.

2289 (h)1. The Office of the Internal Auditor is established
2290 within the corporation to provide a central point for
2291 coordination of and responsibility for activities that promote
2292 accountability, integrity, and efficiency to the policyholders
2293 and to the taxpayers of this state. The internal auditor shall be
2294 appointed by the board of governors, shall report to and be under
2295 the general supervision of the board of governors, and is not
2296 subject to supervision by any employee of the corporation.
2297 Administrative staff and support shall be provided by the
2298 corporation. The internal auditor shall be appointed without
2299 regard to political affiliation. It is the duty and
2300 responsibility of the internal auditor to:

2301 a. Provide direction for, supervise, conduct, and
2302 coordinate audits, investigations, and management reviews
2303 relating to the programs and operations of the corporation.

2304 b. Conduct, supervise, or coordinate other activities
2305 carried out or financed by the corporation for the purpose of
2306 promoting efficiency in the administration of, or preventing and
2307 detecting fraud, abuse, and mismanagement in, its programs and
2308 operations.

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2309 | c. Submit final audit reports, reviews, or investigative
2310 | reports to the board of governors, the executive director, the
2311 | members of the Financial Services Commission, and the President
2312 | of the Senate and the Speaker of the House of Representatives.

2313 | d. Keep the board of governors informed concerning fraud,
2314 | abuses, and internal control deficiencies relating to programs
2315 | and operations administered or financed by the corporation,
2316 | recommend corrective action, and report on the progress made in
2317 | implementing corrective action.

2318 | e. Report expeditiously to the Department of Law
2319 | Enforcement or other law enforcement agencies, as appropriate,
2320 | whenever the internal auditor has reasonable grounds to believe
2321 | there has been a violation of criminal law.

2322 | 2. On or before February 15, the internal auditor shall
2323 | prepare an annual report evaluating the effectiveness of the
2324 | internal controls of the corporation and providing
2325 | recommendations for corrective action, if necessary, and
2326 | summarizing the audits, reviews, and investigations conducted by
2327 | the office during the preceding fiscal year. The final report
2328 | shall be furnished to the board of governors and the executive
2329 | director, the President of the Senate, the Speaker of the House
2330 | of Representatives, and the Financial Services Commission.

2331 | (i) All records of the corporation, except as otherwise
2332 | provided by law, are subject to the record retention requirements
2333 | of s. 119.021.

2334 | (j)1. The corporation shall establish and maintain a unit
2335 | or division to investigate possible fraudulent claims by insureds
2336 | or by persons making claims for services or repairs against
2337 | policies held by insureds; or it may contract with others to
2338 | investigate possible fraudulent claims for services or repairs

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2339 | against policies held by the corporation pursuant to s. 626.9891.
2340 | The corporation must comply with reporting requirements of s.
2341 | 626.9891. An employee of the corporation shall notify the
2342 | corporation's Office of the Internal Auditor and the Division of
2343 | Insurance Fraud within 48 hours after having information that
2344 | would lead a reasonable person to suspect that fraud may have
2345 | been committed by any employee of the corporation.

2346 | 2. The corporation shall establish a unit or division
2347 | responsible for receiving and responding to consumer complaints,
2348 | which unit or division is the sole responsibility of a senior
2349 | manager of the corporation.

2350 | (k) The office shall conduct a comprehensive market conduct
2351 | examination of the corporation every 2 years to determine
2352 | compliance with its plan of operation and internal operations
2353 | procedures. The first market conduct examination report shall be
2354 | submitted to the President of the Senate and the Speaker of the
2355 | House of Representatives no later than February 1, 2009.
2356 | Subsequent reports shall be submitted on or before February 1
2357 | every 2 years thereafter.

2358 | (l) The Auditor General shall conduct an operational audit
2359 | of the corporation every 3 years to evaluate management's
2360 | performance in administering laws, policies, and procedures
2361 | governing the operations of the corporation in an efficient and
2362 | effective manner. The scope of the review shall include, but is
2363 | not limited to, evaluating claims handling, customer service,
2364 | take-out programs and bonuses, financing arrangements,
2365 | procurement of goods and services, internal controls, and the
2366 | internal audit function. The initial audit must be completed by
2367 | February 1, 2009.



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2368 (m)1. Rates for coverage provided by the corporation shall
2369 be actuarially sound and subject to the requirements of s.
2370 627.062, except as otherwise provided in this paragraph. The
2371 corporation shall file its recommended rates with the office at
2372 least annually. The corporation shall provide any additional
2373 information regarding the rates which the office requires. The
2374 office shall consider the recommendations of the board and issue
2375 a final order establishing the rates for the corporation within
2376 45 days after the recommended rates are filed. The corporation
2377 may not pursue an administrative challenge or judicial review of
2378 the final order of the office.

2379 2. In addition to the rates otherwise determined pursuant
2380 to this paragraph, the corporation shall impose and collect an
2381 amount equal to the premium tax provided for in s. 624.509 to
2382 augment the financial resources of the corporation.

2383 3. After the public hurricane loss-projection model under
2384 s. 627.06281 has been found to be accurate and reliable by the
2385 Florida Commission on Hurricane Loss Projection Methodology, that
2386 model shall serve as the minimum benchmark for determining the
2387 windstorm portion of the corporation's rates. This subparagraph
2388 does not require or allow the corporation to adopt rates lower
2389 than the rates otherwise required or allowed by this paragraph.

2390 4. The rate filings for the corporation which were approved
2391 by the office and which took effect January 1, 2007, are
2392 rescinded, except for those rates that were lowered. As soon as
2393 possible, the corporation shall begin using the lower rates that
2394 were in effect on December 31, 2006, and shall provide refunds to
2395 policyholders who have paid higher rates as a result of that rate
2396 filing. The rates in effect on December 31, 2006, shall remain in
2397 effect for the 2007, ~~and~~ 2008, and 2009 calendar years except for



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2398 any rate change that results in a lower rate. The next rate
2399 change that may increase rates shall take effect no earlier than
2400 January 1, 2010 ~~January 1, 2009~~, pursuant to a new rate filing
2401 recommended by the corporation and established by the office,
2402 subject to the requirements of this paragraph.

2403 5. The Legislature finds that it is in the public interest
2404 to ensure that increased rates for coverage by the corporation be
2405 implemented incrementally in order to provide rate stability and
2406 predictability to its policyholders.

2407 a. Beginning on or after January 1, 2010, the corporation
2408 must make an annual filing for each personal and commercial line
2409 of business it writes.

2410 b. For the years 2010 through 2012, rates established by
2411 the office for the corporation for its personal residential
2412 multiperil policies, its commercial residential multiperil
2413 policies, and its commercial nonresidential multiperil policies
2414 may not result in any year in an overall average statewide
2415 premium increase of more than 10 percent or an increase for any
2416 single policyholder or more than 10 percent, excluding coverage
2417 changes and surcharges.

2418 c. For the years 2010 through 2012, rates established by
2419 the office for the corporation for its personal residential wind-
2420 only policies, its commercial residential wind-only policies, and
2421 its commercial nonresidential wind-only policies may not result
2422 in any year in an overall average statewide premium increase of
2423 more than 15 percent or an increase for any single policyholder
2424 of more than 15 percent, excluding coverage changes and
2425 surcharges.

2426 (n) If coverage in an account is deactivated pursuant to
2427 paragraph (o), coverage through the corporation shall be

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2428 reactivated by order of the office only under one of the
2429 following circumstances:

2430 1. If the market assistance plan receives a minimum of 100
2431 applications for coverage within a 3-month period, or 200
2432 applications for coverage within a 1-year period or less for
2433 residential coverage, unless the market assistance plan provides
2434 a quotation from admitted carriers at their filed rates for at
2435 least 90 percent of such applicants. Any market assistance plan
2436 application that is rejected because an individual risk is so
2437 hazardous as to be uninsurable using the criteria specified in
2438 subparagraph (c)9. shall not be included in the minimum
2439 percentage calculation provided herein. In the event that there
2440 is a legal or administrative challenge to a determination by the
2441 office that the conditions of this subparagraph have been met for
2442 eligibility for coverage in the corporation, any eligible risk
2443 may obtain coverage during the pendency of such challenge.

2444 2. In response to a state of emergency declared by the
2445 Governor under s. 252.36, the office may activate coverage by
2446 order for the period of the emergency upon a finding by the
2447 office that the emergency significantly affects the availability
2448 of residential property insurance.

2449 (o)1. The corporation shall file with the office quarterly
2450 statements of financial condition, an annual statement of
2451 financial condition, and audited financial statements in the
2452 manner prescribed by law. In addition, the corporation shall
2453 report to the office monthly on the types, premium, exposure, and
2454 distribution by county of its policies in force, and shall submit
2455 other reports as the office requires to carry out its oversight
2456 of the corporation.



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2457 2. The activities of the corporation shall be reviewed at
2458 least annually by the office to determine whether coverage shall
2459 be deactivated in an account on the basis that the conditions
2460 giving rise to its activation no longer exist.

2461 (p)1. The corporation shall certify to the office its needs
2462 for annual assessments as to a particular calendar year, and for
2463 any interim assessments that it deems to be necessary to sustain
2464 operations as to a particular year pending the receipt of annual
2465 assessments. Upon verification, the office shall approve such
2466 certification, and the corporation shall levy such annual or
2467 interim assessments. Such assessments shall be prorated as
2468 provided in paragraph (b). The corporation shall take all
2469 reasonable and prudent steps necessary to collect the amount of
2470 assessment due from each assessable insurer, including, if
2471 prudent, filing suit to collect such assessment. If the
2472 corporation is unable to collect an assessment from any
2473 assessable insurer, the uncollected assessments shall be levied
2474 as an additional assessment against the assessable insurers and
2475 any assessable insurer required to pay an additional assessment
2476 as a result of such failure to pay shall have a cause of action
2477 against such nonpaying assessable insurer. Assessments shall be
2478 included as an appropriate factor in the making of rates. The
2479 failure of a surplus lines agent to collect and remit any regular
2480 or emergency assessment levied by the corporation is considered
2481 to be a violation of s. 626.936 and subjects the surplus lines
2482 agent to the penalties provided in that section.

2483 2. The governing body of any unit of local government, any
2484 residents of which are insured by the corporation, may issue
2485 bonds as defined in s. 125.013 or s. 166.101 from time to time to
2486 fund an assistance program, in conjunction with the corporation,

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2487 | for the purpose of defraying deficits of the corporation. In
2488 | order to avoid needless and indiscriminate proliferation,
2489 | duplication, and fragmentation of such assistance programs, any
2490 | unit of local government, any residents of which are insured by
2491 | the corporation, may provide for the payment of losses,
2492 | regardless of whether or not the losses occurred within or
2493 | outside of the territorial jurisdiction of the local government.
2494 | Revenue bonds under this subparagraph may not be issued until
2495 | validated pursuant to chapter 75, unless a state of emergency is
2496 | declared by executive order or proclamation of the Governor
2497 | pursuant to s. 252.36 making such findings as are necessary to
2498 | determine that it is in the best interests of, and necessary for,
2499 | the protection of the public health, safety, and general welfare
2500 | of residents of this state and declaring it an essential public
2501 | purpose to permit certain municipalities or counties to issue
2502 | such bonds as will permit relief to claimants and policyholders
2503 | of the corporation. Any such unit of local government may enter
2504 | into such contracts with the corporation and with any other
2505 | entity created pursuant to this subsection as are necessary to
2506 | carry out this paragraph. Any bonds issued under this
2507 | subparagraph shall be payable from and secured by moneys received
2508 | by the corporation from emergency assessments under sub-
2509 | subparagraph (b)3.d., and assigned and pledged to or on behalf of
2510 | the unit of local government for the benefit of the holders of
2511 | such bonds. The funds, credit, property, and taxing power of the
2512 | state or of the unit of local government shall not be pledged for
2513 | the payment of such bonds. ~~If any of the bonds remain unsold 60~~
2514 | ~~days after issuance, the office shall require all insurers~~
2515 | ~~subject to assessment to purchase the bonds, which shall be~~
2516 | ~~treated as admitted assets; each insurer shall be required to~~

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2517 | ~~purchase that percentage of the unsold portion of the bond issue~~
2518 | ~~that equals the insurer's relative share of assessment liability~~
2519 | ~~under this subsection. An insurer shall not be required to~~
2520 | ~~purchase the bonds to the extent that the office determines that~~
2521 | ~~the purchase would endanger or impair the solvency of the~~
2522 | ~~insurer.~~

2523 | 3.a. The corporation shall adopt one or more programs
2524 | subject to approval by the office for the reduction of both new
2525 | and renewal writings in the corporation. Beginning January 1,
2526 | 2008, any program the corporation adopts for the payment of
2527 | bonuses to an insurer for each risk the insurer removes from the
2528 | corporation shall comply with s. 627.3511(2) and may not exceed
2529 | the amount referenced in s. 627.3511(2) for each risk removed.
2530 | The corporation may consider any prudent and not unfairly
2531 | discriminatory approach to reducing corporation writings, and may
2532 | adopt a credit against assessment liability or other liability
2533 | that provides an incentive for insurers to take risks out of the
2534 | corporation and to keep risks out of the corporation by
2535 | maintaining or increasing voluntary writings in counties or areas
2536 | in which corporation risks are highly concentrated and a program
2537 | to provide a formula under which an insurer voluntarily taking
2538 | risks out of the corporation by maintaining or increasing
2539 | voluntary writings will be relieved wholly or partially from
2540 | assessments under sub-subparagraphs (b)3.a. and b. However, any
2541 | "take-out bonus" or payment to an insurer must be conditioned on
2542 | the property being insured for at least 5 years by the insurer,
2543 | unless canceled or nonrenewed by the policyholder. If the policy
2544 | is canceled or nonrenewed by the policyholder before the end of
2545 | the 5-year period, the amount of the take-out bonus must be
2546 | prorated for the time period the policy was insured. When the

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2547 corporation enters into a contractual agreement for a take-out
2548 plan, the producing agent of record of the corporation policy is
2549 entitled to retain any unearned commission on such policy, and
2550 the insurer shall either:

2551 (I) Pay to the producing agent of record of the policy, for
2552 the first year, an amount which is the greater of the insurer's
2553 usual and customary commission for the type of policy written or
2554 a policy fee equal to the usual and customary commission of the
2555 corporation; or

2556 (II) Offer to allow the producing agent of record of the
2557 policy to continue servicing the policy for a period of not less
2558 than 1 year and offer to pay the agent the insurer's usual and
2559 customary commission for the type of policy written. If the
2560 producing agent is unwilling or unable to accept appointment by
2561 the new insurer, the new insurer shall pay the agent in
2562 accordance with sub-sub-subparagraph (I).

2563 b. Any credit or exemption from regular assessments adopted
2564 under this subparagraph shall last no longer than the 3 years
2565 following the cancellation or expiration of the policy by the
2566 corporation. With the approval of the office, the board may
2567 extend such credits for an additional year if the insurer
2568 guarantees an additional year of renewability for all policies
2569 removed from the corporation, or for 2 additional years if the
2570 insurer guarantees 2 additional years of renewability for all
2571 policies so removed.

2572 c. There shall be no credit, limitation, exemption, or
2573 deferment from emergency assessments to be collected from
2574 policyholders pursuant to sub-subparagraph (b)3.d.

2575 d. Subject to the execution of the confidentiality
2576 agreement required by paragraph (w), the corporation shall make

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2577 its database of policies available to prospective take-out
2578 insurers considering underwriting a risk insured by the
2579 corporation, without categorically eliminating policies from
2580 eligibility for removal. The corporation may not instruct or
2581 encourage prospective take-out insurers to avoid the selection of
2582 policies for which the agent has disapproved policy removals. The
2583 corporation must require agents to accept or decline appointment
2584 for any policy selected and, in the case of a declination, must
2585 notify the policyholder that an insurer, identified by name,
2586 selected his or her policy for a take-out offer, but that the
2587 policyholder's agent refused to be appointed by the insurer. The
2588 notice must also provide the policyholder with the take-out
2589 insurer's contact information so that the policyholder may
2590 contact the company directly and make his or her own
2591 determination of whether to seek coverage from the take-out
2592 insurer.

2593 4. The plan shall provide for the deferment, in whole or in
2594 part, of the assessment of an assessable insurer, other than an
2595 emergency assessment collected from policyholders pursuant to
2596 sub-subparagraph (b)3.d., if the office finds that payment of the
2597 assessment would endanger or impair the solvency of the insurer.
2598 In the event an assessment against an assessable insurer is
2599 deferred in whole or in part, the amount by which such assessment
2600 is deferred may be assessed against the other assessable insurers
2601 in a manner consistent with the basis for assessments set forth
2602 in paragraph (b).

2603 5. Effective July 1, 2007, in order to evaluate the costs
2604 and benefits of approved take-out plans, if the corporation pays
2605 a bonus or other payment to an insurer for an approved take-out
2606 plan, it shall maintain a record of the address or such other



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2607 identifying information on the property or risk removed in order
2608 to track if and when the property or risk is later insured by the
2609 corporation.

2610 6. Any policy taken out, assumed, or removed from the
2611 corporation is, as of the effective date of the take-out,
2612 assumption, or removal, direct insurance issued by the insurer
2613 and not by the corporation, even if the corporation continues to
2614 service the policies. This subparagraph applies to policies of
2615 the corporation and not policies taken out, assumed, or removed
2616 from any other entity.

2617 (q) Nothing in this subsection shall be construed to
2618 preclude the issuance of residential property insurance coverage
2619 pursuant to part VIII of chapter 626.

2620 (r)1. There shall be no liability on the part of, and no
2621 cause of action of any nature shall arise against, any assessable
2622 insurer or its agents or employees, the corporation or its agents
2623 or employees, members of the board of governors or their
2624 respective designees at a board meeting, corporation committee
2625 members, or the office or its representatives, for any action
2626 taken by them in the performance of their duties or
2627 responsibilities under this subsection. Such immunity does not
2628 apply to:

2629 a. Any of the foregoing persons or entities for any willful
2630 tort;

2631 b. The corporation or its producing agents for breach of
2632 any contract or agreement pertaining to insurance coverage;

2633 c. The corporation with respect to issuance or payment of
2634 debt;

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2635 d. Any assessable insurer with respect to any action to
2636 enforce an assessable insurer's obligations to the corporation
2637 under this subsection; or

2638 e. The corporation in any pending or future action for
2639 breach of contract or for benefits under a policy issued by the
2640 corporation; in any such action, the corporation shall be liable
2641 to the policyholders and beneficiaries for attorney's fees under
2642 s. 627.428.

2643 2. The corporation shall manage its claim employees,
2644 independent adjusters, and others who handle claims to ensure
2645 they carry out the corporation's duty to its policyholders to
2646 handle claims carefully, timely, diligently, and in good faith,
2647 balanced against the corporation's duty to the state to manage
2648 its assets responsibly to minimize its assessment potential.

2649 (s) For the purposes of s. 199.183(1), the corporation
2650 shall be considered a political subdivision of the state and
2651 shall be exempt from the corporate income tax. The premiums,
2652 assessments, investment income, and other revenue of the
2653 corporation are funds received for providing property insurance
2654 coverage as required by this subsection, paying claims for
2655 Florida citizens insured by the corporation, securing and
2656 repaying debt obligations issued by the corporation, and
2657 conducting all other activities of the corporation, and shall not
2658 be considered taxes, fees, licenses, or charges for services
2659 imposed by the Legislature on individuals, businesses, or
2660 agencies outside state government. Bonds and other debt
2661 obligations issued by or on behalf of the corporation are not to
2662 be considered "state bonds" within the meaning of s. 215.58(8).
2663 The corporation is not subject to the procurement provisions of
2664 chapter 287, and policies and decisions of the corporation



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2665 relating to incurring debt, levying of assessments and the sale,
2666 issuance, continuation, terms and claims under corporation
2667 policies, and all services relating thereto, are not subject to
2668 the provisions of chapter 120. The corporation is not required to
2669 obtain or to hold a certificate of authority issued by the
2670 office, nor is it required to participate as a member insurer of
2671 the Florida Insurance Guaranty Association. However, the
2672 corporation is required to pay, in the same manner as an
2673 authorized insurer, assessments levied by the Florida Insurance
2674 Guaranty Association. It is the intent of the Legislature that
2675 the tax exemptions provided in this paragraph will augment the
2676 financial resources of the corporation to better enable the
2677 corporation to fulfill its public purposes. Any debt obligations
2678 issued by the corporation, their transfer, and the income
2679 therefrom, including any profit made on the sale thereof, shall
2680 at all times be free from taxation of every kind by the state and
2681 any political subdivision or local unit or other instrumentality
2682 thereof; however, this exemption does not apply to any tax
2683 imposed by chapter 220 on interest, income, or profits on debt
2684 obligations owned by corporations other than the corporation.

2685 (t) Upon a determination by the office that the conditions
2686 giving rise to the establishment and activation of the
2687 corporation no longer exist, the corporation is dissolved. Upon
2688 dissolution, the assets of the corporation shall be applied first
2689 to pay all debts, liabilities, and obligations of the
2690 corporation, including the establishment of reasonable reserves
2691 for any contingent liabilities or obligations, and all remaining
2692 assets of the corporation shall become property of the state and
2693 shall be deposited in the Florida Hurricane Catastrophe Fund.
2694 However, no dissolution shall take effect as long as the



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2695 corporation has bonds or other financial obligations outstanding
2696 unless adequate provision has been made for the payment of the
2697 bonds or other financial obligations pursuant to the documents
2698 authorizing the issuance of the bonds or other financial
2699 obligations.

2700 (u)1. Effective July 1, 2002, policies of the Residential
2701 Property and Casualty Joint Underwriting Association shall become
2702 policies of the corporation. All obligations, rights, assets and
2703 liabilities of the Residential Property and Casualty Joint
2704 Underwriting Association, including bonds, note and debt
2705 obligations, and the financing documents pertaining to them
2706 become those of the corporation as of July 1, 2002. The
2707 corporation is not required to issue endorsements or certificates
2708 of assumption to insureds during the remaining term of in-force
2709 transferred policies.

2710 2. Effective July 1, 2002, policies of the Florida
2711 Windstorm Underwriting Association are transferred to the
2712 corporation and shall become policies of the corporation. All
2713 obligations, rights, assets, and liabilities of the Florida
2714 Windstorm Underwriting Association, including bonds, note and
2715 debt obligations, and the financing documents pertaining to them
2716 are transferred to and assumed by the corporation on July 1,
2717 2002. The corporation is not required to issue endorsements or
2718 certificates of assumption to insureds during the remaining term
2719 of in-force transferred policies.

2720 3. The Florida Windstorm Underwriting Association and the
2721 Residential Property and Casualty Joint Underwriting Association
2722 shall take all actions as may be proper to further evidence the
2723 transfers and shall provide the documents and instruments of
2724 further assurance as may reasonably be requested by the



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2725 corporation for that purpose. The corporation shall execute
2726 assumptions and instruments as the trustees or other parties to
2727 the financing documents of the Florida Windstorm Underwriting
2728 Association or the Residential Property and Casualty Joint
2729 Underwriting Association may reasonably request to further
2730 evidence the transfers and assumptions, which transfers and
2731 assumptions, however, are effective on the date provided under
2732 this paragraph whether or not, and regardless of the date on
2733 which, the assumptions or instruments are executed by the
2734 corporation. Subject to the relevant financing documents
2735 pertaining to their outstanding bonds, notes, indebtedness, or
2736 other financing obligations, the moneys, investments,
2737 receivables, choses in action, and other intangibles of the
2738 Florida Windstorm Underwriting Association shall be credited to
2739 the high-risk account of the corporation, and those of the
2740 personal lines residential coverage account and the commercial
2741 lines residential coverage account of the Residential Property
2742 and Casualty Joint Underwriting Association shall be credited to
2743 the personal lines account and the commercial lines account,
2744 respectively, of the corporation.

2745 4. Effective July 1, 2002, a new applicant for property
2746 insurance coverage who would otherwise have been eligible for
2747 coverage in the Florida Windstorm Underwriting Association is
2748 eligible for coverage from the corporation as provided in this
2749 subsection.

2750 5. The transfer of all policies, obligations, rights,
2751 assets, and liabilities from the Florida Windstorm Underwriting
2752 Association to the corporation and the renaming of the
2753 Residential Property and Casualty Joint Underwriting Association
2754 as the corporation shall in no way affect the coverage with

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2755 | respect to covered policies as defined in s. 215.555(2) (c)
2756 | provided to these entities by the Florida Hurricane Catastrophe
2757 | Fund. The coverage provided by the Florida Hurricane Catastrophe
2758 | Fund to the Florida Windstorm Underwriting Association based on
2759 | its exposures as of June 30, 2002, and each June 30 thereafter
2760 | shall be redesignated as coverage for the high-risk account of
2761 | the corporation. Notwithstanding any other provision of law, the
2762 | coverage provided by the Florida Hurricane Catastrophe Fund to
2763 | the Residential Property and Casualty Joint Underwriting
2764 | Association based on its exposures as of June 30, 2002, and each
2765 | June 30 thereafter shall be transferred to the personal lines
2766 | account and the commercial lines account of the corporation.
2767 | Notwithstanding any other provision of law, the high-risk account
2768 | shall be treated, for all Florida Hurricane Catastrophe Fund
2769 | purposes, as if it were a separate participating insurer with its
2770 | own exposures, reimbursement premium, and loss reimbursement.
2771 | Likewise, the personal lines and commercial lines accounts shall
2772 | be viewed together, for all Florida Hurricane Catastrophe Fund
2773 | purposes, as if the two accounts were one and represent a single,
2774 | separate participating insurer with its own exposures,
2775 | reimbursement premium, and loss reimbursement. The coverage
2776 | provided by the Florida Hurricane Catastrophe Fund to the
2777 | corporation shall constitute and operate as a full transfer of
2778 | coverage from the Florida Windstorm Underwriting Association and
2779 | Residential Property and Casualty Joint Underwriting to the
2780 | corporation.

2781 | (v) Notwithstanding any other provision of law:

2782 | 1. The pledge or sale of, the lien upon, and the security
2783 | interest in any rights, revenues, or other assets of the
2784 | corporation created or purported to be created pursuant to any



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2785 financing documents to secure any bonds or other indebtedness of
2786 the corporation shall be and remain valid and enforceable,
2787 notwithstanding the commencement of and during the continuation
2788 of, and after, any rehabilitation, insolvency, liquidation,
2789 bankruptcy, receivership, conservatorship, reorganization, or
2790 similar proceeding against the corporation under the laws of this
2791 state.

2792 2. No such proceeding shall relieve the corporation of its
2793 obligation, or otherwise affect its ability to perform its
2794 obligation, to continue to collect, or levy and collect,
2795 assessments, market equalization or other surcharges under
2796 subparagraph (c)11., or any other rights, revenues, or other
2797 assets of the corporation pledged pursuant to any financing
2798 documents.

2799 3. Each such pledge or sale of, lien upon, and security
2800 interest in, including the priority of such pledge, lien, or
2801 security interest, any such assessments, market equalization or
2802 other surcharges, or other rights, revenues, or other assets
2803 which are collected, or levied and collected, after the
2804 commencement of and during the pendency of, or after, any such
2805 proceeding shall continue unaffected by such proceeding. As used
2806 in this subsection, the term "financing documents" means any
2807 agreement or agreements, instrument or instruments, or other
2808 document or documents now existing or hereafter created
2809 evidencing any bonds or other indebtedness of the corporation or
2810 pursuant to which any such bonds or other indebtedness has been
2811 or may be issued and pursuant to which any rights, revenues, or
2812 other assets of the corporation are pledged or sold to secure the
2813 repayment of such bonds or indebtedness, together with the
2814 payment of interest on such bonds or such indebtedness, or the

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2815 | payment of any other obligation or financial product, as defined
2816 | in the plan of operation of the corporation related to such bonds
2817 | or indebtedness.

2818 | 4. Any such pledge or sale of assessments, revenues,
2819 | contract rights, or other rights or assets of the corporation
2820 | shall constitute a lien and security interest, or sale, as the
2821 | case may be, that is immediately effective and attaches to such
2822 | assessments, revenues, or contract rights or other rights or
2823 | assets, whether or not imposed or collected at the time the
2824 | pledge or sale is made. Any such pledge or sale is effective,
2825 | valid, binding, and enforceable against the corporation or other
2826 | entity making such pledge or sale, and valid and binding against
2827 | and superior to any competing claims or obligations owed to any
2828 | other person or entity, including policyholders in this state,
2829 | asserting rights in any such assessments, revenues, or contract
2830 | rights or other rights or assets to the extent set forth in and
2831 | in accordance with the terms of the pledge or sale contained in
2832 | the applicable financing documents, whether or not any such
2833 | person or entity has notice of such pledge or sale and without
2834 | the need for any physical delivery, recordation, filing, or other
2835 | action.

2836 | 5. As long as the corporation has any bonds outstanding,
2837 | the corporation may not file a voluntary petition under chapter 9
2838 | of the federal Bankruptcy Code or such corresponding chapter or
2839 | sections as may be in effect, from time to time, and a public
2840 | officer or any organization, entity, or other person may not
2841 | authorize the corporation to be or become a debtor under chapter
2842 | 9 of the federal Bankruptcy Code or such corresponding chapter or
2843 | sections as may be in effect, from time to time, during any such
2844 | period.

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2845 | 6. If ordered by a court of competent jurisdiction, the
2846 | corporation may assume policies or otherwise provide coverage for
2847 | policyholders of an insurer placed in liquidation under chapter
2848 | 631, under such forms, rates, terms, and conditions as the
2849 | corporation deems appropriate, subject to approval by the office.

2850 | (w)1. The following records of the corporation are
2851 | confidential and exempt from the provisions of s. 119.07(1) and
2852 | s. 24(a), Art. I of the State Constitution:

2853 | a. Underwriting files, except that a policyholder or an
2854 | applicant shall have access to his or her own underwriting files.

2855 | b. Claims files, until termination of all litigation and
2856 | settlement of all claims arising out of the same incident,
2857 | although portions of the claims files may remain exempt, as
2858 | otherwise provided by law. Confidential and exempt claims file
2859 | records may be released to other governmental agencies upon
2860 | written request and demonstration of need; such records held by
2861 | the receiving agency remain confidential and exempt as provided
2862 | for herein.

2863 | c. Records obtained or generated by an internal auditor
2864 | pursuant to a routine audit, until the audit is completed, or if
2865 | the audit is conducted as part of an investigation, until the
2866 | investigation is closed or ceases to be active. An investigation
2867 | is considered "active" while the investigation is being conducted
2868 | with a reasonable, good faith belief that it could lead to the
2869 | filing of administrative, civil, or criminal proceedings.

2870 | d. Matters reasonably encompassed in privileged attorney-
2871 | client communications.

2872 | e. Proprietary information licensed to the corporation
2873 | under contract and the contract provides for the confidentiality
2874 | of such proprietary information.



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2875 | f. All information relating to the medical condition or
2876 | medical status of a corporation employee which is not relevant to
2877 | the employee's capacity to perform his or her duties, except as
2878 | otherwise provided in this paragraph. Information which is exempt
2879 | shall include, but is not limited to, information relating to
2880 | workers' compensation, insurance benefits, and retirement or
2881 | disability benefits.

2882 | g. Upon an employee's entrance into the employee assistance
2883 | program, a program to assist any employee who has a behavioral or
2884 | medical disorder, substance abuse problem, or emotional
2885 | difficulty which affects the employee's job performance, all
2886 | records relative to that participation shall be confidential and
2887 | exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
2888 | of the State Constitution, except as otherwise provided in s.
2889 | 112.0455(11).

2890 | h. Information relating to negotiations for financing,
2891 | reinsurance, depopulation, or contractual services, until the
2892 | conclusion of the negotiations.

2893 | i. Minutes of closed meetings regarding underwriting files,
2894 | and minutes of closed meetings regarding an open claims file
2895 | until termination of all litigation and settlement of all claims
2896 | with regard to that claim, except that information otherwise
2897 | confidential or exempt by law will be redacted.

2898 |
2899 | When an authorized insurer is considering underwriting a risk
2900 | insured by the corporation, relevant underwriting files and
2901 | confidential claims files may be released to the insurer provided
2902 | the insurer agrees in writing, notarized and under oath, to
2903 | maintain the confidentiality of such files. When a file is
2904 | transferred to an insurer that file is no longer a public record



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2905 | because it is not held by an agency subject to the provisions of
2906 | the public records law. Underwriting files and confidential
2907 | claims files may also be released to staff of and the board of
2908 | governors of the market assistance plan established pursuant to
2909 | s. 627.3515, who must retain the confidentiality of such files,
2910 | except such files may be released to authorized insurers that are
2911 | considering assuming the risks to which the files apply, provided
2912 | the insurer agrees in writing, notarized and under oath, to
2913 | maintain the confidentiality of such files. Finally, the
2914 | corporation or the board or staff of the market assistance plan
2915 | may make the following information obtained from underwriting
2916 | files and confidential claims files available to licensed general
2917 | lines insurance agents: name, address, and telephone number of
2918 | the residential property owner or insured; location of the risk;
2919 | rating information; loss history; and policy type. The receiving
2920 | licensed general lines insurance agent must retain the
2921 | confidentiality of the information received.

2922 | 2. Portions of meetings of the corporation are exempt from
2923 | the provisions of s. 286.011 and s. 24(b), Art. I of the State
2924 | Constitution wherein confidential underwriting files or
2925 | confidential open claims files are discussed. All portions of
2926 | corporation meetings which are closed to the public shall be
2927 | recorded by a court reporter. The court reporter shall record the
2928 | times of commencement and termination of the meeting, all
2929 | discussion and proceedings, the names of all persons present at
2930 | any time, and the names of all persons speaking. No portion of
2931 | any closed meeting shall be off the record. Subject to the
2932 | provisions hereof and s. 119.07(1)(e)-(g), the court reporter's
2933 | notes of any closed meeting shall be retained by the corporation
2934 | for a minimum of 5 years. A copy of the transcript, less any

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2935 exempt matters, of any closed meeting wherein claims are
2936 discussed shall become public as to individual claims after
2937 settlement of the claim.

2938 (x) It is the intent of the Legislature that the amendments
2939 to this subsection enacted in 2002 should, over time, reduce the
2940 probable maximum windstorm losses in the residual markets and
2941 should reduce the potential assessments to be levied on property
2942 insurers and policyholders statewide. In furtherance of this
2943 intent:

2944 1. The board shall, on or before February 1 of each year,
2945 provide a report to the President of the Senate and the Speaker
2946 of the House of Representatives showing the reduction or increase
2947 in the 100-year probable maximum loss attributable to wind-only
2948 coverages and the quota share program under this subsection
2949 combined, as compared to the benchmark 100-year probable maximum
2950 loss of the Florida Windstorm Underwriting Association. For
2951 purposes of this paragraph, the benchmark 100-year probable
2952 maximum loss of the Florida Windstorm Underwriting Association
2953 shall be the calculation dated February 2001 and based on
2954 November 30, 2000, exposures. In order to ensure comparability of
2955 data, the board shall use the same methods for calculating its
2956 probable maximum loss as were used to calculate the benchmark
2957 probable maximum loss.

2958 2. Beginning February 1, 2010, if the report under
2959 subparagraph 1. for any year indicates that the 100-year probable
2960 maximum loss attributable to wind-only coverages and the quota
2961 share program combined does not reflect a reduction of at least
2962 25 percent from the benchmark, the board shall reduce the
2963 boundaries of the high-risk area eligible for wind-only coverages
2964 under this subsection in a manner calculated to reduce such



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2965 | probable maximum loss to an amount at least 25 percent below the
2966 | benchmark.

2967 | 3. Beginning February 1, 2015, if the report under
2968 | subparagraph 1. for any year indicates that the 100-year probable
2969 | maximum loss attributable to wind-only coverages and the quota
2970 | share program combined does not reflect a reduction of at least
2971 | 50 percent from the benchmark, the boundaries of the high-risk
2972 | area eligible for wind-only coverages under this subsection shall
2973 | be reduced by the elimination of any area that is not seaward of
2974 | a line 1,000 feet inland from the Intracoastal Waterway.

2975 | (y) In enacting the provisions of this section, the
2976 | Legislature recognizes that both the Florida Windstorm
2977 | Underwriting Association and the Residential Property and
2978 | Casualty Joint Underwriting Association have entered into
2979 | financing arrangements that obligate each entity to service its
2980 | debts and maintain the capacity to repay funds secured under
2981 | these financing arrangements. It is the intent of the Legislature
2982 | that nothing in this section be construed to compromise,
2983 | diminish, or interfere with the rights of creditors under such
2984 | financing arrangements. It is further the intent of the
2985 | Legislature to preserve the obligations of the Florida Windstorm
2986 | Underwriting Association and Residential Property and Casualty
2987 | Joint Underwriting Association with regard to outstanding
2988 | financing arrangements, with such obligations passing entirely
2989 | and unchanged to the corporation and, specifically, to the
2990 | applicable account of the corporation. So long as any bonds,
2991 | notes, indebtedness, or other financing obligations of the
2992 | Florida Windstorm Underwriting Association or the Residential
2993 | Property and Casualty Joint Underwriting Association are
2994 | outstanding, under the terms of the financing documents

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2995 | pertaining to them, the governing board of the corporation shall
2996 | have and shall exercise the authority to levy, charge, collect,
2997 | and receive all premiums, assessments, surcharges, charges,
2998 | revenues, and receipts that the associations had authority to
2999 | levy, charge, collect, or receive under the provisions of
3000 | subsection (2) and this subsection, respectively, as they existed
3001 | on January 1, 2002, to provide moneys, without exercise of the
3002 | authority provided by this subsection, in at least the amounts,
3003 | and by the times, as would be provided under those former
3004 | provisions of subsection (2) or this subsection, respectively, so
3005 | that the value, amount, and collectability of any assets,
3006 | revenues, or revenue source pledged or committed to, or any lien
3007 | thereon securing such outstanding bonds, notes, indebtedness, or
3008 | other financing obligations will not be diminished, impaired, or
3009 | adversely affected by the amendments made by this act and to
3010 | permit compliance with all provisions of financing documents
3011 | pertaining to such bonds, notes, indebtedness, or other financing
3012 | obligations, or the security or credit enhancement for them, and
3013 | any reference in this subsection to bonds, notes, indebtedness,
3014 | financing obligations, or similar obligations, of the corporation
3015 | shall include like instruments or contracts of the Florida
3016 | Windstorm Underwriting Association and the Residential Property
3017 | and Casualty Joint Underwriting Association to the extent not
3018 | inconsistent with the provisions of the financing documents
3019 | pertaining to them.

3020 | (z) The corporation shall not require the securing of flood
3021 | insurance as a condition of coverage if the insured or applicant
3022 | executes a form approved by the office affirming that flood
3023 | insurance is not provided by the corporation and that if flood
3024 | insurance is not secured by the applicant or insured in addition

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3025 | to coverage by the corporation, the risk will not be covered for
3026 | flood damage. A corporation policyholder electing not to secure
3027 | flood insurance and executing a form as provided herein making a
3028 | claim for water damage against the corporation shall have the
3029 | burden of proving the damage was not caused by flooding.

3030 | Notwithstanding other provisions of this subsection, the
3031 | corporation may deny coverage to an applicant or insured who
3032 | refuses to execute the form described herein.

3033 | (aa) A salaried employee of the corporation who performs
3034 | policy administration services subsequent to the effectuation of
3035 | a corporation policy is not required to be licensed as an agent
3036 | under the provisions of s. 626.112.

3037 | (bb) By February 1, 2007, the corporation shall submit a
3038 | report to the President of the Senate, the Speaker of the House
3039 | of Representatives, the minority party leaders of the Senate and
3040 | the House of Representatives, and the chairs of the standing
3041 | committees of the Senate and the House of Representatives having
3042 | jurisdiction over matters relating to property and casualty
3043 | insurance. In preparing the report, the corporation shall consult
3044 | with the Office of Insurance Regulation, the Department of
3045 | Financial Services, and any other party the corporation
3046 | determines appropriate. The report must include all findings and
3047 | recommendations on the feasibility of requiring authorized
3048 | insurers that issue and service personal and commercial
3049 | residential policies and commercial nonresidential policies that
3050 | provide coverage for basic property perils except for the peril
3051 | of wind to issue and service for a fee personal and commercial
3052 | residential policies and commercial nonresidential policies
3053 | providing coverage for the peril of wind issued by the
3054 | corporation. The report must include:

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3055 | 1. The expense savings to the corporation of issuing and
3056 | servicing such policies as determined by a cost-benefit analysis.

3057 | 2. The expenses and liability to authorized insurers
3058 | associated with issuing and servicing such policies.

3059 | 3. The effect on service to policyholders of the
3060 | corporation relating to issuing and servicing such policies.

3061 | 4. The effect on the producing agent of the corporation of
3062 | issuing and servicing such policies.

3063 | 5. Recommendations as to the amount of the fee which should
3064 | be paid to authorized insurers for issuing and servicing such
3065 | policies.

3066 | 6. The effect that issuing and servicing such policies will
3067 | have on the corporation's number of policies, total insured
3068 | value, and probable maximum loss.

3069 | (cc) There shall be no liability on the part of, and no
3070 | cause of action of any nature shall arise against, producing
3071 | agents of record of the corporation or employees of such agents
3072 | for insolvency of any take-out insurer.

3073 | ~~(dd)1. For policies subject to nonrenewal as a result of~~
3074 | ~~the risk being no longer eligible for coverage due to being~~
3075 | ~~valued at \$1 million or more, the corporation shall, directly or~~
3076 | ~~through the market assistance plan, make information from~~
3077 | ~~confidential underwriting and claims files of policyholders~~
3078 | ~~available only to licensed general lines agents who register with~~
3079 | ~~the corporation to receive such information according to the~~
3080 | ~~following procedures:~~

3081 | ~~2. By August 1, 2006, the corporation shall provide such~~
3082 | ~~policyholders who are not eligible for renewal the opportunity to~~
3083 | ~~request in writing, within 30 days after the notification is~~
3084 | ~~sent, that information from their confidential underwriting and~~

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3085 ~~claims files not be released to licensed general lines agents~~
3086 ~~registered pursuant to this paragraph.~~

3087 ~~3. By August 1, 2006, the corporation shall make available~~
3088 ~~to licensed general lines agents the registration procedures to~~
3089 ~~be used to obtain confidential information from underwriting and~~
3090 ~~claims files for such policies not eligible for renewal. As a~~
3091 ~~condition of registration, the corporation shall require the~~
3092 ~~licensed general lines agent to attest that the agent has the~~
3093 ~~experience and relationships with authorized or surplus lines~~
3094 ~~carriers to attempt to offer replacement coverage for such~~
3095 ~~policies.~~

3096 ~~4. By September 1, 2006, the corporation shall make~~
3097 ~~available through a secured website to licensed general lines~~
3098 ~~agents registered pursuant to this paragraph application, rating,~~
3099 ~~loss history, mitigation, and policy type information relating to~~
3100 ~~such policies not eligible for renewal and for which the~~
3101 ~~policyholder has not requested the corporation withhold such~~
3102 ~~information. The registered licensed general lines agent may use~~
3103 ~~such information to contact and assist the policyholder in~~
3104 ~~securing replacement policies, and the agent may disclose to the~~
3105 ~~policyholder that such information was obtained from the~~
3106 ~~corporation.~~

3107 ~~(dd)-(ee)~~ The assets of the corporation may be invested and
3108 managed by the State Board of Administration.

3109 ~~(ee)-(ff)~~ The office may establish a pilot program to offer
3110 optional sinkhole coverage in one or more counties or other
3111 territories of the corporation for the purpose of implementing s.
3112 627.706, as amended by s. 30, chapter 2007-1, Laws of Florida.
3113 Under the pilot program, the corporation is not required to issue
3114 a notice of nonrenewal to exclude sinkhole coverage upon the



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3115 renewal of existing policies, but may exclude such coverage using
3116 a notice of coverage change.

3117 Section 16. Effective October 1, 2008, and applicable to
3118 policies issued or renewed on or after that date, section
3119 627.714, Florida Statutes, is created to read:

3120 627.714 Guaranteed renewability for mitigated homes.--A
3121 personal lines residential insurance policy shall be guaranteed
3122 renewable for at least 3 years if the dwelling has been built or
3123 retrofitted to meet the wind-borne-debris protection requirements
3124 of Florida Building Code which apply to the wind-borne-debris
3125 region as defined in the Florida Building Code.

3126 Section 17. Effective January 1, 2009, section 689.262,
3127 Florida Statutes, is created to read:

3128 689.262 Sale of residential property; disclosure of
3129 windstorm mitigation rating.--A purchaser of residential property
3130 must be informed of the windstorm mitigation rating of the
3131 structure, based on the uniform home grading scale adopted
3132 pursuant to s. 215.55865. The rating must be included in the
3133 contract for sale or as a separate document attached to the
3134 contract for sale. The Financial Services Commission may adopt
3135 rules, consistent with other state laws, to administer this
3136 section, including the form of the disclosure and the
3137 requirements for the windstorm mitigation inspection or report
3138 that is required for purposes of determining the rating.

3139 Section 18. Effective October 1, 2008, section 817.2341,
3140 Florida Statutes, is amended to read:

3141 817.2341 False or misleading statements or supporting
3142 documents; corrupt obstruction of the lawful regulation of
3143 insurance; penalty.--



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3144 (1) Any person who willfully files with the department or
3145 office, or who willfully signs for filing with the department or
3146 office, a materially false or materially misleading financial
3147 statement or document in support of such statement required by
3148 law or rule, or a materially false or materially misleading rate
3149 filing, with intent to deceive and with knowledge that the
3150 statement or document is materially false or materially
3151 misleading, commits a felony of the third degree, punishable as
3152 provided in s. 775.082, s. 775.083, or s. 775.084.

3153 (2) (a) Any person who makes a false entry of a material
3154 fact in any book, report, or statement relating to a transaction
3155 of an insurer or entity organized pursuant to chapter 624 or
3156 chapter 641, intending to deceive any person about the financial
3157 condition or solvency of the insurer or entity, commits a felony
3158 of the third degree, punishable as provided in s. 775.082, s.
3159 775.083, or s. 775.084.

3160 (b) If the false entry of a material fact is made with the
3161 intent to deceive any person as to the impairment of capital, as
3162 defined in s. 631.011(12), of the insurer or entity or is the
3163 significant cause of the insurer or entity being placed in
3164 conservation, rehabilitation, or liquidation by a court, the
3165 person commits a felony of the first degree, punishable as
3166 provided in s. 775.082, s. 775.083, or s. 775.084.

3167 (3) (a) Any person who knowingly makes a material false
3168 statement or report to the department or office or any agent of
3169 the department or office, or knowingly and materially overvalues
3170 any property in any document or report prepared to be presented
3171 to the department or office or any agent of the department or
3172 office, commits a felony of the third degree, punishable as
3173 provided in s. 775.082, s. 775.083, or s. 775.084.



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3174 (b) If the material false statement or report or the
 3175 material overvaluation is made with the intent to deceive any
 3176 person as to the impairment of capital, as defined in s.
 3177 631.011(12), of an insurer or entity organized pursuant to
 3178 chapter 624 or chapter 641, or is the significant cause of the
 3179 insurer or entity being placed in receivership by a court, the
 3180 person commits a felony of the first degree, punishable as
 3181 provided in s. 775.082, s. 775.083, or s. 775.084.

3182 (4) Any person who attempts to corruptly influence,
 3183 obstruct, or impede the lawful regulation of the business of
 3184 insurance by the department or office, or by any agent or
 3185 examiner appointed by the department or office, commits a felony
 3186 of the third degree, punishable as provided in s. 775.082, s.
 3187 775.083, or s. 775.084.

3188 Section 19. Except as otherwise expressly provided in this
 3189 act, this act shall take effect upon becoming a law.

3190
 3191 ===== T I T L E A M E N D M E N T =====

3192 And the title is amended as follows:

3193 Delete everything before the enacting clause
 3194 and insert:

3195 A bill to be entitled
 3196 An act relating to insurance; amending s. 215.5595, F.S.;
 3197 revising legislative findings with respect to the
 3198 Insurance Capital Build-Up Incentive Program and the
 3199 appropriation of state funds for surplus notes issued by
 3200 residential property insurers; revising the conditions and
 3201 requirements for providing funds to insurers under the
 3202 program; requiring a commitment by the insurer to meet
 3203 minimum premium-to-surplus writing ratios for residential

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3204 property insurance and for taking policies out of Citizens
3205 Property Insurance Corporation; allowing the State Board
3206 of Administration to charge a late fee for payment of
3207 remittances; providing that amendments made by the act do
3208 not affect the terms of surplus notes approved prior to a
3209 specified date, but authorizing the board and an insurer
3210 to renegotiate such terms consistent with such amendments;
3211 amending s. 542.20, F.S.; subjecting the business of
3212 insurance to the Florida Antitrust Act; providing
3213 exceptions; amending s. 624.3161, F.S.; authorizing the
3214 Office of Insurance Regulation to require an insurer to
3215 file its claims handling practices and procedures as a
3216 public record based on findings of a market conduct
3217 examination; amending s. 624.418, F.S.; authorizing the
3218 Office of Insurance Regulation to immediately suspend the
3219 certificate of authority of an insurer that fails to
3220 provide information subpoenaed by the office; amending s.
3221 624.4211, F.S.; increasing the maximum amounts of
3222 administrative fines that may be imposed upon an insurer
3223 by the Office of Insurance Regulation for nonwillful and
3224 willful violations of an order or rule of the office or
3225 any provision of the Florida Insurance Code; authorizing
3226 the office to impose a fine for each day of noncompliance
3227 up to a maximum amount; providing factors to consider when
3228 determining the amount of the fine; creating s. 624.4213,
3229 F.S.; specifying requirements for submission of a document
3230 or information to the Office of Insurance Regulation or
3231 the Department of Financial Services in order for a person
3232 to claim that the document is a trade secret; requiring
3233 each page or portion to be labeled as a trade secret and



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3234 | be separated from non-trade secret material; requiring the
3235 | submitting party to include an affidavit certifying
3236 | certain information about the documents claimed to be
3237 | trade secrets; requiring an award of attorney's fees
3238 | against a person who certified a document as trade secret
3239 | if a court or administrative tribunal finds that the
3240 | document is not a trade secret; providing for
3241 | administrative penalties under certain conditions;
3242 | creating s. 624.4305, F.S.; requiring an insurer planning
3243 | to nonrenew more than a specified number of residential
3244 | property insurance policies to notify the Office of
3245 | Insurance Regulation and obtain approval; specifying
3246 | procedures; prohibiting the office from approving the plan
3247 | unless it determines that the insurer has met certain
3248 | conditions; amending s. 626.9521, F.S.; increasing the
3249 | maximum fines that may be imposed by the office for
3250 | nonwillful and willful violations of state law regarding
3251 | unfair methods of competition and unfair or deceptive acts
3252 | or practices related to insurance; amending s. 626.9541,
3253 | F.S.; prohibiting an insurer from failing to promptly
3254 | provide to the insured estimates of damage and a good
3255 | faith explanation of the insurer's evaluation; prohibiting
3256 | an insurer from considering certain factors when
3257 | evaluating or adjusting a property insurance claim;
3258 | prohibiting an insurer from failing to pay undisputed
3259 | amounts of benefits owed under a property insurance policy
3260 | within a certain period; amending s. 627.062, F.S.;
3261 | requiring that an insurer seeking a rate for property
3262 | insurance that is greater than the rate most recently
3263 | approved by the Office of Insurance Regulation make a

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3264 "file and use" filing for all such rate filings made after
3265 a specified date; revising the factors the office must
3266 consider in reviewing a rate filing; providing that the
3267 cost of reinsurance shall be presumed excessive under
3268 certain conditions and, for reinsurance purchased from
3269 affiliated reinsurers, may not include broker fees;
3270 providing that projected hurricane losses are to be
3271 considered as provided in s. 627.0628, F.S., relating to
3272 hurricane loss models or methods found to be accurate or
3273 reliable by the Florida Commission on Hurricane Loss
3274 Projection Methodology; allowing the office to disapprove
3275 a rate as excessive within 1 year after the rate has been
3276 approved under certain conditions related to nonrenewal of
3277 policies by the insurer; requiring certain officers and
3278 the chief actuary of a property insurer to certify certain
3279 information as part of a rate filing, subject to the
3280 penalty of perjury; requiring that a rate filing contain
3281 all information that supports the filing; providing that
3282 after the office issues a notice of intent to disapprove
3283 the filing, no additional information is admissible in any
3284 subsequent administrative or judicial proceeding;
3285 repealing s. 627.062(6), F.S., relating to the submission
3286 of a disputed rate filing, other than a rate filing for
3287 medical malpractice insurance, to an arbitration panel in
3288 lieu of an administrative hearing if the rate is filed
3289 before a specified date; amending s. 627.0613, F.S.;

3290 deleting cross-references to conform to changes made by
3291 the act; amending s. 627.0628, F.S.; requiring that with
3292 respect to rate filings, insurers must use actuarial
3293 methods or models found to be accurate or reliable by the

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3294 Florida Commission on Hurricane Loss Projection
3295 Methodology; deleting cross-references to conform to
3296 changes made by the act; amending s. 627.0629, F.S.;
3297 requiring that the Office of Insurance Regulation develop
3298 and make publicly available before a specified deadline a
3299 proposed method for insurers to establish windstorm
3300 mitigation premium discounts that correlate to the uniform
3301 home rating scale; requiring that the Financial Services
3302 Commission adopt rules before a specified deadline;
3303 requiring insurers to make rate filings pursuant to such
3304 method; authorizing the commission to make changes by rule
3305 to the uniform home grading scale and specify by rule the
3306 minimum required discounts, credits, or other rate
3307 differentials; requiring that such rate differentials be
3308 consistent with generally accepted actuarial principles
3309 and wind loss mitigation studies; amending s. 627.351,
3310 F.S., relating to Citizens Property Insurance Corporation;
3311 deleting a provision to conform to changes made in the
3312 act; deleting provisions defining the terms "homestead
3313 property" and "nonhomestead property"; deleting a
3314 provision providing for the classification of certain
3315 dwellings as "nonhomestead property"; deleting provisions
3316 making dwellings and condominium units that have a
3317 replacement cost above a specified value ineligible for
3318 coverage after a specified date; requiring certain
3319 structures to have opening protections as a condition of
3320 eligibility for coverage after a specified date; requiring
3321 that the corporation cease issuance of new wind-only
3322 coverage beginning on a specified date; deleting outdated
3323 provisions requiring the corporation to submit a report



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3324 | for approval of offering multiperil coverage; revising
3325 | threshold amounts of deficits incurred in a calendar year
3326 | on which the decision to levy assessments and the types of
3327 | such assessments are based; revising the formula used to
3328 | calculate shares of assessments owed by certain assessable
3329 | insureds; requiring that the board of governors make
3330 | certain determinations before levying emergency
3331 | assessments; providing the board of governors with
3332 | discretion to set the amount of an emergency assessment
3333 | within specified limits; requiring the board of governors
3334 | to levy a Citizens policyholder surcharge under certain
3335 | conditions; deleting a provision requiring the levy of an
3336 | immediate assessment against certain policyholders under
3337 | such conditions; requiring that funds collected from the
3338 | levy of such surcharges be used for certain purposes;
3339 | providing that such surcharges are not considered premium
3340 | and are not subject to commissions, fees, or premium
3341 | taxes; requiring that the failure to pay such surcharges
3342 | be treated as failure to pay premium; requiring that the
3343 | amount of any assessment or surcharge which exceeds the
3344 | amount of deficits be remitted to and used by the
3345 | corporation for specified purposes; deleting provisions
3346 | requiring that the plan of operation of the corporation
3347 | provide for the levy of a Citizens policyholder surcharge
3348 | if regular deficit assessments are levied as a result of
3349 | deficits in certain accounts; deleting provisions related
3350 | to the calculation, classification, and nonpayment of such
3351 | surcharge; providing legislative findings; requiring that
3352 | the corporation make an annual filing for each personal or
3353 | commercial line of business it writes, beginning on a



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3354 | specified date; limiting the overall average statewide
3355 | premium increase and the increase for an individual
3356 | policyholder to a specified amount for rates established
3357 | for certain policies during a specified period; deleting a
3358 | provision requiring an insurer to purchase bonds that
3359 | remain unsold; requiring the corporation to make its
3360 | database of policies available to prospective take-out
3361 | insurers under certain conditions; requiring the
3362 | corporation to require agents to accept or decline
3363 | appointment for any policy selected; requiring the
3364 | corporation to notify the policyholder of certain
3365 | information if an insurer selected his or her policy for a
3366 | take-out offer but the policyholder's agent refused to be
3367 | appointed; deleting provisions requiring the corporation
3368 | to make certain confidential underwriting and claims files
3369 | available to agents to conform to changes made by the act
3370 | relating to ineligibility of certain dwellings; creating
3371 | s. 627.714, F.S.; requiring that personal lines
3372 | residential policies be guaranteed renewable for a
3373 | specified period if the dwelling meets certain wind-borne-
3374 | debris protection requirements; providing for
3375 | applicability; creating s. 689.262, F.S.; requiring a
3376 | purchaser of residential property to be presented with the
3377 | windstorm mitigation rating of the structure; authorizing
3378 | the Financial Services Commission to adopt rules; amending
3379 | s. 817.2341, F.S.; providing criminal penalties for any
3380 | person who willfully files a materially false or
3381 | misleading rate filing, under certain conditions, and for
3382 | any person who attempts to corruptly influence or obstruct



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the lawful regulation of the business of insurance;

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providing effective dates.