



924300

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/8/2008	.	
	.	
	.	

1 The Committee on General Government Appropriations (Alexander)  
 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, 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 October 1, 2008 ~~July 1, 2006~~.  
85 ~~If an insurer applies after July 1, 2006, but before June 1,~~  
86 ~~2007, the amount of the surplus note is limited to one-half of~~  
87 ~~the new capital that the insurer contributes to its surplus,~~  
88 ~~except that an insurer writing only manufactured housing policies~~  
89 ~~is eligible to receive a surplus note of up to \$7 million. For~~  
90 purposes of this section, new capital must be in the form of cash  
91 or cash 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 amount of the state funds provided to the insurer in exchange for  
114 the surplus note plus the amount of new capital contributed by  
115 the insurer in order to obtain the state funds ~~the entire surplus~~  
116 ~~of the insurer~~. The insurer must also commit to writing at least  
117 15 percent of its net or gross written premium for new policies,  
118 not including renewal premiums, for policies taken out of  
119 Citizens Property Insurance Corporation, during each of the first  
120 3 years after receiving the state funds in exchange for the  
121 surplus note, which shall be determined by the Office of  
122 Insurance Regulation and certified annually to the board. The  
123 removal of such policies must result in a reduction in the  
124 probable maximum loss in the account from which the policies are  
125 removed. The insurer must also commit to maintaining a level of  
126 surplus and reinsurance sufficient to cover in excess of its 1-  
127 in-100 year probable maximum loss, as determined by a hurricane  
128 loss model accepted by the Florida Commission on Hurricane Loss  
129 Projection Methodology, which shall be determined by the Office  
130 of Insurance Regulation and certified annually the board. If the  
131 board determines that the insurer has failed to meet any of the  
132 requirements of this paragraph ~~required ratio is not maintained~~  
133 during the term of the surplus note, the board may increase the  
134 interest rate, accelerate the repayment of interest and  
135 principal, or shorten the term of the surplus note, subject to



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136 approval by the Commissioner of Insurance of payments by the  
137 insurer of principal and interest as provided in paragraph (f).

138 (e) If the requirements of this section are met, the board  
139 may approve an application by an insurer for funds in exchange  
140 for issuance of a surplus note, unless the board determines that  
141 the financial condition of the insurer and its business plan for  
142 writing residential property insurance in Florida places an  
143 unreasonably high level of financial risk to the state of  
144 nonpayment in full of the interest and principal. The board shall  
145 consult with the Office of Insurance Regulation and may contract  
146 with independent financial and insurance consultants in making  
147 this determination.

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

162 (g) The total amount of funds available for the program is  
163 limited to the amount appropriated by the Legislature for this  
164 purpose. If the amount of surplus notes requested by insurers  
165 exceeds the amount of funds available, the board may prioritize



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166 insurers that are eligible and approved, with priority for  
167 funding given to insurers writing only manufactured housing  
168 policies, regardless of the date of application, based on the  
169 financial strength of the insurer, the viability of its proposed  
170 business plan for writing additional residential property  
171 insurance in the state, and the effect on competition in the  
172 residential property insurance market. Between insurers writing  
173 residential property insurance covering manufactured housing,  
174 priority shall be given to the insurer writing the highest  
175 percentage of its policies covering manufactured housing.

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

180 (h)(i) Notwithstanding paragraph (d), a newly formed  
181 manufactured housing insurer that is eligible for a surplus note  
182 under this section shall meet the premium to surplus ratio  
183 provisions of s. 624.4095.

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

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



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

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

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

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

201 (4) The state funds provided to the insurer in exchange for  
202 the A surplus note ~~provided to an insurer~~ pursuant to this  
203 section ~~are is~~ considered borrowed surplus ~~an asset~~ of the  
204 insurer pursuant to s. 628.401 ~~s. 625.012~~.

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

209 (6) The board shall adopt rules prescribing the procedures,  
210 administration, and criteria for approving the applications of  
211 insurers to receive funds in exchange for issuance of surplus  
212 notes pursuant to this section, which may be adopted pursuant to  
213 the procedures for emergency rules of chapter 120. Otherwise,  
214 actions and determinations by the board pursuant to this section  
215 are exempt from chapter 120.

216 (7) The board shall invest and reinvest the funds  
217 appropriated for the program in accordance with s. 215.47 and  
218 consistent with board policy.

219 (8) The board shall semiannually submit a report to the  
220 President of the Senate and the Speaker of the House of  
221 Representatives on February 1 and August 1 as to the results of  
222 the program and each insurer's compliance with the terms of its  
223 surplus note.





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224       (9) The amendments to this section enacted in 2008 do not  
225 affect the terms or conditions of the surplus notes that were  
226 approved prior to January 1, 2008. However, the board may  
227 renegotiate the terms of any surplus note issued by an insurer  
228 prior to January 2008 under this program upon the agreement of  
229 the insurer and the board and consistent with the requirements of  
230 this section as amended in 2008.

231       (10) On January 15, 2009, the State Board of Administration  
232 shall transfer to Citizens Property Insurance Corporation any  
233 funds that have not been committed or reserved for insurers  
234 approved to receive such funds under the program, from the funds  
235 that were appropriated from Citizens Property Insurance  
236 Corporation in 2008-2009 for such purposes. Beginning July 1,  
237 2009, and each quarter thereafter, the State Board of  
238 Administration shall transfer any interest earned prior to  
239 issuance of any surplus notes, interest paid, and principal  
240 repaid to the state for any surplus notes issued by the program  
241 after December 1, 2008, to the Citizens Property Insurance  
242 Corporation. Such transfers shall be in the proportion that  
243 surplus notes were funded from 2008-2009 appropriations from  
244 Citizens Property Insurance Corporation and shall be made until  
245 principal or interest is no longer due to the state on surplus  
246 notes funded from such appropriations. Citizens Property  
247 Insurance Corporation shall deposit the transferred funds into  
248 each of its accounts in the proportion that moneys were  
249 transferred out of those accounts to the General Revenue Fund in  
250 December 2008.

251       Section 2. Section 542.20, Florida Statutes, is amended to  
252 read:

253       542.20 Exemptions.--



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254       (1) Any activity or conduct exempt under Florida statutory  
255 or common law or exempt from the provisions of the antitrust laws  
256 of the United States is exempt from the provisions of this  
257 chapter, except as provided in subsection (2).

258       (2) (a) The business of insurance is subject to the  
259 provisions of this chapter. As applied to the business of  
260 insurance, any legal action to seek penalties or damages for  
261 violations or to otherwise enforce the provisions of this chapter  
262 shall be brought only by the Attorney General or a state  
263 attorney, as provided in this chapter, and another party may not  
264 bring suit against a person engaged in the business of insurance,  
265 notwithstanding any other provision of this chapter.

266       (b) This chapter does not prohibit a rating organization or  
267 advisory organization from collecting claims, loss, or expense  
268 data from insurers and filing rates or advisory rates with the  
269 Office of Insurance Regulation.

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

272       624.3161 Market conduct examinations.--

273       (6) Based on the findings of a market conduct examination  
274 that an insurer has exhibited a pattern or practice of willful  
275 violations of an unfair insurance trade practice related to  
276 claims-handling which caused harm to policyholders, as prohibited  
277 by s. 626.9541(1)(i), the office may require an insurer to file  
278 its claims-handling practices and procedures related to that line  
279 of insurance with the office for review and inspection, to be  
280 held by the office for the following 36-month period. Such  
281 claims-handling practices and procedures are public records and  
282 are not trade secrets or otherwise exempt from the provisions of  
283 s. 119.07(1). As used in this section, "claims-handling practices



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284 and procedures" are any policies, guidelines, rules, protocols,  
285 standard operating procedures, instructions, or directives that  
286 govern or guide how and the manner in which an insured's claims  
287 for benefits under any policy will be processed.

288 Section 4. Subsections (2) and (3) of section 624.4211,  
289 Florida Statutes, are amended, and subsections (5) and (6) are  
290 added to that section, to read:

291 624.4211 Administrative fine in lieu of suspension or  
292 revocation.--

293 (2) With respect to any nonwillful violation, such fine may  
294 ~~shall~~ not exceed \$25,000 ~~\$2,500~~ per violation. In no event shall  
295 such fine exceed an aggregate amount equal to 1 percent of the  
296 insurer's surplus, as determined by the most recent financial  
297 statements filed with the office, ~~of \$10,000~~ for all nonwillful  
298 violations arising out of the same action. If ~~When~~ an insurer  
299 discovers a nonwillful violation, the insurer shall correct the  
300 violation and, if restitution is due, make restitution to all  
301 affected persons. Such restitution shall include interest at 12  
302 percent per year from either the date of the violation or the  
303 date of inception of the affected person's policy, at the  
304 insurer's option. The restitution may be a credit against future  
305 premiums due provided that ~~the~~ interest accumulates ~~shall~~  
306 ~~accumulate~~ until the premiums are due. If the amount of  
307 restitution due to any person is \$50 or more and the insurer  
308 wishes to credit it against future premiums, it shall notify such  
309 person that she or he may receive a check instead of a credit. If  
310 the credit is on a policy that ~~which~~ is not renewed, the insurer  
311 shall pay the restitution to the person to whom it is due.

312 (3) With respect to any knowing and willful violation of a  
313 lawful order or rule of the office or commission or a provision



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314 of this code, the office may impose a fine upon the insurer in an  
315 amount not to exceed \$100,000 ~~\$20,000~~ for each such violation. In  
316 no event shall such fine exceed an aggregate amount equal to 5  
317 percent of the insurer's surplus, as determined by the most  
318 recent financial statements filed with the office, of \$100,000  
319 for all knowing and willful violations arising out of the same  
320 action. In addition to such fines, the ~~such~~ insurer shall make  
321 restitution when due in accordance with ~~the provisions of~~  
322 subsection (2).

323 (5) The office may impose an administrative fine for each  
324 day the insurer is not in compliance with the Florida Insurance  
325 Code up to a maximum of \$25,000 per violation per day, beginning  
326 with the 10th day of noncompliance, not to exceed an aggregate  
327 amount equal to 5 percent of the insurer's surplus, as determined  
328 by the most recent financial statements filed with the office.  
329 This aggregate cap includes all fines imposed by the office under  
330 this section.

331 (6) In determining the amount of the fine, the office shall  
332 consider:

333 (a) The degree of consumer harm caused or potentially  
334 caused by the violation;

335 (b) Whether the violation constitutes an immediate danger  
336 to the public;

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

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

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

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



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343 Section 5. Section 624.4213, Florida Statutes, is created  
344 to read:

345 624.4213 Trade secret documents.--

346 (1) If any person who is required to submit documents or  
347 other information to the office or department pursuant to the  
348 Insurance Code or by rule or order of the office, department, or  
349 commission claims that such submission contains a trade secret,  
350 such person may file with the office or department a notice of  
351 trade secret as provided in this section. Failure to do so  
352 constitutes a waiver of any claim by such person that the  
353 document or information is a trade secret.

354 (a) Each page of such document or specific portion of a  
355 document claimed to be a trade secret must be clearly marked as  
356 "trade secret."

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

360 (c) In submitting a notice of trade secret to the office or  
361 department, the submitting party must include an affidavit  
362 certifying under oath to the truth of the following statements  
363 concerning all documents or information that are claimed to be  
364 trade secrets:

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

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



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

376       4. The information is not publicly available elsewhere.

377       (2) If the office or department receives a public-records  
378 request for a document or information that is marked and  
379 certified as a trade secret, the office or department shall  
380 promptly notify the person that certified the document as a trade  
381 secret. The notice shall inform such person that he or she or his  
382 or her company has 30 days following receipt of such notice to  
383 file an action in circuit court seeking a determination whether  
384 the document in question contains trade secrets and an order  
385 barring public disclosure of the document. If that person or  
386 company files an action within 30 days after receipt of notice of  
387 the public-records request, the office or department may not  
388 release the documents pending the outcome of the legal action.  
389 The failure to file an action within 30 days constitutes a waiver  
390 of any claim of confidentiality and the office or department  
391 shall release the document as requested.

392       (3) If a court or administrative tribunal finds that any  
393 document or information certified as a trade secret, submitted to  
394 the office or department under this section, and subsequently  
395 requested by a third party is not a trade secret, the company or  
396 the person certifying such document or information as a trade  
397 secret is liable for an award of reasonable attorney's fees and  
398 costs to the third party seeking access to such documents and to  
399 the office or department.

400       (4) The office or department may disclose a trade secret,  
401 together with the claim that it is a trade secret, to an officer



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402 or employee of another governmental agency whose use of the trade  
403 secret is within the scope of his or her employment.

404 Section 6. Subsection (2) of section 626.9521, Florida  
405 Statutes, is amended to read:

406 626.9521 Unfair methods of competition and unfair or  
407 deceptive acts or practices prohibited; penalties.--

408 (2) Any person who violates any provision of this part  
409 shall be subject to a fine in an amount not greater than \$25,000  
410 ~~\$2,500~~ for each nonwillful violation and not greater than  
411 \$100,000 ~~\$20,000~~ for each willful violation. Fines under this  
412 subsection imposed against an insurer may not exceed an aggregate  
413 amount equal to 1 percent of the insurer's surplus ~~of \$10,000~~ for  
414 all nonwillful violations arising out of the same action or an  
415 aggregate amount equal to 5 percent of the insurer's surplus ~~of~~  
416 ~~\$100,000~~ for all willful violations arising out of the same  
417 action, as surplus is determined by the insurer's most recent  
418 financial statements filed with the office. The fines authorized  
419 by this subsection may be imposed in addition to any other  
420 applicable penalty.

421 Section 7. Paragraph (i) of subsection (1) of section  
422 626.9541, Florida Statutes, is amended to read:

423 626.9541 Unfair methods of competition and unfair or  
424 deceptive acts or practices defined.--

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

428 (i) Unfair claim settlement practices.--

429 1. Attempting to settle claims on the basis of an  
430 application, ~~when~~ serving as a binder or intended to become a  
431 part of the policy, or any other material document that is ~~which~~



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432 ~~was~~ altered without notice to, or knowledge or consent of, the  
433 insured;

434       2. A material misrepresentation made to an insured or any  
435 other person having an interest in the proceeds payable under a  
436 ~~such~~ contract or policy, for the purpose and with the intent of  
437 effecting settlement of such claims, loss, or damage under such  
438 contract or policy on less favorable terms than those provided  
439 in, and contemplated by, the ~~such~~ contract or policy; ~~or~~

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

442       a. Failing to adopt and implement standards for the proper  
443 investigation of claims.†

444       b. Misrepresenting pertinent facts or insurance policy  
445 provisions relating to coverages at issue.†

446       c. Failing to acknowledge and act promptly upon  
447 communications with respect to claims.†

448       d. Denying claims without conducting reasonable  
449 investigations based upon available information.†

450       e. Failing to affirm or deny full or partial coverage of  
451 claims, and, as to partial coverage, the dollar amount or extent  
452 of coverage, or failing to provide a written statement that the  
453 claim is being investigated, upon the written request of the  
454 insured within 30 days after proof-of-loss statements have been  
455 completed.†

456       f. Failing to promptly provide a reasonable explanation in  
457 writing to the insured of the basis in the insurance policy, in  
458 relation to the facts or applicable law, for denial of a claim or  
459 for the offer of a compromise settlement.†

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





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

464 4. Giving consideration to the age, race, income level,  
465 education, credit score, or any other personal characteristic of  
466 a policyholder when evaluating, adjusting, settling, or  
467 attempting to settle a property insurance claim; or

468 5. Failing to pay undisputed amounts of partial or full  
469 benefits owed under first-party property insurance policies  
470 within 90 days after determining the amounts of partial or full  
471 benefits and agreeing to coverage.

472 Section 8. Paragraphs (a), (b), and (g) of subsection (2),  
473 and subsections (6) and (9) of section 627.062, Florida Statutes,  
474 are amended to read:

475 627.062 Rate standards.--

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

477 (a) Insurers or rating organizations shall establish and  
478 use rates, rating schedules, or rating manuals to allow the  
479 insurer a reasonable rate of return on such classes of insurance  
480 written in this state. A copy of rates, rating schedules, rating  
481 manuals, premium credits or discount schedules, and surcharge  
482 schedules, and changes thereto, shall be filed with the office  
483 under one of the following procedures except as provided in  
484 subparagraph 3.:

485 1. If the filing is made at least 90 days before the  
486 proposed effective date and the filing is not implemented during  
487 the office's review of the filing and any proceeding and judicial  
488 review, then such filing shall be considered a "file and use"  
489 filing. In such case, the office shall finalize its review by  
490 issuance of a notice of intent to approve or a notice of intent  
491 to disapprove within 90 days after receipt of the filing. The



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492 notice of intent to approve and the notice of intent to  
493 disapprove constitute agency action for purposes of the  
494 Administrative Procedure Act. Requests for supporting  
495 information, requests for mathematical or mechanical corrections,  
496 or notification to the insurer by the office of its preliminary  
497 findings shall not toll the 90-day period during any such  
498 proceedings and subsequent judicial review. The rate shall be  
499 deemed approved if the office does not issue a notice of intent  
500 to approve or a notice of intent to disapprove within 90 days  
501 after receipt of the filing.

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

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

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



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- 521 | 1. Past and prospective loss experience within and without  
522 | this state.
- 523 | 2. Past and prospective expenses.
- 524 | 3. The degree of competition among insurers for the risk  
525 | insured.
- 526 | 4. Investment income reasonably expected by the insurer,  
527 | consistent with the insurer's investment practices, from  
528 | investable premiums anticipated in the filing, plus any other  
529 | expected income from currently invested assets representing the  
530 | amount expected on unearned premium reserves and loss reserves.  
531 | The commission may adopt rules using ~~utilizing~~ reasonable  
532 | techniques of actuarial science and economics to specify the  
533 | manner in which insurers shall calculate investment income  
534 | attributable to such classes of insurance written in this state  
535 | and the manner in which such investment income shall be used to  
536 | calculate ~~in the calculation of~~ insurance rates. Such manner  
537 | shall contemplate allowances for an underwriting profit factor  
538 | and full consideration of investment income which produce a  
539 | reasonable rate of return; however, investment income from  
540 | invested surplus may ~~shall~~ not be considered.
- 541 | 5. The reasonableness of the judgment reflected in the  
542 | filing.
- 543 | 6. Dividends, savings, or unabsorbed premium deposits  
544 | allowed or returned to Florida policyholders, members, or  
545 | subscribers.
- 546 | 7. The adequacy of loss reserves.
- 547 | 8. The cost of reinsurance. The office shall not disapprove  
548 | a rate as excessive solely due to the insurer having obtained  
549 | catastrophic reinsurance to cover the insurer's estimated 250-  
550 | year probable maximum loss or any lower level of loss.



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

553 10. Conflagration and catastrophe hazards, if applicable.

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

558 12.11. A reasonable margin for underwriting profit and  
559 contingencies. For that portion of the rate covering the risk of  
560 hurricanes and other catastrophic losses for which the insurer  
561 has not purchased reinsurance and has exposed its capital and  
562 surplus to such risk, the office must approve a rating factor  
563 that provides the insurer a reasonable rate of return that is  
564 commensurate with such risk.

565 13.12. The cost of medical services, if applicable.

566 14.13. Other relevant factors which impact upon the  
567 frequency or severity of claims or upon expenses.

568 (g) The office may at any time review a rate, rating  
569 schedule, rating manual, or rate change; the pertinent records of  
570 the insurer; and market conditions. If the office finds on a  
571 preliminary basis that a rate may be excessive, inadequate, or  
572 unfairly discriminatory, the office shall initiate proceedings to  
573 disapprove the rate and shall so notify the insurer. However, the  
574 office may not disapprove as excessive any rate for which it has  
575 given final approval or which has been deemed approved for a  
576 period of 1 year after the effective date of the filing unless  
577 the office finds that a material misrepresentation or material  
578 error was made by the insurer or was contained in the filing, or  
579 unless the insurer has nonrenewed a number or percentage of  
580 policies which the office determines may result in the insurer



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581 having an excessive rate. Upon being so notified, the insurer or  
582 rating organization shall, within 60 days, file with the office  
583 all information which, in the belief of the insurer or  
584 organization, proves the reasonableness, adequacy, and fairness  
585 of the rate or rate change. The office shall issue a notice of  
586 intent to approve or a notice of intent to disapprove pursuant to  
587 the procedures of paragraph (a) within 90 days after receipt of  
588 the insurer's initial response. In such instances and in any  
589 administrative proceeding relating to the legality of the rate,  
590 the insurer or rating organization shall carry the burden of  
591 proof by a preponderance of the evidence to show that the rate is  
592 not excessive, inadequate, or unfairly discriminatory. After the  
593 office notifies an insurer that a rate may be excessive,  
594 inadequate, or unfairly discriminatory, unless the office  
595 withdraws the notification, the insurer shall not alter the rate  
596 except to conform with the office's notice until the earlier of  
597 120 days after the date the notification was provided or 180 days  
598 after the date of the implementation of the rate. The office may,  
599 subject to chapter 120, disapprove without the 60-day  
600 notification any rate increase filed by an insurer within the  
601 prohibited time period or during the time that the legality of  
602 the increased rate is being contested.

603  
604 The provisions of this subsection shall not apply to workers'  
605 compensation and employer's liability insurance and to motor  
606 vehicle insurance.

607 (6)(a) If, in any administrative hearing under s. 120.57,  
608 any additional information related to a rate filing, other than  
609 expert opinion, is offered or presented by the insurer to justify  
610 the rate, or offered or presented by the office to challenge the



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611 rate, which was not received by the other party prior to the date  
612 that the office issues a notice of intent to disapprove the  
613 filing, the administrative law judge shall grant a continuance of  
614 at least 30 days if requested by the party that had not  
615 previously received the information. After any action with  
616 respect to a rate filing that constitutes agency action for  
617 purposes of the Administrative Procedure Act, except for a rate  
618 filing for medical malpractice, an insurer may, in lieu of  
619 demanding a hearing under s. 120.57, require arbitration of the  
620 rate filing. However, the arbitration option provision in this  
621 subsection does not apply to a rate filing that is made on or  
622 after the effective date of this act until January 1, 2009.  
623 Arbitration shall be conducted by a board of arbitrators  
624 consisting of an arbitrator selected by the office, an arbitrator  
625 selected by the insurer, and an arbitrator selected jointly by  
626 the other two arbitrators. Each arbitrator must be certified by  
627 the American Arbitration Association. A decision is valid only  
628 upon the affirmative vote of at least two of the arbitrators. No  
629 arbitrator may be an employee of any insurance regulator or  
630 regulatory body or of any insurer, regardless of whether or not  
631 the employing insurer does business in this state. The office and  
632 the insurer must treat the decision of the arbitrators as the  
633 final approval of a rate filing. Costs of arbitration shall be  
634 paid by the insurer.

635 ~~(b) Arbitration under this subsection shall be conducted~~  
636 ~~pursuant to the procedures specified in ss. 682.06-682.10. Either~~  
637 ~~party may apply to the circuit court to vacate or modify the~~  
638 ~~decision pursuant to s. 682.13 or s. 682.14. The commission shall~~  
639 ~~adopt rules for arbitration under this subsection, which rules~~



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640 ~~may not be inconsistent with the arbitration rules of the~~  
641 ~~American Arbitration Association as of January 1, 1996.~~

642 ~~(c) Upon initiation of the arbitration process, the insurer~~  
643 ~~waives all rights to challenge the action of the office under the~~  
644 ~~Administrative Procedure Act or any other provision of law;~~  
645 ~~however, such rights are restored to the insurer if the~~  
646 ~~arbitrators fail to render a decision within 90 days after~~  
647 ~~initiation of the arbitration process.~~

648 (9) (a) ~~Effective March 1, 2007,~~ The chief executive officer  
649 or chief financial officer of a property insurer and the chief  
650 actuary of a property insurer must certify under oath and subject  
651 to the penalty of perjury, on a form approved by the commission,  
652 the following information, which must accompany a rate filing:

653 1. The signing officer and actuary have reviewed the rate  
654 filing;

655 2. Based on the signing officer's and actuary's knowledge,  
656 the rate filing does not contain any untrue statement of a  
657 material fact or omit to state a material fact necessary in order  
658 to make the statements made, in light of the circumstances under  
659 which such statements were made, not misleading;

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

665 4. Based on the signing officer's and actuary's knowledge,  
666 the rate filing reflects all premium savings that are reasonably  
667 expected to result from legislative enactments and are in  
668 accordance with generally accepted and reasonable actuarial  
669 techniques; ~~-~~



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670       5. Based on the signing officer's and actuary's knowledge,  
671 the actuary responsible for preparing the rate filing reviewed  
672 the rate indications used by the office in approving the  
673 insurer's last rate filing, if made available to the insurer for  
674 review, and identified factors used in the current rate filing  
675 which are inconsistent with the factors used by the office in  
676 developing such rate indications; and

677       6. Based on the signing officer's and actuary's knowledge,  
678 the number and type of policies that the insurer intends to  
679 nonrenew during the year following the proposed effective date of  
680 the rate filing, and that the rate filing reflects the reduced  
681 risk of loss associated with such nonrenewals.

682       (b) A signing officer or actuary knowingly making a false  
683 certification under this subsection commits a violation of s.  
684 626.9541(1)(e) and is subject to the penalties under s. 626.9521.

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

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

690       Section 9. Subsection (1) of section 627.0613, Florida  
691 Statutes, is amended to read:

692       627.0613 Consumer advocate.--The Chief Financial Officer  
693 must appoint a consumer advocate who must represent the general  
694 public of the state before the department and the office. The  
695 consumer advocate must report directly to the Chief Financial  
696 Officer, but is not otherwise under the authority of the  
697 department or of any employee of the department. The consumer  
698 advocate has such powers as are necessary to carry out the duties





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699 of the office of consumer advocate, including, but not limited  
700 to, the powers to:

701 (1) Recommend to the department or office, by petition, the  
702 commencement of any proceeding or action; appear in any  
703 proceeding or action before the department or office; or appear  
704 in any proceeding before the Division of Administrative Hearings  
705 ~~or arbitration panel specified in s. 627.062(6)~~ relating to  
706 subject matter under the jurisdiction of the department or  
707 office.

708 Section 10. Paragraph (c) of subsection (1) and paragraph  
709 (c) of subsection (3) of section 627.0628, Florida Statutes, are  
710 amended to read:

711 627.0628 Florida Commission on Hurricane Loss Projection  
712 Methodology; public records exemption; public meetings  
713 exemption.--

714 (1) LEGISLATIVE FINDINGS AND INTENT.--

715 (c) It is the intent of the Legislature to create the  
716 Florida Commission on Hurricane Loss Projection Methodology as a  
717 panel of experts to provide the most actuarially sophisticated  
718 guidelines and standards for projection of hurricane losses  
719 possible, given the current state of actuarial science. It is the  
720 further intent of the Legislature that such standards and  
721 guidelines must be used by the State Board of Administration in  
722 developing reimbursement premium rates for the Florida Hurricane  
723 Catastrophe Fund, and, subject to paragraph (3)(c), must ~~may~~ be  
724 used by insurers in rate filings under s. 627.062 unless the way  
725 in which such standards and guidelines were applied by the  
726 insurer was erroneous, as shown by a preponderance of the  
727 evidence.

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



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729           (c) With respect to a rate filing under s. 627.062, an  
730 insurer must ~~may~~ employ and may not modify or adjust actuarial  
731 methods, principles, standards, models, or output ranges found by  
732 the commission to be accurate or reliable in determining ~~to~~  
733 ~~determine~~ hurricane loss factors used ~~for use~~ in a rate filing  
734 and in determining probable maximum loss levels for reinsurance  
735 costs included in a rate filing ~~under s. 627.062~~. ~~Such findings~~  
736 ~~and factors are admissible and relevant in consideration of a~~  
737 ~~rate filing by the office or in any arbitration or administrative~~  
738 ~~or judicial review only if the office and the consumer advocate~~  
739 ~~appointed pursuant to s. 627.0613 have access to all of the~~  
740 ~~assumptions and factors that were used in developing the~~  
741 ~~actuarial methods, principles, standards, models, or output~~  
742 ~~ranges, and are not precluded from disclosing such information in~~  
743 ~~a rate proceeding. In any rate hearing under s. 120.57 or in any~~  
744 ~~arbitration proceeding under s. 627.062(6), the hearing officer,~~  
745 ~~judge, or arbitration panel may determine whether the office and~~  
746 ~~the consumer advocate were provided with access to all of the~~  
747 ~~assumptions and factors that were used in developing the~~  
748 ~~actuarial methods, principles, standards, models, or output~~  
749 ~~ranges and to determine their admissibility.~~

750           Section 11. Subsection (1) of section 627.0629, Florida  
751 Statutes, is amended to read:

752           627.0629 Residential property insurance; rate filings.--

753           (1) (a) It is the intent of the Legislature that insurers  
754 must provide savings to consumers who install or implement  
755 windstorm damage mitigation techniques, alterations, or solutions  
756 to their properties to prevent windstorm losses. A rate filing  
757 for residential property insurance must include actuarially  
758 reasonable discounts, credits, or other rate differentials, or



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759 appropriate reductions in deductibles, for properties on which  
760 fixtures or construction techniques demonstrated to reduce the  
761 amount of loss in a windstorm have been installed or implemented.  
762 The fixtures or construction techniques shall include, but not be  
763 limited to, fixtures or construction techniques which enhance  
764 roof strength, roof covering performance, roof-to-wall strength,  
765 wall-to-floor-to-foundation strength, opening protection, and  
766 window, door, and skylight strength. Credits, discounts, or other  
767 rate differentials, or appropriate reductions in deductibles, for  
768 fixtures and construction techniques which meet the minimum  
769 requirements of the Florida Building Code must be included in the  
770 rate filing. All insurance companies must make a rate filing  
771 which includes the credits, discounts, or other rate  
772 differentials or reductions in deductibles by February 28, 2003.  
773 By July 1, 2007, the office shall reevaluate the discounts,  
774 credits, other rate differentials, and appropriate reductions in  
775 deductibles for fixtures and construction techniques that meet  
776 the minimum requirements of the Florida Building Code, based upon  
777 actual experience or any other loss relativity studies available  
778 to the office. The office shall determine the discounts, credits,  
779 other rate differentials, and appropriate reductions in  
780 deductibles that reflect the full actuarial value of such  
781 revaluation, which may be used by insurers in rate filings.

782 (b) By February 1, 2009, the Office of Insurance  
783 Regulation, in consultation with the Department of Financial  
784 Services and the Department of Community Affairs, shall develop  
785 and make publicly available a proposed method for insurers to  
786 establish discounts, credits, or other rate differentials for  
787 hurricane mitigation measures which directly correlate to the  
788 numerical rating assigned to a structure pursuant to the uniform



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789 home grading scale adopted by the Financial Services Commission  
790 pursuant to s. 215.55865, including any proposed changes to the  
791 uniform home grading scale. By October 1, 2009, the commission  
792 shall adopt rules requiring insurers to make rate filings for  
793 residential property insurance which revise insurers' discounts,  
794 credits, or other rate differentials for hurricane mitigation  
795 measures so that such rate differentials correlate directly to  
796 the uniform home grading scale. The rules may include such  
797 changes to the uniform home grading scale as the commission  
798 determines are necessary, and may specify the minimum required  
799 discounts, credits, or other rate differentials. Such rate  
800 differentials must be consistent with generally accepted  
801 actuarial principles and wind-loss mitigation studies. The rules  
802 shall allow a period of at least 2 years after the effective date  
803 of the revised mitigation discounts, credits, or other rate  
804 differentials for a property owner to obtain an inspection or  
805 otherwise qualify for the revised credit, during which time the  
806 insurer shall continue to apply the mitigation credit that was  
807 applied immediately prior to the effective date of the revised  
808 credit.

809 Section 12. Paragraph (b) of subsection (2) and paragraphs  
810 (a), (b), (c), (m), (p), (dd), (ee), and (ff) of subsection (6)  
811 of section 627.351, Florida Statutes, are amended to read:

812 627.351 Insurance risk apportionment plans.--

813 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

814 (b) The department shall require all insurers holding a  
815 certificate of authority to transact property insurance on a  
816 direct basis in this state, other than joint underwriting  
817 associations and other entities formed pursuant to this section,  
818 to provide windstorm coverage to applicants from areas determined



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819 | to be eligible pursuant to paragraph (c) who in good faith are  
820 | entitled to, but are unable to procure, such coverage through  
821 | ordinary means; or it shall adopt a reasonable plan or plans for  
822 | the equitable apportionment or sharing among such insurers of  
823 | windstorm coverage, which may include formation of an association  
824 | for this purpose. As used in this subsection, the term "property  
825 | insurance" means insurance on real or personal property, as  
826 | defined in s. 624.604, including insurance for fire, industrial  
827 | fire, allied lines, farmowners multiperil, homeowners'  
828 | multiperil, commercial multiperil, and mobile homes, and  
829 | including liability coverages on all such insurance, but  
830 | excluding inland marine as defined in s. 624.607(3) and excluding  
831 | vehicle insurance as defined in s. 624.605(1)(a) other than  
832 | insurance on mobile homes used as permanent dwellings. The  
833 | department shall adopt rules that provide a formula for the  
834 | recovery and repayment of any deferred assessments.

835 |       1. For the purpose of this section, properties eligible for  
836 | such windstorm coverage are defined as dwellings, buildings, and  
837 | other structures, including mobile homes which are used as  
838 | dwellings and which are tied down in compliance with mobile home  
839 | tie-down requirements prescribed by the Department of Highway  
840 | Safety and Motor Vehicles pursuant to s. 320.8325, and the  
841 | contents of all such properties. An applicant or policyholder is  
842 | eligible for coverage only if an offer of coverage cannot be  
843 | obtained by or for the applicant or policyholder from an admitted  
844 | insurer at approved rates.

845 |       2.a.(I) All insurers required to be members of such  
846 | association shall participate in its writings, expenses, and  
847 | losses. Surplus of the association shall be retained for the  
848 | payment of claims and shall not be distributed to the member



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849 | insurers. Such participation by member insurers shall be in the  
850 | proportion that the net direct premiums of each member insurer  
851 | written for property insurance in this state during the preceding  
852 | calendar year bear to the aggregate net direct premiums for  
853 | property insurance of all member insurers, as reduced by any  
854 | credits for voluntary writings, in this state during the  
855 | preceding calendar year. For the purposes of this subsection, the  
856 | term "net direct premiums" means direct written premiums for  
857 | property insurance, reduced by premium for liability coverage and  
858 | for the following if included in allied lines: rain and hail on  
859 | growing crops; livestock; association direct premiums booked;  
860 | National Flood Insurance Program direct premiums; and similar  
861 | deductions specifically authorized by the plan of operation and  
862 | approved by the department. A member's participation shall begin  
863 | on the first day of the calendar year following the year in which  
864 | it is issued a certificate of authority to transact property  
865 | insurance in the state and shall terminate 1 year after the end  
866 | of the calendar year during which it no longer holds a  
867 | certificate of authority to transact property insurance in the  
868 | state. The commissioner, after review of annual statements, other  
869 | reports, and any other statistics that the commissioner deems  
870 | necessary, shall certify to the association the aggregate direct  
871 | premiums written for property insurance in this state by all  
872 | member insurers.

873 |       (II) Effective July 1, 2002, the association shall operate  
874 | subject to the supervision and approval of a board of governors  
875 | who are the same individuals that have been appointed by the  
876 | Treasurer to serve on the board of governors of the Citizens  
877 | Property Insurance Corporation.



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878 (III) The plan of operation shall provide a formula whereby  
879 a company voluntarily providing windstorm coverage in affected  
880 areas will be relieved wholly or partially from apportionment of  
881 a regular assessment pursuant to sub-sub-subparagraph d.(I) or  
882 sub-sub-subparagraph d.(II).

883 (IV) A company which is a member of a group of companies  
884 under common management may elect to have its credits applied on  
885 a group basis, and any company or group may elect to have its  
886 credits applied to any other company or group.

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

890 (VI) The plan of operation may also provide for the award  
891 of credits, for a period not to exceed 3 years, from a regular  
892 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
893 subparagraph d.(II) as an incentive for taking policies out of  
894 the Residential Property and Casualty Joint Underwriting  
895 Association. In order to qualify for the exemption under this  
896 sub-sub-subparagraph, the take-out plan must provide that at  
897 least 40 percent of the policies removed from the Residential  
898 Property and Casualty Joint Underwriting Association cover risks  
899 located in Dade, Broward, and Palm Beach Counties or at least 30  
900 percent of the policies so removed cover risks located in Dade,  
901 Broward, and Palm Beach Counties and an additional 50 percent of  
902 the policies so removed cover risks located in other coastal  
903 counties, and must also provide that no more than 15 percent of  
904 the policies so removed may exclude windstorm coverage. With the  
905 approval of the department, the association may waive these  
906 geographic criteria for a take-out plan that removes at least the  
907 lesser of 100,000 Residential Property and Casualty Joint



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908 Underwriting Association policies or 15 percent of the total  
909 number of Residential Property and Casualty Joint Underwriting  
910 Association policies, provided the governing board of the  
911 Residential Property and Casualty Joint Underwriting Association  
912 certifies that the take-out plan will materially reduce the  
913 Residential Property and Casualty Joint Underwriting  
914 Association's 100-year probable maximum loss from hurricanes.  
915 With the approval of the department, the board may extend such  
916 credits for an additional year if the insurer guarantees an  
917 additional year of renewability for all policies removed from the  
918 Residential Property and Casualty Joint Underwriting Association,  
919 or for 2 additional years if the insurer guarantees 2 additional  
920 years of renewability for all policies removed from the  
921 Residential Property and Casualty Joint Underwriting Association.

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

925       c. The Legislature finds that the potential for unlimited  
926 deficit assessments under this subparagraph may induce insurers  
927 to attempt to reduce their writings in the voluntary market, and  
928 that such actions would worsen the availability problems that the  
929 association was created to remedy. It is the intent of the  
930 Legislature that insurers remain fully responsible for paying  
931 regular assessments and collecting emergency assessments for any  
932 deficits of the association; however, it is also the intent of  
933 the Legislature to provide a means by which assessment  
934 liabilities may be amortized over a period of years.

935       d.(I) When the deficit incurred in a particular calendar  
936 year is 10 percent or less of the aggregate statewide direct  
937 written premium for property insurance for the prior calendar





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938 | year for all member insurers, the association shall levy an  
939 | assessment on member insurers in an amount equal to the deficit.

940 |       (II) When the deficit incurred in a particular calendar  
941 | year exceeds 10 percent of the aggregate statewide direct written  
942 | premium for property insurance for the prior calendar year for  
943 | all member insurers, the association shall levy an assessment on  
944 | member insurers in an amount equal to the greater of 10 percent  
945 | of the deficit or 10 percent of the aggregate statewide direct  
946 | written premium for property insurance for the prior calendar  
947 | year for member insurers. Any remaining deficit shall be  
948 | recovered through emergency assessments under sub-sub-  
949 | subparagraph (III).

950 |       (III) Upon a determination by the board of directors that a  
951 | deficit exceeds the amount that will be recovered through regular  
952 | assessments on member insurers, pursuant to sub-sub-subparagraph  
953 | (I) or sub-sub-subparagraph (II), the board shall levy, after  
954 | verification by the department, emergency assessments to be  
955 | collected by member insurers and by underwriting associations  
956 | created pursuant to this section which write property insurance,  
957 | upon issuance or renewal of property insurance policies other  
958 | than National Flood Insurance policies in the year or years  
959 | following levy of the regular assessments. The amount of the  
960 | emergency assessment collected in a particular year shall be a  
961 | uniform percentage of that year's direct written premium for  
962 | property insurance for all member insurers and underwriting  
963 | associations, excluding National Flood Insurance policy premiums,  
964 | as annually determined by the board and verified by the  
965 | department. The department shall verify the arithmetic  
966 | calculations involved in the board's determination within 30 days  
967 | after receipt of the information on which the determination was



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968 | based. Notwithstanding any other provision of law, each member  
969 | insurer and each underwriting association created pursuant to  
970 | this section shall collect emergency assessments from its  
971 | policyholders without such obligation being affected by any  
972 | credit, limitation, exemption, or deferment. The emergency  
973 | assessments so collected shall be transferred directly to the  
974 | association on a periodic basis as determined by the association.  
975 | The aggregate amount of emergency assessments levied under this  
976 | sub-sub-subparagraph in any calendar year may not exceed the  
977 | greater of 10 percent of the amount needed to cover the original  
978 | deficit, plus interest, fees, commissions, required reserves, and  
979 | other costs associated with financing of the original deficit, or  
980 | 10 percent of the aggregate statewide direct written premium for  
981 | property insurance written by member insurers and underwriting  
982 | associations for the prior year, plus interest, fees,  
983 | commissions, required reserves, and other costs associated with  
984 | financing the original deficit. The board may pledge the proceeds  
985 | of the emergency assessments under this sub-sub-subparagraph as  
986 | the source of revenue for bonds, to retire any other debt  
987 | incurred as a result of the deficit or events giving rise to the  
988 | deficit, or in any other way that the board determines will  
989 | efficiently recover the deficit. The emergency assessments under  
990 | this sub-sub-subparagraph shall continue as long as any bonds  
991 | issued or other indebtedness incurred with respect to a deficit  
992 | for which the assessment was imposed remain outstanding, unless  
993 | adequate provision has been made for the payment of such bonds or  
994 | other indebtedness pursuant to the document governing such bonds  
995 | or other indebtedness. Emergency assessments collected under this  
996 | sub-sub-subparagraph are not part of an insurer's rates, are not  
997 | premium, and are not subject to premium tax, fees, or



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998 commissions; however, failure to pay the emergency assessment  
999 shall be treated as failure to pay premium.

1000 (IV) Each member insurer's share of the total regular  
1001 assessments under sub-sub-subparagraph (I) or sub-sub-  
1002 subparagraph (II) shall be in the proportion that the insurer's  
1003 net direct premium for property insurance in this state, for the  
1004 year preceding the assessment bears to the aggregate statewide  
1005 net direct premium for property insurance of all member insurers,  
1006 as reduced by any credits for voluntary writings for that year.

1007 (V) If regular deficit assessments are made under sub-sub-  
1008 subparagraph (I) or sub-sub-subparagraph (II), or by the  
1009 Residential Property and Casualty Joint Underwriting Association  
1010 under sub-subparagraph (6) (b)3.a. or sub-subparagraph (6) (b)3.b.,  
1011 the association shall levy upon the association's policyholders,  
1012 as part of its next rate filing, or by a separate rate filing  
1013 solely for this purpose, a market equalization surcharge in a  
1014 percentage equal to the total amount of such regular assessments  
1015 divided by the aggregate statewide direct written premium for  
1016 property insurance for member insurers for the prior calendar  
1017 year. Market equalization surcharges under this sub-sub-  
1018 subparagraph are not considered premium and are not subject to  
1019 commissions, fees, or premium taxes; however, failure to pay a  
1020 market equalization surcharge shall be treated as failure to pay  
1021 premium.

1022 e. The governing body of any unit of local government, any  
1023 residents of which are insured under the plan, may issue bonds as  
1024 defined in s. 125.013 or s. 166.101 to fund an assistance  
1025 program, in conjunction with the association, for the purpose of  
1026 defraying deficits of the association. In order to avoid needless  
1027 and indiscriminate proliferation, duplication, and fragmentation



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1028 | of such assistance programs, any unit of local government, any  
1029 | residents of which are insured by the association, may provide  
1030 | for the payment of losses, regardless of whether or not the  
1031 | losses occurred within or outside of the territorial jurisdiction  
1032 | of the local government. Revenue bonds may not be issued until  
1033 | validated pursuant to chapter 75, unless a state of emergency is  
1034 | declared by executive order or proclamation of the Governor  
1035 | pursuant to s. 252.36 making such findings as are necessary to  
1036 | determine that it is in the best interests of, and necessary for,  
1037 | the protection of the public health, safety, and general welfare  
1038 | of residents of this state and the protection and preservation of  
1039 | the economic stability of insurers operating in this state, and  
1040 | declaring it an essential public purpose to permit certain  
1041 | municipalities or counties to issue bonds as will provide relief  
1042 | to claimants and policyholders of the association and insurers  
1043 | responsible for apportionment of plan losses. Any such unit of  
1044 | local government may enter into such contracts with the  
1045 | association and with any other entity created pursuant to this  
1046 | subsection as are necessary to carry out this paragraph. Any  
1047 | bonds issued under this sub-subparagraph shall be payable from  
1048 | and secured by moneys received by the association from  
1049 | assessments under this subparagraph, and assigned and pledged to  
1050 | or on behalf of the unit of local government for the benefit of  
1051 | the holders of such bonds. The funds, credit, property, and  
1052 | taxing power of the state or of the unit of local government  
1053 | shall not be pledged for the payment of such bonds. If any of the  
1054 | bonds remain unsold 60 days after issuance, the department shall  
1055 | require all insurers subject to assessment to purchase the bonds,  
1056 | which shall be treated as admitted assets; each insurer shall be  
1057 | required to purchase that percentage of the unsold portion of the



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1058 | bond issue that equals the insurer's relative share of assessment  
1059 | liability under this subsection. An insurer shall not be required  
1060 | to purchase the bonds to the extent that the department  
1061 | determines that the purchase would endanger or impair the  
1062 | solvency of the insurer. The authority granted by this sub-  
1063 | subparagraph is additional to any bonding authority granted by  
1064 | subparagraph 6.

1065 |         3. The plan shall also provide that any member with a  
1066 | surplus as to policyholders of \$20 million or less writing 25  
1067 | percent or more of its total countrywide property insurance  
1068 | premiums in this state may petition the department, within the  
1069 | first 90 days of each calendar year, to qualify as a limited  
1070 | apportionment company. The apportionment of such a member company  
1071 | in any calendar year for which it is qualified shall not exceed  
1072 | its gross participation, which shall not be affected by the  
1073 | formula for voluntary writings. In no event shall a limited  
1074 | apportionment company be required to participate in any  
1075 | apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
1076 | or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
1077 | \$50 million after payment of available plan funds in any calendar  
1078 | year. However, a limited apportionment company shall collect from  
1079 | its policyholders any emergency assessment imposed under sub-sub-  
1080 | subparagraph 2.d.(III). The plan shall provide that, if the  
1081 | department determines that any regular assessment will result in  
1082 | an impairment of the surplus of a limited apportionment company,  
1083 | the department may direct that all or part of such assessment be  
1084 | deferred. However, there shall be no limitation or deferment of  
1085 | an emergency assessment to be collected from policyholders under  
1086 | sub-sub-subparagraph 2.d.(III).



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1087           4. The plan shall provide for the deferment, in whole or in  
1088 part, of a regular assessment of a member insurer under sub-sub-  
1089 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not  
1090 for an emergency assessment collected from policyholders under  
1091 sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
1092 commissioner, payment of such regular assessment would endanger  
1093 or impair the solvency of the member insurer. In the event a  
1094 regular assessment against a member insurer is deferred in whole  
1095 or in part, the amount by which such assessment is deferred may  
1096 be assessed against the other member insurers in a manner  
1097 consistent with the basis for assessments set forth in sub-sub-  
1098 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

1099           5.a. The plan of operation may include deductibles and  
1100 rules for classification of risks and rate modifications  
1101 consistent with the objective of providing and maintaining funds  
1102 sufficient to pay catastrophe losses.

1103           b. ~~The association may require arbitration of a rate filing~~  
1104 ~~under s. 627.062(6).~~ It is the intent of the Legislature that the  
1105 rates for coverage provided by the association be actuarially  
1106 sound and not competitive with approved rates charged in the  
1107 admitted voluntary market such that the association functions as  
1108 a residual market mechanism to provide insurance only when the  
1109 insurance cannot be procured in the voluntary market. The plan of  
1110 operation shall provide a mechanism to assure that, beginning no  
1111 later than January 1, 1999, the rates charged by the association  
1112 for each line of business are reflective of approved rates in the  
1113 voluntary market for hurricane coverage for each line of business  
1114 in the various areas eligible for association coverage.

1115           c. The association shall provide for windstorm coverage on  
1116 residential properties in limits up to \$10 million for commercial



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1117 | lines residential risks and up to \$1 million for personal lines  
1118 | residential risks. If coverage with the association is sought for  
1119 | a residential risk valued in excess of these limits, coverage  
1120 | shall be available to the risk up to the replacement cost or  
1121 | actual cash value of the property, at the option of the insured,  
1122 | if coverage for the risk cannot be located in the authorized  
1123 | market. The association must accept a commercial lines  
1124 | residential risk with limits above \$10 million or a personal  
1125 | lines residential risk with limits above \$1 million if coverage  
1126 | is not available in the authorized market. The association may  
1127 | write coverage above the limits specified in this subparagraph  
1128 | with or without facultative or other reinsurance coverage, as the  
1129 | association determines appropriate.

1130 |         d. The plan of operation must provide objective criteria  
1131 | and procedures, approved by the department, to be uniformly  
1132 | applied for all applicants in determining whether an individual  
1133 | risk is so hazardous as to be uninsurable. In making this  
1134 | determination and in establishing the criteria and procedures,  
1135 | the following shall be considered:

1136 |             (I) Whether the likelihood of a loss for the individual  
1137 | risk is substantially higher than for other risks of the same  
1138 | class; and

1139 |             (II) Whether the uncertainty associated with the individual  
1140 | risk is such that an appropriate premium cannot be determined.

1141 |  
1142 | The acceptance or rejection of a risk by the association pursuant  
1143 | to such criteria and procedures must be construed as the private  
1144 | placement of insurance, and the provisions of chapter 120 do not  
1145 | apply.



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1146 e. If the risk accepts an offer of coverage through the  
1147 market assistance program or through a mechanism established by  
1148 the association, either before the policy is issued by the  
1149 association or during the first 30 days of coverage by the  
1150 association, and the producing agent who submitted the  
1151 application to the association is not currently appointed by the  
1152 insurer, the insurer shall:

1153 (I) Pay to the producing agent of record of the policy, for  
1154 the first year, an amount that is the greater of the insurer's  
1155 usual and customary commission for the type of policy written or  
1156 a fee equal to the usual and customary commission of the  
1157 association; or

1158 (II) Offer to allow the producing agent of record of the  
1159 policy to continue servicing the policy for a period of not less  
1160 than 1 year and offer to pay the agent the greater of the  
1161 insurer's or the association's usual and customary commission for  
1162 the type of policy written.

1163  
1164 If the producing agent is unwilling or unable to accept  
1165 appointment, the new insurer shall pay the agent in accordance  
1166 with sub-sub-subparagraph (I). Subject to the provisions of s.  
1167 627.3517, the policies issued by the association must provide  
1168 that if the association obtains an offer from an authorized  
1169 insurer to cover the risk at its approved rates under either a  
1170 standard policy including wind coverage or, if consistent with  
1171 the insurer's underwriting rules as filed with the department, a  
1172 basic policy including wind coverage, the risk is no longer  
1173 eligible for coverage through the association. Upon termination  
1174 of eligibility, the association shall provide written notice to  
1175 the policyholder and agent of record stating that the association





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1176 policy must be canceled as of 60 days after the date of the  
1177 notice because of the offer of coverage from an authorized  
1178 insurer. Other provisions of the insurance code relating to  
1179 cancellation and notice of cancellation do not apply to actions  
1180 under this sub-subparagraph.

1181 f. When the association enters into a contractual agreement  
1182 for a take-out plan, the producing agent of record of the  
1183 association policy is entitled to retain any unearned commission  
1184 on the policy, and the insurer shall:

1185 (I) Pay to the producing agent of record of the association  
1186 policy, for the first year, an amount that is the greater of the  
1187 insurer's usual and customary commission for the type of policy  
1188 written or a fee equal to the usual and customary commission of  
1189 the association; or

1190 (II) Offer to allow the producing agent of record of the  
1191 association policy to continue servicing the policy for a period  
1192 of not less than 1 year and offer to pay the agent the greater of  
1193 the insurer's or the association's usual and customary commission  
1194 for the type of policy written.

1195  
1196 If the producing agent is unwilling or unable to accept  
1197 appointment, the new insurer shall pay the agent in accordance  
1198 with sub-sub-subparagraph (I).

1199 6.a. The plan of operation may authorize the formation of a  
1200 private nonprofit corporation, a private nonprofit unincorporated  
1201 association, a partnership, a trust, a limited liability company,  
1202 or a nonprofit mutual company which may be empowered, among other  
1203 things, to borrow money by issuing bonds or by incurring other  
1204 indebtedness and to accumulate reserves or funds to be used for  
1205 the payment of insured catastrophe losses. The plan may authorize



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1206 | all actions necessary to facilitate the issuance of bonds,  
1207 | including the pledging of assessments or other revenues.  
1208 |       b. Any entity created under this subsection, or any entity  
1209 | formed for the purposes of this subsection, may sue and be sued,  
1210 | may borrow money; issue bonds, notes, or debt instruments; pledge  
1211 | or sell assessments, market equalization surcharges and other  
1212 | surcharges, rights, premiums, contractual rights, projected  
1213 | recoveries from the Florida Hurricane Catastrophe Fund, other  
1214 | reinsurance recoverables, and other assets as security for such  
1215 | bonds, notes, or debt instruments; enter into any contracts or  
1216 | agreements necessary or proper to accomplish such borrowings; and  
1217 | take other actions necessary to carry out the purposes of this  
1218 | subsection. The association may issue bonds or incur other  
1219 | indebtedness, or have bonds issued on its behalf by a unit of  
1220 | local government pursuant to subparagraph (6)(p)2., in the  
1221 | absence of a hurricane or other weather-related event, upon a  
1222 | determination by the association subject to approval by the  
1223 | department that such action would enable it to efficiently meet  
1224 | the financial obligations of the association and that such  
1225 | financings are reasonably necessary to effectuate the  
1226 | requirements of this subsection. Any such entity may accumulate  
1227 | reserves and retain surpluses as of the end of any association  
1228 | year to provide for the payment of losses incurred by the  
1229 | association during that year or any future year. The association  
1230 | shall incorporate and continue the plan of operation and articles  
1231 | of agreement in effect on the effective date of chapter 76-96,  
1232 | Laws of Florida, to the extent that it is not inconsistent with  
1233 | chapter 76-96, and as subsequently modified consistent with  
1234 | chapter 76-96. The board of directors and officers currently  
1235 | serving shall continue to serve until their successors are duly



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1236 qualified as provided under the plan. The assets and obligations  
1237 of the plan in effect immediately prior to the effective date of  
1238 chapter 76-96 shall be construed to be the assets and obligations  
1239 of the successor plan created herein.

1240 c. In recognition of s. 10, Art. I of the State  
1241 Constitution, prohibiting the impairment of obligations of  
1242 contracts, it is the intent of the Legislature that no action be  
1243 taken whose purpose is to impair any bond indenture or financing  
1244 agreement or any revenue source committed by contract to such  
1245 bond or other indebtedness issued or incurred by the association  
1246 or any other entity created under this subsection.

1247 7. On such coverage, an agent's remuneration shall be that  
1248 amount of money payable to the agent by the terms of his or her  
1249 contract with the company with which the business is placed.  
1250 However, no commission will be paid on that portion of the  
1251 premium which is in excess of the standard premium of that  
1252 company.

1253 8. Subject to approval by the department, the association  
1254 may establish different eligibility requirements and operational  
1255 procedures for any line or type of coverage for any specified  
1256 eligible area or portion of an eligible area if the board  
1257 determines that such changes to the eligibility requirements and  
1258 operational procedures are justified due to the voluntary market  
1259 being sufficiently stable and competitive in such area or for  
1260 such line or type of coverage and that consumers who, in good  
1261 faith, are unable to obtain insurance through the voluntary  
1262 market through ordinary methods would continue to have access to  
1263 coverage from the association. When coverage is sought in  
1264 connection with a real property transfer, such requirements and  
1265 procedures shall not provide for an effective date of coverage



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1266 later than the date of the closing of the transfer as established  
1267 by the transferor, the transferee, and, if applicable, the  
1268 lender.

1269 9. Notwithstanding any other provision of law:

1270 a. The pledge or sale of, the lien upon, and the security  
1271 interest in any rights, revenues, or other assets of the  
1272 association created or purported to be created pursuant to any  
1273 financing documents to secure any bonds or other indebtedness of  
1274 the association shall be and remain valid and enforceable,  
1275 notwithstanding the commencement of and during the continuation  
1276 of, and after, any rehabilitation, insolvency, liquidation,  
1277 bankruptcy, receivership, conservatorship, reorganization, or  
1278 similar proceeding against the association under the laws of this  
1279 state or any other applicable laws.

1280 b. No such proceeding shall relieve the association of its  
1281 obligation, or otherwise affect its ability to perform its  
1282 obligation, to continue to collect, or levy and collect,  
1283 assessments, market equalization or other surcharges, projected  
1284 recoveries from the Florida Hurricane Catastrophe Fund,  
1285 reinsurance recoverables, or any other rights, revenues, or other  
1286 assets of the association pledged.

1287 c. Each such pledge or sale of, lien upon, and security  
1288 interest in, including the priority of such pledge, lien, or  
1289 security interest, any such assessments, emergency assessments,  
1290 market equalization or renewal surcharges, projected recoveries  
1291 from the Florida Hurricane Catastrophe Fund, reinsurance  
1292 recoverables, or other rights, revenues, or other assets which  
1293 are collected, or levied and collected, after the commencement of  
1294 and during the pendency of or after any such proceeding shall  
1295 continue unaffected by such proceeding.



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1296           d. As used in this subsection, the term "financing  
1297 documents" means any agreement, instrument, or other document now  
1298 existing or hereafter created evidencing any bonds or other  
1299 indebtedness of the association or pursuant to which any such  
1300 bonds or other indebtedness has been or may be issued and  
1301 pursuant to which any rights, revenues, or other assets of the  
1302 association are pledged or sold to secure the repayment of such  
1303 bonds or indebtedness, together with the payment of interest on  
1304 such bonds or such indebtedness, or the payment of any other  
1305 obligation of the association related to such bonds or  
1306 indebtedness.

1307           e. Any such pledge or sale of assessments, revenues,  
1308 contract rights or other rights or assets of the association  
1309 shall constitute a lien and security interest, or sale, as the  
1310 case may be, that is immediately effective and attaches to such  
1311 assessments, revenues, contract, or other rights or assets,  
1312 whether or not imposed or collected at the time the pledge or  
1313 sale is made. Any such pledge or sale is effective, valid,  
1314 binding, and enforceable against the association or other entity  
1315 making such pledge or sale, and valid and binding against and  
1316 superior to any competing claims or obligations owed to any other  
1317 person or entity, including policyholders in this state,  
1318 asserting rights in any such assessments, revenues, contract, or  
1319 other rights or assets to the extent set forth in and in  
1320 accordance with the terms of the pledge or sale contained in the  
1321 applicable financing documents, whether or not any such person or  
1322 entity has notice of such pledge or sale and without the need for  
1323 any physical delivery, recordation, filing, or other action.

1324           f. There shall be no liability on the part of, and no cause  
1325 of action of any nature shall arise against, any member insurer



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1326 or its agents or employees, agents or employees of the  
1327 association, members of the board of directors of the  
1328 association, or the department or its representatives, for any  
1329 action taken by them in the performance of their duties or  
1330 responsibilities under this subsection. Such immunity does not  
1331 apply to actions for breach of any contract or agreement  
1332 pertaining to insurance, or any willful tort.

1333 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1334 (a)1. It is the public purpose of this subsection to ensure  
1335 the existence of an orderly market for property insurance for  
1336 Floridians and Florida businesses. The Legislature finds that  
1337 private insurers are unwilling or unable to provide affordable  
1338 property insurance coverage in this state to the extent sought  
1339 and needed. The absence of affordable property insurance  
1340 threatens the public health, safety, and welfare and likewise  
1341 threatens the economic health of the state. The state therefore  
1342 has a compelling public interest and a public purpose to assist  
1343 in assuring that property in the state is insured and that it is  
1344 insured at affordable rates so as to facilitate the remediation,  
1345 reconstruction, and replacement of damaged or destroyed property  
1346 in order to reduce or avoid the negative effects otherwise  
1347 resulting to the public health, safety, and welfare, to the  
1348 economy of the state, and to the revenues of the state and local  
1349 governments which are needed to provide for the public welfare.  
1350 It is necessary, therefore, to provide affordable property  
1351 insurance to applicants who are in good faith entitled to procure  
1352 insurance through the voluntary market but are unable to do so.  
1353 The Legislature intends by this subsection that affordable  
1354 property insurance be provided and that it continue to be  
1355 provided, as long as necessary, through Citizens Property



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1356 Insurance Corporation, a government entity that is an integral  
1357 part of the state, and that is not a private insurance company.  
1358 To that end, Citizens Property Insurance Corporation shall strive  
1359 to increase the availability of affordable property insurance in  
1360 this state, while achieving efficiencies and economies, and while  
1361 providing service to policyholders, applicants, and agents which  
1362 is no less than the quality generally provided in the voluntary  
1363 market, for the achievement of the foregoing public purposes.  
1364 Because it is essential for this government entity to have the  
1365 maximum financial resources to pay claims following a  
1366 catastrophic hurricane, it is the intent of the Legislature that  
1367 Citizens Property Insurance Corporation continue to be an  
1368 integral part of the state and that the income of the corporation  
1369 be exempt from federal income taxation and that interest on the  
1370 debt obligations issued by the corporation be exempt from federal  
1371 income taxation.

1372         2. The Residential Property and Casualty Joint Underwriting  
1373 Association originally created by this statute shall be known, as  
1374 of July 1, 2002, as the Citizens Property Insurance Corporation.  
1375 The corporation shall provide insurance for residential and  
1376 commercial property, for applicants who are in good faith  
1377 entitled, but are unable, to procure insurance through the  
1378 voluntary market. The corporation shall operate pursuant to a  
1379 plan of operation approved by order of the Financial Services  
1380 Commission. The plan is subject to continuous review by the  
1381 commission. The commission may, by order, withdraw approval of  
1382 all or part of a plan if the commission determines that  
1383 conditions have changed since approval was granted and that the  
1384 purposes of the plan require changes in the plan. The corporation  
1385 shall continue to operate pursuant to the plan of operation



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1386 approved by the Office of Insurance Regulation until October 1,  
1387 2006. For the purposes of this subsection, residential coverage  
1388 includes both personal lines residential coverage, which consists  
1389 of the type of coverage provided by homeowner's, mobile home  
1390 owner's, dwelling, tenant's, condominium unit owner's, and  
1391 similar policies, and commercial lines residential coverage,  
1392 which consists of the type of coverage provided by condominium  
1393 association, apartment building, and similar policies.

1394 ~~3. For the purposes of this subsection, the term "homestead~~  
1395 ~~property" means:~~

1396 ~~a. Property that has been granted a homestead exemption~~  
1397 ~~under chapter 196;~~

1398 ~~b. Property for which the owner has a current, written~~  
1399 ~~lease with a renter for a term of at least 7 months and for which~~  
1400 ~~the dwelling is insured by the corporation for \$200,000 or less;~~

1401 ~~c. An owner-occupied mobile home or manufactured home, as~~  
1402 ~~defined in s. 320.01, which is permanently affixed to real~~  
1403 ~~property, is owned by a Florida resident, and has been granted a~~  
1404 ~~homestead exemption under chapter 196 or, if the owner does not~~  
1405 ~~own the real property, the owner certifies that the mobile home~~  
1406 ~~or manufactured home is his or her principal place of residence;~~

1407 ~~d. Tenant's coverage;~~

1408 ~~e. Commercial lines residential property; or~~

1409 ~~f. Any county, district, or municipal hospital; a hospital~~  
1410 ~~licensed by any not for profit corporation qualified under s.~~  
1411 ~~501(c)(3) of the United States Internal Revenue Code; or a~~  
1412 ~~continuing care retirement community that is certified under~~  
1413 ~~chapter 651 and that receives an exemption from ad valorem taxes~~  
1414 ~~under chapter 196.~~





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1415           ~~4. For the purposes of this subsection, the term~~  
1416 ~~"nonhomestead property" means property that is not homestead~~  
1417 ~~property.~~

1418           ~~5. Effective January 1, 2009, a personal lines residential~~  
1419 ~~structure that has a dwelling replacement cost of \$1 million or~~  
1420 ~~more, or a single condominium unit that has a combined dwelling~~  
1421 ~~and content replacement cost of \$1 million or more is not~~  
1422 ~~eligible for coverage by the corporation. Such dwellings insured~~  
1423 ~~by the corporation on December 31, 2008, may continue to be~~  
1424 ~~covered by the corporation until the end of the policy term.~~  
1425 ~~However, such dwellings that are insured by the corporation and~~  
1426 ~~become ineligible for coverage due to the provisions of this~~  
1427 ~~subparagraph may reapply and obtain coverage in the high-risk~~  
1428 ~~account and be considered "nonhomestead property" if the property~~  
1429 ~~owner provides the corporation with a sworn affidavit from one or~~  
1430 ~~more insurance agents, on a form provided by the corporation,~~  
1431 ~~stating that the agents have made their best efforts to obtain~~  
1432 ~~coverage and that the property has been rejected for coverage by~~  
1433 ~~at least one authorized insurer and at least three surplus lines~~  
1434 ~~insurers. If such conditions are met, the dwelling may be insured~~  
1435 ~~by the corporation for up to 3 years, after which time the~~  
1436 ~~dwelling is ineligible for coverage. The office shall approve the~~  
1437 ~~method used by the corporation for valuing the dwelling~~  
1438 ~~replacement cost for the purposes of this subparagraph. If a~~  
1439 ~~policyholder is insured by the corporation prior to being~~  
1440 ~~determined to be ineligible pursuant to this subparagraph and~~  
1441 ~~such policyholder files a lawsuit challenging the determination,~~  
1442 ~~the policyholder may remain insured by the corporation until the~~  
1443 ~~conclusion of the litigation.~~



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1444        ~~3.6.~~ For properties constructed on or after January 1,  
1445 2009, the corporation may not insure any property located within  
1446 2,500 feet landward of the coastal construction control line  
1447 created pursuant to s. 161.053 unless the property meets the  
1448 requirements of the code-plus building standards developed by the  
1449 Florida Building Commission.

1450        ~~4.7.~~ It is the intent of the Legislature that  
1451 policyholders, applicants, and agents of the corporation receive  
1452 service and treatment of the highest possible level but never  
1453 less than that generally provided in the voluntary market. It  
1454 also is intended that the corporation be held to service  
1455 standards no less than those applied to insurers in the voluntary  
1456 market by the office with respect to responsiveness, timeliness,  
1457 customer courtesy, and overall dealings with policyholders,  
1458 applicants, or agents of the corporation.

1459        ~~5.8.~~ Effective January 1, 2009, a personal lines  
1460 residential structure that is located in the "wind-borne debris  
1461 region," as defined in s. 1609.2, International Building Code  
1462 (2006), and that has an insured value on the structure of  
1463 \$750,000 or more is not eligible for coverage by the corporation  
1464 unless the structure has opening protections as required under  
1465 the Florida Building Code for a newly constructed residential  
1466 structure in that area. A residential structure shall be deemed  
1467 to comply with the requirements of this subparagraph if it has  
1468 shutters or opening protections on all openings and if such  
1469 opening protections complied with the Florida Building Code at  
1470 the time they were installed. Effective January 1, 2011, the  
1471 requirements of this subparagraph apply to a personal lines  
1472 residential structure that is located in the wind-borne debris



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1473 region and that has an insured value on the structure of \$500,000  
1474 or more.

1475 (b)1. All insurers authorized to write one or more subject  
1476 lines of business in this state are subject to assessment by the  
1477 corporation and, for the purposes of this subsection, are  
1478 referred to collectively as "assessable insurers." Insurers  
1479 writing one or more subject lines of business in this state  
1480 pursuant to part VIII of chapter 626 are not assessable insurers,  
1481 but insureds who procure one or more subject lines of business in  
1482 this state pursuant to part VIII of chapter 626 are subject to  
1483 assessment by the corporation and are referred to collectively as  
1484 "assessable insureds." An authorized insurer's assessment  
1485 liability shall begin on the first day of the calendar year  
1486 following the year in which the insurer was issued a certificate  
1487 of authority to transact insurance for subject lines of business  
1488 in this state and shall terminate 1 year after the end of the  
1489 first calendar year during which the insurer no longer holds a  
1490 certificate of authority to transact insurance for subject lines  
1491 of business in this state.

1492 2.a. All revenues, assets, liabilities, losses, and  
1493 expenses of the corporation shall be divided into three separate  
1494 accounts as follows:

1495 (I) A personal lines account for personal residential  
1496 policies issued by the corporation or issued by the Residential  
1497 Property and Casualty Joint Underwriting Association and renewed  
1498 by the corporation that provide comprehensive, multiperil  
1499 coverage on risks that are not located in areas eligible for  
1500 coverage in the Florida Windstorm Underwriting Association as  
1501 those areas were defined on January 1, 2002, and for such



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1502 policies that do not provide coverage for the peril of wind on  
1503 risks that are located in such areas;

1504 (II) A commercial lines account for commercial residential  
1505 and commercial nonresidential policies issued by the corporation  
1506 or issued by the Residential Property and Casualty Joint  
1507 Underwriting Association and renewed by the corporation that  
1508 provide coverage for basic property perils on risks that are not  
1509 located in areas eligible for coverage in the Florida Windstorm  
1510 Underwriting Association as those areas were defined on January  
1511 1, 2002, and for such policies that do not provide coverage for  
1512 the peril of wind on risks that are located in such areas; and

1513 (III) A high-risk account for personal residential policies  
1514 and commercial residential and commercial nonresidential property  
1515 policies issued by the corporation or transferred to the  
1516 corporation that provide coverage for the peril of wind on risks  
1517 that are located in areas eligible for coverage in the Florida  
1518 Windstorm Underwriting Association as those areas were defined on  
1519 January 1, 2002. ~~Subject to the approval of a business plan by  
1520 the Financial Services Commission and Legislative Budget  
1521 Commission as provided in this sub-sub-subparagraph, but no  
1522 earlier than March 31, 2007,~~ The corporation shall ~~may~~ offer  
1523 policies that provide multiperil coverage and the corporation  
1524 shall ~~continue to~~ offer policies that provide coverage only for  
1525 the peril of wind for risks located in areas eligible for  
1526 coverage in the high-risk account. Beginning July 1, 2008, the  
1527 corporation may not issue new policies that provide coverage only  
1528 for the peril of wind, but may continue to renew such policies  
1529 that were in force on that date. In issuing multiperil coverage,  
1530 the corporation may use its approved policy forms and rates for  
1531 the personal lines account. An applicant or insured who is



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1532 eligible to purchase a multiperil policy from the corporation may  
1533 purchase a multiperil policy from an authorized insurer without  
1534 prejudice to the applicant's or insured's eligibility to  
1535 prospectively purchase a policy that provides coverage only for  
1536 the peril of wind from the corporation prior to July 1, 2008. An  
1537 applicant or insured who is eligible for a corporation policy  
1538 that provides coverage only for the peril of wind may elect to  
1539 purchase or retain such policy and also purchase or retain  
1540 coverage excluding wind from an authorized insurer without  
1541 prejudice to the applicant's or insured's eligibility to  
1542 prospectively purchase a policy that provides multiperil coverage  
1543 from the corporation. It is the goal of the Legislature that  
1544 there would be an overall average savings of 10 percent or more  
1545 for a policyholder who currently has a wind-only policy with the  
1546 corporation, and an ex-wind policy with a voluntary insurer or  
1547 the corporation, and who then obtains a multiperil policy from  
1548 the corporation. It is the intent of the Legislature that the  
1549 offer of multiperil coverage in the high-risk account be made and  
1550 implemented in a manner that does not adversely affect the tax-  
1551 exempt status of the corporation or creditworthiness of or  
1552 security for currently outstanding financing obligations or  
1553 credit facilities of the high-risk account, the personal lines  
1554 account, or the commercial lines account. ~~By March 1, 2007, the~~  
1555 ~~corporation shall prepare and submit for approval by the~~  
1556 ~~Financial Services Commission and Legislative Budget Commission a~~  
1557 ~~report detailing the corporation's business plan for issuing~~  
1558 ~~multiperil coverage in the high-risk account. The business plan~~  
1559 ~~shall be approved or disapproved within 30 days after receipt, as~~  
1560 ~~submitted or modified and resubmitted by the corporation. The~~  
1561 ~~business plan must include: the impact of such multiperil~~



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1562 ~~coverage on the corporation's financial resources, the impact of~~  
1563 ~~such multiperil coverage on the corporation's tax exempt status,~~  
1564 ~~the manner in which the corporation plans to implement the~~  
1565 ~~processing of applications and policy forms for new and existing~~  
1566 ~~policyholders, the impact of such multiperil coverage on the~~  
1567 ~~corporation's ability to deliver customer service at the high~~  
1568 ~~level required by this subsection, the ability of the corporation~~  
1569 ~~to process claims, the ability of the corporation to quote and~~  
1570 ~~issue policies, the impact of such multiperil coverage on the~~  
1571 ~~corporation's agents, the impact of such multiperil coverage on~~  
1572 ~~the corporation's existing policyholders, and the impact of such~~  
1573 ~~multiperil coverage on rates and premium.~~ The high-risk account  
1574 must also include quota share primary insurance under  
1575 subparagraph (c)2. The area eligible for coverage under the high-  
1576 risk account also includes the area within Port Canaveral, which  
1577 is bordered on the south by the City of Cape Canaveral, bordered  
1578 on the west by the Banana River, and bordered on the north by  
1579 Federal Government property.

1580       b. The three separate accounts must be maintained as long  
1581 as financing obligations entered into by the Florida Windstorm  
1582 Underwriting Association or Residential Property and Casualty  
1583 Joint Underwriting Association are outstanding, in accordance  
1584 with the terms of the corresponding financing documents. When the  
1585 financing obligations are no longer outstanding, in accordance  
1586 with the terms of the corresponding financing documents, the  
1587 corporation may use a single account for all revenues, assets,  
1588 liabilities, losses, and expenses of the corporation. Consistent  
1589 with the requirement of this subparagraph and prudent investment  
1590 policies that minimize the cost of carrying debt, the board shall  
1591 exercise its best efforts to retire existing debt or to obtain



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1592 approval of necessary parties to amend the terms of existing  
1593 debt, so as to structure the most efficient plan to consolidate  
1594 the three separate accounts into a single account. By February 1,  
1595 2007, the board shall submit a report to the Financial Services  
1596 Commission, the President of the Senate, and the Speaker of the  
1597 House of Representatives which includes an analysis of  
1598 consolidating the accounts, the actions the board has taken to  
1599 minimize the cost of carrying debt, and its recommendations for  
1600 executing the most efficient plan.

1601 c. Creditors of the Residential Property and Casualty Joint  
1602 Underwriting Association and of the accounts specified in sub-  
1603 sub-subparagraphs a.(I) and (II) may have a claim against, and  
1604 recourse to, the accounts referred to in sub-sub-subparagraphs  
1605 a.(I) and (II) and shall have no claim against, or recourse to,  
1606 the account referred to in sub-sub-subparagraph a.(III).  
1607 Creditors of the Florida Windstorm Underwriting Association shall  
1608 have a claim against, and recourse to, the account referred to in  
1609 sub-sub-subparagraph a.(III) and shall have no claim against, or  
1610 recourse to, the accounts referred to in sub-sub-subparagraphs  
1611 a.(I) and (II).

1612 d. Revenues, assets, liabilities, losses, and expenses not  
1613 attributable to particular accounts shall be prorated among the  
1614 accounts.

1615 e. The Legislature finds that the revenues of the  
1616 corporation are revenues that are necessary to meet the  
1617 requirements set forth in documents authorizing the issuance of  
1618 bonds under this subsection.

1619 f. No part of the income of the corporation may inure to  
1620 the benefit of any private person.

1621 3. With respect to a deficit in an account:



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1622           a. When the deficit incurred in a particular calendar year  
1623 is not greater than 8 ~~10~~ percent of the aggregate statewide  
1624 direct written premium for the subject lines of business for the  
1625 prior calendar year, the entire deficit shall be recovered  
1626 through regular assessments of assessable insurers under  
1627 paragraph (p) and assessable insureds.

1628           b. When the deficit incurred in a particular calendar year  
1629 exceeds 8 ~~10~~ percent of the aggregate statewide direct written  
1630 premium for the subject lines of business for the prior calendar  
1631 year, the corporation shall levy regular assessments on  
1632 assessable insurers under paragraph (p) and on assessable  
1633 insureds in an amount equal to the greater of 8 ~~10~~ percent of the  
1634 deficit or 8 ~~10~~ percent of the aggregate statewide direct written  
1635 premium for the subject lines of business for the prior calendar  
1636 year. Any remaining deficit shall be recovered through emergency  
1637 assessments under sub-subparagraph d.

1638           c. Each assessable insurer's share of the amount being  
1639 assessed under sub-subparagraph a. or sub-subparagraph b. shall  
1640 be in the proportion that the assessable insurer's direct written  
1641 premium for the subject lines of business for the year preceding  
1642 the assessment bears to the aggregate statewide direct written  
1643 premium for the subject lines of business for that year. The  
1644 assessment percentage applicable to each assessable insured is  
1645 the ratio of the amount being assessed under sub-subparagraph a.  
1646 or sub-subparagraph b. to the aggregate statewide direct written  
1647 premium for the subject lines of business for the prior year.  
1648 Assessments levied by the corporation on assessable insurers  
1649 under sub-subparagraphs a. and b. shall be paid as required by  
1650 the corporation's plan of operation and paragraph (p).  
1651 notwithstanding any other provision of this subsection, the





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1652 aggregate amount of a regular assessment for a deficit incurred  
1653 in a particular calendar year shall be reduced by the estimated  
1654 amount to be received by the corporation from the Citizens  
1655 policyholder surcharge ~~under subparagraph (c)10. and the amount~~  
1656 ~~collected or estimated to be collected from the assessment on~~  
1657 ~~Citizens policyholders~~ pursuant to sub-subparagraph i.  
1658 Assessments levied by the corporation on assessable insureds  
1659 under sub-subparagraphs a. and b. shall be collected by the  
1660 surplus lines agent at the time the surplus lines agent collects  
1661 the surplus lines tax required by s. 626.932 and shall be paid to  
1662 the Florida Surplus Lines Service Office at the time the surplus  
1663 lines agent pays the surplus lines tax to the Florida Surplus  
1664 Lines Service Office. Upon receipt of regular assessments from  
1665 surplus lines agents, the Florida Surplus Lines Service Office  
1666 shall transfer the assessments directly to the corporation as  
1667 determined by the corporation.

1668 d. Upon a determination by the board of governors that a  
1669 deficit in an account exceeds the amount that will be recovered  
1670 through regular assessments under sub-subparagraph a. or sub-  
1671 subparagraph b., plus the amount that is expected to be recovered  
1672 through surcharges under sub-subparagraph i., as to the remaining  
1673 projected deficit the board shall levy, after verification by the  
1674 office, emergency assessments, for as many years as necessary to  
1675 cover the deficits, to be collected by assessable insurers and  
1676 the corporation and collected from assessable insureds upon  
1677 issuance or renewal of policies for subject lines of business,  
1678 excluding National Flood Insurance policies. The amount of the  
1679 emergency assessment collected in a particular year shall be a  
1680 uniform percentage of that year's direct written premium for  
1681 subject lines of business and all accounts of the corporation,



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1682 | excluding National Flood Insurance Program policy premiums, as  
1683 | annually determined by the board and verified by the office. The  
1684 | office shall verify the arithmetic calculations involved in the  
1685 | board's determination within 30 days after receipt of the  
1686 | information on which the determination was based. Notwithstanding  
1687 | any other provision of law, the corporation and each assessable  
1688 | insurer that writes subject lines of business shall collect  
1689 | emergency assessments from its policyholders without such  
1690 | obligation being affected by any credit, limitation, exemption,  
1691 | or deferment. Emergency assessments levied by the corporation on  
1692 | assessable insureds shall be collected by the surplus lines agent  
1693 | at the time the surplus lines agent collects the surplus lines  
1694 | tax required by s. 626.932 and shall be paid to the Florida  
1695 | Surplus Lines Service Office at the time the surplus lines agent  
1696 | pays the surplus lines tax to the Florida Surplus Lines Service  
1697 | Office. The emergency assessments so collected shall be  
1698 | transferred directly to the corporation on a periodic basis as  
1699 | determined by the corporation and shall be held by the  
1700 | corporation solely in the applicable account. The aggregate  
1701 | amount of emergency assessments levied for an account under this  
1702 | sub-subparagraph in any calendar year may, at the discretion of  
1703 | the board of governors, be less than but may not exceed the  
1704 | greater of 10 percent of the amount needed to cover the ~~original~~  
1705 | deficit, plus interest, fees, commissions, required reserves, and  
1706 | other costs associated with financing of the original deficit, or  
1707 | 10 percent of the aggregate statewide direct written premium for  
1708 | subject lines of business and for all accounts of the corporation  
1709 | for the prior year, plus interest, fees, commissions, required  
1710 | reserves, and other costs associated with financing the ~~original~~  
1711 | deficit.



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1712 e. The corporation may pledge the proceeds of assessments,  
1713 projected recoveries from the Florida Hurricane Catastrophe Fund,  
1714 other insurance and reinsurance recoverables, policyholder  
1715 surcharges and other surcharges, and other funds available to the  
1716 corporation as the source of revenue for and to secure bonds  
1717 issued under paragraph (p), bonds or other indebtedness issued  
1718 under subparagraph (c)3., or lines of credit or other financing  
1719 mechanisms issued or created under this subsection, or to retire  
1720 any other debt incurred as a result of deficits or events giving  
1721 rise to deficits, or in any other way that the board determines  
1722 will efficiently recover such deficits. The purpose of the lines  
1723 of credit or other financing mechanisms is to provide additional  
1724 resources to assist the corporation in covering claims and  
1725 expenses attributable to a catastrophe. As used in this  
1726 subsection, the term "assessments" includes regular assessments  
1727 under sub-subparagraph a., sub-subparagraph b., or subparagraph  
1728 (p)1. and emergency assessments under sub-subparagraph d.  
1729 Emergency assessments collected under sub-subparagraph d. are not  
1730 part of an insurer's rates, are not premium, and are not subject  
1731 to premium tax, fees, or commissions; however, failure to pay the  
1732 emergency assessment shall be treated as failure to pay premium.  
1733 The emergency assessments under sub-subparagraph d. shall  
1734 continue as long as any bonds issued or other indebtedness  
1735 incurred with respect to a deficit for which the assessment was  
1736 imposed remain outstanding, unless adequate provision has been  
1737 made for the payment of such bonds or other indebtedness pursuant  
1738 to the documents governing such bonds or other indebtedness.

1739 f. As used in this subsection for purposes of any deficit  
1740 incurred on or after January 25, 2007, the term "subject lines of  
1741 business" means insurance written by assessable insurers or



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1742 procured by assessable insureds for all property and casualty  
1743 lines of business in this state, but not including workers'  
1744 compensation or medical malpractice. As used in the sub-  
1745 subparagraph, the term "property and casualty lines of business"  
1746 includes all lines of business identified on Form 2, Exhibit of  
1747 Premiums and Losses, in the annual statement required of  
1748 authorized insurers by s. 624.424 and any rule adopted under this  
1749 section, except for those lines identified as accident and health  
1750 insurance and except for policies written under the National  
1751 Flood Insurance Program or the Federal Crop Insurance Program.  
1752 For purposes of this sub-subparagraph, the term "workers'  
1753 compensation" includes both workers' compensation insurance and  
1754 excess workers' compensation insurance.

1755 g. The Florida Surplus Lines Service Office shall determine  
1756 annually the aggregate statewide written premium in subject lines  
1757 of business procured by assessable insureds and shall report that  
1758 information to the corporation in a form and at a time the  
1759 corporation specifies to ensure that the corporation can meet the  
1760 requirements of this subsection and the corporation's financing  
1761 obligations.

1762 h. The Florida Surplus Lines Service Office shall verify  
1763 the proper application by surplus lines agents of assessment  
1764 percentages for regular assessments and emergency assessments  
1765 levied under this subparagraph on assessable insureds and shall  
1766 assist the corporation in ensuring the accurate, timely  
1767 collection and payment of assessments by surplus lines agents as  
1768 required by the corporation.

1769 i. If a deficit is incurred in any account in 2008 or  
1770 thereafter, the board of governors shall levy a Citizens  
1771 policyholder surcharge ~~an immediate assessment against the~~



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1772 ~~premium of each nonhomestead property policyholder in all~~  
1773 ~~accounts of the corporation, as a uniform percentage of the~~  
1774 ~~premium of the policy of up to 10 percent of such premium, which~~  
1775 ~~funds shall be used to offset the deficit. If this assessment is~~  
1776 ~~insufficient to eliminate the deficit, the board of governors~~  
1777 ~~shall levy an additional assessment against all policyholders of~~  
1778 ~~the corporation for a 12-month period, which shall be collected~~  
1779 ~~at the time of issuance or renewal of a policy, as a uniform~~  
1780 ~~percentage of the premium for the policy of up to 10 percent of~~  
1781 ~~such premium, which funds shall be used to ~~further~~ offset the~~  
1782 ~~deficit and reduce the amount of the regular assessment as~~  
1783 ~~provided in sub-subparagraphs a. and b. Citizens policyholder~~  
1784 ~~surcharges under this sub-subparagraph are not considered premium~~  
1785 ~~and are not subject to commissions, fees, or premium taxes.~~  
1786 ~~However, failure to pay such surcharges shall be treated as~~  
1787 ~~failure to pay premium.~~

1788 j. If the amount of any assessments or surcharges collected  
1789 from corporation policyholders, assessable insurers or their  
1790 policyholders, or assessable insureds exceeds the amount of the  
1791 deficits, such excess amounts shall be remitted to and retained  
1792 by the corporation in a reserve to be used by the corporation, as  
1793 determined by the board of governors and approved by the office,  
1794 to pay claims or reduce any past, present, or future plan-year  
1795 deficits or to reduce outstanding debt. The board of governors  
1796 ~~shall maintain separate accounting records that consolidate data~~  
1797 ~~for nonhomestead properties, including, but not limited to,~~  
1798 ~~number of policies, insured values, premiums written, and losses.~~  
1799 ~~The board of governors shall annually report to the office and~~  
1800 ~~the Legislature a summary of such data.~~

1801 (c) The plan of operation of the corporation:



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1802 |           1. Must provide for adoption of residential property and  
1803 | casualty insurance policy forms and commercial residential and  
1804 | nonresidential property insurance forms, which forms must be  
1805 | approved by the office prior to use. The corporation shall adopt  
1806 | the following policy forms:

1807 |           a. Standard personal lines policy forms that are  
1808 | comprehensive multiperil policies providing full coverage of a  
1809 | residential property equivalent to the coverage provided in the  
1810 | private insurance market under an HO-3, HO-4, or HO-6 policy.

1811 |           b. Basic personal lines policy forms that are policies  
1812 | similar to an HO-8 policy or a dwelling fire policy that provide  
1813 | coverage meeting the requirements of the secondary mortgage  
1814 | market, but which coverage is more limited than the coverage  
1815 | under a standard policy.

1816 |           c. Commercial lines residential and nonresidential policy  
1817 | forms that are generally similar to the basic perils of full  
1818 | coverage obtainable for commercial residential structures and  
1819 | commercial nonresidential structures in the admitted voluntary  
1820 | market.

1821 |           d. Personal lines and commercial lines residential property  
1822 | insurance forms that cover the peril of wind only. The forms are  
1823 | applicable only to residential properties located in areas  
1824 | eligible for coverage under the high-risk account referred to in  
1825 | sub-subparagraph (b)2.a.

1826 |           e. Commercial lines nonresidential property insurance forms  
1827 | that cover the peril of wind only. The forms are applicable only  
1828 | to nonresidential properties located in areas eligible for  
1829 | coverage under the high-risk account referred to in sub-  
1830 | subparagraph (b)2.a.



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1831 f. The corporation may adopt variations of the policy forms  
1832 listed in sub-subparagraphs a.-e. that contain more restrictive  
1833 coverage.

1834 2.a. Must provide that the corporation adopt a program in  
1835 which the corporation and authorized insurers enter into quota  
1836 share primary insurance agreements for hurricane coverage, as  
1837 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
1838 property insurance forms for eligible risks which cover the peril  
1839 of wind only. As used in this subsection, the term:

1840 (I) "Quota share primary insurance" means an arrangement in  
1841 which the primary hurricane coverage of an eligible risk is  
1842 provided in specified percentages by the corporation and an  
1843 authorized insurer. The corporation and authorized insurer are  
1844 each solely responsible for a specified percentage of hurricane  
1845 coverage of an eligible risk as set forth in a quota share  
1846 primary insurance agreement between the corporation and an  
1847 authorized insurer and the insurance contract. The responsibility  
1848 of the corporation or authorized insurer to pay its specified  
1849 percentage of hurricane losses of an eligible risk, as set forth  
1850 in the quota share primary insurance agreement, may not be  
1851 altered by the inability of the other party to the agreement to  
1852 pay its specified percentage of hurricane losses. Eligible risks  
1853 that are provided hurricane coverage through a quota share  
1854 primary insurance arrangement must be provided policy forms that  
1855 set forth the obligations of the corporation and authorized  
1856 insurer under the arrangement, clearly specify the percentages of  
1857 quota share primary insurance provided by the corporation and  
1858 authorized insurer, and conspicuously and clearly state that  
1859 neither the authorized insurer nor the corporation may be held



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1860 responsible beyond its specified percentage of coverage of  
1861 hurricane losses.

1862 (II) "Eligible risks" means personal lines residential and  
1863 commercial lines residential risks that meet the underwriting  
1864 criteria of the corporation and are located in areas that were  
1865 eligible for coverage by the Florida Windstorm Underwriting  
1866 Association on January 1, 2002.

1867 b. The corporation may enter into quota share primary  
1868 insurance agreements with authorized insurers at corporation  
1869 coverage levels of 90 percent and 50 percent.

1870 c. If the corporation determines that additional coverage  
1871 levels are necessary to maximize participation in quota share  
1872 primary insurance agreements by authorized insurers, the  
1873 corporation may establish additional coverage levels. However,  
1874 the corporation's quota share primary insurance coverage level  
1875 may not exceed 90 percent.

1876 d. Any quota share primary insurance agreement entered into  
1877 between an authorized insurer and the corporation must provide  
1878 for a uniform specified percentage of coverage of hurricane  
1879 losses, by county or territory as set forth by the corporation  
1880 board, for all eligible risks of the authorized insurer covered  
1881 under the quota share primary insurance agreement.

1882 e. Any quota share primary insurance agreement entered into  
1883 between an authorized insurer and the corporation is subject to  
1884 review and approval by the office. However, such agreement shall  
1885 be authorized only as to insurance contracts entered into between  
1886 an authorized insurer and an insured who is already insured by  
1887 the corporation for wind coverage.

1888 f. For all eligible risks covered under quota share primary  
1889 insurance agreements, the exposure and coverage levels for both





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1890 | the corporation and authorized insurers shall be reported by the  
1891 | corporation to the Florida Hurricane Catastrophe Fund. For all  
1892 | policies of eligible risks covered under quota share primary  
1893 | insurance agreements, the corporation and the authorized insurer  
1894 | shall maintain complete and accurate records for the purpose of  
1895 | exposure and loss reimbursement audits as required by Florida  
1896 | Hurricane Catastrophe Fund rules. The corporation and the  
1897 | authorized insurer shall each maintain duplicate copies of policy  
1898 | declaration pages and supporting claims documents.

1899 |       g. The corporation board shall establish in its plan of  
1900 | operation standards for quota share agreements which ensure that  
1901 | there is no discriminatory application among insurers as to the  
1902 | terms of quota share agreements, pricing of quota share  
1903 | agreements, incentive provisions if any, and consideration paid  
1904 | for servicing policies or adjusting claims.

1905 |       h. The quota share primary insurance agreement between the  
1906 | corporation and an authorized insurer must set forth the specific  
1907 | terms under which coverage is provided, including, but not  
1908 | limited to, the sale and servicing of policies issued under the  
1909 | agreement by the insurance agent of the authorized insurer  
1910 | producing the business, the reporting of information concerning  
1911 | eligible risks, the payment of premium to the corporation, and  
1912 | arrangements for the adjustment and payment of hurricane claims  
1913 | incurred on eligible risks by the claims adjuster and personnel  
1914 | of the authorized insurer. Entering into a quota sharing  
1915 | insurance agreement between the corporation and an authorized  
1916 | insurer shall be voluntary and at the discretion of the  
1917 | authorized insurer.

1918 |       3. May provide that the corporation may employ or otherwise  
1919 | contract with individuals or other entities to provide



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1920 administrative or professional services that may be appropriate  
1921 to effectuate the plan. The corporation shall have the power to  
1922 borrow funds, by issuing bonds or by incurring other  
1923 indebtedness, and shall have other powers reasonably necessary to  
1924 effectuate the requirements of this subsection, including,  
1925 without limitation, the power to issue bonds and incur other  
1926 indebtedness in order to refinance outstanding bonds or other  
1927 indebtedness. The corporation may, but is not required to, seek  
1928 judicial validation of its bonds or other indebtedness under  
1929 chapter 75. The corporation may issue bonds or incur other  
1930 indebtedness, or have bonds issued on its behalf by a unit of  
1931 local government pursuant to subparagraph (p)2., in the absence  
1932 of a hurricane or other weather-related event, upon a  
1933 determination by the corporation, subject to approval by the  
1934 office, that such action would enable it to efficiently meet the  
1935 financial obligations of the corporation and that such financings  
1936 are reasonably necessary to effectuate the requirements of this  
1937 subsection. The corporation is authorized to take all actions  
1938 needed to facilitate tax-free status for any such bonds or  
1939 indebtedness, including formation of trusts or other affiliated  
1940 entities. The corporation shall have the authority to pledge  
1941 assessments, projected recoveries from the Florida Hurricane  
1942 Catastrophe Fund, other reinsurance recoverables, market  
1943 equalization and other surcharges, and other funds available to  
1944 the corporation as security for bonds or other indebtedness. In  
1945 recognition of s. 10, Art. I of the State Constitution,  
1946 prohibiting the impairment of obligations of contracts, it is the  
1947 intent of the Legislature that no action be taken whose purpose  
1948 is to impair any bond indenture or financing agreement or any



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1949 revenue source committed by contract to such bond or other  
1950 indebtedness.

1951 4.a. Must require that the corporation operate subject to  
1952 the supervision and approval of a board of governors consisting  
1953 of eight individuals who are residents of this state, from  
1954 different geographical areas of this state. The Governor, the  
1955 Chief Financial Officer, the President of the Senate, and the  
1956 Speaker of the House of Representatives shall each appoint two  
1957 members of the board. At least one of the two members appointed  
1958 by each appointing officer must have demonstrated expertise in  
1959 insurance. The Chief Financial Officer shall designate one of the  
1960 appointees as chair. All board members serve at the pleasure of  
1961 the appointing officer. All members of the board of governors are  
1962 subject to removal at will by the officers who appointed them.  
1963 All board members, including the chair, must be appointed to  
1964 serve for 3-year terms beginning annually on a date designated by  
1965 the plan. Any board vacancy shall be filled for the unexpired  
1966 term by the appointing officer. The Chief Financial Officer shall  
1967 appoint a technical advisory group to provide information and  
1968 advice to the board of governors in connection with the board's  
1969 duties under this subsection. The executive director and senior  
1970 managers of the corporation shall be engaged by the board and  
1971 serve at the pleasure of the board. Any executive director  
1972 appointed on or after July 1, 2006, is subject to confirmation by  
1973 the Senate. The executive director is responsible for employing  
1974 other staff as the corporation may require, subject to review and  
1975 concurrence by the board.

1976 b. The board shall create a Market Accountability Advisory  
1977 Committee to assist the corporation in developing awareness of  
1978 its rates and its customer and agent service levels in



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1979 | relationship to the voluntary market insurers writing similar  
1980 | coverage. The members of the advisory committee shall consist of  
1981 | the following 11 persons, one of whom must be elected chair by  
1982 | the members of the committee: four representatives, one appointed  
1983 | by the Florida Association of Insurance Agents, one by the  
1984 | Florida Association of Insurance and Financial Advisors, one by  
1985 | the Professional Insurance Agents of Florida, and one by the  
1986 | Latin American Association of Insurance Agencies; three  
1987 | representatives appointed by the insurers with the three highest  
1988 | voluntary market share of residential property insurance business  
1989 | in the state; one representative from the Office of Insurance  
1990 | Regulation; one consumer appointed by the board who is insured by  
1991 | the corporation at the time of appointment to the committee; one  
1992 | representative appointed by the Florida Association of Realtors;  
1993 | and one representative appointed by the Florida Bankers  
1994 | Association. All members must serve for 3-year terms and may  
1995 | serve for consecutive terms. The committee shall report to the  
1996 | corporation at each board meeting on insurance market issues  
1997 | which may include rates and rate competition with the voluntary  
1998 | market; service, including policy issuance, claims processing,  
1999 | and general responsiveness to policyholders, applicants, and  
2000 | agents; and matters relating to depopulation.

2001 |         5. Must provide a procedure for determining the eligibility  
2002 | of a risk for coverage, as follows:

2003 |             a. Subject to the provisions of s. 627.3517, with respect  
2004 | to personal lines residential risks, if the risk is offered  
2005 | coverage from an authorized insurer at the insurer's approved  
2006 | rate under either a standard policy including wind coverage or,  
2007 | if consistent with the insurer's underwriting rules as filed with  
2008 | the office, a basic policy including wind coverage, for a new



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2009 application to the corporation for coverage, the risk is not  
2010 eligible for any policy issued by the corporation unless the  
2011 premium for coverage from the authorized insurer is more than 15  
2012 percent greater than the premium for comparable coverage from the  
2013 corporation. If the risk is not able to obtain any such offer,  
2014 the risk is eligible for either a standard policy including wind  
2015 coverage or a basic policy including wind coverage issued by the  
2016 corporation; however, if the risk could not be insured under a  
2017 standard policy including wind coverage regardless of market  
2018 conditions, the risk shall be eligible for a basic policy  
2019 including wind coverage unless rejected under subparagraph 9.  
2020 However, with regard to a policyholder of the corporation or a  
2021 policyholder removed from the corporation through an assumption  
2022 agreement until the end of the assumption period, the  
2023 policyholder remains eligible for coverage from the corporation  
2024 regardless of any offer of coverage from an authorized insurer or  
2025 surplus lines insurer. The corporation shall determine the type  
2026 of policy to be provided on the basis of objective standards  
2027 specified in the underwriting manual and based on generally  
2028 accepted underwriting practices.

2029 (I) If the risk accepts an offer of coverage through the  
2030 market assistance plan or an offer of coverage through a  
2031 mechanism established by the corporation before a policy is  
2032 issued to the risk by the corporation or during the first 30 days  
2033 of coverage by the corporation, and the producing agent who  
2034 submitted the application to the plan or to the corporation is  
2035 not currently appointed by the insurer, the insurer shall:

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



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2039 | a fee equal to the usual and customary commission of the  
2040 | corporation; or  
2041 |       (B) Offer to allow the producing agent of record of the  
2042 | policy to continue servicing the policy for a period of not less  
2043 | than 1 year and offer to pay the agent the greater of the  
2044 | insurer's or the corporation's usual and customary commission for  
2045 | the type of policy written.  
2046 |  
2047 | If the producing agent is unwilling or unable to accept  
2048 | appointment, the new insurer shall pay the agent in accordance  
2049 | with sub-sub-sub-subparagraph (A).  
2050 |       (II) When the corporation enters into a contractual  
2051 | agreement for a take-out plan, the producing agent of record of  
2052 | the corporation policy is entitled to retain any unearned  
2053 | commission on the policy, and the insurer shall:  
2054 |       (A) Pay to the producing agent of record of the corporation  
2055 | policy, for the first year, an amount that is the greater of the  
2056 | insurer's usual and customary commission for the type of policy  
2057 | written or a fee equal to the usual and customary commission of  
2058 | the corporation; or  
2059 |       (B) Offer to allow the producing agent of record of the  
2060 | corporation policy to continue servicing the policy for a period  
2061 | of not less than 1 year and offer to pay the agent the greater of  
2062 | the insurer's or the corporation's usual and customary commission  
2063 | for the type of policy written.  
2064 |  
2065 | If the producing agent is unwilling or unable to accept  
2066 | appointment, the new insurer shall pay the agent in accordance  
2067 | with sub-sub-sub-subparagraph (A).



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2068           b. With respect to commercial lines residential risks, for  
2069 a new application to the corporation for coverage, if the risk is  
2070 offered coverage under a policy including wind coverage from an  
2071 authorized insurer at its approved rate, the risk is not eligible  
2072 for any policy issued by the corporation unless the premium for  
2073 coverage from the authorized insurer is more than 15 percent  
2074 greater than the premium for comparable coverage from the  
2075 corporation. If the risk is not able to obtain any such offer,  
2076 the risk is eligible for a policy including wind coverage issued  
2077 by the corporation. However, with regard to a policyholder of the  
2078 corporation or a policyholder removed from the corporation  
2079 through an assumption agreement until the end of the assumption  
2080 period, the policyholder remains eligible for coverage from the  
2081 corporation regardless of any offer of coverage from an  
2082 authorized insurer or surplus lines insurer.

2083           (I) If the risk accepts an offer of coverage through the  
2084 market assistance plan or an offer of coverage through a  
2085 mechanism established by the corporation before a policy is  
2086 issued to the risk by the corporation or during the first 30 days  
2087 of coverage by the corporation, and the producing agent who  
2088 submitted the application to the plan or the corporation is not  
2089 currently appointed by the insurer, the insurer shall:

2090           (A) Pay to the producing agent of record of the policy, for  
2091 the first year, an amount that is the greater of the insurer's  
2092 usual and customary commission for the type of policy written or  
2093 a fee equal to the usual and customary commission of the  
2094 corporation; or

2095           (B) Offer to allow the producing agent of record of the  
2096 policy to continue servicing the policy for a period of not less  
2097 than 1 year and offer to pay the agent the greater of the



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2098 insurer's or the corporation's usual and customary commission for  
2099 the type of policy written.

2100

2101 If the producing agent is unwilling or unable to accept  
2102 appointment, the new insurer shall pay the agent in accordance  
2103 with sub-sub-sub-subparagraph (A).

2104 (II) When the corporation enters into a contractual  
2105 agreement for a take-out plan, the producing agent of record of  
2106 the corporation policy is entitled to retain any unearned  
2107 commission on the policy, and the insurer shall:

2108 (A) Pay to the producing agent of record of the corporation  
2109 policy, for the first year, an amount that is the greater of the  
2110 insurer's usual and customary commission for the type of policy  
2111 written or a fee equal to the usual and customary commission of  
2112 the corporation; or

2113 (B) Offer to allow the producing agent of record of the  
2114 corporation policy to continue servicing the policy for a period  
2115 of not less than 1 year and offer to pay the agent the greater of  
2116 the insurer's or the corporation's usual and customary commission  
2117 for the type of policy written.

2118

2119 If the producing agent is unwilling or unable to accept  
2120 appointment, the new insurer shall pay the agent in accordance  
2121 with sub-sub-sub-subparagraph (A).

2122 c. For purposes of determining comparable coverage under  
2123 sub-subparagraphs a. and b., the comparison shall be based on  
2124 those forms and coverages that are reasonably comparable. The  
2125 corporation may rely on a determination of comparable coverage  
2126 and premium made by the producing agent who submits the  
2127 application to the corporation, made in the agent's capacity as





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2128 | the corporation's agent. A comparison may be made solely of the  
2129 | premium with respect to the main building or structure only on  
2130 | the following basis: the same coverage A or other building  
2131 | limits; the same percentage hurricane deductible that applies on  
2132 | an annual basis or that applies to each hurricane for commercial  
2133 | residential property; the same percentage of ordinance and law  
2134 | coverage, if the same limit is offered by both the corporation  
2135 | and the authorized insurer; the same mitigation credits, to the  
2136 | extent the same types of credits are offered both by the  
2137 | corporation and the authorized insurer; the same method for loss  
2138 | payment, such as replacement cost or actual cash value, if the  
2139 | same method is offered both by the corporation and the authorized  
2140 | insurer in accordance with underwriting rules; and any other form  
2141 | or coverage that is reasonably comparable as determined by the  
2142 | board. If an application is submitted to the corporation for  
2143 | wind-only coverage in the high-risk account, the premium for the  
2144 | corporation's wind-only policy plus the premium for the ex-wind  
2145 | policy that is offered by an authorized insurer to the applicant  
2146 | shall be compared to the premium for multiperil coverage offered  
2147 | by an authorized insurer, subject to the standards for comparison  
2148 | specified in this subparagraph. If the corporation or the  
2149 | applicant requests from the authorized insurer a breakdown of the  
2150 | premium of the offer by types of coverage so that a comparison  
2151 | may be made by the corporation or its agent and the authorized  
2152 | insurer refuses or is unable to provide such information, the  
2153 | corporation may treat the offer as not being an offer of coverage  
2154 | from an authorized insurer at the insurer's approved rate.

2155 |         6. Must include rules for classifications of risks and  
2156 | rates therefor.



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2157           7. Must provide that if premium and investment income for  
2158 an account attributable to a particular calendar year are in  
2159 excess of projected losses and expenses for the account  
2160 attributable to that year, such excess shall be held in surplus  
2161 in the account. Such surplus shall be available to defray  
2162 deficits in that account as to future years and shall be used for  
2163 that purpose prior to assessing assessable insurers and  
2164 assessable insureds as to any calendar year.

2165           8. Must provide objective criteria and procedures to be  
2166 uniformly applied for all applicants in determining whether an  
2167 individual risk is so hazardous as to be uninsurable. In making  
2168 this determination and in establishing the criteria and  
2169 procedures, the following shall be considered:

2170           a. Whether the likelihood of a loss for the individual risk  
2171 is substantially higher than for other risks of the same class;  
2172 and

2173           b. Whether the uncertainty associated with the individual  
2174 risk is such that an appropriate premium cannot be determined.

2175  
2176 The acceptance or rejection of a risk by the corporation shall be  
2177 construed as the private placement of insurance, and the  
2178 provisions of chapter 120 shall not apply.

2179           9. Must provide that the corporation shall make its best  
2180 efforts to procure catastrophe reinsurance at reasonable rates,  
2181 to cover its projected 100-year probable maximum loss as  
2182 determined by the board of governors.

2183           ~~10. Must provide that in the event of regular deficit~~  
2184 ~~assessments under sub-subparagraph (b)3.a. or sub-subparagraph~~  
2185 ~~(b)3.b., in the personal lines account, the commercial lines~~  
2186 ~~residential account, or the high-risk account, the corporation~~



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2187 ~~shall levy upon corporation policyholders in its next rate~~  
2188 ~~filing, or by a separate rate filing solely for this purpose, a~~  
2189 ~~Citizens policyholder surcharge arising from a regular assessment~~  
2190 ~~in such account in a percentage equal to the total amount of such~~  
2191 ~~regular assessments divided by the aggregate statewide direct~~  
2192 ~~written premium for subject lines of business for the prior~~  
2193 ~~calendar year. For purposes of calculating the Citizens~~  
2194 ~~policyholder surcharge to be levied under this subparagraph, the~~  
2195 ~~total amount of the regular assessment to which this surcharge is~~  
2196 ~~related shall be determined as set forth in subparagraph (b)3.,~~  
2197 ~~without deducting the estimated Citizens policyholder surcharge.~~  
2198 ~~Citizens policyholder surcharges under this subparagraph are not~~  
2199 ~~considered premium and are not subject to commissions, fees, or~~  
2200 ~~premium taxes; however, failure to pay a market equalization~~  
2201 ~~surcharge shall be treated as failure to pay premium.~~

2202 10.11. The policies issued by the corporation must provide  
2203 that, if the corporation or the market assistance plan obtains an  
2204 offer from an authorized insurer to cover the risk at its  
2205 approved rates, the risk is no longer eligible for renewal  
2206 through the corporation, except as otherwise provided in this  
2207 subsection.

2208 11.12. Corporation policies and applications must include a  
2209 notice that the corporation policy could, under this section, be  
2210 replaced with a policy issued by an authorized insurer that does  
2211 not provide coverage identical to the coverage provided by the  
2212 corporation. The notice shall also specify that acceptance of  
2213 corporation coverage creates a conclusive presumption that the  
2214 applicant or policyholder is aware of this potential.

2215 12.13. May establish, subject to approval by the office,  
2216 different eligibility requirements and operational procedures for



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2217 any line or type of coverage for any specified county or area if  
2218 the board determines that such changes to the eligibility  
2219 requirements and operational procedures are justified due to the  
2220 voluntary market being sufficiently stable and competitive in  
2221 such area or for such line or type of coverage and that consumers  
2222 who, in good faith, are unable to obtain insurance through the  
2223 voluntary market through ordinary methods would continue to have  
2224 access to coverage from the corporation. When coverage is sought  
2225 in connection with a real property transfer, such requirements  
2226 and procedures shall not provide for an effective date of  
2227 coverage later than the date of the closing of the transfer as  
2228 established by the transferor, the transferee, and, if  
2229 applicable, the lender.

2230 13.14. Must provide that, with respect to the high-risk  
2231 account, any assessable insurer with a surplus as to  
2232 policyholders of \$25 million or less writing 25 percent or more  
2233 of its total countrywide property insurance premiums in this  
2234 state may petition the office, within the first 90 days of each  
2235 calendar year, to qualify as a limited apportionment company. A  
2236 regular assessment levied by the corporation on a limited  
2237 apportionment company for a deficit incurred by the corporation  
2238 for the high-risk account in 2006 or thereafter may be paid to  
2239 the corporation on a monthly basis as the assessments are  
2240 collected by the limited apportionment company from its insureds  
2241 pursuant to s. 627.3512, but the regular assessment must be paid  
2242 in full within 12 months after being levied by the corporation. A  
2243 limited apportionment company shall collect from its  
2244 policyholders any emergency assessment imposed under sub-  
2245 subparagraph (b)3.d. The plan shall provide that, if the office  
2246 determines that any regular assessment will result in an



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2247 | impairment of the surplus of a limited apportionment company, the  
2248 | office may direct that all or part of such assessment be deferred  
2249 | as provided in subparagraph (p)4. However, there shall be no  
2250 | limitation or deferment of an emergency assessment to be  
2251 | collected from policyholders under sub-subparagraph (b)3.d.

2252 |       ~~14.15.~~ Must provide that the corporation appoint as its  
2253 | licensed agents only those agents who also hold an appointment as  
2254 | defined in s. 626.015(3) with an insurer who at the time of the  
2255 | agent's initial appointment by the corporation is authorized to  
2256 | write and is actually writing personal lines residential property  
2257 | coverage, commercial residential property coverage, or commercial  
2258 | nonresidential property coverage within the state.

2259 |       ~~15.16.~~ Must provide, by July 1, 2007, a premium payment  
2260 | plan option to its policyholders which allows at a minimum for  
2261 | quarterly and semiannual payment of premiums. A monthly payment  
2262 | plan may, but is not required to, be offered.

2263 |       ~~16.17.~~ Must limit coverage on mobile homes or manufactured  
2264 | homes built prior to 1994 to actual cash value of the dwelling  
2265 | rather than replacement costs of the dwelling.

2266 |       ~~17.18.~~ May provide such limits of coverage as the board  
2267 | determines, consistent with the requirements of this subsection.

2268 |       ~~18.19.~~ May require commercial property to meet specified  
2269 | hurricane mitigation construction features as a condition of  
2270 | eligibility for coverage.

2271 |       (m)1. Rates for coverage provided by the corporation shall  
2272 | be actuarially sound and subject to the requirements of s.  
2273 | 627.062, except as otherwise provided in this paragraph. The  
2274 | corporation shall file its recommended rates with the office at  
2275 | least annually. The corporation shall provide any additional  
2276 | information regarding the rates which the office requires. The



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2277 office shall consider the recommendations of the board and issue  
2278 a final order establishing the rates for the corporation within  
2279 45 days after the recommended rates are filed. The corporation  
2280 may not pursue an administrative challenge or judicial review of  
2281 the final order of the office.

2282         2. In addition to the rates otherwise determined pursuant  
2283 to this paragraph, the corporation shall impose and collect an  
2284 amount equal to the premium tax provided for in s. 624.509 to  
2285 augment the financial resources of the corporation.

2286         3. After the public hurricane loss-projection model under  
2287 s. 627.06281 has been found to be accurate and reliable by the  
2288 Florida Commission on Hurricane Loss Projection Methodology, that  
2289 model shall serve as the minimum benchmark for determining the  
2290 windstorm portion of the corporation's rates. This subparagraph  
2291 does not require or allow the corporation to adopt rates lower  
2292 than the rates otherwise required or allowed by this paragraph.

2293         4. The rate filings for the corporation which were approved  
2294 by the office and which took effect January 1, 2007, are  
2295 rescinded, except for those rates that were lowered. As soon as  
2296 possible, the corporation shall begin using the lower rates that  
2297 were in effect on December 31, 2006, and shall provide refunds to  
2298 policyholders who have paid higher rates as a result of that rate  
2299 filing. The rates in effect on December 31, 2006, shall remain in  
2300 effect for the 2007 and 2008 calendar years except for any rate  
2301 change that results in a lower rate. The next rate change that  
2302 may increase rates shall take effect ~~January 1, 2009~~, pursuant to  
2303 a new rate filing recommended by the corporation and established  
2304 by the office, subject to the requirements of this paragraph.

2305         5.a. Beginning on January 15, 2009, and each year  
2306 thereafter, the corporation must make a recommended actuarially



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2307 sound rate filing for each personal and commercial line of  
2308 business it writes, to be effective no earlier than July 1, 2009.

2309 b. For the 36-month period beginning with the effective  
2310 date for each of the rate filings made by the corporation on  
2311 January 15, 2009, the rates established by the office for the  
2312 corporation for its personal residential multiperil policies, its  
2313 commercial residential multiperil policies, and its commercial  
2314 nonresidential multiperil policies may not result in an overall  
2315 average statewide premium increase of more than 5 percent or an  
2316 increase for any single policyholder of more than 5 percent,  
2317 during the first 12-month period, and may not result in an  
2318 overall average statewide premium increase of more than 10  
2319 percent, or an increase for any single policyholder of more than  
2320 10 percent, during each of the two subsequent 12-month periods,  
2321 excluding coverage changes and surcharges.

2322 c. For the 36-month period beginning with the effective  
2323 date for the rate filings made by the corporation on January 15,  
2324 2009, the rates established by the office for the corporation for  
2325 its personal residential wind-only policies, its commercial  
2326 residential wind-only policies, and its commercial nonresidential  
2327 wind-only policies may not result in an overall average statewide  
2328 premium increase of more than 10 percent, or an increase for any  
2329 single policyholder of more than 10 percent, during the first 12-  
2330 month period, and may not result in an overall average statewide  
2331 premium increase of more than 10 percent, or an increase for any  
2332 single policyholder of more than 10 percent, during each of the  
2333 two subsequent 12-month periods, excluding coverage changes and  
2334 surcharges.

2335 (p)1. The corporation shall certify to the office its needs  
2336 for annual assessments as to a particular calendar year, and for



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2337 any interim assessments that it deems to be necessary to sustain  
2338 operations as to a particular year pending the receipt of annual  
2339 assessments. Upon verification, the office shall approve such  
2340 certification, and the corporation shall levy such annual or  
2341 interim assessments. Such assessments shall be prorated as  
2342 provided in paragraph (b). The corporation shall take all  
2343 reasonable and prudent steps necessary to collect the amount of  
2344 assessment due from each assessable insurer, including, if  
2345 prudent, filing suit to collect such assessment. If the  
2346 corporation is unable to collect an assessment from any  
2347 assessable insurer, the uncollected assessments shall be levied  
2348 as an additional assessment against the assessable insurers and  
2349 any assessable insurer required to pay an additional assessment  
2350 as a result of such failure to pay shall have a cause of action  
2351 against such nonpaying assessable insurer. Assessments shall be  
2352 included as an appropriate factor in the making of rates. The  
2353 failure of a surplus lines agent to collect and remit any regular  
2354 or emergency assessment levied by the corporation is considered  
2355 to be a violation of s. 626.936 and subjects the surplus lines  
2356 agent to the penalties provided in that section.

2357 2. The governing body of any unit of local government, any  
2358 residents of which are insured by the corporation, may issue  
2359 bonds as defined in s. 125.013 or s. 166.101 from time to time to  
2360 fund an assistance program, in conjunction with the corporation,  
2361 for the purpose of defraying deficits of the corporation. In  
2362 order to avoid needless and indiscriminate proliferation,  
2363 duplication, and fragmentation of such assistance programs, any  
2364 unit of local government, any residents of which are insured by  
2365 the corporation, may provide for the payment of losses,  
2366 regardless of whether or not the losses occurred within or





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2367 | outside of the territorial jurisdiction of the local government.  
2368 | Revenue bonds under this subparagraph may not be issued until  
2369 | validated pursuant to chapter 75, unless a state of emergency is  
2370 | declared by executive order or proclamation of the Governor  
2371 | pursuant to s. 252.36 making such findings as are necessary to  
2372 | determine that it is in the best interests of, and necessary for,  
2373 | the protection of the public health, safety, and general welfare  
2374 | of residents of this state and declaring it an essential public  
2375 | purpose to permit certain municipalities or counties to issue  
2376 | such bonds as will permit relief to claimants and policyholders  
2377 | of the corporation. Any such unit of local government may enter  
2378 | into such contracts with the corporation and with any other  
2379 | entity created pursuant to this subsection as are necessary to  
2380 | carry out this paragraph. Any bonds issued under this  
2381 | subparagraph shall be payable from and secured by moneys received  
2382 | by the corporation from emergency assessments under sub-  
2383 | subparagraph (b)3.d., and assigned and pledged to or on behalf of  
2384 | the unit of local government for the benefit of the holders of  
2385 | such bonds. The funds, credit, property, and taxing power of the  
2386 | state or of the unit of local government shall not be pledged for  
2387 | the payment of such bonds. ~~If any of the bonds remain unsold 60~~  
2388 | ~~days after issuance, the office shall require all insurers~~  
2389 | ~~subject to assessment to purchase the bonds, which shall be~~  
2390 | ~~treated as admitted assets; each insurer shall be required to~~  
2391 | ~~purchase that percentage of the unsold portion of the bond issue~~  
2392 | ~~that equals the insurer's relative share of assessment liability~~  
2393 | ~~under this subsection. An insurer shall not be required to~~  
2394 | ~~purchase the bonds to the extent that the office determines that~~  
2395 | ~~the purchase would endanger or impair the solvency of the~~  
2396 | ~~insurer.~~



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2397 | 3.a. The corporation shall adopt one or more programs  
2398 | subject to approval by the office for the reduction of both new  
2399 | and renewal writings in the corporation. Beginning January 1,  
2400 | 2008, any program the corporation adopts for the payment of  
2401 | bonuses to an insurer for each risk the insurer removes from the  
2402 | corporation shall comply with s. 627.3511(2) and may not exceed  
2403 | the amount referenced in s. 627.3511(2) for each risk removed.  
2404 | The corporation may consider any prudent and not unfairly  
2405 | discriminatory approach to reducing corporation writings, and may  
2406 | adopt a credit against assessment liability or other liability  
2407 | that provides an incentive for insurers to take risks out of the  
2408 | corporation and to keep risks out of the corporation by  
2409 | maintaining or increasing voluntary writings in counties or areas  
2410 | in which corporation risks are highly concentrated and a program  
2411 | to provide a formula under which an insurer voluntarily taking  
2412 | risks out of the corporation by maintaining or increasing  
2413 | voluntary writings will be relieved wholly or partially from  
2414 | assessments under sub-subparagraphs (b)3.a. and b. However, any  
2415 | "take-out bonus" or payment to an insurer must be conditioned on  
2416 | the property being insured for at least 5 years by the insurer,  
2417 | unless canceled or nonrenewed by the policyholder. If the policy  
2418 | is canceled or nonrenewed by the policyholder before the end of  
2419 | the 5-year period, the amount of the take-out bonus must be  
2420 | prorated for the time period the policy was insured. When the  
2421 | corporation enters into a contractual agreement for a take-out  
2422 | plan, the producing agent of record of the corporation policy is  
2423 | entitled to retain any unearned commission on such policy, and  
2424 | the insurer shall either:

2425 | (I) Pay to the producing agent of record of the policy, for  
2426 | the first year, an amount which is the greater of the insurer's



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2427 usual and customary commission for the type of policy written or  
2428 a policy fee equal to the usual and customary commission of the  
2429 corporation; or

2430 (II) Offer to allow the producing agent of record of the  
2431 policy to continue servicing the policy for a period of not less  
2432 than 1 year and offer to pay the agent the insurer's usual and  
2433 customary commission for the type of policy written. If the  
2434 producing agent is unwilling or unable to accept appointment by  
2435 the new insurer, the new insurer shall pay the agent in  
2436 accordance with sub-sub-subparagraph (I).

2437 b. Any credit or exemption from regular assessments adopted  
2438 under this subparagraph shall last no longer than the 3 years  
2439 following the cancellation or expiration of the policy by the  
2440 corporation. With the approval of the office, the board may  
2441 extend such credits for an additional year if the insurer  
2442 guarantees an additional year of renewability for all policies  
2443 removed from the corporation, or for 2 additional years if the  
2444 insurer guarantees 2 additional years of renewability for all  
2445 policies so removed.

2446 c. There shall be no credit, limitation, exemption, or  
2447 deferment from emergency assessments to be collected from  
2448 policyholders pursuant to sub-subparagraph (b)3.d.

2449 d. Subject to the execution of the confidentiality  
2450 agreement required by paragraph (w), the corporation shall make  
2451 its database of policies available to prospective take-out  
2452 insurers considering underwriting a risk insured by the  
2453 corporation, without categorically eliminating policies from  
2454 eligibility for removal. The corporation may not instruct or  
2455 encourage prospective take-out insurers to avoid the selection of  
2456 policies for which the agent has disapproved policy removals. The



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2457 corporation must require agents to accept or decline appointment  
2458 for any policy selected and, in the case of a declination, must  
2459 notify the policyholder that an insurer, identified by name,  
2460 selected his or her policy for a take-out offer, but that the  
2461 policyholder's agent refused to be appointed by the insurer. The  
2462 notice must also provide the policyholder with the take-out  
2463 insurer's contact information so that the policyholder may  
2464 contact the company directly and make his or her own  
2465 determination of whether to seek coverage from the take-out  
2466 insurer.

2467       4. The plan shall provide for the deferment, in whole or in  
2468 part, of the assessment of an assessable insurer, other than an  
2469 emergency assessment collected from policyholders pursuant to  
2470 sub-subparagraph (b)3.d., if the office finds that payment of the  
2471 assessment would endanger or impair the solvency of the insurer.  
2472 In the event an assessment against an assessable insurer is  
2473 deferred in whole or in part, the amount by which such assessment  
2474 is deferred may be assessed against the other assessable insurers  
2475 in a manner consistent with the basis for assessments set forth  
2476 in paragraph (b).

2477       5. Effective July 1, 2007, in order to evaluate the costs  
2478 and benefits of approved take-out plans, if the corporation pays  
2479 a bonus or other payment to an insurer for an approved take-out  
2480 plan, it shall maintain a record of the address or such other  
2481 identifying information on the property or risk removed in order  
2482 to track if and when the property or risk is later insured by the  
2483 corporation.

2484       6. Any policy taken out, assumed, or removed from the  
2485 corporation is, as of the effective date of the take-out,  
2486 assumption, or removal, direct insurance issued by the insurer



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2487 and not by the corporation, even if the corporation continues to  
2488 service the policies. This subparagraph applies to policies of  
2489 the corporation and not policies taken out, assumed, or removed  
2490 from any other entity.

2491 ~~(dd)1. For policies subject to nonrenewal as a result of~~  
2492 ~~the risk being no longer eligible for coverage due to being~~  
2493 ~~valued at \$1 million or more, the corporation shall, directly or~~  
2494 ~~through the market assistance plan, make information from~~  
2495 ~~confidential underwriting and claims files of policyholders~~  
2496 ~~available only to licensed general lines agents who register with~~  
2497 ~~the corporation to receive such information according to the~~  
2498 ~~following procedures:~~

2499 ~~2. By August 1, 2006, the corporation shall provide such~~  
2500 ~~policyholders who are not eligible for renewal the opportunity to~~  
2501 ~~request in writing, within 30 days after the notification is~~  
2502 ~~sent, that information from their confidential underwriting and~~  
2503 ~~claims files not be released to licensed general lines agents~~  
2504 ~~registered pursuant to this paragraph.~~

2505 ~~3. By August 1, 2006, the corporation shall make available~~  
2506 ~~to licensed general lines agents the registration procedures to~~  
2507 ~~be used to obtain confidential information from underwriting and~~  
2508 ~~claims files for such policies not eligible for renewal. As a~~  
2509 ~~condition of registration, the corporation shall require the~~  
2510 ~~licensed general lines agent to attest that the agent has the~~  
2511 ~~experience and relationships with authorized or surplus lines~~  
2512 ~~carriers to attempt to offer replacement coverage for such~~  
2513 ~~policies.~~

2514 ~~4. By September 1, 2006, the corporation shall make~~  
2515 ~~available through a secured website to licensed general lines~~  
2516 ~~agents registered pursuant to this paragraph application, rating,~~



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2517 | ~~loss history, mitigation, and policy type information relating to~~  
2518 | ~~such policies not eligible for renewal and for which the~~  
2519 | ~~policyholder has not requested the corporation withhold such~~  
2520 | ~~information. The registered licensed general lines agent may use~~  
2521 | ~~such information to contact and assist the policyholder in~~  
2522 | ~~securing replacement policies, and the agent may disclose to the~~  
2523 | ~~policyholder that such information was obtained from the~~  
2524 | ~~corporation.~~

2525 |       ~~(dd)~~(ee) The assets of the corporation may be invested and  
2526 | managed by the State Board of Administration.

2527 |       ~~(ee)~~(ff) The office may establish a pilot program to offer  
2528 | optional sinkhole coverage in one or more counties or other  
2529 | territories of the corporation for the purpose of implementing s.  
2530 | 627.706, as amended by s. 30, chapter 2007-1, Laws of Florida.  
2531 | Under the pilot program, the corporation is not required to issue  
2532 | a notice of nonrenewal to exclude sinkhole coverage upon the  
2533 | renewal of existing policies, but may exclude such coverage using  
2534 | a notice of coverage change.

2535 |       Section 13. Paragraph (b) of subsection (2) of section  
2536 | 627.4133, Florida Statutes, is amended to read:

2537 |       (2) With respect to any personal lines or commercial  
2538 | residential property insurance policy, including, but not limited  
2539 | to, any homeowner's, mobile home owner's, farmowner's,  
2540 | condominium association, condominium unit owner's, apartment  
2541 | building, or other policy covering a residential structure or its  
2542 | contents:

2543 |       (b) The insurer shall give the named insured written notice  
2544 | of nonrenewal, cancellation, or termination at least 180 ~~100~~ days  
2545 | prior to the effective date of the nonrenewal, cancellation, or  
2546 | termination. ~~However, the insurer shall give at least 100 days'~~



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2547 ~~written notice, or written notice by June 1, whichever is~~  
2548 ~~earlier, for any nonrenewal, cancellation, or termination that~~  
2549 ~~would be effective between June 1 and November 30.~~ The notice  
2550 must include the reason or reasons for the nonrenewal,  
2551 cancellation, or termination, except that:

2552       1. When cancellation is for nonpayment of premium, at least  
2553 10 days' written notice of cancellation accompanied by the reason  
2554 therefor shall be given. As used in this subparagraph, the term  
2555 "nonpayment of premium" means failure of the named insured to  
2556 discharge when due any of her or his obligations in connection  
2557 with the payment of premiums on a policy or any installment of  
2558 such premium, whether the premium is payable directly to the  
2559 insurer or its agent or indirectly under any premium finance plan  
2560 or extension of credit, or failure to maintain membership in an  
2561 organization if such membership is a condition precedent to  
2562 insurance coverage. "Nonpayment of premium" also means the  
2563 failure of a financial institution to honor an insurance  
2564 applicant's check after delivery to a licensed agent for payment  
2565 of a premium, even if the agent has previously delivered or  
2566 transferred the premium to the insurer. If a dishonored check  
2567 represents the initial premium payment, the contract and all  
2568 contractual obligations shall be void ab initio unless the  
2569 nonpayment is cured within the earlier of 5 days after actual  
2570 notice by certified mail is received by the applicant or 15 days  
2571 after notice is sent to the applicant by certified mail or  
2572 registered mail, and if the contract is void, any premium  
2573 received by the insurer from a third party shall be refunded to  
2574 that party in full.

2575       2. When such cancellation or termination occurs during the  
2576 first 90 days during which the insurance is in force and the



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2577 insurance is canceled or terminated for reasons other than  
2578 nonpayment of premium, at least 20 days' written notice of  
2579 cancellation or termination accompanied by the reason therefor  
2580 shall be given except where there has been a material  
2581 misstatement or misrepresentation or failure to comply with the  
2582 underwriting requirements established by the insurer.

2583 ~~3. The requirement for providing written notice of~~  
2584 ~~nonrenewal by June 1 of any nonrenewal that would be effective~~  
2585 ~~between June 1 and November 30 does not apply to the following~~  
2586 ~~situations, but the insurer remains subject to the requirement to~~  
2587 ~~provide such notice at least 100 days prior to the effective date~~  
2588 ~~of nonrenewal:~~

2589 ~~a. A policy that is nonrenewed due to a revision in the~~  
2590 ~~coverage for sinkhole losses and catastrophic ground cover~~  
2591 ~~collapse pursuant to s. 627.730, as amended by s. 30, chapter~~  
2592 ~~2007-1, Laws of Florida.~~

2593 ~~b. A policy that is nonrenewed by Citizens Property~~  
2594 ~~Insurance Corporation, pursuant to s. 627.351(6), for a policy~~  
2595 ~~that has been assumed by an authorized insurer offering~~  
2596 ~~replacement or renewal coverage to the policyholder.~~

2597  
2598 After the policy has been in effect for 90 days, the policy shall  
2599 not be canceled by the insurer except when there has been a  
2600 material misstatement, a nonpayment of premium, a failure to  
2601 comply with underwriting requirements established by the insurer  
2602 within 90 days of the date of effectuation of coverage, or a  
2603 substantial change in the risk covered by the policy or when the  
2604 cancellation is for all insureds under such policies for a given  
2605 class of insureds. This paragraph does not apply to individually  
2606 rated risks having a policy term of less than 90 days.





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2607 Section 14. Effective January 1, 2011, section 689.262,  
2608 Florida Statutes, is created to read:

2609 689.262 Sale of residential property; disclosure of  
2610 windstorm mitigation rating.--A purchaser of residential property  
2611 must be informed of the windstorm mitigation rating of the  
2612 structure, based on the uniform home grading scale adopted  
2613 pursuant to s. 215.55865. The rating must be included in the  
2614 contract for sale or as a separate document attached to the  
2615 contract for sale. The Financial Services Commission may adopt  
2616 rules, consistent with other state laws, to administer this  
2617 section, including the form of the disclosure and the  
2618 requirements for the windstorm mitigation inspection or report  
2619 that is required for purposes of determining the rating.

2620 Section 15. Effective October 1, 2008, subsection (1) of  
2621 section 817.2341, Florida Statutes, is amended to read:

2622 817.2341 False or misleading statements or supporting  
2623 documents; penalty.--

2624 (1) Any person who willfully files with the department or  
2625 office, or who willfully signs for filing with the department or  
2626 office, a materially false or materially misleading financial  
2627 statement or document in support of such statement required by  
2628 law or rule, or a materially false or materially misleading rate  
2629 filing, with intent to deceive and with knowledge that the  
2630 statement or document is materially false or materially  
2631 misleading, commits a felony of the third degree, punishable as  
2632 provided in s. 775.082, s. 775.083, or s. 775.084.

2633 Section 16. (1) By December 15, 2008, Citizens Property  
2634 Insurance Corporation shall transfer \$250 million to the General  
2635 Revenue Fund by transferring an amount from the Personal Lines  
2636 Account and the Commercial Lines Account, as defined in s.



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2637 627.351(6), Florida Statutes, in proportion to the surplus of  
2638 each account, if the combined losses in the Personal Lines  
2639 Account and the Commercial Lines Account from one or more named  
2640 hurricanes in 2008 do not exceed \$750 million. The board of  
2641 governors of Citizens Property Insurance Corporation must make a  
2642 reasonable estimate of such losses on or after December 1, 2008,  
2643 and no later than December 14, 2008, using generally accepted  
2644 actuarial and accounting practices, recognizing that audited  
2645 financial statements will not yet be available and that all  
2646 losses will have not been reported or developed.

2647 (2) If Citizens Property Insurance Corporation transfers  
2648 \$250 million to General Revenue as provided in subsection (1),  
2649 effective December 15, 2008, and for the 2008-2009 fiscal year,  
2650 the sum of \$250 million is appropriated from the General Revenue  
2651 Fund on a nonrecurring basis to the State Board of Administration  
2652 for purposes of the Insurance Capital Build-Up Incentive Program  
2653 established pursuant to s. 215.5595, Florida Statutes, as amended  
2654 by this act. Costs and fees incurred by the board in  
2655 administering this program, including fees for investment  
2656 services, shall be paid from funds appropriated by the  
2657 Legislature for this program, but are limited to 1 percent of the  
2658 amount appropriated. Notwithstanding the provisions of s.  
2659 216.301, Florida Statutes, to the contrary, the unexpended  
2660 balance of this appropriation shall not revert to the General  
2661 Revenue Fund until June 30, 2009.

2662 Section 17. Except as otherwise expressly provided in this  
2663 act, this act shall take effect upon becoming a law.  
2664

2665 ===== T I T L E A M E N D M E N T =====

2666 And the title is amended as follows:



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2667 Delete everything before the enacting clause  
2668 and insert:

2669 A bill to be entitled  
2670 An act relating to insurance; amending s. 215.5595, F.S.;  
2671 revising legislative findings with respect to the  
2672 Insurance Capital Build-Up Incentive Program and the  
2673 appropriation of state funds for surplus notes issued by  
2674 residential property insurers; revising the conditions and  
2675 requirements for providing funds to insurers under the  
2676 program; requiring a commitment by the insurer to meet  
2677 minimum premium-to-surplus writing ratios for residential  
2678 property insurance, for taking policies out of Citizens  
2679 Property Insurance Corporation, and for maintaining  
2680 certain surplus and reinsurance; establishing deadlines  
2681 for insurers to apply for funds; authorizing the State  
2682 Board of Administration to charge a late fee for payment  
2683 of remittances; requiring the board to submit semiannual  
2684 reports to the Legislature regarding the program;  
2685 providing that amendments made by the act do not affect  
2686 the terms of surplus notes approved prior to a specified  
2687 date, but authorizing the board and an insurer to  
2688 renegotiate such terms consistent with such amendments;  
2689 requiring the board to transfer to Citizens Property  
2690 Insurance Corporation any funds that have not been  
2691 reserved for insurers approved to receive such funds under  
2692 the program, from the funds that were appropriated from  
2693 Citizens; requiring the board to transfer to Citizens  
2694 interest and principal payments to Citizens Property  
2695 Insurance Corporation for surplus note funded from  
2696 appropriations from Citizens; requiring Citizens to



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2697 | deposit such funds into accounts from which appropriations  
2698 | were made; amending s. 542.20, F.S.; subjecting the  
2699 | business of insurance to the Florida Antitrust Act;  
2700 | limiting enforcement to actions by the Attorney General or  
2701 | a state attorney; providing exceptions; amending s.  
2702 | 624.3161, F.S.; authorizing the Office of Insurance  
2703 | Regulation to require an insurer to file its claims  
2704 | handling practices and procedures as a public record based  
2705 | on findings of a market conduct examination; amending s.  
2706 | 624.4211, F.S.; increasing the maximum amounts of  
2707 | administrative fines that may be imposed upon an insurer  
2708 | by the Office of Insurance Regulation for nonwillful and  
2709 | willful violations of an order or rule of the office or  
2710 | any provision of the Florida Insurance Code; authorizing  
2711 | the office to impose a fine for each day of noncompliance  
2712 | up to a maximum amount; providing factors to consider when  
2713 | determining the amount of the fine; creating s. 624.4213,  
2714 | F.S.; specifying requirements for submission of a document  
2715 | or information to the Office of Insurance Regulation or  
2716 | the Department of Financial Services in order for a person  
2717 | to claim that the document is a trade secret; requiring  
2718 | each page or portion to be labeled as a trade secret and  
2719 | be separated from non-trade secret material; requiring the  
2720 | submitting party to include an affidavit certifying  
2721 | certain information about the documents claimed to be  
2722 | trade secrets; requiring the office or department to  
2723 | notify persons who submit trade secret documents of any  
2724 | public-records request and the opportunity to file a court  
2725 | action to bar disclosure; specifying conditions for the  
2726 | office to retain or release such documents; requiring an



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2727 | award of attorney's fees against a person who certified a  
2728 | document as trade secret if a court or administrative  
2729 | tribunal finds that the document is not a trade secret;  
2730 | amending s. 626.9521, F.S.; increasing the maximum fines  
2731 | that may be imposed by the office or department for  
2732 | nonwillful and willful violations of state law regarding  
2733 | unfair methods of competition and unfair or deceptive acts  
2734 | or practices related to insurance; amending s. 626.9541,  
2735 | F.S.; prohibiting an insurer from considering certain  
2736 | factors when evaluating or adjusting a property insurance  
2737 | claim; prohibiting an insurer from failing to pay  
2738 | undisputed amounts of benefits owed under a property  
2739 | insurance policy within a certain period; amending s.  
2740 | 627.062, F.S.; requiring that an insurer seeking a rate  
2741 | for property insurance that is greater than the rate most  
2742 | recently approved by the Office of Insurance Regulation  
2743 | make a "file and use" filing for all such rate filings  
2744 | made after a specified date; revising the factors the  
2745 | office must consider in reviewing a rate filing;  
2746 | prohibiting the Office of Insurance Regulation from  
2747 | disapproving as excessive a rate solely because the  
2748 | insurer obtained reinsurance covering a specified probably  
2749 | maximum loss; allowing the office to disapprove a rate as  
2750 | excessive within 1 year after the rate has been approved  
2751 | under certain conditions related to nonrenewal of policies  
2752 | by the insurer; requiring an administrative law judge in a  
2753 | hearing on an insurance rate to grant a continuance if  
2754 | requested by a party due to receiving additional  
2755 | information that was not previously available; deleting  
2756 | provisions relating to the submission of a disputed rate



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2757 filing, other than a rate filing for medical malpractice  
2758 insurance, to an arbitration panel in lieu of an  
2759 administrative hearing if the rate is filed before a  
2760 specified date; requiring certain officers and the chief  
2761 actuary of a property insurer to certify certain  
2762 information as part of a rate filing, subject to the  
2763 penalty of perjury; amending s. 627.0613, F.S.; deleting  
2764 cross-references to conform to changes made by the act;  
2765 amending s. 627.0628, F.S.; requiring that with respect to  
2766 rate filings, insurers must use actuarial methods or  
2767 models found to be accurate or reliable by the Florida  
2768 Commission on Hurricane Loss Projection Methodology;  
2769 deleting the requirement for the Office of Insurance  
2770 Regulation and the Consumer Advocate to have access to all  
2771 assumptions of a hurricane loss model in order for a model  
2772 that has been found to be accurate and reliable by the  
2773 Florida Commission on Hurricane Loss Projection  
2774 Methodology to be admissible in a rate proceeding;  
2775 deleting cross-references to conform to changes made by  
2776 the act; amending s. 627.0629, F.S.; requiring that the  
2777 Office of Insurance Regulation develop and make publicly  
2778 available before a specified deadline a proposed method  
2779 for insurers to establish windstorm mitigation premium  
2780 discounts that correlate to the uniform home rating scale;  
2781 requiring that the Financial Services Commission adopt  
2782 rules before a specified deadline; requiring insurers to  
2783 make rate filings pursuant to such method; authorizing the  
2784 commission to make changes by rule to the uniform home  
2785 grading scale and specify by rule the minimum required  
2786 discounts, credits, or other rate differentials; requiring



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2787 | that such rate differentials be consistent with generally  
2788 | accepted actuarial principles and wind loss mitigation  
2789 | studies; amending s. 627.351, F.S., relating to Citizens  
2790 | Property Insurance Corporation; deleting a provision to  
2791 | conform to changes made in the act; deleting provisions  
2792 | defining the terms "homestead property" and "nonhomestead  
2793 | property"; deleting a provision providing for the  
2794 | classification of certain dwellings as "nonhomestead  
2795 | property"; deleting provisions making dwellings and  
2796 | condominium units that have a replacement cost above a  
2797 | specified value ineligible for coverage after a specified  
2798 | date; requiring certain structures to have opening  
2799 | protections as a condition of eligibility for coverage  
2800 | after a specified date; requiring that the corporation  
2801 | cease issuance of new wind-only coverage beginning on a  
2802 | specified date; deleting outdated provisions requiring the  
2803 | corporation to submit a report for approval of offering  
2804 | multiperil coverage; revising threshold amounts of  
2805 | deficits incurred in a calendar year on which the decision  
2806 | to levy assessments and the types of such assessments are  
2807 | based; revising the formula used to calculate shares of  
2808 | assessments owed by certain assessable insureds; requiring  
2809 | that the board of governors make certain determinations  
2810 | before levying emergency assessments; providing the board  
2811 | of governors with discretion to set the amount of an  
2812 | emergency assessment within specified limits; requiring  
2813 | the board of governors to levy a Citizens policyholder  
2814 | surcharge under certain conditions; deleting a provision  
2815 | requiring the levy of an immediate assessment against  
2816 | certain policyholders under such conditions; requiring



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2817 | that funds collected from the levy of such surcharges be  
2818 | used for certain purposes; providing that such surcharges  
2819 | are not considered premium and are not subject to  
2820 | commissions, fees, or premium taxes; requiring that the  
2821 | failure to pay such surcharges be treated as failure to  
2822 | pay premium; requiring that the amount of any assessment  
2823 | or surcharge which exceeds the amount of deficits be  
2824 | remitted to and used by the corporation for specified  
2825 | purposes; deleting provisions requiring that the plan of  
2826 | operation of the corporation provide for the levy of a  
2827 | Citizens policyholder surcharge if regular deficit  
2828 | assessments are levied as a result of deficits in certain  
2829 | accounts; deleting provisions related to the calculation,  
2830 | classification, and nonpayment of such surcharge;  
2831 | requiring that the corporation make an annual filing for  
2832 | each personal or commercial line of business it writes,  
2833 | beginning on a specified date; limiting the overall  
2834 | average statewide premium increase and the increase for an  
2835 | individual policyholder to a specified amount for rates  
2836 | established for certain policies during a specified  
2837 | period; deleting a provision requiring an insurer to  
2838 | purchase bonds that remain unsold; requiring the  
2839 | corporation to make its database of policies available to  
2840 | prospective take-out insurers under certain conditions;  
2841 | requiring the corporation to require agents to accept or  
2842 | decline appointment for any policy selected; requiring the  
2843 | corporation to notify the policyholder of certain  
2844 | information if an insurer selected his or her policy for a  
2845 | take-out offer but the policyholder's agent refused to be  
2846 | appointed; deleting provisions requiring the corporation





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2847 | to make certain confidential underwriting and claims files  
2848 | available to agents to conform to changes made by the act  
2849 | relating to ineligibility of certain dwellings; amending  
2850 | s. 627.4133, F.S.; increasing the required time period for  
2851 | an insurer to notify a policyholder of cancellation or  
2852 | nonrenewal of a personal lines or commercial residential  
2853 | property insurance policy; making conforming changes;  
2854 | creating s. 689.262, F.S.; requiring a purchaser of  
2855 | residential property to be presented with the windstorm  
2856 | mitigation rating of the structure; authorizing the  
2857 | Financial Services Commission to adopt rules; amending s.  
2858 | 817.2341, F.S.; providing for criminal penalties to be  
2859 | imposed under certain conditions against any person who  
2860 | willfully files a materially false or misleading rate  
2861 | filing; requiring Citizens Property Insurance Corporation  
2862 | to transfer funds to the General Revenue Fund Revenue Fund  
2863 | if the losses due to a hurricane do not exceed a specified  
2864 | amount; requiring the board of governors of Citizens  
2865 | Property Insurance Corporation to make a reasonable  
2866 | estimate of such losses by a certain date; making  
2867 | nonrecurring appropriations for purposes of the Insurance  
2868 | Capital Build-Up Incentive Program established pursuant to  
2869 | s. 215.5595, F.S., as amended by the act; authorizing  
2870 | costs and fees to be paid from funds appropriated, subject  
2871 | to specified limitations; providing effective dates.