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1  
2 An act relating to insurance; providing a short title;  
3 amending s. 215.5595, F.S.; revising legislative findings;  
4 providing for an appropriation of state funds in exchange  
5 for surplus notes issued by residential property insurers  
6 under the program; revising the conditions and  
7 requirements for providing funds to insurers under the  
8 program; requiring a commitment by the insurer to meet  
9 minimum premium-to-surplus writing ratios for residential  
10 property insurance and for taking policies out of Citizens  
11 Property Insurance Corporation; requiring insurers to  
12 commit to maintaining certain levels of surplus and  
13 reinsurance; authorizing the State Board of Administration  
14 to charge a fee for late payments; providing for payment  
15 of costs and fees incurred by the board in administering  
16 the program from funds appropriated to the program,  
17 subject to a specified limit; requiring the board to  
18 submit an annual report to the Legislature on the program  
19 and insurer compliance with certain requirements;  
20 providing that amendments made by the act do not affect  
21 the terms of surplus notes approved prior to a specified  
22 date; authorizing the State Board of Administration and an  
23 insurer to renegotiate such terms consistent with such  
24 amendments; requiring the State Board of Administration to  
25 transfer to Citizens Property Insurance Corporation  
26 certain uncommitted or unreserved funds; amending s.  
27 624.3161, F.S.; authorizing the Office of Insurance  
28 Regulation to require an insurer to file its claims  
29 handling practices and procedures as a public record based

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30 on findings of a market conduct examination; amending s.  
31 624.4211, F.S.; increasing the maximum amounts of  
32 administrative fines that may be imposed upon an insurer  
33 by the Office of Insurance Regulation for nonwillful and  
34 willful violations of an order or rule of the office or  
35 any provision of the Florida Insurance Code; creating s.  
36 624.4213, F.S.; specifying requirements for submission of  
37 a document or information to the Office of Insurance  
38 Regulation or the Department of Financial Services in  
39 order for a person to claim that the document is a trade  
40 secret; requiring each page or portion to be labeled as a  
41 trade secret and be separated from non-trade secret  
42 material; requiring the submitting party to include an  
43 affidavit certifying certain information about the  
44 documents claimed to be trade secrets; requiring the  
45 office or department to notify persons who submit trade  
46 secret documents of any public-records request and the  
47 opportunity to file a court action to bar disclosure;  
48 specifying conditions for the office to retain or release  
49 such documents; creating s. 624.4305, F.S.; requiring that  
50 an insurer planning to nonrenew more than a specified  
51 number of residential property insurance policies notify  
52 the Office of Insurance Regulation and obtain approval for  
53 such nonrenewals; specifying procedures for issuance of  
54 such notice; amending s. 626.9521, F.S.; increasing the  
55 maximum fines that may be imposed by the office or  
56 department for nonwillful and willful violations of state  
57 law regarding unfair methods of competition and unfair or  
58 deceptive acts or practices related to insurance; amending

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59 | s. 626.9541, F.S.; specifying an additional unfair claims  
60 | settlement practice; amending s. 627.0612, F.S.; providing  
61 | criteria for administrative hearings to determine whether  
62 | an insurer's property insurance rates, rating manuals,  
63 | premium credits, discount schedules, and surcharge  
64 | schedules comply with the law; providing for entry of  
65 | certain orders; amending s. 627.062, F.S.; requiring that  
66 | an insurer seeking a rate for property insurance that is  
67 | greater than the rate most recently approved by the Office  
68 | of Insurance Regulation make a "file and use" filing for  
69 | all such rate filings made after a specified date;  
70 | revising the factors the office must consider in reviewing  
71 | a rate filing; prohibiting the Office of Insurance  
72 | Regulation from disapproving as excessive a rate solely  
73 | because the insurer obtained reinsurance covering a  
74 | specified probably maximum loss; allowing the office to  
75 | disapprove a rate as excessive within 1 year after the  
76 | rate has been approved under certain conditions related to  
77 | nonrenewal of policies by the insurer; requiring the  
78 | Division of Administrative Hearings to expedite a hearing  
79 | request by an insurer and for the administrative law judge  
80 | to commence the hearing within a specified time;  
81 | authorizing an insurer to request an expedited appellate  
82 | review pursuant to the Florida Rules of Appellate  
83 | Procedure; expressing legislative intent for an expedited  
84 | appellate review; revising provisions relating to the  
85 | submission of a disputed rate filing, other than a rate  
86 | filing for medical malpractice insurance, to an  
87 | arbitration panel in lieu of an administrative hearing if

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88 | the rate is filed before a specified date; deleting  
89 | provisions relating to mandatory arbitration in lieu of  
90 | certain hearings; amending s. 627.0628, F.S.; providing  
91 | legislative findings relating to final agency action for  
92 | insurance ratemaking; requiring the Financial Services  
93 | Commission to consider and adopt findings relating to  
94 | certain actuarial models, principles, standards, or models  
95 | for certain maximum loss level calculations; requiring  
96 | that with respect to rate filings, insurers must use  
97 | actuarial methods or models found to be accurate or  
98 | reliable by the Florida Commission on Hurricane Loss  
99 | Projection Methodology; deleting the requirement for the  
100 | Office of Insurance Regulation and the Consumer Advocate  
101 | to have access to all assumptions of a hurricane loss  
102 | model in order for a model that has been found to be  
103 | accurate and reliable by the Florida Commission on  
104 | Hurricane Loss Projection Methodology to be admissible in  
105 | a rate proceeding; deleting cross-references to conform to  
106 | changes made by the act; amending s. 627.0629, F.S.;  
107 | requiring that the Office of Insurance Regulation develop  
108 | and make publicly available before a specified deadline a  
109 | proposed method for insurers to establish windstorm  
110 | mitigation premium discounts that correlate to the uniform  
111 | home rating scale; requiring that the Financial Services  
112 | Commission adopt rules before a specified deadline;  
113 | requiring insurers to make rate filings pursuant to such  
114 | method; authorizing the commission to make changes by rule  
115 | to the uniform home grading scale and specify by rule the  
116 | minimum required discounts, credits, or other rate

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117 differentials; requiring that such rate differentials be  
118 consistent with generally accepted actuarial principles  
119 and wind loss mitigation studies; amending s. 627.351,  
120 F.S., relating to Citizens Property Insurance Corporation;  
121 deleting a provision to conform to changes made in the  
122 act; deleting provisions defining the terms "homestead  
123 property" and "nonhomestead property"; increasing  
124 threshold replacement costs of certain structures for  
125 eligibility for coverage by the corporation; deleting  
126 requirements for certain properties to meeting building  
127 code plus requirements as a condition of eligibility for  
128 coverage by the corporation; decreasing the value at which  
129 certain structures are eligible for coverage; requiring  
130 written disclosure of windstorm mitigation ratings for  
131 certain structures; deleting outdated provisions requiring  
132 the corporation to submit a report for approval of  
133 offering multiperil coverage; revising threshold amounts  
134 of deficits incurred in a calendar year on which the  
135 decision to levy assessments and the types of such  
136 assessments are based; revising the formula used to  
137 calculate shares of assessments owed by certain assessable  
138 insureds; requiring that the board of governors make  
139 certain determinations before levying emergency  
140 assessments; providing the board of governors with  
141 discretion to set the amount of an emergency assessment  
142 within specified limits; requiring the board of governors  
143 to levy a Citizens policyholder surcharge under certain  
144 conditions; increasing the amount of the surcharge;  
145 deleting a provision requiring the levy of an immediate

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146 assessment against certain policyholders under such  
147 conditions; requiring that funds collected from the levy  
148 of such surcharges be used for certain purposes; providing  
149 that such surcharges are not considered premium and are  
150 not subject to commissions, fees, or premium taxes;  
151 requiring that the failure to pay such surcharges be  
152 treated as failure to pay premium; requiring that the  
153 amount of any assessment or surcharge which exceeds the  
154 amount of deficits be remitted to and used by the  
155 corporation for specified purposes; deleting provisions  
156 requiring that the plan of operation of the corporation  
157 provide for the levy of a Citizens policyholder surcharge  
158 if regular deficit assessments are levied as a result of  
159 deficits in certain accounts; deleting provisions related  
160 to the calculation, classification, and nonpayment of such  
161 surcharge; requiring that the corporation make an annual  
162 filing for each personal or commercial line of business it  
163 writes, beginning on a specified date; deleting a  
164 provision requiring an insurer to purchase bonds that  
165 remain unsold; deleting provisions requiring the  
166 corporation to make certain confidential underwriting and  
167 claims files available to agents to conform to changes  
168 made by the act relating to ineligibility of certain  
169 dwellings; clarifying the right of certain parties to  
170 discover underwriting and claims file records; authorizing  
171 the corporation to release such records as it deems  
172 necessary; amending s. 627.4133, F.S.; requiring insurers  
173 to provide written notice of certain cancellations,  
174 nonrenewals, or terminations; creating s. 689.262, F.S.;

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175 requiring a purchaser of residential property in wind-  
176 borne debris regions to be presented with the windstorm  
177 mitigation rating of the structure; authorizing the  
178 Financial Services Commission to adopt rules; requiring  
179 Citizens Property Insurance Corporation to transfer funds  
180 to the General Revenue Fund if the losses due to a  
181 hurricane do not exceed a specified amount; requiring the  
182 board of governors of Citizens Property Insurance  
183 Corporation to make a reasonable estimate of such losses  
184 by a certain date; requiring the board to make quarterly  
185 transfers of funds to the corporation under certain  
186 circumstances; requiring the corporation to credit certain  
187 accounts for funds removed to make certain transfers;  
188 requiring the State Board of Administration to transfer to  
189 Citizens Property Insurance Corporation certain  
190 uncommitted or unreserved funds under certain  
191 circumstances; prohibiting Citizens Property Insurance  
192 Corporation from using certain statutory changes or  
193 authorized transfers of funds as justification or cause to  
194 seek any rate or assessment increase; amending s.  
195 627.06281, F.S.; providing for residential property  
196 insurers to have access to and use a public hurricane loss  
197 projection model; requiring the office to establish a fee  
198 schedule for such model access and use; amending s.  
199 627.0655, F.S.; expanding application of policyholder loss  
200 or expense-related premium discounts; creating the  
201 Citizens Property Insurance Corporation Mission Review  
202 Task Force; providing purposes; requiring a report;  
203 providing report requirements; providing for appointment

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204 of members; providing responsibilities; specifying service  
205 without compensation; providing for reimbursement of per  
206 diem and travel expenses; providing meeting requirements;  
207 requiring the corporation to assist the task force;  
208 providing for the expiration of the task force; requiring  
209 the Chief Financial Officer to provide a report on the  
210 economic impact on the state of certain hurricanes;  
211 providing report requirements; creating s. 627.0621, F.S.;  
212 providing requirements for transparency in rate  
213 regulation; providing definitions; providing for a website  
214 for public access to rate filing information; providing  
215 requirements; providing for application of public meeting  
216 requirements; specifying nonapplication of attorney-client  
217 or work-product privileges to certain communications in  
218 certain administrative or judicial proceedings under  
219 certain circumstances; specifying criteria; amending s.  
220 215.555, F.S.; extending for an additional year the offer  
221 of reimbursement coverage for specified insurers; revising  
222 the qualifying criteria for such insurers; revising  
223 provisions to conform; amending s. 627.0613, F.S.;  
224 deleting cross-references to conform to changes made by  
225 the act; amending s. 627.712, F.S.; requiring insurers to  
226 provide notice to mortgageholders or lienholders of  
227 certain policies not providing wind coverage for certain  
228 structures; providing for provisions of the act to  
229 supersede and control over conflicting provisions of House  
230 Bill 5057; providing effective dates.

231  
232 Be It Enacted by the Legislature of the State of Florida:



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233  
234           Section 1. This act may be cited as the "Homeowner's Bill  
235 of Rights Act."

236           Section 2. Section 215.5595, Florida Statutes, is amended  
237 to read:

238           215.5595 Insurance Capital Build-Up Incentive Program.--

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

241           (a) The losses in this state ~~Florida~~ from eight hurricanes  
242 in 2004 and 2005 have seriously strained the resources of both  
243 the voluntary insurance market and the public sector mechanisms  
244 of Citizens Property Insurance Corporation and the Florida  
245 Hurricane Catastrophe Fund.

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

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

254           ~~(d) Hurricane forecast experts predict that the 2006~~  
255 ~~hurricane season will be an active hurricane season and that the~~  
256 ~~Atlantic and Gulf Coast regions face an active hurricane cycle of~~  
257 ~~10 to 20 years or longer.~~

258           ~~(b)(e)~~ Citizens Property Insurance Corporation has over 1.2  
259 million policies in force, has the largest market share of any  
260 insurer writing residential property insurer in the state, and  
261 faces the threat of a catastrophic loss that ~~The number of~~

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262 ~~cancellations or nonrenewals of residential property insurance~~  
263 ~~policies is expected to increase and the number of new~~  
264 ~~residential policies written in the voluntary market are likely~~  
265 ~~to decrease, causing increased policy growth and exposure to the~~  
266 ~~state insurer of last resort, Citizens Property Insurance~~  
267 ~~Corporation, and threatening to increase the deficit of the~~  
268 ~~corporation, currently estimated to be over \$1.7 billion. This~~  
269 ~~deficit~~ must be funded by assessments against insurers and  
270 policyholders, unless otherwise funded by the state. The program  
271 has a substantial positive effect on the depopulation efforts of  
272 Citizens Property Insurance Corporation since companies  
273 participating in the program have removed over 199,000 policies  
274 from the corporation. Companies participating in the program have  
275 issued a significant number of new policies, thereby keeping an  
276 estimated 480,000 new policies out of the corporation.

277 (c) ~~(f)~~ Policyholders are subject to high ~~increased~~ premiums  
278 and assessments that are increasingly making such coverage  
279 unaffordable and that may force policyholders to sell their homes  
280 and even leave the state.

281 (d) ~~(g)~~ The increased risk to the public sector and private  
282 sector continues to pose ~~poses~~ a serious threat to the economy of  
283 this state, particularly the building and financing of  
284 residential structures, and existing mortgages may be placed in  
285 default.

286 ~~(h)~~ ~~The losses from 2004 and 2005, combined with the~~  
287 ~~expectation that the increase in hurricane activity will continue~~  
288 ~~for the foreseeable future, have caused both insurers and~~  
289 ~~reinsurers to limit the capital they are willing to commit to~~  
290 ~~covering the hurricane risk in Florida; attracting new capital to~~

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291 ~~the Florida market is a critical priority; and providing a low-~~  
292 ~~cost source of capital would enable insurers to write additional~~  
293 ~~residential property insurance coverage and act to mitigate~~  
294 ~~premium increases.~~

295 (e)(i) Appropriating state funds to be exchanged for ~~used~~  
296 ~~as~~ surplus notes issued by ~~for~~ residential property insurers,  
297 under conditions requiring the insurer to contribute additional  
298 private sector capital and to write a minimum level of premiums  
299 for residential hurricane coverage, is a valid and important  
300 public purpose.

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

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

309 (a) The amount of state funds provided in exchange for a  
310 ~~the~~ surplus note to ~~for~~ any insurer ~~or insurer group~~, other than  
311 an insurer writing only manufactured housing policies, may not  
312 exceed \$25 million or 20 percent of the total amount of funds  
313 appropriated for ~~available under~~ the program, whichever is  
314 greater. The amount of the surplus note for any insurer or  
315 insurer group writing residential property insurance covering  
316 only manufactured housing may not exceed \$7 million.

317 (b) On or after April 1, 2008, the insurer must contribute  
318 an amount of new capital to its surplus which is at least equal  
319 to the amount of the surplus note and must apply to the board by

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320 September 1, 2008 ~~July 1, 2006~~. If an insurer applies after  
321 September 1, 2008 ~~July 1, 2006~~, but before June 1, 2009 ~~2007~~, the  
322 amount of the surplus note is limited to one-half of the new  
323 capital that the insurer contributes to its surplus, except that  
324 an insurer writing only manufactured housing policies is eligible  
325 to receive a surplus note of up to \$7 million. For purposes of  
326 this section, new capital must be in the form of cash or cash  
327 equivalents as specified in s. 625.012(1).

328 (c) The insurer's surplus, new capital, and the surplus  
329 note must total at least \$50 million, except for insurers writing  
330 residential property insurance covering only manufactured  
331 housing. The insurer's surplus, new capital, and the surplus note  
332 must total at least \$14 million for insurers writing only  
333 residential property insurance covering manufactured housing  
334 policies as provided in paragraph (a).

335 (d) The insurer must commit to increase its writings of  
336 residential property insurance, including the peril of wind, and  
337 to meet ~~meeting~~ a minimum writing ratio of net written premium to  
338 surplus of at least 1:1 for the first calendar year after  
339 receiving the state funds or renegotiation of the surplus note,  
340 1.5:1 for the second calendar year, and 2:1 for the remaining  
341 term of the surplus note. Alternatively, the insurer must meet a  
342 minimum writing ratio of gross written premium to surplus of at  
343 least 3:1 for the first calendar year after receiving the state  
344 funds or renegotiation of the surplus note, 4.5:1 for the second  
345 calendar year, and 6:1 for the remaining term of the surplus  
346 note. The writing ratios, ~~which~~ shall be determined by the Office  
347 of Insurance Regulation and certified quarterly to the board. For  
348 this purpose, the term "premium" ~~"net written premium"~~ means net

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349 ~~written~~ premium for residential property insurance in this state  
350 ~~Florida~~, including the peril of wind, and "surplus" means the new  
351 capital and surplus note ~~refers to the entire surplus~~ of the  
352 insurer. An insurer that makes an initial application after July  
353 1, 2008, must also commit to writing at least 15 percent of its  
354 net or gross written premium for new policies, not including  
355 renewal premiums, for policies taken out of Citizens Property  
356 Insurance Corporation, during each of the first 3 years after  
357 receiving the state funds in exchange for the surplus note, which  
358 shall be determined by the Office of Insurance Regulation and  
359 certified annually to the board. The insurer must also commit to  
360 maintaining a level of surplus and reinsurance sufficient to  
361 cover in excess of its 1-in-100 year probable maximum loss, as  
362 determined by a hurricane loss model accepted by the Florida  
363 Commission on Hurricane Loss Projection Methodology, which shall  
364 be determined by the Office of Insurance Regulation and certified  
365 annually to the board. If the board determines that the insurer  
366 has failed to meet any of the requirements of this paragraph  
367 ~~required ratio is not maintained~~ during the term of the surplus  
368 note, the board may increase the interest rate, accelerate the  
369 repayment of interest and principal, or shorten the term of the  
370 surplus note, subject to approval by the Commissioner of  
371 Insurance of payments by the insurer of principal and interest as  
372 provided in paragraph (f).

373 (e) If the requirements of this section are met, the board  
374 may approve an application by an insurer for funds in exchange  
375 for issuance of a surplus note, unless the board determines that  
376 the financial condition of the insurer and its business plan for  
377 writing residential property insurance in Florida places an

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378 | unreasonably high level of financial risk to the state of  
379 | nonpayment in full of the interest and principal. The board shall  
380 | consult with the Office of Insurance Regulation and may contract  
381 | with independent financial and insurance consultants in making  
382 | this determination.

383 |         (f) The surplus note must be repayable to the state with a  
384 | term of 20 years. The surplus note shall accrue interest on the  
385 | unpaid principal balance at a rate equivalent to the 10-year U.S.  
386 | Treasury Bond rate, require the payment only of interest during  
387 | the first 3 years, and include such other terms as approved by  
388 | the board. The board may charge late fees up to 5 percent for  
389 | late payments or other late remittances. Payment of principal, ~~or~~  
390 | interest, or late fees by the insurer on the surplus note must be  
391 | approved by the Commissioner of Insurance, who shall approve such  
392 | payment unless the commissioner determines that such payment will  
393 | substantially impair the financial condition of the insurer. If  
394 | such a determination is made, the commissioner shall approve such  
395 | payment that will not substantially impair the financial  
396 | condition of the insurer.

397 |         (g) The total amount of funds available for the program is  
398 | limited to the amount appropriated by the Legislature for this  
399 | purpose. If the amount of surplus notes requested by insurers  
400 | exceeds the amount of funds available, the board may prioritize  
401 | insurers that are eligible and approved, with priority for  
402 | funding given to insurers writing only manufactured housing  
403 | policies, regardless of the date of application, based on the  
404 | financial strength of the insurer, the viability of its proposed  
405 | business plan for writing additional residential property  
406 | insurance in the state, and the effect on competition in the

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407 residential property insurance market. Between insurers writing  
408 residential property insurance covering manufactured housing,  
409 priority shall be given to the insurer writing the highest  
410 percentage of its policies covering manufactured housing.

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

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

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

421 1. A Florida domiciled insurer that begins writing personal  
422 lines residential manufactured housing policies in Florida after  
423 March 1, 2007, and that removes a minimum of 50,000 policies from  
424 Citizens Property Insurance Corporation without accepting a  
425 bonus, provided at least 25 percent of its policies cover  
426 manufactured housing. Such an insurer may count any funds above  
427 the minimum capital and surplus requirement that were contributed  
428 into the insurer after March 1, 2007, as new capital under this  
429 section.

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

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

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

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

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436           (4) The state funds provided to the insurer in exchange for  
437 the A surplus note ~~provided to an insurer~~ pursuant to this  
438 section are ~~is~~ considered borrowed surplus ~~an asset~~ of the  
439 insurer pursuant to s. 628.401 ~~s. 625.012~~.

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

444           (6) The board shall adopt rules prescribing the procedures,  
445 administration, and criteria for approving the applications of  
446 insurers to receive funds in exchange for issuance of surplus  
447 notes pursuant to this section, which may be adopted pursuant to  
448 the procedures for emergency rules of chapter 120. Otherwise,  
449 actions and determinations by the board pursuant to this section  
450 are exempt from chapter 120.

451           (7) The board shall invest and reinvest the funds  
452 appropriated for the program in accordance with s. 215.47 and  
453 consistent with board policy.

454           (8) Costs and fees incurred by the board in administering  
455 this program, including fees for investment services, shall be  
456 paid from funds appropriated by the Legislature for this program,  
457 but are limited to 1 percent of the amount appropriated.

458           (9) The board shall submit a report to the President of the  
459 Senate and the Speaker of the House of Representatives by  
460 February 1 of each year as to the results of the program and each  
461 insurer's compliance with the terms of its surplus note.

462           (10) The amendments to this section enacted in 2008 do not  
463 affect the terms or conditions of the surplus notes that were  
464 approved prior to January 1, 2008. However, the board may



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465 renegotiate the terms of any surplus note issued by an insurer  
466 prior to January 2008 under this program upon the agreement of  
467 the insurer and the board and consistent with the requirements of  
468 this section as amended in 2008.

469 (11) On January 15, 2009, the State Board of Administration  
470 shall transfer to Citizens Property Insurance Corporation any  
471 funds that have not been committed or reserved for insurers  
472 approved to receive such funds under the program, from the funds  
473 that were transferred from Citizens Property Insurance  
474 Corporation in 2008-2009 for such purposes.

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

477 624.3161 Market conduct examinations.--

478 (6) Based on the findings of a market conduct examination  
479 that an insurer has exhibited a pattern or practice of willful  
480 violations of an unfair insurance trade practice related to  
481 claims-handling which caused harm to policyholders, as prohibited  
482 by s. 626.9541(1)(i), the office may order an insurer pursuant to  
483 chapter 120 to file its claims-handling practices and procedures  
484 related to that line of insurance with the office for review and  
485 inspection, to be held by the office for the following 36-month  
486 period. Such claims-handling practices and procedures are public  
487 records and are not trade secrets or otherwise exempt from the  
488 provisions of s. 119.07(1). As used in this section, "claims-  
489 handling practices and procedures" are any policies, guidelines,  
490 rules, protocols, standard operating procedures, instructions, or  
491 directives that govern or guide how and the manner in which an  
492 insured's claims for benefits under any policy will be processed.

493 Section 4. Subsections (2) and (3) of section 624.4211,

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494 Florida Statutes, are amended to read:

495       624.4211 Administrative fine in lieu of suspension or  
496 revocation.--

497       (2) With respect to any nonwillful violation, such fine may  
498 ~~shall~~ not exceed \$5,000 ~~\$2,500~~ per violation. In no event shall  
499 such fine exceed an aggregate amount of \$20,000 ~~\$10,000~~ for all  
500 nonwillful violations arising out of the same action. ~~If~~ When an  
501 insurer discovers a nonwillful violation, the insurer shall  
502 correct the violation and, if restitution is due, make  
503 restitution to all affected persons. Such restitution shall  
504 include interest at 12 percent per year from either the date of  
505 the violation or the date of inception of the affected person's  
506 policy, at the insurer's option. The restitution may be a credit  
507 against future premiums due provided that ~~the~~ interest  
508 accumulates ~~shall accumulate~~ until the premiums are due. If the  
509 amount of restitution due to any person is \$50 or more and the  
510 insurer wishes to credit it against future premiums, it shall  
511 notify such person that she or he may receive a check instead of  
512 a credit. If the credit is on a policy that ~~which~~ is not renewed,  
513 the insurer shall pay the restitution to the person to whom it is  
514 due.

515       (3) With respect to any knowing and willful violation of a  
516 lawful order or rule of the office or commission or a provision  
517 of this code, the office may impose a fine upon the insurer in an  
518 amount not to exceed \$40,000 ~~\$20,000~~ for each such violation. In  
519 no event shall such fine exceed an aggregate amount of \$200,000  
520 ~~\$100,000~~ for all knowing and willful violations arising out of  
521 the same action. In addition to such fines, the ~~such~~ insurer  
522 shall make restitution when due in accordance with ~~the provisions~~

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523 ef subsection (2).

524 Section 5. Section 624.4213, Florida Statutes, is created  
525 to read:

526 624.4213 Trade secret documents.--

527 (1) If any person who is required to submit documents or  
528 other information to the office or department pursuant to the  
529 Insurance Code or by rule or order of the office, department, or  
530 commission claims that such submission contains a trade secret,  
531 such person may file with the office or department a notice of  
532 trade secret as provided in this section. Failure to do so  
533 constitutes a waiver of any claim by such person that the  
534 document or information is a trade secret.

535 (a) Each page of such document or specific portion of a  
536 document claimed to be a trade secret must be clearly marked as  
537 "trade secret."

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

541 (c) In submitting a notice of trade secret to the office or  
542 department, the submitting party must include an affidavit  
543 certifying under oath to the truth of the following statements  
544 concerning all documents or information that are claimed to be  
545 trade secrets:

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

550 2. [I have/My company has] taken measures to prevent the  
551 disclosure of the information to anyone other than those who have

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552 been selected to have access for limited purposes, and [I  
553 intend/my company intends] to continue to take such measures.

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

557 4. The information is not publicly available elsewhere.

558 (2) If the office or department receives a public-records  
559 request for a document or information that is marked and  
560 certified as a trade secret, the office or department shall  
561 promptly notify the person that certified the document as a trade  
562 secret. The notice shall inform such person that he or she or his  
563 or her company has 30 days following receipt of such notice to  
564 file an action in circuit court seeking a determination whether  
565 the document in question contains trade secrets and an order  
566 barring public disclosure of the document. If that person or  
567 company files an action within 30 days after receipt of notice of  
568 the public-records request, the office or department may not  
569 release the documents pending the outcome of the legal action.  
570 The failure to file an action within 30 days constitutes a waiver  
571 of any claim of confidentiality and the office or department  
572 shall release the document as requested.

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

577 Section 6. Section 624.4305, Florida Statutes, is created to  
578 read:

579 624.4305 Nonrenewal of residential property insurance  
580 policies.--Any insurer planning to nonrenew more than 10,000

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581 residential property insurance policies in this state within a  
582 12-month period shall give notice in writing to the Office of  
583 Insurance Regulation for informational purposes 90 days before  
584 the issuance of any notices of nonrenewal. The notice provided to  
585 the office must set forth the insurer's reasons for such action,  
586 the effective dates of nonrenewal, and any arrangements made for  
587 other insurers to offer coverage to affected policyholders.

588 Section 7. Subsection (2) of section 626.9521, Florida  
589 Statutes, is amended to read:

590 626.9521 Unfair methods of competition and unfair or  
591 deceptive acts or practices prohibited; penalties.--

592 (2) Any person who violates any provision of this part  
593 shall be subject to a fine in an amount not greater than \$5,000  
594 ~~\$2,500~~ for each nonwillful violation and not greater than \$40,000  
595 ~~\$20,000~~ for each willful violation. Fines under this subsection  
596 imposed against an insurer may not exceed an aggregate amount of  
597 \$20,000 ~~\$10,000~~ for all nonwillful violations arising out of the  
598 same action or an aggregate amount of \$200,000 ~~\$100,000~~ for all  
599 willful violations arising out of the same action. The fines  
600 authorized by this subsection may be imposed in addition to any  
601 other applicable penalty.

602 Section 8. Paragraph (i) of subsection (1) of section  
603 626.9541, Florida Statutes, is amended to read:

604 626.9541 Unfair methods of competition and unfair or  
605 deceptive acts or practices defined.--

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

609 (i) Unfair claim settlement practices.--

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- 610           1. Attempting to settle claims on the basis of an  
611 application, when serving as a binder or intended to become a  
612 part of the policy, or any other material document which was  
613 altered without notice to, or knowledge or consent of, the  
614 insured;
- 615           2. A material misrepresentation made to an insured or any  
616 other person having an interest in the proceeds payable under  
617 such contract or policy, for the purpose and with the intent of  
618 effecting settlement of such claims, loss, or damage under such  
619 contract or policy on less favorable terms than those provided  
620 in, and contemplated by, such contract or policy; or
- 621           3. Committing or performing with such frequency as to  
622 indicate a general business practice any of the following:
- 623           a. Failing to adopt and implement standards for the proper  
624 investigation of claims;
- 625           b. Misrepresenting pertinent facts or insurance policy  
626 provisions relating to coverages at issue;
- 627           c. Failing to acknowledge and act promptly upon  
628 communications with respect to claims;
- 629           d. Denying claims without conducting reasonable  
630 investigations based upon available information;
- 631           e. Failing to affirm or deny full or partial coverage of  
632 claims, and, as to partial coverage, the dollar amount or extent  
633 of coverage, or failing to provide a written statement that the  
634 claim is being investigated, upon the written request of the  
635 insured within 30 days after proof-of-loss statements have been  
636 completed;
- 637           f. Failing to promptly provide a reasonable explanation in  
638 writing to the insured of the basis in the insurance policy, in

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639 relation to the facts or applicable law, for denial of a claim or  
640 for the offer of a compromise settlement;

641 g. Failing to promptly notify the insured of any additional  
642 information necessary for the processing of a claim; or

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

645 4. Failing to pay undisputed amounts of partial or full  
646 benefits owed under first-party property insurance policies  
647 within 90 days after an insurer receives notice of a residential  
648 property insurance claim, determines the amounts of partial or  
649 full benefits, and agrees to coverage, unless payment of the  
650 undisputed benefits is prevented by an act of God, prevented by  
651 the impossibility of performance, or due to actions by the  
652 insured or claimant that constitute fraud, lack of cooperation,  
653 or intentional misrepresentation regarding the claim for which  
654 benefits are owed.

655 Section 9. Section 627.0612, Florida Statutes, is amended  
656 to read:

657 627.0612 Administrative proceedings in rating  
658 determinations.--

659 (1) In any proceeding to determine whether rates, rating  
660 plans, or other matters governed by this part comply with the  
661 law, the appellate court shall set aside a final order of the  
662 office if the office has violated s. 120.57(1)(k) by substituting  
663 its findings of fact for findings of an administrative law judge  
664 which were supported by competent substantial evidence.

665 (2) In an administrative hearing to determine whether an  
666 insurer's rates, rating schedules, rating manuals, premium  
667 credits, discount schedules, surcharge schedules, or changes

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668 thereto, for property insurance comply with the law, in addition  
669 to any other findings of fact, findings on the following matters  
670 shall be considered findings of fact:

671 (a) Whether a factor or factors used in a rate filing or  
672 applied by the office is consistent with standard actuarial  
673 techniques or practices or are otherwise based on reasonable  
674 actuarial judgment.

675 (b) Whether a factor for underwriting profit and  
676 contingencies is reasonable or excessive.

677 (c) Whether the cost of reinsurance is reasonable or  
678 excessive.

679 (3) In an administrative hearing to determine whether an  
680 insurer's rates, rating schedules, rating manuals, premium  
681 credits, discount schedules, surcharge schedules, or changes  
682 thereto, for property insurance comply with the law, a  
683 recommended order may be entered that approves, modifies, or  
684 rejects the requested change. A recommended order modifying the  
685 requested rate change shall recommend such change as is supported  
686 by the record in the case.

687 Section 10. Paragraphs (a), (b), and (g) of subsection (2),  
688 subsection (6), and paragraph (a) of subsection (9) of section  
689 627.062, Florida Statutes, are amended to read:

690 627.062 Rate standards.--

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

692 (a) Insurers or rating organizations shall establish and  
693 use rates, rating schedules, or rating manuals to allow the  
694 insurer a reasonable rate of return on such classes of insurance  
695 written in this state. A copy of rates, rating schedules, rating  
696 manuals, premium credits or discount schedules, and surcharge



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697 | schedules, and changes thereto, shall be filed with the office  
698 | under one of the following procedures except as provided in  
699 | subparagraph 3.:

700 |       1. If the filing is made at least 90 days before the  
701 | proposed effective date and the filing is not implemented during  
702 | the office's review of the filing and any proceeding and judicial  
703 | review, then such filing shall be considered a "file and use"  
704 | filing. In such case, the office shall finalize its review by  
705 | issuance of a notice of intent to approve or a notice of intent  
706 | to disapprove within 90 days after receipt of the filing. The  
707 | notice of intent to approve and the notice of intent to  
708 | disapprove constitute agency action for purposes of the  
709 | Administrative Procedure Act. Requests for supporting  
710 | information, requests for mathematical or mechanical corrections,  
711 | or notification to the insurer by the office of its preliminary  
712 | findings shall not toll the 90-day period during any such  
713 | proceedings and subsequent judicial review. The rate shall be  
714 | deemed approved if the office does not issue a notice of intent  
715 | to approve or a notice of intent to disapprove within 90 days  
716 | after receipt of the filing.

717 |       2. If the filing is not made in accordance with the  
718 | provisions of subparagraph 1., such filing shall be made as soon  
719 | as practicable, but no later than 30 days after the effective  
720 | date, and shall be considered a "use and file" filing. An insurer  
721 | making a "use and file" filing is potentially subject to an order  
722 | by the office to return to policyholders portions of rates found  
723 | to be excessive, as provided in paragraph (h).

724 |       3. For all property insurance filings made or submitted  
725 | after January 25, 2007, but before December 31, 2009 ~~2008~~, an

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726 insurer seeking a rate that is greater than the rate most  
727 recently approved by the office shall make a "file and use"  
728 filing. ~~This subparagraph applies to property insurance only.~~ For  
729 purposes of this subparagraph, motor vehicle collision and  
730 comprehensive coverages are not considered to be property  
731 coverages.

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

737 1. Past and prospective loss experience within and without  
738 this state.

739 2. Past and prospective expenses.

740 3. The degree of competition among insurers for the risk  
741 insured.

742 4. Investment income reasonably expected by the insurer,  
743 consistent with the insurer's investment practices, from  
744 investable premiums anticipated in the filing, plus any other  
745 expected income from currently invested assets representing the  
746 amount expected on unearned premium reserves and loss reserves.

747 The commission may adopt rules using ~~utilizing~~ reasonable  
748 techniques of actuarial science and economics to specify the  
749 manner in which insurers shall calculate investment income  
750 attributable to such classes of insurance written in this state  
751 and the manner in which such investment income shall be used to  
752 calculate ~~in the calculation of~~ insurance rates. Such manner  
753 shall contemplate allowances for an underwriting profit factor  
754 and full consideration of investment income which produce a

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755 reasonable rate of return; however, investment income from  
756 invested surplus may ~~shall~~ not be considered.

757 5. The reasonableness of the judgment reflected in the  
758 filing.

759 6. Dividends, savings, or unabsorbed premium deposits  
760 allowed or returned to Florida policyholders, members, or  
761 subscribers.

762 7. The adequacy of loss reserves.

763 8. The cost of reinsurance. The office shall not disapprove  
764 a rate as excessive solely due to the insurer having obtained  
765 catastrophic reinsurance to cover the insurer's estimated 250-  
766 year probable maximum loss or any lower level of loss.

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

769 10. Conflagration and catastrophe hazards, if applicable.

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

774 ~~12.11.~~ A reasonable margin for underwriting profit and  
775 contingencies. ~~For that portion of the rate covering the risk of~~  
776 ~~hurricanes and other catastrophic losses for which the insurer~~  
777 ~~has not purchased reinsurance and has exposed its capital and~~  
778 ~~surplus to such risk, the office must approve a rating factor~~  
779 ~~that provides the insurer a reasonable rate of return that is~~  
780 ~~commensurate with such risk.~~

781 ~~13.12.~~ The cost of medical services, if applicable.

782 ~~14.13.~~ Other relevant factors which impact upon the  
783 frequency or severity of claims or upon expenses.

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784 (g) The office may at any time review a rate, rating  
785 schedule, rating manual, or rate change; the pertinent records of  
786 the insurer; and market conditions. If the office finds on a  
787 preliminary basis that a rate may be excessive, inadequate, or  
788 unfairly discriminatory, the office shall initiate proceedings to  
789 disapprove the rate and shall so notify the insurer. However, the  
790 office may not disapprove as excessive any rate for which it has  
791 given final approval or which has been deemed approved for a  
792 period of 1 year after the effective date of the filing unless  
793 the office finds that a material misrepresentation or material  
794 error was made by the insurer or was contained in the filing.  
795 Upon being so notified, the insurer or rating organization shall,  
796 within 60 days, file with the office all information which, in  
797 the belief of the insurer or organization, proves the  
798 reasonableness, adequacy, and fairness of the rate or rate  
799 change. The office shall issue a notice of intent to approve or a  
800 notice of intent to disapprove pursuant to the procedures of  
801 paragraph (a) within 90 days after receipt of the insurer's  
802 initial response. In such instances and in any administrative  
803 proceeding relating to the legality of the rate, the insurer or  
804 rating organization shall carry the burden of proof by a  
805 preponderance of the evidence to show that the rate is not  
806 excessive, inadequate, or unfairly discriminatory. After the  
807 office notifies an insurer that a rate may be excessive,  
808 inadequate, or unfairly discriminatory, unless the office  
809 withdraws the notification, the insurer shall not alter the rate  
810 except to conform with the office's notice until the earlier of  
811 120 days after the date the notification was provided or 180 days  
812 after the date of the implementation of the rate. The office may,

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813 subject to chapter 120, disapprove without the 60-day  
814 notification any rate increase filed by an insurer within the  
815 prohibited time period or during the time that the legality of  
816 the increased rate is being contested.

817  
818 The provisions of this subsection shall not apply to workers'  
819 compensation and employer's liability insurance and to motor  
820 vehicle insurance.

821 (6) (a) If an insurer requests an administrative hearing  
822 pursuant to s. 120.57 related to a rate filing under this  
823 section, the director of the Division of Administrative Hearings  
824 shall expedite the hearing and assign an administrative law judge  
825 who shall commence the hearing within 30 days after the receipt  
826 of the formal request and shall enter a recommended order within  
827 30 days after the hearing or within 30 days after receipt of the  
828 hearing transcript by the administrative law judge, whichever is  
829 later. Each party shall be allowed 10 days in which to submit  
830 written exceptions to the recommended order. The office shall  
831 enter a final order within 30 days after the entry of the  
832 recommended order. The provisions of this paragraph may be waived  
833 upon stipulation of all parties.

834 (b) Upon entry of a final order, the insurer may request a  
835 expedited appellate review pursuant to the Florida Rules of  
836 Appellate Procedure. It is the intent of the Legislature that the  
837 First District Court of Appeal grant an insurer's request for an  
838 expedited appellate review.

839 ~~(a) After any action with respect to a rate filing that~~  
840 ~~constitutes agency action for purposes of the Administrative~~  
841 ~~Procedure Act, except for a rate filing for medical malpractice,~~

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842 ~~an insurer may, in lieu of demanding a hearing under s. 120.57,~~  
843 ~~require arbitration of the rate filing. However, the arbitration~~  
844 ~~option provision in this subsection does not apply to a rate~~  
845 ~~filing that is made on or after the effective date of this act~~  
846 ~~until January 1, 2009. Arbitration shall be conducted by a board~~  
847 ~~of arbitrators consisting of an arbitrator selected by the~~  
848 ~~office, an arbitrator selected by the insurer, and an arbitrator~~  
849 ~~selected jointly by the other two arbitrators. Each arbitrator~~  
850 ~~must be certified by the American Arbitration Association. A~~  
851 ~~decision is valid only upon the affirmative vote of at least two~~  
852 ~~of the arbitrators. No arbitrator may be an employee of any~~  
853 ~~insurance regulator or regulatory body or of any insurer,~~  
854 ~~regardless of whether or not the employing insurer does business~~  
855 ~~in this state. The office and the insurer must treat the decision~~  
856 ~~of the arbitrators as the final approval of a rate filing. Costs~~  
857 ~~of arbitration shall be paid by the insurer.~~

858 ~~(b) Arbitration under this subsection shall be conducted~~  
859 ~~pursuant to the procedures specified in ss. 682.06-682.10. Either~~  
860 ~~party may apply to the circuit court to vacate or modify the~~  
861 ~~decision pursuant to s. 682.13 or s. 682.14. The commission shall~~  
862 ~~adopt rules for arbitration under this subsection, which rules~~  
863 ~~may not be inconsistent with the arbitration rules of the~~  
864 ~~American Arbitration Association as of January 1, 1996.~~

865 ~~(c) Upon initiation of the arbitration process, the insurer~~  
866 ~~waives all rights to challenge the action of the office under the~~  
867 ~~Administrative Procedure Act or any other provision of law;~~  
868 ~~however, such rights are restored to the insurer if the~~  
869 ~~arbitrators fail to render a decision within 90 days after~~  
870 ~~initiation of the arbitration process.~~

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

876           1. The signing officer and actuary have reviewed the rate  
877 filing;

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

883           3. Based on the signing officer's and actuary's knowledge,  
884 the information and other factors described in paragraph (2) (b),  
885 including, but not limited to, investment income, fairly present  
886 in all material respects the basis of the rate filing for the  
887 periods presented in the filing; and

888           4. Based on the signing officer's and actuary's knowledge,  
889 the rate filing reflects all premium savings that are reasonably  
890 expected to result from legislative enactments and are in  
891 accordance with generally accepted and reasonable actuarial  
892 techniques.

893           Section 11. Paragraph (c) of subsection (1) and subsection  
894 (3) of section 627.0628, Florida Statutes, are amended, and  
895 paragraph (e) is added to subsection (1) of that section, to  
896 read:

897           627.0628 Florida Commission on Hurricane Loss Projection  
898 Methodology; public records exemption; public meetings  
899 exemption.--

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## (1) LEGISLATIVE FINDINGS AND INTENT.--

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

(e) The Legislature finds that the authority to take final agency action with respect to insurance ratemaking is vested in the Office of Insurance Regulation and the Financial Services Commission, and that the processes, standards, and guidelines of the Florida Commission on Hurricane Loss Projection Methodology do not constitute final agency action or statements of general applicability that implement, interpret, or prescribe law or policy; accordingly, chapter 120 does not apply to the processes, standards, and guidelines of the Florida Commission on Hurricane Loss Projection Methodology.

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

(a) The commission shall consider any actuarial methods, principles, standards, models, or output ranges that have the potential for improving the accuracy of or reliability of the hurricane loss projections used in residential property insurance



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929 rate filings. The commission shall, from time to time, adopt  
930 findings as to the accuracy or reliability of particular methods,  
931 principles, standards, models, or output ranges.

932 (b) The commission shall consider any actuarial methods,  
933 principles, standards, or models that have the potential for  
934 improving the accuracy of or reliability of projecting probable  
935 maximum loss levels. The commission shall adopt findings as to  
936 the accuracy or reliability of particular methods, principles,  
937 standards, or models related to probable maximum loss  
938 calculations.

939 (c)~~(b)~~ In establishing reimbursement premiums for the  
940 Florida Hurricane Catastrophe Fund, the State Board of  
941 Administration must, to the extent feasible, employ actuarial  
942 methods, principles, standards, models, or output ranges found by  
943 the commission to be accurate or reliable.

944 (d)~~(e)~~ With respect to a rate filing under s. 627.062, an  
945 insurer shall ~~may~~ employ and may not modify or adjust actuarial  
946 methods, principles, standards, models, or output ranges found by  
947 the commission to be accurate or reliable in determining ~~to~~  
948 ~~determine~~ hurricane loss factors for use in a rate filing under  
949 s. 627.062. An insurer shall employ and may not modify or adjust  
950 models found by the commission to be accurate or reliable in  
951 determining probable maximum loss levels pursuant to paragraph  
952 (b) with respect to a rate filing under s. 627.062 made more than  
953 60 days after the commission has made such findings. ~~Such~~  
954 ~~findings and factors are admissible and relevant in consideration~~  
955 ~~of a rate filing by the office or in any arbitration or~~  
956 ~~administrative or judicial review only if the office and the~~  
957 ~~consumer advocate appointed pursuant to s. 627.0613 have access~~

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958 ~~to all of the assumptions and factors that were used in~~  
959 ~~developing the actuarial methods, principles, standards, models,~~  
960 ~~or output ranges, and are not precluded from disclosing such~~  
961 ~~information in a rate proceeding. In any rate hearing under s.~~  
962 ~~120.57 or in any arbitration proceeding under s. 627.062(6), the~~  
963 ~~hearing officer, judge, or arbitration panel may determine~~  
964 ~~whether the office and the consumer advocate were provided with~~  
965 ~~access to all of the assumptions and factors that were used in~~  
966 ~~developing the actuarial methods, principles, standards, models,~~  
967 ~~or output ranges and to determine their admissibility.~~

968 (e)~~(d)~~ The commission shall adopt revisions to previously  
969 adopted actuarial methods, principles, standards, models, or  
970 output ranges at least annually.

971 (f)~~(e)~~1. A trade secret, as defined in s. 812.081, that is  
972 used in designing and constructing a hurricane loss model and  
973 that is provided pursuant to this section, by a private company,  
974 to the commission, office, or consumer advocate appointed  
975 pursuant to s. 627.0613, is confidential and exempt from s.  
976 119.07(1) and s. 24(a), Art. I of the State Constitution.

977 2. That portion of a meeting of the commission or of a rate  
978 proceeding on an insurer's rate filing at which a trade secret  
979 made confidential and exempt by this paragraph is discussed is  
980 exempt from s. 286.011 and s. 24(b), Art. I of the State  
981 Constitution.

982 3. This paragraph is subject to the Open Government Sunset  
983 Review Act of 1995 in accordance with s. 119.15, and shall stand  
984 repealed on October 2, 2010, unless reviewed and saved from  
985 repeal through reenactment by the Legislature.

986 Section 12. Subsection (1) of section 627.0629, Florida

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987 Statutes, is amended to read:

988       627.0629 Residential property insurance; rate filings.--

989       (1) (a) It is the intent of the Legislature that insurers  
990 must provide savings to consumers who install or implement  
991 windstorm damage mitigation techniques, alterations, or solutions  
992 to their properties to prevent windstorm losses. A rate filing  
993 for residential property insurance must include actuarially  
994 reasonable discounts, credits, or other rate differentials, or  
995 appropriate reductions in deductibles, for properties on which  
996 fixtures or construction techniques demonstrated to reduce the  
997 amount of loss in a windstorm have been installed or implemented.  
998 The fixtures or construction techniques shall include, but not be  
999 limited to, fixtures or construction techniques which enhance  
1000 roof strength, roof covering performance, roof-to-wall strength,  
1001 wall-to-floor-to-foundation strength, opening protection, and  
1002 window, door, and skylight strength. Credits, discounts, or other  
1003 rate differentials, or appropriate reductions in deductibles, for  
1004 fixtures and construction techniques which meet the minimum  
1005 requirements of the Florida Building Code must be included in the  
1006 rate filing. All insurance companies must make a rate filing  
1007 which includes the credits, discounts, or other rate  
1008 differentials or reductions in deductibles by February 28, 2003.  
1009 By July 1, 2007, the office shall reevaluate the discounts,  
1010 credits, other rate differentials, and appropriate reductions in  
1011 deductibles for fixtures and construction techniques that meet  
1012 the minimum requirements of the Florida Building Code, based upon  
1013 actual experience or any other loss relativity studies available  
1014 to the office. The office shall determine the discounts, credits,  
1015 other rate differentials, and appropriate reductions in

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1016 deductibles that reflect the full actuarial value of such  
1017 revaluation, which may be used by insurers in rate filings.

1018 (b) By February 1, 2011, the Office of Insurance  
1019 Regulation, in consultation with the Department of Financial  
1020 Services and the Department of Community Affairs, shall develop  
1021 and make publicly available a proposed method for insurers to  
1022 establish discounts, credits, or other rate differentials for  
1023 hurricane mitigation measures which directly correlate to the  
1024 numerical rating assigned to a structure pursuant to the uniform  
1025 home grading scale adopted by the Financial Services Commission  
1026 pursuant to s. 215.55865, including any proposed changes to the  
1027 uniform home grading scale. By October 1, 2011, the commission  
1028 shall adopt rules requiring insurers to make rate filings for  
1029 residential property insurance which revise insurers' discounts,  
1030 credits, or other rate differentials for hurricane mitigation  
1031 measures so that such rate differentials correlate directly to  
1032 the uniform home grading scale. The rules may include such  
1033 changes to the uniform home grading scale as the commission  
1034 determines are necessary, and may specify the minimum required  
1035 discounts, credits, or other rate differentials. Such rate  
1036 differentials must be consistent with generally accepted  
1037 actuarial principles and wind-loss mitigation studies. The rules  
1038 shall allow a period of at least 2 years after the effective date  
1039 of the revised mitigation discounts, credits, or other rate  
1040 differentials for a property owner to obtain an inspection or  
1041 otherwise qualify for the revised credit, during which time the  
1042 insurer shall continue to apply the mitigation credit that was  
1043 applied immediately prior to the effective date of the revised  
1044 credit.

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1045 Section 13. Subsection (2) and paragraphs (a), (b), (c),  
1046 (m), (p), (w), (dd), (ee), and (ff) of subsection (6) of section  
1047 627.351, Florida Statutes, are amended to read:

1048 627.351 Insurance risk apportionment plans.--

1049 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

1050 (b) The department shall require all insurers holding a  
1051 certificate of authority to transact property insurance on a  
1052 direct basis in this state, other than joint underwriting  
1053 associations and other entities formed pursuant to this section,  
1054 to provide windstorm coverage to applicants from areas determined  
1055 to be eligible pursuant to paragraph (c) who in good faith are  
1056 entitled to, but are unable to procure, such coverage through  
1057 ordinary means; or it shall adopt a reasonable plan or plans for  
1058 the equitable apportionment or sharing among such insurers of  
1059 windstorm coverage, which may include formation of an association  
1060 for this purpose. As used in this subsection, the term "property  
1061 insurance" means insurance on real or personal property, as  
1062 defined in s. 624.604, including insurance for fire, industrial  
1063 fire, allied lines, farmowners multiperil, homeowners'  
1064 multiperil, commercial multiperil, and mobile homes, and  
1065 including liability coverages on all such insurance, but  
1066 excluding inland marine as defined in s. 624.607(3) and excluding  
1067 vehicle insurance as defined in s. 624.605(1)(a) other than  
1068 insurance on mobile homes used as permanent dwellings. The  
1069 department shall adopt rules that provide a formula for the  
1070 recovery and repayment of any deferred assessments.

1071 1. For the purpose of this section, properties eligible for  
1072 such windstorm coverage are defined as dwellings, buildings, and  
1073 other structures, including mobile homes which are used as

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1074 dwellings and which are tied down in compliance with mobile home  
1075 tie-down requirements prescribed by the Department of Highway  
1076 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
1077 contents of all such properties. An applicant or policyholder is  
1078 eligible for coverage only if an offer of coverage cannot be  
1079 obtained by or for the applicant or policyholder from an admitted  
1080 insurer at approved rates.

1081       2.a.(I) All insurers required to be members of such  
1082 association shall participate in its writings, expenses, and  
1083 losses. Surplus of the association shall be retained for the  
1084 payment of claims and shall not be distributed to the member  
1085 insurers. Such participation by member insurers shall be in the  
1086 proportion that the net direct premiums of each member insurer  
1087 written for property insurance in this state during the preceding  
1088 calendar year bear to the aggregate net direct premiums for  
1089 property insurance of all member insurers, as reduced by any  
1090 credits for voluntary writings, in this state during the  
1091 preceding calendar year. For the purposes of this subsection, the  
1092 term "net direct premiums" means direct written premiums for  
1093 property insurance, reduced by premium for liability coverage and  
1094 for the following if included in allied lines: rain and hail on  
1095 growing crops; livestock; association direct premiums booked;  
1096 National Flood Insurance Program direct premiums; and similar  
1097 deductions specifically authorized by the plan of operation and  
1098 approved by the department. A member's participation shall begin  
1099 on the first day of the calendar year following the year in which  
1100 it is issued a certificate of authority to transact property  
1101 insurance in the state and shall terminate 1 year after the end  
1102 of the calendar year during which it no longer holds a

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1103 certificate of authority to transact property insurance in the  
1104 state. The commissioner, after review of annual statements, other  
1105 reports, and any other statistics that the commissioner deems  
1106 necessary, shall certify to the association the aggregate direct  
1107 premiums written for property insurance in this state by all  
1108 member insurers.

1109 (II) Effective July 1, 2002, the association shall operate  
1110 subject to the supervision and approval of a board of governors  
1111 who are the same individuals that have been appointed by the  
1112 Treasurer to serve on the board of governors of the Citizens  
1113 Property Insurance Corporation.

1114 (III) The plan of operation shall provide a formula whereby  
1115 a company voluntarily providing windstorm coverage in affected  
1116 areas will be relieved wholly or partially from apportionment of  
1117 a regular assessment pursuant to sub-sub-subparagraph d.(I) or  
1118 sub-sub-subparagraph d.(II).

1119 (IV) A company which is a member of a group of companies  
1120 under common management may elect to have its credits applied on  
1121 a group basis, and any company or group may elect to have its  
1122 credits applied to any other company or group.

1123 (V) There shall be no credits or relief from apportionment  
1124 to a company for emergency assessments collected from its  
1125 policyholders under sub-sub-subparagraph d.(III).

1126 (VI) The plan of operation may also provide for the award  
1127 of credits, for a period not to exceed 3 years, from a regular  
1128 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
1129 subparagraph d.(II) as an incentive for taking policies out of  
1130 the Residential Property and Casualty Joint Underwriting  
1131 Association. In order to qualify for the exemption under this

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1132 sub-sub-subparagraph, the take-out plan must provide that at  
1133 least 40 percent of the policies removed from the Residential  
1134 Property and Casualty Joint Underwriting Association cover risks  
1135 located in Dade, Broward, and Palm Beach Counties or at least 30  
1136 percent of the policies so removed cover risks located in Dade,  
1137 Broward, and Palm Beach Counties and an additional 50 percent of  
1138 the policies so removed cover risks located in other coastal  
1139 counties, and must also provide that no more than 15 percent of  
1140 the policies so removed may exclude windstorm coverage. With the  
1141 approval of the department, the association may waive these  
1142 geographic criteria for a take-out plan that removes at least the  
1143 lesser of 100,000 Residential Property and Casualty Joint  
1144 Underwriting Association policies or 15 percent of the total  
1145 number of Residential Property and Casualty Joint Underwriting  
1146 Association policies, provided the governing board of the  
1147 Residential Property and Casualty Joint Underwriting Association  
1148 certifies that the take-out plan will materially reduce the  
1149 Residential Property and Casualty Joint Underwriting  
1150 Association's 100-year probable maximum loss from hurricanes.  
1151 With the approval of the department, the board may extend such  
1152 credits for an additional year if the insurer guarantees an  
1153 additional year of renewability for all policies removed from the  
1154 Residential Property and Casualty Joint Underwriting Association,  
1155 or for 2 additional years if the insurer guarantees 2 additional  
1156 years of renewability for all policies removed from the  
1157 Residential Property and Casualty Joint Underwriting Association.

1158       b. Assessments to pay deficits in the association under  
1159 this subparagraph shall be included as an appropriate factor in  
1160 the making of rates as provided in s. 627.3512.



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1161 c. The Legislature finds that the potential for unlimited  
1162 deficit assessments under this subparagraph may induce insurers  
1163 to attempt to reduce their writings in the voluntary market, and  
1164 that such actions would worsen the availability problems that the  
1165 association was created to remedy. It is the intent of the  
1166 Legislature that insurers remain fully responsible for paying  
1167 regular assessments and collecting emergency assessments for any  
1168 deficits of the association; however, it is also the intent of  
1169 the Legislature to provide a means by which assessment  
1170 liabilities may be amortized over a period of years.

1171 d.(I) When the deficit incurred in a particular calendar  
1172 year is 10 percent or less of the aggregate statewide direct  
1173 written premium for property insurance for the prior calendar  
1174 year for all member insurers, the association shall levy an  
1175 assessment on member insurers in an amount equal to the deficit.

1176 (II) When the deficit incurred in a particular calendar  
1177 year exceeds 10 percent of the aggregate statewide direct written  
1178 premium for property insurance for the prior calendar year for  
1179 all member insurers, the association shall levy an assessment on  
1180 member insurers in an amount equal to the greater of 10 percent  
1181 of the deficit or 10 percent of the aggregate statewide direct  
1182 written premium for property insurance for the prior calendar  
1183 year for member insurers. Any remaining deficit shall be  
1184 recovered through emergency assessments under sub-sub-  
1185 subparagraph (III).

1186 (III) Upon a determination by the board of directors that a  
1187 deficit exceeds the amount that will be recovered through regular  
1188 assessments on member insurers, pursuant to sub-sub-subparagraph  
1189 (I) or sub-sub-subparagraph (II), the board shall levy, after

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1190 verification by the department, emergency assessments to be  
1191 collected by member insurers and by underwriting associations  
1192 created pursuant to this section which write property insurance,  
1193 upon issuance or renewal of property insurance policies other  
1194 than National Flood Insurance policies in the year or years  
1195 following levy of the regular assessments. The amount of the  
1196 emergency assessment collected in a particular year shall be a  
1197 uniform percentage of that year's direct written premium for  
1198 property insurance for all member insurers and underwriting  
1199 associations, excluding National Flood Insurance policy premiums,  
1200 as annually determined by the board and verified by the  
1201 department. The department shall verify the arithmetic  
1202 calculations involved in the board's determination within 30 days  
1203 after receipt of the information on which the determination was  
1204 based. Notwithstanding any other provision of law, each member  
1205 insurer and each underwriting association created pursuant to  
1206 this section shall collect emergency assessments from its  
1207 policyholders without such obligation being affected by any  
1208 credit, limitation, exemption, or deferment. The emergency  
1209 assessments so collected shall be transferred directly to the  
1210 association on a periodic basis as determined by the association.  
1211 The aggregate amount of emergency assessments levied under this  
1212 sub-sub-subparagraph in any calendar year may not exceed the  
1213 greater of 10 percent of the amount needed to cover the original  
1214 deficit, plus interest, fees, commissions, required reserves, and  
1215 other costs associated with financing of the original deficit, or  
1216 10 percent of the aggregate statewide direct written premium for  
1217 property insurance written by member insurers and underwriting  
1218 associations for the prior year, plus interest, fees,

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1219 | commissions, required reserves, and other costs associated with  
1220 | financing the original deficit. The board may pledge the proceeds  
1221 | of the emergency assessments under this sub-sub-subparagraph as  
1222 | the source of revenue for bonds, to retire any other debt  
1223 | incurred as a result of the deficit or events giving rise to the  
1224 | deficit, or in any other way that the board determines will  
1225 | efficiently recover the deficit. The emergency assessments under  
1226 | this sub-sub-subparagraph shall continue as long as any bonds  
1227 | issued or other indebtedness incurred with respect to a deficit  
1228 | for which the assessment was imposed remain outstanding, unless  
1229 | adequate provision has been made for the payment of such bonds or  
1230 | other indebtedness pursuant to the document governing such bonds  
1231 | or other indebtedness. Emergency assessments collected under this  
1232 | sub-sub-subparagraph are not part of an insurer's rates, are not  
1233 | premium, and are not subject to premium tax, fees, or  
1234 | commissions; however, failure to pay the emergency assessment  
1235 | shall be treated as failure to pay premium.

1236 |       (IV) Each member insurer's share of the total regular  
1237 | assessments under sub-sub-subparagraph (I) or sub-sub-  
1238 | subparagraph (II) shall be in the proportion that the insurer's  
1239 | net direct premium for property insurance in this state, for the  
1240 | year preceding the assessment bears to the aggregate statewide  
1241 | net direct premium for property insurance of all member insurers,  
1242 | as reduced by any credits for voluntary writings for that year.

1243 |       (V) If regular deficit assessments are made under sub-sub-  
1244 | subparagraph (I) or sub-sub-subparagraph (II), or by the  
1245 | Residential Property and Casualty Joint Underwriting Association  
1246 | under sub-subparagraph (6) (b) 3.a. or sub-subparagraph (6) (b) 3.b.,  
1247 | the association shall levy upon the association's policyholders,

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1248 as part of its next rate filing, or by a separate rate filing  
1249 solely for this purpose, a market equalization surcharge in a  
1250 percentage equal to the total amount of such regular assessments  
1251 divided by the aggregate statewide direct written premium for  
1252 property insurance for member insurers for the prior calendar  
1253 year. Market equalization surcharges under this sub-sub-  
1254 subparagraph are not considered premium and are not subject to  
1255 commissions, fees, or premium taxes; however, failure to pay a  
1256 market equalization surcharge shall be treated as failure to pay  
1257 premium.

1258 e. The governing body of any unit of local government, any  
1259 residents of which are insured under the plan, may issue bonds as  
1260 defined in s. 125.013 or s. 166.101 to fund an assistance  
1261 program, in conjunction with the association, for the purpose of  
1262 defraying deficits of the association. In order to avoid needless  
1263 and indiscriminate proliferation, duplication, and fragmentation  
1264 of such assistance programs, any unit of local government, any  
1265 residents of which are insured by the association, may provide  
1266 for the payment of losses, regardless of whether or not the  
1267 losses occurred within or outside of the territorial jurisdiction  
1268 of the local government. Revenue bonds may not be issued until  
1269 validated pursuant to chapter 75, unless a state of emergency is  
1270 declared by executive order or proclamation of the Governor  
1271 pursuant to s. 252.36 making such findings as are necessary to  
1272 determine that it is in the best interests of, and necessary for,  
1273 the protection of the public health, safety, and general welfare  
1274 of residents of this state and the protection and preservation of  
1275 the economic stability of insurers operating in this state, and  
1276 declaring it an essential public purpose to permit certain

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1277 municipalities or counties to issue bonds as will provide relief  
1278 to claimants and policyholders of the association and insurers  
1279 responsible for apportionment of plan losses. Any such unit of  
1280 local government may enter into such contracts with the  
1281 association and with any other entity created pursuant to this  
1282 subsection as are necessary to carry out this paragraph. Any  
1283 bonds issued under this sub-subparagraph shall be payable from  
1284 and secured by moneys received by the association from  
1285 assessments under this subparagraph, and assigned and pledged to  
1286 or on behalf of the unit of local government for the benefit of  
1287 the holders of such bonds. The funds, credit, property, and  
1288 taxing power of the state or of the unit of local government  
1289 shall not be pledged for the payment of such bonds. If any of the  
1290 bonds remain unsold 60 days after issuance, the department shall  
1291 require all insurers subject to assessment to purchase the bonds,  
1292 which shall be treated as admitted assets; each insurer shall be  
1293 required to purchase that percentage of the unsold portion of the  
1294 bond issue that equals the insurer's relative share of assessment  
1295 liability under this subsection. An insurer shall not be required  
1296 to purchase the bonds to the extent that the department  
1297 determines that the purchase would endanger or impair the  
1298 solvency of the insurer. The authority granted by this sub-  
1299 subparagraph is additional to any bonding authority granted by  
1300 subparagraph 6.

1301 3. The plan shall also provide that any member with a  
1302 surplus as to policyholders of \$20 million or less writing 25  
1303 percent or more of its total countrywide property insurance  
1304 premiums in this state may petition the department, within the  
1305 first 90 days of each calendar year, to qualify as a limited

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1306 | apportionment company. The apportionment of such a member company  
1307 | in any calendar year for which it is qualified shall not exceed  
1308 | its gross participation, which shall not be affected by the  
1309 | formula for voluntary writings. In no event shall a limited  
1310 | apportionment company be required to participate in any  
1311 | apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
1312 | or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
1313 | \$50 million after payment of available plan funds in any calendar  
1314 | year. However, a limited apportionment company shall collect from  
1315 | its policyholders any emergency assessment imposed under sub-sub-  
1316 | subparagraph 2.d.(III). The plan shall provide that, if the  
1317 | department determines that any regular assessment will result in  
1318 | an impairment of the surplus of a limited apportionment company,  
1319 | the department may direct that all or part of such assessment be  
1320 | deferred. However, there shall be no limitation or deferment of  
1321 | an emergency assessment to be collected from policyholders under  
1322 | sub-sub-subparagraph 2.d.(III).

1323 |         4. The plan shall provide for the deferment, in whole or in  
1324 | part, of a regular assessment of a member insurer under sub-sub-  
1325 | subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not  
1326 | for an emergency assessment collected from policyholders under  
1327 | sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
1328 | commissioner, payment of such regular assessment would endanger  
1329 | or impair the solvency of the member insurer. In the event a  
1330 | regular assessment against a member insurer is deferred in whole  
1331 | or in part, the amount by which such assessment is deferred may  
1332 | be assessed against the other member insurers in a manner  
1333 | consistent with the basis for assessments set forth in sub-sub-  
1334 | subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

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1335 5.a. The plan of operation may include deductibles and  
1336 rules for classification of risks and rate modifications  
1337 consistent with the objective of providing and maintaining funds  
1338 sufficient to pay catastrophe losses.

1339 ~~b. The association may require arbitration of a rate filing~~  
1340 ~~under s. 627.062(6).~~ It is the intent of the Legislature that the  
1341 rates for coverage provided by the association be actuarially  
1342 sound and not competitive with approved rates charged in the  
1343 admitted voluntary market such that the association functions as  
1344 a residual market mechanism to provide insurance only when the  
1345 insurance cannot be procured in the voluntary market. The plan of  
1346 operation shall provide a mechanism to assure that, beginning no  
1347 later than January 1, 1999, the rates charged by the association  
1348 for each line of business are reflective of approved rates in the  
1349 voluntary market for hurricane coverage for each line of business  
1350 in the various areas eligible for association coverage.

1351 c. The association shall provide for windstorm coverage on  
1352 residential properties in limits up to \$10 million for commercial  
1353 lines residential risks and up to \$1 million for personal lines  
1354 residential risks. If coverage with the association is sought for  
1355 a residential risk valued in excess of these limits, coverage  
1356 shall be available to the risk up to the replacement cost or  
1357 actual cash value of the property, at the option of the insured,  
1358 if coverage for the risk cannot be located in the authorized  
1359 market. The association must accept a commercial lines  
1360 residential risk with limits above \$10 million or a personal  
1361 lines residential risk with limits above \$1 million if coverage  
1362 is not available in the authorized market. The association may  
1363 write coverage above the limits specified in this subparagraph

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1364 with or without facultative or other reinsurance coverage, as the  
1365 association determines appropriate.

1366 d. The plan of operation must provide objective criteria  
1367 and procedures, approved by the department, to be uniformly  
1368 applied for all applicants in determining whether an individual  
1369 risk is so hazardous as to be uninsurable. In making this  
1370 determination and in establishing the criteria and procedures,  
1371 the following shall be considered:

1372 (I) Whether the likelihood of a loss for the individual  
1373 risk is substantially higher than for other risks of the same  
1374 class; and

1375 (II) Whether the uncertainty associated with the individual  
1376 risk is such that an appropriate premium cannot be determined.

1377  
1378 The acceptance or rejection of a risk by the association pursuant  
1379 to such criteria and procedures must be construed as the private  
1380 placement of insurance, and the provisions of chapter 120 do not  
1381 apply.

1382 e. If the risk accepts an offer of coverage through the  
1383 market assistance program or through a mechanism established by  
1384 the association, either before the policy is issued by the  
1385 association or during the first 30 days of coverage by the  
1386 association, and the producing agent who submitted the  
1387 application to the association is not currently appointed by the  
1388 insurer, the insurer shall:

1389 (I) Pay to the producing agent of record of the policy, for  
1390 the first year, an amount that is the greater of the insurer's  
1391 usual and customary commission for the type of policy written or  
1392 a fee equal to the usual and customary commission of the



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1393 association; or

1394 (II) Offer to allow the producing agent of record of the  
1395 policy to continue servicing the policy for a period of not less  
1396 than 1 year and offer to pay the agent the greater of the  
1397 insurer's or the association's usual and customary commission for  
1398 the type of policy written.

1399  
1400 If the producing agent is unwilling or unable to accept  
1401 appointment, the new insurer shall pay the agent in accordance  
1402 with sub-sub-subparagraph (I). Subject to the provisions of s.  
1403 627.3517, the policies issued by the association must provide  
1404 that if the association obtains an offer from an authorized  
1405 insurer to cover the risk at its approved rates under either a  
1406 standard policy including wind coverage or, if consistent with  
1407 the insurer's underwriting rules as filed with the department, a  
1408 basic policy including wind coverage, the risk is no longer  
1409 eligible for coverage through the association. Upon termination  
1410 of eligibility, the association shall provide written notice to  
1411 the policyholder and agent of record stating that the association  
1412 policy must be canceled as of 60 days after the date of the  
1413 notice because of the offer of coverage from an authorized  
1414 insurer. Other provisions of the insurance code relating to  
1415 cancellation and notice of cancellation do not apply to actions  
1416 under this sub-subparagraph.

1417 f. When the association enters into a contractual agreement  
1418 for a take-out plan, the producing agent of record of the  
1419 association policy is entitled to retain any unearned commission  
1420 on the policy, and the insurer shall:

1421 (I) Pay to the producing agent of record of the association

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1422 | policy, for the first year, an amount that is the greater of the  
1423 | insurer's usual and customary commission for the type of policy  
1424 | written or a fee equal to the usual and customary commission of  
1425 | the association; or

1426 |       (II) Offer to allow the producing agent of record of the  
1427 | association policy to continue servicing the policy for a period  
1428 | of not less than 1 year and offer to pay the agent the greater of  
1429 | the insurer's or the association's usual and customary commission  
1430 | for the type of policy written.

1431 |  
1432 | If the producing agent is unwilling or unable to accept  
1433 | appointment, the new insurer shall pay the agent in accordance  
1434 | with sub-sub-subparagraph (I).

1435 |       6.a. The plan of operation may authorize the formation of a  
1436 | private nonprofit corporation, a private nonprofit unincorporated  
1437 | association, a partnership, a trust, a limited liability company,  
1438 | or a nonprofit mutual company which may be empowered, among other  
1439 | things, to borrow money by issuing bonds or by incurring other  
1440 | indebtedness and to accumulate reserves or funds to be used for  
1441 | the payment of insured catastrophe losses. The plan may authorize  
1442 | all actions necessary to facilitate the issuance of bonds,  
1443 | including the pledging of assessments or other revenues.

1444 |       b. Any entity created under this subsection, or any entity  
1445 | formed for the purposes of this subsection, may sue and be sued,  
1446 | may borrow money; issue bonds, notes, or debt instruments; pledge  
1447 | or sell assessments, market equalization surcharges and other  
1448 | surcharges, rights, premiums, contractual rights, projected  
1449 | recoveries from the Florida Hurricane Catastrophe Fund, other  
1450 | reinsurance recoverables, and other assets as security for such

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1451 | bonds, notes, or debt instruments; enter into any contracts or  
1452 | agreements necessary or proper to accomplish such borrowings; and  
1453 | take other actions necessary to carry out the purposes of this  
1454 | subsection. The association may issue bonds or incur other  
1455 | indebtedness, or have bonds issued on its behalf by a unit of  
1456 | local government pursuant to subparagraph (6)(p)2., in the  
1457 | absence of a hurricane or other weather-related event, upon a  
1458 | determination by the association subject to approval by the  
1459 | department that such action would enable it to efficiently meet  
1460 | the financial obligations of the association and that such  
1461 | financings are reasonably necessary to effectuate the  
1462 | requirements of this subsection. Any such entity may accumulate  
1463 | reserves and retain surpluses as of the end of any association  
1464 | year to provide for the payment of losses incurred by the  
1465 | association during that year or any future year. The association  
1466 | shall incorporate and continue the plan of operation and articles  
1467 | of agreement in effect on the effective date of chapter 76-96,  
1468 | Laws of Florida, to the extent that it is not inconsistent with  
1469 | chapter 76-96, and as subsequently modified consistent with  
1470 | chapter 76-96. The board of directors and officers currently  
1471 | serving shall continue to serve until their successors are duly  
1472 | qualified as provided under the plan. The assets and obligations  
1473 | of the plan in effect immediately prior to the effective date of  
1474 | chapter 76-96 shall be construed to be the assets and obligations  
1475 | of the successor plan created herein.

1476 |       c. In recognition of s. 10, Art. I of the State  
1477 | Constitution, prohibiting the impairment of obligations of  
1478 | contracts, it is the intent of the Legislature that no action be  
1479 | taken whose purpose is to impair any bond indenture or financing

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1480 agreement or any revenue source committed by contract to such  
1481 bond or other indebtedness issued or incurred by the association  
1482 or any other entity created under this subsection.

1483 7. On such coverage, an agent's remuneration shall be that  
1484 amount of money payable to the agent by the terms of his or her  
1485 contract with the company with which the business is placed.  
1486 However, no commission will be paid on that portion of the  
1487 premium which is in excess of the standard premium of that  
1488 company.

1489 8. Subject to approval by the department, the association  
1490 may establish different eligibility requirements and operational  
1491 procedures for any line or type of coverage for any specified  
1492 eligible area or portion of an eligible area if the board  
1493 determines that such changes to the eligibility requirements and  
1494 operational procedures are justified due to the voluntary market  
1495 being sufficiently stable and competitive in such area or for  
1496 such line or type of coverage and that consumers who, in good  
1497 faith, are unable to obtain insurance through the voluntary  
1498 market through ordinary methods would continue to have access to  
1499 coverage from the association. When coverage is sought in  
1500 connection with a real property transfer, such requirements and  
1501 procedures shall not provide for an effective date of coverage  
1502 later than the date of the closing of the transfer as established  
1503 by the transferor, the transferee, and, if applicable, the  
1504 lender.

1505 9. Notwithstanding any other provision of law:

1506 a. The pledge or sale of, the lien upon, and the security  
1507 interest in any rights, revenues, or other assets of the  
1508 association created or purported to be created pursuant to any

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1509 financing documents to secure any bonds or other indebtedness of  
1510 the association shall be and remain valid and enforceable,  
1511 notwithstanding the commencement of and during the continuation  
1512 of, and after, any rehabilitation, insolvency, liquidation,  
1513 bankruptcy, receivership, conservatorship, reorganization, or  
1514 similar proceeding against the association under the laws of this  
1515 state or any other applicable laws.

1516 b. No such proceeding shall relieve the association of its  
1517 obligation, or otherwise affect its ability to perform its  
1518 obligation, to continue to collect, or levy and collect,  
1519 assessments, market equalization or other surcharges, projected  
1520 recoveries from the Florida Hurricane Catastrophe Fund,  
1521 reinsurance recoverables, or any other rights, revenues, or other  
1522 assets of the association pledged.

1523 c. Each such pledge or sale of, lien upon, and security  
1524 interest in, including the priority of such pledge, lien, or  
1525 security interest, any such assessments, emergency assessments,  
1526 market equalization or renewal surcharges, projected recoveries  
1527 from the Florida Hurricane Catastrophe Fund, reinsurance  
1528 recoverables, or other rights, revenues, or other assets which  
1529 are collected, or levied and collected, after the commencement of  
1530 and during the pendency of or after any such proceeding shall  
1531 continue unaffected by such proceeding.

1532 d. As used in this subsection, the term "financing  
1533 documents" means any agreement, instrument, or other document now  
1534 existing or hereafter created evidencing any bonds or other  
1535 indebtedness of the association or pursuant to which any such  
1536 bonds or other indebtedness has been or may be issued and  
1537 pursuant to which any rights, revenues, or other assets of the

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1538 association are pledged or sold to secure the repayment of such  
1539 bonds or indebtedness, together with the payment of interest on  
1540 such bonds or such indebtedness, or the payment of any other  
1541 obligation of the association related to such bonds or  
1542 indebtedness.

1543 e. Any such pledge or sale of assessments, revenues,  
1544 contract rights or other rights or assets of the association  
1545 shall constitute a lien and security interest, or sale, as the  
1546 case may be, that is immediately effective and attaches to such  
1547 assessments, revenues, contract, or other rights or assets,  
1548 whether or not imposed or collected at the time the pledge or  
1549 sale is made. Any such pledge or sale is effective, valid,  
1550 binding, and enforceable against the association or other entity  
1551 making such pledge or sale, and valid and binding against and  
1552 superior to any competing claims or obligations owed to any other  
1553 person or entity, including policyholders in this state,  
1554 asserting rights in any such assessments, revenues, contract, or  
1555 other rights or assets to the extent set forth in and in  
1556 accordance with the terms of the pledge or sale contained in the  
1557 applicable financing documents, whether or not any such person or  
1558 entity has notice of such pledge or sale and without the need for  
1559 any physical delivery, recordation, filing, or other action.

1560 f. There shall be no liability on the part of, and no cause  
1561 of action of any nature shall arise against, any member insurer  
1562 or its agents or employees, agents or employees of the  
1563 association, members of the board of directors of the  
1564 association, or the department or its representatives, for any  
1565 action taken by them in the performance of their duties or  
1566 responsibilities under this subsection. Such immunity does not

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1567 | apply to actions for breach of any contract or agreement  
1568 | pertaining to insurance, or any willful tort.

1569 |       (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1570 |       (a)1. It is the public purpose of this subsection to ensure  
1571 | the existence of an orderly market for property insurance for  
1572 | Floridians and Florida businesses. The Legislature finds that  
1573 | private insurers are unwilling or unable to provide affordable  
1574 | property insurance coverage in this state to the extent sought  
1575 | and needed. The absence of affordable property insurance  
1576 | threatens the public health, safety, and welfare and likewise  
1577 | threatens the economic health of the state. The state therefore  
1578 | has a compelling public interest and a public purpose to assist  
1579 | in assuring that property in the state is insured and that it is  
1580 | insured at affordable rates so as to facilitate the remediation,  
1581 | reconstruction, and replacement of damaged or destroyed property  
1582 | in order to reduce or avoid the negative effects otherwise  
1583 | resulting to the public health, safety, and welfare, to the  
1584 | economy of the state, and to the revenues of the state and local  
1585 | governments which are needed to provide for the public welfare.  
1586 | It is necessary, therefore, to provide affordable property  
1587 | insurance to applicants who are in good faith entitled to procure  
1588 | insurance through the voluntary market but are unable to do so.  
1589 | The Legislature intends by this subsection that affordable  
1590 | property insurance be provided and that it continue to be  
1591 | provided, as long as necessary, through Citizens Property  
1592 | Insurance Corporation, a government entity that is an integral  
1593 | part of the state, and that is not a private insurance company.  
1594 | To that end, Citizens Property Insurance Corporation shall strive  
1595 | to increase the availability of affordable property insurance in

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1596 | this state, while achieving efficiencies and economies, and while  
1597 | providing service to policyholders, applicants, and agents which  
1598 | is no less than the quality generally provided in the voluntary  
1599 | market, for the achievement of the foregoing public purposes.  
1600 | Because it is essential for this government entity to have the  
1601 | maximum financial resources to pay claims following a  
1602 | catastrophic hurricane, it is the intent of the Legislature that  
1603 | Citizens Property Insurance Corporation continue to be an  
1604 | integral part of the state and that the income of the corporation  
1605 | be exempt from federal income taxation and that interest on the  
1606 | debt obligations issued by the corporation be exempt from federal  
1607 | income taxation.

1608 |         2. The Residential Property and Casualty Joint Underwriting  
1609 | Association originally created by this statute shall be known, as  
1610 | of July 1, 2002, as the Citizens Property Insurance Corporation.  
1611 | The corporation shall provide insurance for residential and  
1612 | commercial property, for applicants who are in good faith  
1613 | entitled, but are unable, to procure insurance through the  
1614 | voluntary market. The corporation shall operate pursuant to a  
1615 | plan of operation approved by order of the Financial Services  
1616 | Commission. The plan is subject to continuous review by the  
1617 | commission. The commission may, by order, withdraw approval of  
1618 | all or part of a plan if the commission determines that  
1619 | conditions have changed since approval was granted and that the  
1620 | purposes of the plan require changes in the plan. The corporation  
1621 | shall continue to operate pursuant to the plan of operation  
1622 | approved by the Office of Insurance Regulation until October 1,  
1623 | 2006. For the purposes of this subsection, residential coverage  
1624 | includes both personal lines residential coverage, which consists



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1625 of the type of coverage provided by homeowner's, mobile home  
1626 owner's, dwelling, tenant's, condominium unit owner's, and  
1627 similar policies, and commercial lines residential coverage,  
1628 which consists of the type of coverage provided by condominium  
1629 association, apartment building, and similar policies.

1630 ~~3. For the purposes of this subsection, the term "homestead~~  
1631 ~~property" means:~~

1632 ~~a. Property that has been granted a homestead exemption~~  
1633 ~~under chapter 196;~~

1634 ~~b. Property for which the owner has a current, written~~  
1635 ~~lease with a renter for a term of at least 7 months and for which~~  
1636 ~~the dwelling is insured by the corporation for \$200,000 or less;~~

1637 ~~c. An owner-occupied mobile home or manufactured home, as~~  
1638 ~~defined in s. 320.01, which is permanently affixed to real~~  
1639 ~~property, is owned by a Florida resident, and has been granted a~~  
1640 ~~homestead exemption under chapter 196 or, if the owner does not~~  
1641 ~~own the real property, the owner certifies that the mobile home~~  
1642 ~~or manufactured home is his or her principal place of residence;~~

1643 ~~d. Tenant's coverage;~~

1644 ~~e. Commercial lines residential property; or~~

1645 ~~f. Any county, district, or municipal hospital; a hospital~~  
1646 ~~licensed by any not for profit corporation qualified under s.~~  
1647 ~~501(c) (3) of the United States Internal Revenue Code; or a~~  
1648 ~~continuing care retirement community that is certified under~~  
1649 ~~chapter 651 and that receives an exemption from ad valorem taxes~~  
1650 ~~under chapter 196.~~

1651 ~~4. For the purposes of this subsection, the term~~  
1652 ~~"nonhomestead property" means property that is not homestead~~  
1653 ~~property.~~

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1654        3.5. Effective January 1, 2009, a personal lines  
1655 residential structure that has a dwelling replacement cost of \$2  
1656 ~~\$1~~ million or more, or a single condominium unit that has a  
1657 combined dwelling and content replacement cost of \$2 ~~\$1~~ million  
1658 or more is not eligible for coverage by the corporation. Such  
1659 dwellings insured by the corporation on December 31, 2008, may  
1660 continue to be covered by the corporation until the end of the  
1661 policy term. However, such dwellings that are insured by the  
1662 corporation and become ineligible for coverage due to the  
1663 provisions of this subparagraph may reapply and obtain coverage  
1664 ~~in the high-risk account and be considered "nonhomestead~~  
1665 ~~property"~~ if the property owner provides the corporation with a  
1666 sworn affidavit from one or more insurance agents, on a form  
1667 provided by the corporation, stating that the agents have made  
1668 their best efforts to obtain coverage and that the property has  
1669 been rejected for coverage by at least one authorized insurer and  
1670 at least three surplus lines insurers. If such conditions are  
1671 met, the dwelling may be insured by the corporation for up to 3  
1672 years, after which time the dwelling is ineligible for coverage.  
1673 The office shall approve the method used by the corporation for  
1674 valuing the dwelling replacement cost for the purposes of this  
1675 subparagraph. If a policyholder is insured by the corporation  
1676 prior to being determined to be ineligible pursuant to this  
1677 subparagraph and such policyholder files a lawsuit challenging  
1678 the determination, the policyholder may remain insured by the  
1679 corporation until the conclusion of the litigation.

1680        ~~6. For properties constructed on or after January 1, 2009,~~  
1681 ~~the corporation may not insure any property located within 2,500~~  
1682 ~~feet landward of the coastal construction control line created~~

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1683 ~~pursuant to s. 161.053 unless the property meets the requirements~~  
1684 ~~of the code plus building standards developed by the Florida~~  
1685 ~~Building Commission.~~

1686 4.7. It is the intent of the Legislature that  
1687 policyholders, applicants, and agents of the corporation receive  
1688 service and treatment of the highest possible level but never  
1689 less than that generally provided in the voluntary market. It  
1690 also is intended that the corporation be held to service  
1691 standards no less than those applied to insurers in the voluntary  
1692 market by the office with respect to responsiveness, timeliness,  
1693 customer courtesy, and overall dealings with policyholders,  
1694 applicants, or agents of the corporation.

1695 5.8. Effective January 1, 2009, a personal lines  
1696 residential structure that is located in the "wind-borne debris  
1697 region," as defined in s. 1609.2, International Building Code  
1698 (2006), and that has an insured value on the structure of  
1699 \$750,000 or more is not eligible for coverage by the corporation  
1700 unless the structure has opening protections as required under  
1701 the Florida Building Code for a newly constructed residential  
1702 structure in that area. A residential structure shall be deemed  
1703 to comply with the requirements of this subparagraph if it has  
1704 shutters or opening protections on all openings and if such  
1705 opening protections complied with the Florida Building Code at  
1706 the time they were installed. Effective January 1, 2010, for  
1707 personal lines residential property insured by the corporation  
1708 that is located in the wind-borne debris region and has an  
1709 insured value on the structure of \$500,000 or more, a prospective  
1710 purchaser of any such residential property must be provided by  
1711 the seller a written disclosure that contains the structure's

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1712 windstorm mitigation rating based on the uniform home grading  
1713 scale adopted under s. 215.55865. Such rating shall be provided  
1714 to the purchaser at or before the time the purchaser executes a  
1715 contract for sale and purchase.

1716 (b)1. All insurers authorized to write one or more subject  
1717 lines of business in this state are subject to assessment by the  
1718 corporation and, for the purposes of this subsection, are  
1719 referred to collectively as "assessable insurers." Insurers  
1720 writing one or more subject lines of business in this state  
1721 pursuant to part VIII of chapter 626 are not assessable insurers,  
1722 but insureds who procure one or more subject lines of business in  
1723 this state pursuant to part VIII of chapter 626 are subject to  
1724 assessment by the corporation and are referred to collectively as  
1725 "assessable insureds." An authorized insurer's assessment  
1726 liability shall begin on the first day of the calendar year  
1727 following the year in which the insurer was issued a certificate  
1728 of authority to transact insurance for subject lines of business  
1729 in this state and shall terminate 1 year after the end of the  
1730 first calendar year during which the insurer no longer holds a  
1731 certificate of authority to transact insurance for subject lines  
1732 of business in this state.

1733 2.a. All revenues, assets, liabilities, losses, and  
1734 expenses of the corporation shall be divided into three separate  
1735 accounts as follows:

1736 (I) A personal lines account for personal residential  
1737 policies issued by the corporation or issued by the Residential  
1738 Property and Casualty Joint Underwriting Association and renewed  
1739 by the corporation that provide comprehensive, multiperil  
1740 coverage on risks that are not located in areas eligible for

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1741 coverage in the Florida Windstorm Underwriting Association as  
1742 those areas were defined on January 1, 2002, and for such  
1743 policies that do not provide coverage for the peril of wind on  
1744 risks that are located in such areas;

1745 (II) A commercial lines account for commercial residential  
1746 and commercial nonresidential policies issued by the corporation  
1747 or issued by the Residential Property and Casualty Joint  
1748 Underwriting Association and renewed by the corporation that  
1749 provide coverage for basic property perils on risks that are not  
1750 located in areas eligible for coverage in the Florida Windstorm  
1751 Underwriting Association as those areas were defined on January  
1752 1, 2002, and for such policies that do not provide coverage for  
1753 the peril of wind on risks that are located in such areas; and

1754 (III) A high-risk account for personal residential policies  
1755 and commercial residential and commercial nonresidential property  
1756 policies issued by the corporation or transferred to the  
1757 corporation that provide coverage for the peril of wind on risks  
1758 that are located in areas eligible for coverage in the Florida  
1759 Windstorm Underwriting Association as those areas were defined on  
1760 January 1, 2002. ~~Subject to the approval of a business plan by  
1761 the Financial Services Commission and Legislative Budget  
1762 Commission as provided in this sub-sub-subparagraph, but no  
1763 earlier than March 31, 2007,~~ The corporation may offer policies  
1764 that provide multiperil coverage and the corporation shall  
1765 continue to offer policies that provide coverage only for the  
1766 peril of wind for risks located in areas eligible for coverage in  
1767 the high-risk account. In issuing multiperil coverage, the  
1768 corporation may use its approved policy forms and rates for the  
1769 personal lines account. An applicant or insured who is eligible

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1770 | to purchase a multiperil policy from the corporation may purchase  
1771 | a multiperil policy from an authorized insurer without prejudice  
1772 | to the applicant's or insured's eligibility to prospectively  
1773 | purchase a policy that provides coverage only for the peril of  
1774 | wind from the corporation. An applicant or insured who is  
1775 | eligible for a corporation policy that provides coverage only for  
1776 | the peril of wind may elect to purchase or retain such policy and  
1777 | also purchase or retain coverage excluding wind from an  
1778 | authorized insurer without prejudice to the applicant's or  
1779 | insured's eligibility to prospectively purchase a policy that  
1780 | provides multiperil coverage from the corporation. It is the goal  
1781 | of the Legislature that there would be an overall average savings  
1782 | of 10 percent or more for a policyholder who currently has a  
1783 | wind-only policy with the corporation, and an ex-wind policy with  
1784 | a voluntary insurer or the corporation, and who then obtains a  
1785 | multiperil policy from the corporation. It is the intent of the  
1786 | Legislature that the offer of multiperil coverage in the high-  
1787 | risk account be made and implemented in a manner that does not  
1788 | adversely affect the tax-exempt status of the corporation or  
1789 | creditworthiness of or security for currently outstanding  
1790 | financing obligations or credit facilities of the high-risk  
1791 | account, the personal lines account, or the commercial lines  
1792 | account. ~~By March 1, 2007, the corporation shall prepare and~~  
1793 | ~~submit for approval by the Financial Services Commission and~~  
1794 | ~~Legislative Budget Commission a report detailing the~~  
1795 | ~~corporation's business plan for issuing multiperil coverage in~~  
1796 | ~~the high-risk account. The business plan shall be approved or~~  
1797 | ~~disapproved within 30 days after receipt, as submitted or~~  
1798 | ~~modified and resubmitted by the corporation. The business plan~~

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1799 ~~must include: the impact of such multiperil coverage on the~~  
1800 ~~corporation's financial resources, the impact of such multiperil~~  
1801 ~~coverage on the corporation's tax-exempt status, the manner in~~  
1802 ~~which the corporation plans to implement the processing of~~  
1803 ~~applications and policy forms for new and existing policyholders,~~  
1804 ~~the impact of such multiperil coverage on the corporation's~~  
1805 ~~ability to deliver customer service at the high level required by~~  
1806 ~~this subsection, the ability of the corporation to process~~  
1807 ~~claims, the ability of the corporation to quote and issue~~  
1808 ~~policies, the impact of such multiperil coverage on the~~  
1809 ~~corporation's agents, the impact of such multiperil coverage on~~  
1810 ~~the corporation's existing policyholders, and the impact of such~~  
1811 ~~multiperil coverage on rates and premium. The high-risk account~~  
1812 ~~must also include quota share primary insurance under~~  
1813 ~~subparagraph (c)2. The area eligible for coverage under the high-~~  
1814 ~~risk account also includes the area within Port Canaveral, which~~  
1815 ~~is bordered on the south by the City of Cape Canaveral, bordered~~  
1816 ~~on the west by the Banana River, and bordered on the north by~~  
1817 ~~Federal Government property.~~

1818       b. The three separate accounts must be maintained as long  
1819 as financing obligations entered into by the Florida Windstorm  
1820 Underwriting Association or Residential Property and Casualty  
1821 Joint Underwriting Association are outstanding, in accordance  
1822 with the terms of the corresponding financing documents. When the  
1823 financing obligations are no longer outstanding, in accordance  
1824 with the terms of the corresponding financing documents, the  
1825 corporation may use a single account for all revenues, assets,  
1826 liabilities, losses, and expenses of the corporation. Consistent  
1827 with the requirement of this subparagraph and prudent investment

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1828 | policies that minimize the cost of carrying debt, the board shall  
1829 | exercise its best efforts to retire existing debt or to obtain  
1830 | approval of necessary parties to amend the terms of existing  
1831 | debt, so as to structure the most efficient plan to consolidate  
1832 | the three separate accounts into a single account. By February 1,  
1833 | 2007, the board shall submit a report to the Financial Services  
1834 | Commission, the President of the Senate, and the Speaker of the  
1835 | House of Representatives which includes an analysis of  
1836 | consolidating the accounts, the actions the board has taken to  
1837 | minimize the cost of carrying debt, and its recommendations for  
1838 | executing the most efficient plan.

1839 |       c. Creditors of the Residential Property and Casualty Joint  
1840 | Underwriting Association and of the accounts specified in sub-  
1841 | sub-subparagraphs a.(I) and (II) may have a claim against, and  
1842 | recourse to, the accounts referred to in sub-sub-subparagraphs  
1843 | a.(I) and (II) and shall have no claim against, or recourse to,  
1844 | the account referred to in sub-sub-subparagraph a.(III).  
1845 | Creditors of the Florida Windstorm Underwriting Association shall  
1846 | have a claim against, and recourse to, the account referred to in  
1847 | sub-sub-subparagraph a.(III) and shall have no claim against, or  
1848 | recourse to, the accounts referred to in sub-sub-subparagraphs  
1849 | a.(I) and (II).

1850 |       d. Revenues, assets, liabilities, losses, and expenses not  
1851 | attributable to particular accounts shall be prorated among the  
1852 | accounts.

1853 |       e. The Legislature finds that the revenues of the  
1854 | corporation are revenues that are necessary to meet the  
1855 | requirements set forth in documents authorizing the issuance of  
1856 | bonds under this subsection.



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1857 f. No part of the income of the corporation may inure to  
1858 the benefit of any private person.

1859 3. With respect to a deficit in an account:

1860 a. After accounting for the Citizens policyholder surcharge  
1861 imposed under sub-subparagraph i., when the remaining projected  
1862 deficit incurred in a particular calendar year is not greater  
1863 than 6 ~~10~~ percent of the aggregate statewide direct written  
1864 premium for the subject lines of business for the prior calendar  
1865 year, the entire deficit shall be recovered through regular  
1866 assessments of assessable insurers under paragraph (p) and  
1867 assessable insureds.

1868 b. After accounting for the Citizens policyholder surcharge  
1869 imposed under sub-subparagraph i., when the remaining projected  
1870 deficit incurred in a particular calendar year exceeds 6 ~~10~~  
1871 percent of the aggregate statewide direct written premium for the  
1872 subject lines of business for the prior calendar year, the  
1873 corporation shall levy regular assessments on assessable insurers  
1874 under paragraph (p) and on assessable insureds in an amount equal  
1875 to the greater of 6 ~~10~~ percent of the deficit or 6 ~~10~~ percent of  
1876 the aggregate statewide direct written premium for the subject  
1877 lines of business for the prior calendar year. Any remaining  
1878 deficit shall be recovered through emergency assessments under  
1879 sub-subparagraph d.

1880 c. Each assessable insurer's share of the amount being  
1881 assessed under sub-subparagraph a. or sub-subparagraph b. shall  
1882 be in the proportion that the assessable insurer's direct written  
1883 premium for the subject lines of business for the year preceding  
1884 the assessment bears to the aggregate statewide direct written  
1885 premium for the subject lines of business for that year. The

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1886 assessment percentage applicable to each assessable insured is  
1887 the ratio of the amount being assessed under sub-subparagraph a.  
1888 or sub-subparagraph b. to the aggregate statewide direct written  
1889 premium for the subject lines of business for the prior year.  
1890 Assessments levied by the corporation on assessable insurers  
1891 under sub-subparagraphs a. and b. shall be paid as required by  
1892 the corporation's plan of operation and paragraph (p).  
1893 ~~notwithstanding any other provision of this subsection, the~~  
1894 ~~aggregate amount of a regular assessment for a deficit incurred~~  
1895 ~~in a particular calendar year shall be reduced by the estimated~~  
1896 ~~amount to be received by the corporation from the Citizens~~  
1897 ~~policyholder surcharge under subparagraph (c)10. and the amount~~  
1898 ~~collected or estimated to be collected from the assessment on~~  
1899 ~~Citizens policyholders pursuant to sub-subparagraph i.~~  
1900 Assessments levied by the corporation on assessable insureds  
1901 under sub-subparagraphs a. and b. shall be collected by the  
1902 surplus lines agent at the time the surplus lines agent collects  
1903 the surplus lines tax required by s. 626.932 and shall be paid to  
1904 the Florida Surplus Lines Service Office at the time the surplus  
1905 lines agent pays the surplus lines tax to the Florida Surplus  
1906 Lines Service Office. Upon receipt of regular assessments from  
1907 surplus lines agents, the Florida Surplus Lines Service Office  
1908 shall transfer the assessments directly to the corporation as  
1909 determined by the corporation.

1910 d. Upon a determination by the board of governors that a  
1911 deficit in an account exceeds the amount that will be recovered  
1912 through regular assessments under sub-subparagraph a. or sub-  
1913 subparagraph b., plus the amount that is expected to be recovered  
1914 through surcharges under sub-subparagraph i., as to the remaining

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1915 | projected deficit the board shall levy, after verification by the  
1916 | office, emergency assessments, for as many years as necessary to  
1917 | cover the deficits, to be collected by assessable insurers and  
1918 | the corporation and collected from assessable insureds upon  
1919 | issuance or renewal of policies for subject lines of business,  
1920 | excluding National Flood Insurance policies. The amount of the  
1921 | emergency assessment collected in a particular year shall be a  
1922 | uniform percentage of that year's direct written premium for  
1923 | subject lines of business and all accounts of the corporation,  
1924 | excluding National Flood Insurance Program policy premiums, as  
1925 | annually determined by the board and verified by the office. The  
1926 | office shall verify the arithmetic calculations involved in the  
1927 | board's determination within 30 days after receipt of the  
1928 | information on which the determination was based. Notwithstanding  
1929 | any other provision of law, the corporation and each assessable  
1930 | insurer that writes subject lines of business shall collect  
1931 | emergency assessments from its policyholders without such  
1932 | obligation being affected by any credit, limitation, exemption,  
1933 | or deferment. Emergency assessments levied by the corporation on  
1934 | assessable insureds shall be collected by the surplus lines agent  
1935 | at the time the surplus lines agent collects the surplus lines  
1936 | tax required by s. 626.932 and shall be paid to the Florida  
1937 | Surplus Lines Service Office at the time the surplus lines agent  
1938 | pays the surplus lines tax to the Florida Surplus Lines Service  
1939 | Office. The emergency assessments so collected shall be  
1940 | transferred directly to the corporation on a periodic basis as  
1941 | determined by the corporation and shall be held by the  
1942 | corporation solely in the applicable account. The aggregate  
1943 | amount of emergency assessments levied for an account under this

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1944 sub-subparagraph in any calendar year may, at the discretion of  
1945 the board of governors, be less than but may not exceed the  
1946 greater of 10 percent of the amount needed to cover the ~~original~~  
1947 deficit, plus interest, fees, commissions, required reserves, and  
1948 other costs associated with financing of the original deficit, or  
1949 10 percent of the aggregate statewide direct written premium for  
1950 subject lines of business and for all accounts of the corporation  
1951 for the prior year, plus interest, fees, commissions, required  
1952 reserves, and other costs associated with financing the ~~original~~  
1953 deficit.

1954 e. The corporation may pledge the proceeds of assessments,  
1955 projected recoveries from the Florida Hurricane Catastrophe Fund,  
1956 other insurance and reinsurance recoverables, policyholder  
1957 surcharges and other surcharges, and other funds available to the  
1958 corporation as the source of revenue for and to secure bonds  
1959 issued under paragraph (p), bonds or other indebtedness issued  
1960 under subparagraph (c)3., or lines of credit or other financing  
1961 mechanisms issued or created under this subsection, or to retire  
1962 any other debt incurred as a result of deficits or events giving  
1963 rise to deficits, or in any other way that the board determines  
1964 will efficiently recover such deficits. The purpose of the lines  
1965 of credit or other financing mechanisms is to provide additional  
1966 resources to assist the corporation in covering claims and  
1967 expenses attributable to a catastrophe. As used in this  
1968 subsection, the term "assessments" includes regular assessments  
1969 under sub-subparagraph a., sub-subparagraph b., or subparagraph  
1970 (p)1. and emergency assessments under sub-subparagraph d.  
1971 Emergency assessments collected under sub-subparagraph d. are not  
1972 part of an insurer's rates, are not premium, and are not subject

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1973 | to premium tax, fees, or commissions; however, failure to pay the  
1974 | emergency assessment shall be treated as failure to pay premium.  
1975 | The emergency assessments under sub-subparagraph d. shall  
1976 | continue as long as any bonds issued or other indebtedness  
1977 | incurred with respect to a deficit for which the assessment was  
1978 | imposed remain outstanding, unless adequate provision has been  
1979 | made for the payment of such bonds or other indebtedness pursuant  
1980 | to the documents governing such bonds or other indebtedness.

1981 |       f. As used in this subsection for purposes of any deficit  
1982 | incurred on or after January 25, 2007, the term "subject lines of  
1983 | business" means insurance written by assessable insurers or  
1984 | procured by assessable insureds for all property and casualty  
1985 | lines of business in this state, but not including workers'  
1986 | compensation or medical malpractice. As used in the sub-  
1987 | subparagraph, the term "property and casualty lines of business"  
1988 | includes all lines of business identified on Form 2, Exhibit of  
1989 | Premiums and Losses, in the annual statement required of  
1990 | authorized insurers by s. 624.424 and any rule adopted under this  
1991 | section, except for those lines identified as accident and health  
1992 | insurance and except for policies written under the National  
1993 | Flood Insurance Program or the Federal Crop Insurance Program.  
1994 | For purposes of this sub-subparagraph, the term "workers'  
1995 | compensation" includes both workers' compensation insurance and  
1996 | excess workers' compensation insurance.

1997 |       g. The Florida Surplus Lines Service Office shall determine  
1998 | annually the aggregate statewide written premium in subject lines  
1999 | of business procured by assessable insureds and shall report that  
2000 | information to the corporation in a form and at a time the  
2001 | corporation specifies to ensure that the corporation can meet the

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2002 requirements of this subsection and the corporation's financing  
2003 obligations.

2004 h. The Florida Surplus Lines Service Office shall verify  
2005 the proper application by surplus lines agents of assessment  
2006 percentages for regular assessments and emergency assessments  
2007 levied under this subparagraph on assessable insureds and shall  
2008 assist the corporation in ensuring the accurate, timely  
2009 collection and payment of assessments by surplus lines agents as  
2010 required by the corporation.

2011 i. If a deficit is incurred in any account in 2008 or  
2012 thereafter, the board of governors shall levy a Citizens  
2013 policyholder surcharge ~~an immediate assessment against the~~  
2014 ~~premium of each nonhomestead property policyholder in all~~  
2015 ~~accounts of the corporation, as a uniform percentage of the~~  
2016 ~~premium of the policy of up to 10 percent of such premium, which~~  
2017 ~~funds shall be used to offset the deficit. If this assessment is~~  
2018 ~~insufficient to eliminate the deficit, the board of governors~~  
2019 ~~shall levy an additional assessment against all policyholders of~~  
2020 ~~the corporation for a 12-month period, which shall be collected~~  
2021 ~~at the time of issuance or renewal of a policy, as a uniform~~  
2022 ~~percentage of the premium for the policy of up to 15 10 percent~~  
2023 ~~of such premium, which funds shall be used to further offset the~~  
2024 ~~deficit. Citizens policyholder surcharges under this sub-~~  
2025 ~~subparagraph are not considered premium and are not subject to~~  
2026 ~~commissions, fees, or premium taxes. However, failure to pay such~~  
2027 ~~surcharges shall be treated as failure to pay premium.~~

2028 j. If the amount of any assessments or surcharges collected  
2029 from corporation policyholders, assessable insurers or their  
2030 policyholders, or assessable insureds exceeds the amount of the

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2031 deficits, such excess amounts shall be remitted to and retained  
2032 by the corporation in a reserve to be used by the corporation, as  
2033 determined by the board of governors and approved by the office,  
2034 to pay claims or reduce any past, present, or future plan-year  
2035 deficits or to reduce outstanding debt. The board of governors  
2036 shall maintain separate accounting records that consolidate data  
2037 for nonhomestead properties, including, but not limited to,  
2038 number of policies, insured values, premiums written, and losses.  
2039 ~~The board of governors shall annually report to the office and~~  
2040 ~~the Legislature a summary of such data.~~

2041 (c) The plan of operation of the corporation:

2042 1. Must provide for adoption of residential property and  
2043 casualty insurance policy forms and commercial residential and  
2044 nonresidential property insurance forms, which forms must be  
2045 approved by the office prior to use. The corporation shall adopt  
2046 the following policy forms:

2047 a. Standard personal lines policy forms that are  
2048 comprehensive multiperil policies providing full coverage of a  
2049 residential property equivalent to the coverage provided in the  
2050 private insurance market under an HO-3, HO-4, or HO-6 policy.

2051 b. Basic personal lines policy forms that are policies  
2052 similar to an HO-8 policy or a dwelling fire policy that provide  
2053 coverage meeting the requirements of the secondary mortgage  
2054 market, but which coverage is more limited than the coverage  
2055 under a standard policy.

2056 c. Commercial lines residential and nonresidential policy  
2057 forms that are generally similar to the basic perils of full  
2058 coverage obtainable for commercial residential structures and  
2059 commercial nonresidential structures in the admitted voluntary

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2060 market.

2061 d. Personal lines and commercial lines residential property  
2062 insurance forms that cover the peril of wind only. The forms are  
2063 applicable only to residential properties located in areas  
2064 eligible for coverage under the high-risk account referred to in  
2065 sub-subparagraph (b)2.a.

2066 e. Commercial lines nonresidential property insurance forms  
2067 that cover the peril of wind only. The forms are applicable only  
2068 to nonresidential properties located in areas eligible for  
2069 coverage under the high-risk account referred to in sub-  
2070 subparagraph (b)2.a.

2071 f. The corporation may adopt variations of the policy forms  
2072 listed in sub-subparagraphs a.-e. that contain more restrictive  
2073 coverage.

2074 2.a. Must provide that the corporation adopt a program in  
2075 which the corporation and authorized insurers enter into quota  
2076 share primary insurance agreements for hurricane coverage, as  
2077 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
2078 property insurance forms for eligible risks which cover the peril  
2079 of wind only. As used in this subsection, the term:

2080 (I) "Quota share primary insurance" means an arrangement in  
2081 which the primary hurricane coverage of an eligible risk is  
2082 provided in specified percentages by the corporation and an  
2083 authorized insurer. The corporation and authorized insurer are  
2084 each solely responsible for a specified percentage of hurricane  
2085 coverage of an eligible risk as set forth in a quota share  
2086 primary insurance agreement between the corporation and an  
2087 authorized insurer and the insurance contract. The responsibility  
2088 of the corporation or authorized insurer to pay its specified



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2089 | percentage of hurricane losses of an eligible risk, as set forth  
2090 | in the quota share primary insurance agreement, may not be  
2091 | altered by the inability of the other party to the agreement to  
2092 | pay its specified percentage of hurricane losses. Eligible risks  
2093 | that are provided hurricane coverage through a quota share  
2094 | primary insurance arrangement must be provided policy forms that  
2095 | set forth the obligations of the corporation and authorized  
2096 | insurer under the arrangement, clearly specify the percentages of  
2097 | quota share primary insurance provided by the corporation and  
2098 | authorized insurer, and conspicuously and clearly state that  
2099 | neither the authorized insurer nor the corporation may be held  
2100 | responsible beyond its specified percentage of coverage of  
2101 | hurricane losses.

2102 |       (II) "Eligible risks" means personal lines residential and  
2103 | commercial lines residential risks that meet the underwriting  
2104 | criteria of the corporation and are located in areas that were  
2105 | eligible for coverage by the Florida Windstorm Underwriting  
2106 | Association on January 1, 2002.

2107 |       b. The corporation may enter into quota share primary  
2108 | insurance agreements with authorized insurers at corporation  
2109 | coverage levels of 90 percent and 50 percent.

2110 |       c. If the corporation determines that additional coverage  
2111 | levels are necessary to maximize participation in quota share  
2112 | primary insurance agreements by authorized insurers, the  
2113 | corporation may establish additional coverage levels. However,  
2114 | the corporation's quota share primary insurance coverage level  
2115 | may not exceed 90 percent.

2116 |       d. Any quota share primary insurance agreement entered into  
2117 | between an authorized insurer and the corporation must provide

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2118 | for a uniform specified percentage of coverage of hurricane  
2119 | losses, by county or territory as set forth by the corporation  
2120 | board, for all eligible risks of the authorized insurer covered  
2121 | under the quota share primary insurance agreement.

2122 |       e. Any quota share primary insurance agreement entered into  
2123 | between an authorized insurer and the corporation is subject to  
2124 | review and approval by the office. However, such agreement shall  
2125 | be authorized only as to insurance contracts entered into between  
2126 | an authorized insurer and an insured who is already insured by  
2127 | the corporation for wind coverage.

2128 |       f. For all eligible risks covered under quota share primary  
2129 | insurance agreements, the exposure and coverage levels for both  
2130 | the corporation and authorized insurers shall be reported by the  
2131 | corporation to the Florida Hurricane Catastrophe Fund. For all  
2132 | policies of eligible risks covered under quota share primary  
2133 | insurance agreements, the corporation and the authorized insurer  
2134 | shall maintain complete and accurate records for the purpose of  
2135 | exposure and loss reimbursement audits as required by Florida  
2136 | Hurricane Catastrophe Fund rules. The corporation and the  
2137 | authorized insurer shall each maintain duplicate copies of policy  
2138 | declaration pages and supporting claims documents.

2139 |       g. The corporation board shall establish in its plan of  
2140 | operation standards for quota share agreements which ensure that  
2141 | there is no discriminatory application among insurers as to the  
2142 | terms of quota share agreements, pricing of quota share  
2143 | agreements, incentive provisions if any, and consideration paid  
2144 | for servicing policies or adjusting claims.

2145 |       h. The quota share primary insurance agreement between the  
2146 | corporation and an authorized insurer must set forth the specific

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2147 | terms under which coverage is provided, including, but not  
2148 | limited to, the sale and servicing of policies issued under the  
2149 | agreement by the insurance agent of the authorized insurer  
2150 | producing the business, the reporting of information concerning  
2151 | eligible risks, the payment of premium to the corporation, and  
2152 | arrangements for the adjustment and payment of hurricane claims  
2153 | incurred on eligible risks by the claims adjuster and personnel  
2154 | of the authorized insurer. Entering into a quota sharing  
2155 | insurance agreement between the corporation and an authorized  
2156 | insurer shall be voluntary and at the discretion of the  
2157 | authorized insurer.

2158 |         3. May provide that the corporation may employ or otherwise  
2159 | contract with individuals or other entities to provide  
2160 | administrative or professional services that may be appropriate  
2161 | to effectuate the plan. The corporation shall have the power to  
2162 | borrow funds, by issuing bonds or by incurring other  
2163 | indebtedness, and shall have other powers reasonably necessary to  
2164 | effectuate the requirements of this subsection, including,  
2165 | without limitation, the power to issue bonds and incur other  
2166 | indebtedness in order to refinance outstanding bonds or other  
2167 | indebtedness. The corporation may, but is not required to, seek  
2168 | judicial validation of its bonds or other indebtedness under  
2169 | chapter 75. The corporation may issue bonds or incur other  
2170 | indebtedness, or have bonds issued on its behalf by a unit of  
2171 | local government pursuant to subparagraph (p)2., in the absence  
2172 | of a hurricane or other weather-related event, upon a  
2173 | determination by the corporation, subject to approval by the  
2174 | office, that such action would enable it to efficiently meet the  
2175 | financial obligations of the corporation and that such financings

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2176 are reasonably necessary to effectuate the requirements of this  
2177 subsection. The corporation is authorized to take all actions  
2178 needed to facilitate tax-free status for any such bonds or  
2179 indebtedness, including formation of trusts or other affiliated  
2180 entities. The corporation shall have the authority to pledge  
2181 assessments, projected recoveries from the Florida Hurricane  
2182 Catastrophe Fund, other reinsurance recoverables, market  
2183 equalization and other surcharges, and other funds available to  
2184 the corporation as security for bonds or other indebtedness. In  
2185 recognition of s. 10, Art. I of the State Constitution,  
2186 prohibiting the impairment of obligations of contracts, it is the  
2187 intent of the Legislature that no action be taken whose purpose  
2188 is to impair any bond indenture or financing agreement or any  
2189 revenue source committed by contract to such bond or other  
2190 indebtedness.

2191 4.a. Must require that the corporation operate subject to  
2192 the supervision and approval of a board of governors consisting  
2193 of eight individuals who are residents of this state, from  
2194 different geographical areas of this state. The Governor, the  
2195 Chief Financial Officer, the President of the Senate, and the  
2196 Speaker of the House of Representatives shall each appoint two  
2197 members of the board. At least one of the two members appointed  
2198 by each appointing officer must have demonstrated expertise in  
2199 insurance. The Chief Financial Officer shall designate one of the  
2200 appointees as chair. All board members serve at the pleasure of  
2201 the appointing officer. All members of the board of governors are  
2202 subject to removal at will by the officers who appointed them.  
2203 All board members, including the chair, must be appointed to  
2204 serve for 3-year terms beginning annually on a date designated by

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2205 | the plan. Any board vacancy shall be filled for the unexpired  
2206 | term by the appointing officer. The Chief Financial Officer shall  
2207 | appoint a technical advisory group to provide information and  
2208 | advice to the board of governors in connection with the board's  
2209 | duties under this subsection. The executive director and senior  
2210 | managers of the corporation shall be engaged by the board and  
2211 | serve at the pleasure of the board. Any executive director  
2212 | appointed on or after July 1, 2006, is subject to confirmation by  
2213 | the Senate. The executive director is responsible for employing  
2214 | other staff as the corporation may require, subject to review and  
2215 | concurrence by the board.

2216 |       b. The board shall create a Market Accountability Advisory  
2217 | Committee to assist the corporation in developing awareness of  
2218 | its rates and its customer and agent service levels in  
2219 | relationship to the voluntary market insurers writing similar  
2220 | coverage. The members of the advisory committee shall consist of  
2221 | the following 11 persons, one of whom must be elected chair by  
2222 | the members of the committee: four representatives, one appointed  
2223 | by the Florida Association of Insurance Agents, one by the  
2224 | Florida Association of Insurance and Financial Advisors, one by  
2225 | the Professional Insurance Agents of Florida, and one by the  
2226 | Latin American Association of Insurance Agencies; three  
2227 | representatives appointed by the insurers with the three highest  
2228 | voluntary market share of residential property insurance business  
2229 | in the state; one representative from the Office of Insurance  
2230 | Regulation; one consumer appointed by the board who is insured by  
2231 | the corporation at the time of appointment to the committee; one  
2232 | representative appointed by the Florida Association of Realtors;  
2233 | and one representative appointed by the Florida Bankers

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2234 Association. All members must serve for 3-year terms and may  
2235 serve for consecutive terms. The committee shall report to the  
2236 corporation at each board meeting on insurance market issues  
2237 which may include rates and rate competition with the voluntary  
2238 market; service, including policy issuance, claims processing,  
2239 and general responsiveness to policyholders, applicants, and  
2240 agents; and matters relating to depopulation.

2241 5. Must provide a procedure for determining the eligibility  
2242 of a risk for coverage, as follows:

2243 a. Subject to the provisions of s. 627.3517, with respect  
2244 to personal lines residential risks, if the risk is offered  
2245 coverage from an authorized insurer at the insurer's approved  
2246 rate under either a standard policy including wind coverage or,  
2247 if consistent with the insurer's underwriting rules as filed with  
2248 the office, a basic policy including wind coverage, for a new  
2249 application to the corporation for coverage, the risk is not  
2250 eligible for any policy issued by the corporation unless the  
2251 premium for coverage from the authorized insurer is more than 15  
2252 percent greater than the premium for comparable coverage from the  
2253 corporation. If the risk is not able to obtain any such offer,  
2254 the risk is eligible for either a standard policy including wind  
2255 coverage or a basic policy including wind coverage issued by the  
2256 corporation; however, if the risk could not be insured under a  
2257 standard policy including wind coverage regardless of market  
2258 conditions, the risk shall be eligible for a basic policy  
2259 including wind coverage unless rejected under subparagraph 9.  
2260 However, with regard to a policyholder of the corporation or a  
2261 policyholder removed from the corporation through an assumption  
2262 agreement until the end of the assumption period, the

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2263 | policyholder remains eligible for coverage from the corporation  
2264 | regardless of any offer of coverage from an authorized insurer or  
2265 | surplus lines insurer. The corporation shall determine the type  
2266 | of policy to be provided on the basis of objective standards  
2267 | specified in the underwriting manual and based on generally  
2268 | accepted underwriting practices.

2269 |       (I) If the risk accepts an offer of coverage through the  
2270 | market assistance plan or an offer of coverage through a  
2271 | mechanism established by the corporation before a policy is  
2272 | issued to the risk by the corporation or during the first 30 days  
2273 | of coverage by the corporation, and the producing agent who  
2274 | submitted the application to the plan or to the corporation is  
2275 | not currently appointed by the insurer, the insurer shall:

2276 |       (A) Pay to the producing agent of record of the policy, for  
2277 | the first year, an amount that is the greater of the insurer's  
2278 | usual and customary commission for the type of policy written or  
2279 | a fee equal to the usual and customary commission of the  
2280 | corporation; or

2281 |       (B) Offer to allow the producing agent of record of the  
2282 | policy to continue servicing the policy for a period of not less  
2283 | than 1 year and offer to pay the agent the greater of the  
2284 | insurer's or the corporation's usual and customary commission for  
2285 | the type of policy written.

2286 |  
2287 | If the producing agent is unwilling or unable to accept  
2288 | appointment, the new insurer shall pay the agent in accordance  
2289 | with sub-sub-sub-subparagraph (A).

2290 |       (II) When the corporation enters into a contractual  
2291 | agreement for a take-out plan, the producing agent of record of

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2292 the corporation policy is entitled to retain any unearned  
2293 commission on the policy, and the insurer shall:

2294 (A) Pay to the producing agent of record of the corporation  
2295 policy, for the first year, an amount that is the greater of the  
2296 insurer's usual and customary commission for the type of policy  
2297 written or a fee equal to the usual and customary commission of  
2298 the corporation; or

2299 (B) Offer to allow the producing agent of record of the  
2300 corporation policy to continue servicing the policy for a period  
2301 of not less than 1 year and offer to pay the agent the greater of  
2302 the insurer's or the corporation's usual and customary commission  
2303 for the type of policy written.

2304  
2305 If the producing agent is unwilling or unable to accept  
2306 appointment, the new insurer shall pay the agent in accordance  
2307 with sub-sub-sub-subparagraph (A).

2308 b. With respect to commercial lines residential risks, for  
2309 a new application to the corporation for coverage, if the risk is  
2310 offered coverage under a policy including wind coverage from an  
2311 authorized insurer at its approved rate, the risk is not eligible  
2312 for any policy issued by the corporation unless the premium for  
2313 coverage from the authorized insurer is more than 15 percent  
2314 greater than the premium for comparable coverage from the  
2315 corporation. If the risk is not able to obtain any such offer,  
2316 the risk is eligible for a policy including wind coverage issued  
2317 by the corporation. However, with regard to a policyholder of the  
2318 corporation or a policyholder removed from the corporation  
2319 through an assumption agreement until the end of the assumption  
2320 period, the policyholder remains eligible for coverage from the



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2321 corporation regardless of any offer of coverage from an  
2322 authorized insurer or surplus lines insurer.

2323 (I) If the risk accepts an offer of coverage through the  
2324 market assistance plan or an offer of coverage through a  
2325 mechanism established by the corporation before a policy is  
2326 issued to the risk by the corporation or during the first 30 days  
2327 of coverage by the corporation, and the producing agent who  
2328 submitted the application to the plan or the corporation is not  
2329 currently appointed by the insurer, the insurer shall:

2330 (A) Pay to the producing agent of record of the policy, for  
2331 the first year, an amount that is the greater of the insurer's  
2332 usual and customary commission for the type of policy written or  
2333 a fee equal to the usual and customary commission of the  
2334 corporation; or

2335 (B) Offer to allow the producing agent of record of the  
2336 policy to continue servicing the policy for a period of not less  
2337 than 1 year and offer to pay the agent the greater of the  
2338 insurer's or the corporation's usual and customary commission for  
2339 the type of policy written.

2340  
2341 If the producing agent is unwilling or unable to accept  
2342 appointment, the new insurer shall pay the agent in accordance  
2343 with sub-sub-sub-subparagraph (A).

2344 (II) When the corporation enters into a contractual  
2345 agreement for a take-out plan, the producing agent of record of  
2346 the corporation policy is entitled to retain any unearned  
2347 commission on the policy, and the insurer shall:

2348 (A) Pay to the producing agent of record of the corporation  
2349 policy, for the first year, an amount that is the greater of the

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2350 insurer's usual and customary commission for the type of policy  
2351 written or a fee equal to the usual and customary commission of  
2352 the corporation; or

2353 (B) Offer to allow the producing agent of record of the  
2354 corporation policy to continue servicing the policy for a period  
2355 of not less than 1 year and offer to pay the agent the greater of  
2356 the insurer's or the corporation's usual and customary commission  
2357 for the type of policy written.

2358

2359 If the producing agent is unwilling or unable to accept  
2360 appointment, the new insurer shall pay the agent in accordance  
2361 with sub-sub-sub-subparagraph (A).

2362 c. For purposes of determining comparable coverage under  
2363 sub-subparagraphs a. and b., the comparison shall be based on  
2364 those forms and coverages that are reasonably comparable. The  
2365 corporation may rely on a determination of comparable coverage  
2366 and premium made by the producing agent who submits the  
2367 application to the corporation, made in the agent's capacity as  
2368 the corporation's agent. A comparison may be made solely of the  
2369 premium with respect to the main building or structure only on  
2370 the following basis: the same coverage A or other building  
2371 limits; the same percentage hurricane deductible that applies on  
2372 an annual basis or that applies to each hurricane for commercial  
2373 residential property; the same percentage of ordinance and law  
2374 coverage, if the same limit is offered by both the corporation  
2375 and the authorized insurer; the same mitigation credits, to the  
2376 extent the same types of credits are offered both by the  
2377 corporation and the authorized insurer; the same method for loss  
2378 payment, such as replacement cost or actual cash value, if the

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2379 | same method is offered both by the corporation and the authorized  
2380 | insurer in accordance with underwriting rules; and any other form  
2381 | or coverage that is reasonably comparable as determined by the  
2382 | board. If an application is submitted to the corporation for  
2383 | wind-only coverage in the high-risk account, the premium for the  
2384 | corporation's wind-only policy plus the premium for the ex-wind  
2385 | policy that is offered by an authorized insurer to the applicant  
2386 | shall be compared to the premium for multiperil coverage offered  
2387 | by an authorized insurer, subject to the standards for comparison  
2388 | specified in this subparagraph. If the corporation or the  
2389 | applicant requests from the authorized insurer a breakdown of the  
2390 | premium of the offer by types of coverage so that a comparison  
2391 | may be made by the corporation or its agent and the authorized  
2392 | insurer refuses or is unable to provide such information, the  
2393 | corporation may treat the offer as not being an offer of coverage  
2394 | from an authorized insurer at the insurer's approved rate.

2395 |         6. Must include rules for classifications of risks and  
2396 | rates therefor.

2397 |         7. Must provide that if premium and investment income for  
2398 | an account attributable to a particular calendar year are in  
2399 | excess of projected losses and expenses for the account  
2400 | attributable to that year, such excess shall be held in surplus  
2401 | in the account. Such surplus shall be available to defray  
2402 | deficits in that account as to future years and shall be used for  
2403 | that purpose prior to assessing assessable insurers and  
2404 | assessable insureds as to any calendar year.

2405 |         8. Must provide objective criteria and procedures to be  
2406 | uniformly applied for all applicants in determining whether an  
2407 | individual risk is so hazardous as to be uninsurable. In making

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2408 | this determination and in establishing the criteria and  
2409 | procedures, the following shall be considered:

2410 |       a. Whether the likelihood of a loss for the individual risk  
2411 | is substantially higher than for other risks of the same class;  
2412 | and

2413 |       b. Whether the uncertainty associated with the individual  
2414 | risk is such that an appropriate premium cannot be determined.

2415 |

2416 | The acceptance or rejection of a risk by the corporation shall be  
2417 | construed as the private placement of insurance, and the  
2418 | provisions of chapter 120 shall not apply.

2419 |       9. Must provide that the corporation shall make its best  
2420 | efforts to procure catastrophe reinsurance at reasonable rates,  
2421 | to cover its projected 100-year probable maximum loss as  
2422 | determined by the board of governors.

2423 |       ~~10. Must provide that in the event of regular deficit~~  
2424 | ~~assessments under sub-subparagraph (b)3.a. or sub-subparagraph~~  
2425 | ~~(b)3.b., in the personal lines account, the commercial lines~~  
2426 | ~~residential account, or the high-risk account, the corporation~~  
2427 | ~~shall levy upon corporation policyholders in its next rate~~  
2428 | ~~filing, or by a separate rate filing solely for this purpose, a~~  
2429 | ~~Citizens policyholder surcharge arising from a regular assessment~~  
2430 | ~~in such account in a percentage equal to the total amount of such~~  
2431 | ~~regular assessments divided by the aggregate statewide direct~~  
2432 | ~~written premium for subject lines of business for the prior~~  
2433 | ~~calendar year. For purposes of calculating the Citizens~~  
2434 | ~~policyholder surcharge to be levied under this subparagraph, the~~  
2435 | ~~total amount of the regular assessment to which this surcharge is~~  
2436 | ~~related shall be determined as set forth in subparagraph (b)3.,~~

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2437 ~~without deducting the estimated Citizens policyholder surcharge.~~  
2438 ~~Citizens policyholder surcharges under this subparagraph are not~~  
2439 ~~considered premium and are not subject to commissions, fees, or~~  
2440 ~~premium taxes; however, failure to pay a market equalization~~  
2441 ~~surcharge shall be treated as failure to pay premium.~~

2442 10.11. The policies issued by the corporation must provide  
2443 that, if the corporation or the market assistance plan obtains an  
2444 offer from an authorized insurer to cover the risk at its  
2445 approved rates, the risk is no longer eligible for renewal  
2446 through the corporation, except as otherwise provided in this  
2447 subsection.

2448 11.12. Corporation policies and applications must include a  
2449 notice that the corporation policy could, under this section, be  
2450 replaced with a policy issued by an authorized insurer that does  
2451 not provide coverage identical to the coverage provided by the  
2452 corporation. The notice shall also specify that acceptance of  
2453 corporation coverage creates a conclusive presumption that the  
2454 applicant or policyholder is aware of this potential.

2455 12.13. May establish, subject to approval by the office,  
2456 different eligibility requirements and operational procedures for  
2457 any line or type of coverage for any specified county or area if  
2458 the board determines that such changes to the eligibility  
2459 requirements and operational procedures are justified due to the  
2460 voluntary market being sufficiently stable and competitive in  
2461 such area or for such line or type of coverage and that consumers  
2462 who, in good faith, are unable to obtain insurance through the  
2463 voluntary market through ordinary methods would continue to have  
2464 access to coverage from the corporation. When coverage is sought  
2465 in connection with a real property transfer, such requirements

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2466 and procedures shall not provide for an effective date of  
2467 coverage later than the date of the closing of the transfer as  
2468 established by the transferor, the transferee, and, if  
2469 applicable, the lender.

2470 ~~13.14.~~ Must provide that, with respect to the high-risk  
2471 account, any assessable insurer with a surplus as to  
2472 policyholders of \$25 million or less writing 25 percent or more  
2473 of its total countrywide property insurance premiums in this  
2474 state may petition the office, within the first 90 days of each  
2475 calendar year, to qualify as a limited apportionment company. A  
2476 regular assessment levied by the corporation on a limited  
2477 apportionment company for a deficit incurred by the corporation  
2478 for the high-risk account in 2006 or thereafter may be paid to  
2479 the corporation on a monthly basis as the assessments are  
2480 collected by the limited apportionment company from its insureds  
2481 pursuant to s. 627.3512, but the regular assessment must be paid  
2482 in full within 12 months after being levied by the corporation. A  
2483 limited apportionment company shall collect from its  
2484 policyholders any emergency assessment imposed under sub-  
2485 subparagraph (b)3.d. The plan shall provide that, if the office  
2486 determines that any regular assessment will result in an  
2487 impairment of the surplus of a limited apportionment company, the  
2488 office may direct that all or part of such assessment be deferred  
2489 as provided in subparagraph (p)4. However, there shall be no  
2490 limitation or deferment of an emergency assessment to be  
2491 collected from policyholders under sub-subparagraph (b)3.d.

2492 ~~14.15.~~ Must provide that the corporation appoint as its  
2493 licensed agents only those agents who also hold an appointment as  
2494 defined in s. 626.015(3) with an insurer who at the time of the

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2495 agent's initial appointment by the corporation is authorized to  
2496 write and is actually writing personal lines residential property  
2497 coverage, commercial residential property coverage, or commercial  
2498 nonresidential property coverage within the state.

2499 ~~15.16.~~ Must provide, by July 1, 2007, a premium payment  
2500 plan option to its policyholders which allows at a minimum for  
2501 quarterly and semiannual payment of premiums. A monthly payment  
2502 plan may, but is not required to, be offered.

2503 ~~16.17.~~ Must limit coverage on mobile homes or manufactured  
2504 homes built prior to 1994 to actual cash value of the dwelling  
2505 rather than replacement costs of the dwelling.

2506 ~~17.18.~~ May provide such limits of coverage as the board  
2507 determines, consistent with the requirements of this subsection.

2508 ~~18.19.~~ May require commercial property to meet specified  
2509 hurricane mitigation construction features as a condition of  
2510 eligibility for coverage.

2511 (m)1. Rates for coverage provided by the corporation shall  
2512 be actuarially sound and subject to the requirements of s.  
2513 627.062, except as otherwise provided in this paragraph. The  
2514 corporation shall file its recommended rates with the office at  
2515 least annually. The corporation shall provide any additional  
2516 information regarding the rates which the office requires. The  
2517 office shall consider the recommendations of the board and issue  
2518 a final order establishing the rates for the corporation within  
2519 45 days after the recommended rates are filed. The corporation  
2520 may not pursue an administrative challenge or judicial review of  
2521 the final order of the office.

2522 2. In addition to the rates otherwise determined pursuant  
2523 to this paragraph, the corporation shall impose and collect an

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2524 amount equal to the premium tax provided for in s. 624.509 to  
2525 augment the financial resources of the corporation.

2526 3. After the public hurricane loss-projection model under  
2527 s. 627.06281 has been found to be accurate and reliable by the  
2528 Florida Commission on Hurricane Loss Projection Methodology, that  
2529 model shall serve as the minimum benchmark for determining the  
2530 windstorm portion of the corporation's rates. This subparagraph  
2531 does not require or allow the corporation to adopt rates lower  
2532 than the rates otherwise required or allowed by this paragraph.

2533 4. The rate filings for the corporation which were approved  
2534 by the office and which took effect January 1, 2007, are  
2535 rescinded, except for those rates that were lowered. As soon as  
2536 possible, the corporation shall begin using the lower rates that  
2537 were in effect on December 31, 2006, and shall provide refunds to  
2538 policyholders who have paid higher rates as a result of that rate  
2539 filing. The rates in effect on December 31, 2006, shall remain in  
2540 effect for the 2007 and 2008 calendar years except for any rate  
2541 change that results in a lower rate. The next rate change that  
2542 may increase rates shall take effect ~~January 1, 2009~~, pursuant to  
2543 a new rate filing recommended by the corporation and established  
2544 by the office, subject to the requirements of this paragraph.

2545 5. Beginning on July 15, 2009, and each year thereafter,  
2546 the corporation must make a recommended actuarially sound rate  
2547 filing for each personal and commercial line of business it  
2548 writes, to be effective no earlier than January 1, 2010.

2549 (p)1. The corporation shall certify to the office its needs  
2550 for annual assessments as to a particular calendar year, and for  
2551 any interim assessments that it deems to be necessary to sustain  
2552 operations as to a particular year pending the receipt of annual



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2553 assessments. Upon verification, the office shall approve such  
2554 certification, and the corporation shall levy such annual or  
2555 interim assessments. Such assessments shall be prorated as  
2556 provided in paragraph (b). The corporation shall take all  
2557 reasonable and prudent steps necessary to collect the amount of  
2558 assessment due from each assessable insurer, including, if  
2559 prudent, filing suit to collect such assessment. If the  
2560 corporation is unable to collect an assessment from any  
2561 assessable insurer, the uncollected assessments shall be levied  
2562 as an additional assessment against the assessable insurers and  
2563 any assessable insurer required to pay an additional assessment  
2564 as a result of such failure to pay shall have a cause of action  
2565 against such nonpaying assessable insurer. Assessments shall be  
2566 included as an appropriate factor in the making of rates. The  
2567 failure of a surplus lines agent to collect and remit any regular  
2568 or emergency assessment levied by the corporation is considered  
2569 to be a violation of s. 626.936 and subjects the surplus lines  
2570 agent to the penalties provided in that section.

2571 2. The governing body of any unit of local government, any  
2572 residents of which are insured by the corporation, may issue  
2573 bonds as defined in s. 125.013 or s. 166.101 from time to time to  
2574 fund an assistance program, in conjunction with the corporation,  
2575 for the purpose of defraying deficits of the corporation. In  
2576 order to avoid needless and indiscriminate proliferation,  
2577 duplication, and fragmentation of such assistance programs, any  
2578 unit of local government, any residents of which are insured by  
2579 the corporation, may provide for the payment of losses,  
2580 regardless of whether or not the losses occurred within or  
2581 outside of the territorial jurisdiction of the local government.

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2582 Revenue bonds under this subparagraph may not be issued until  
2583 validated pursuant to chapter 75, unless a state of emergency is  
2584 declared by executive order or proclamation of the Governor  
2585 pursuant to s. 252.36 making such findings as are necessary to  
2586 determine that it is in the best interests of, and necessary for,  
2587 the protection of the public health, safety, and general welfare  
2588 of residents of this state and declaring it an essential public  
2589 purpose to permit certain municipalities or counties to issue  
2590 such bonds as will permit relief to claimants and policyholders  
2591 of the corporation. Any such unit of local government may enter  
2592 into such contracts with the corporation and with any other  
2593 entity created pursuant to this subsection as are necessary to  
2594 carry out this paragraph. Any bonds issued under this  
2595 subparagraph shall be payable from and secured by moneys received  
2596 by the corporation from emergency assessments under sub-  
2597 subparagraph (b)3.d., and assigned and pledged to or on behalf of  
2598 the unit of local government for the benefit of the holders of  
2599 such bonds. The funds, credit, property, and taxing power of the  
2600 state or of the unit of local government shall not be pledged for  
2601 the payment of such bonds. ~~If any of the bonds remain unsold 60~~  
2602 ~~days after issuance, the office shall require all insurers~~  
2603 ~~subject to assessment to purchase the bonds, which shall be~~  
2604 ~~treated as admitted assets; each insurer shall be required to~~  
2605 ~~purchase that percentage of the unsold portion of the bond issue~~  
2606 ~~that equals the insurer's relative share of assessment liability~~  
2607 ~~under this subsection. An insurer shall not be required to~~  
2608 ~~purchase the bonds to the extent that the office determines that~~  
2609 ~~the purchase would endanger or impair the solvency of the~~  
2610 ~~insurer.~~

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2611           3.a. The corporation shall adopt one or more programs  
2612 subject to approval by the office for the reduction of both new  
2613 and renewal writings in the corporation. Beginning January 1,  
2614 2008, any program the corporation adopts for the payment of  
2615 bonuses to an insurer for each risk the insurer removes from the  
2616 corporation shall comply with s. 627.3511(2) and may not exceed  
2617 the amount referenced in s. 627.3511(2) for each risk removed.  
2618 The corporation may consider any prudent and not unfairly  
2619 discriminatory approach to reducing corporation writings, and may  
2620 adopt a credit against assessment liability or other liability  
2621 that provides an incentive for insurers to take risks out of the  
2622 corporation and to keep risks out of the corporation by  
2623 maintaining or increasing voluntary writings in counties or areas  
2624 in which corporation risks are highly concentrated and a program  
2625 to provide a formula under which an insurer voluntarily taking  
2626 risks out of the corporation by maintaining or increasing  
2627 voluntary writings will be relieved wholly or partially from  
2628 assessments under sub-subparagraphs (b)3.a. and b. However, any  
2629 "take-out bonus" or payment to an insurer must be conditioned on  
2630 the property being insured for at least 5 years by the insurer,  
2631 unless canceled or nonrenewed by the policyholder. If the policy  
2632 is canceled or nonrenewed by the policyholder before the end of  
2633 the 5-year period, the amount of the take-out bonus must be  
2634 prorated for the time period the policy was insured. When the  
2635 corporation enters into a contractual agreement for a take-out  
2636 plan, the producing agent of record of the corporation policy is  
2637 entitled to retain any unearned commission on such policy, and  
2638 the insurer shall either:

2639           (I) Pay to the producing agent of record of the policy, for

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2640 the first year, an amount which is the greater of the insurer's  
2641 usual and customary commission for the type of policy written or  
2642 a policy fee equal to the usual and customary commission of the  
2643 corporation; or

2644 (II) Offer to allow the producing agent of record of the  
2645 policy to continue servicing the policy for a period of not less  
2646 than 1 year and offer to pay the agent the insurer's usual and  
2647 customary commission for the type of policy written. If the  
2648 producing agent is unwilling or unable to accept appointment by  
2649 the new insurer, the new insurer shall pay the agent in  
2650 accordance with sub-sub-subparagraph (I).

2651 b. Any credit or exemption from regular assessments adopted  
2652 under this subparagraph shall last no longer than the 3 years  
2653 following the cancellation or expiration of the policy by the  
2654 corporation. With the approval of the office, the board may  
2655 extend such credits for an additional year if the insurer  
2656 guarantees an additional year of renewability for all policies  
2657 removed from the corporation, or for 2 additional years if the  
2658 insurer guarantees 2 additional years of renewability for all  
2659 policies so removed.

2660 c. There shall be no credit, limitation, exemption, or  
2661 deferment from emergency assessments to be collected from  
2662 policyholders pursuant to sub-subparagraph (b)3.d.

2663 4. The plan shall provide for the deferment, in whole or in  
2664 part, of the assessment of an assessable insurer, other than an  
2665 emergency assessment collected from policyholders pursuant to  
2666 sub-subparagraph (b)3.d., if the office finds that payment of the  
2667 assessment would endanger or impair the solvency of the insurer.  
2668 In the event an assessment against an assessable insurer is

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2669 | deferred in whole or in part, the amount by which such assessment  
2670 | is deferred may be assessed against the other assessable insurers  
2671 | in a manner consistent with the basis for assessments set forth  
2672 | in paragraph (b).

2673 |         5. Effective July 1, 2007, in order to evaluate the costs  
2674 | and benefits of approved take-out plans, if the corporation pays  
2675 | a bonus or other payment to an insurer for an approved take-out  
2676 | plan, it shall maintain a record of the address or such other  
2677 | identifying information on the property or risk removed in order  
2678 | to track if and when the property or risk is later insured by the  
2679 | corporation.

2680 |         6. Any policy taken out, assumed, or removed from the  
2681 | corporation is, as of the effective date of the take-out,  
2682 | assumption, or removal, direct insurance issued by the insurer  
2683 | and not by the corporation, even if the corporation continues to  
2684 | service the policies. This subparagraph applies to policies of  
2685 | the corporation and not policies taken out, assumed, or removed  
2686 | from any other entity.

2687 |         (w)1. The following records of the corporation are  
2688 | confidential and exempt from the provisions of s. 119.07(1) and  
2689 | s. 24(a), Art. I of the State Constitution:

2690 |         a. Underwriting files, except that a policyholder or an  
2691 | applicant shall have access to his or her own underwriting files.  
2692 | Confidential and exempt underwriting file records may also be  
2693 | released to other governmental agencies upon written request and  
2694 | demonstration of need; such records held by the receiving agency  
2695 | remain confidential and exempt as provided herein.

2696 |         b. Claims files, until termination of all litigation and  
2697 | settlement of all claims arising out of the same incident,

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2698 | although portions of the claims files may remain exempt, as  
2699 | otherwise provided by law. Confidential and exempt claims file  
2700 | records may be released to other governmental agencies upon  
2701 | written request and demonstration of need; such records held by  
2702 | the receiving agency remain confidential and exempt as provided  
2703 | ~~for~~ herein.

2704 |       c. Records obtained or generated by an internal auditor  
2705 | pursuant to a routine audit, until the audit is completed, or if  
2706 | the audit is conducted as part of an investigation, until the  
2707 | investigation is closed or ceases to be active. An investigation  
2708 | is considered "active" while the investigation is being conducted  
2709 | with a reasonable, good faith belief that it could lead to the  
2710 | filing of administrative, civil, or criminal proceedings.

2711 |       d. Matters reasonably encompassed in privileged attorney-  
2712 | client communications.

2713 |       e. Proprietary information licensed to the corporation  
2714 | under contract and the contract provides for the confidentiality  
2715 | of such proprietary information.

2716 |       f. All information relating to the medical condition or  
2717 | medical status of a corporation employee which is not relevant to  
2718 | the employee's capacity to perform his or her duties, except as  
2719 | otherwise provided in this paragraph. Information that ~~which~~ is  
2720 | exempt shall include, but is not limited to, information relating  
2721 | to workers' compensation, insurance benefits, and retirement or  
2722 | disability benefits.

2723 |       g. Upon an employee's entrance into the employee assistance  
2724 | program, a program to assist any employee who has a behavioral or  
2725 | medical disorder, substance abuse problem, or emotional  
2726 | difficulty which affects the employee's job performance, all

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2727 records relative to that participation shall be confidential and  
2728 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
2729 of the State Constitution, except as otherwise provided in s.  
2730 112.0455(11).

2731 h. Information relating to negotiations for financing,  
2732 reinsurance, depopulation, or contractual services, until the  
2733 conclusion of the negotiations.

2734 i. Minutes of closed meetings regarding underwriting files,  
2735 and minutes of closed meetings regarding an open claims file  
2736 until termination of all litigation and settlement of all claims  
2737 with regard to that claim, except that information otherwise  
2738 confidential or exempt by law shall ~~will~~ be redacted.

2739 2. If ~~When~~ an authorized insurer is considering  
2740 underwriting a risk insured by the corporation, relevant  
2741 underwriting files and confidential claims files may be released  
2742 to the insurer provided the insurer agrees in writing, notarized  
2743 and under oath, to maintain the confidentiality of such files. If  
2744 ~~When~~ a file is transferred to an insurer that file is no longer a  
2745 public record because it is not held by an agency subject to the  
2746 provisions of the public records law. Underwriting files and  
2747 confidential claims files may also be released to staff ~~of~~ and  
2748 the board of governors of the market assistance plan established  
2749 pursuant to s. 627.3515, who must retain the confidentiality of  
2750 such files, except such files may be released to authorized  
2751 insurers that are considering assuming the risks to which the  
2752 files apply, provided the insurer agrees in writing, notarized  
2753 and under oath, to maintain the confidentiality of such files.  
2754 Finally, the corporation or the board or staff of the market  
2755 assistance plan may make the following information obtained from

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2756 | underwriting files and confidential claims files available to  
2757 | licensed general lines insurance agents: name, address, and  
2758 | telephone number of the residential property owner or insured;  
2759 | location of the risk; rating information; loss history; and  
2760 | policy type. The receiving licensed general lines insurance agent  
2761 | must retain the confidentiality of the information received.

2762 |       3. A policyholder who has filed suit against the  
2763 | corporation has the right to discover the contents of his or her  
2764 | own claims file to the same extent that discovery of such  
2765 | contents would be available from a private insurer in litigation  
2766 | as provided by the Florida Rules of Civil Procedure, the Florida  
2767 | Evidence Code, and other applicable law. Pursuant to subpoena, a  
2768 | third party has the right to discover the contents of an  
2769 | insured's or applicant's underwriting or claims file to the same  
2770 | extent that discovery of such contents would be available from a  
2771 | private insurer by subpoena as provided by the Florida Rules of  
2772 | Civil Procedure, the Florida Evidence Code, and other applicable  
2773 | law, and subject to any confidentiality protections requested by  
2774 | the corporation and agreed to by the seeking party or ordered by  
2775 | the court. The corporation may release confidential underwriting  
2776 | and claims file contents and information as it deems necessary  
2777 | and appropriate to underwrite or service insurance policies and  
2778 | claims, subject to any confidentiality protections deemed  
2779 | necessary and appropriate by the corporation.

2780 |       4.2. Portions of meetings of the corporation are exempt  
2781 | from the provisions of s. 286.011 and s. 24(b), Art. I of the  
2782 | State Constitution wherein confidential underwriting files or  
2783 | confidential open claims files are discussed. All portions of  
2784 | corporation meetings which are closed to the public shall be



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2785 recorded by a court reporter. The court reporter shall record the  
2786 times of commencement and termination of the meeting, all  
2787 discussion and proceedings, the names of all persons present at  
2788 any time, and the names of all persons speaking. No portion of  
2789 any closed meeting shall be off the record. Subject to the  
2790 provisions hereof and s. 119.07(1)(e)-(g), the court reporter's  
2791 notes of any closed meeting shall be retained by the corporation  
2792 for a minimum of 5 years. A copy of the transcript, less any  
2793 exempt matters, of any closed meeting wherein claims are  
2794 discussed shall become public as to individual claims after  
2795 settlement of the claim.

2796 ~~(dd)1. For policies subject to nonrenewal as a result of~~  
2797 ~~the risk being no longer eligible for coverage due to being~~  
2798 ~~valued at \$1 million or more, the corporation shall, directly or~~  
2799 ~~through the market assistance plan, make information from~~  
2800 ~~confidential underwriting and claims files of policyholders~~  
2801 ~~available only to licensed general lines agents who register with~~  
2802 ~~the corporation to receive such information according to the~~  
2803 ~~following procedures:~~

2804 ~~2. By August 1, 2006, the corporation shall provide such~~  
2805 ~~policyholders who are not eligible for renewal the opportunity to~~  
2806 ~~request in writing, within 30 days after the notification is~~  
2807 ~~sent, that information from their confidential underwriting and~~  
2808 ~~claims files not be released to licensed general lines agents~~  
2809 ~~registered pursuant to this paragraph.~~

2810 ~~3. By August 1, 2006, the corporation shall make available~~  
2811 ~~to licensed general lines agents the registration procedures to~~  
2812 ~~be used to obtain confidential information from underwriting and~~  
2813 ~~claims files for such policies not eligible for renewal. As a~~

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2814 ~~condition of registration, the corporation shall require the~~  
2815 ~~licensed general lines agent to attest that the agent has the~~  
2816 ~~experience and relationships with authorized or surplus lines~~  
2817 ~~carriers to attempt to offer replacement coverage for such~~  
2818 ~~policies.~~

2819 ~~4. By September 1, 2006, the corporation shall make~~  
2820 ~~available through a secured website to licensed general lines~~  
2821 ~~agents registered pursuant to this paragraph application, rating,~~  
2822 ~~loss history, mitigation, and policy type information relating to~~  
2823 ~~such policies not eligible for renewal and for which the~~  
2824 ~~policyholder has not requested the corporation withhold such~~  
2825 ~~information. The registered licensed general lines agent may use~~  
2826 ~~such information to contact and assist the policyholder in~~  
2827 ~~securing replacement policies, and the agent may disclose to the~~  
2828 ~~policyholder that such information was obtained from the~~  
2829 ~~corporation.~~

2830 ~~(dd)-(ee)~~ The assets of the corporation may be invested and  
2831 managed by the State Board of Administration.

2832 ~~(ee)-(ff)~~ The office may establish a pilot program to offer  
2833 optional sinkhole coverage in one or more counties or other  
2834 territories of the corporation for the purpose of implementing s.  
2835 627.706, as amended by s. 30, chapter 2007-1, Laws of Florida.  
2836 Under the pilot program, the corporation is not required to issue  
2837 a notice of nonrenewal to exclude sinkhole coverage upon the  
2838 renewal of existing policies, but may exclude such coverage using  
2839 a notice of coverage change.

2840 Section 14. Paragraph (b) of subsection (2) of section  
2841 627.4133, Florida Statutes, is amended to read:

2842 627.4133 Notice of cancellation, nonrenewal, or renewal

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2843 premium.--

2844 (2) With respect to any personal lines or commercial  
2845 residential property insurance policy, including, but not limited  
2846 to, any homeowner's, mobile home owner's, farmowner's,  
2847 condominium association, condominium unit owner's, apartment  
2848 building, or other policy covering a residential structure or its  
2849 contents:

2850 (b) The insurer shall give the named insured written notice  
2851 of nonrenewal, cancellation, or termination at least 100 days  
2852 prior to the effective date of the nonrenewal, cancellation, or  
2853 termination. However, the insurer shall give at least 100 days'  
2854 written notice, or written notice by June 1, whichever is  
2855 earlier, for any nonrenewal, cancellation, or termination that  
2856 would be effective between June 1 and November 30. The notice  
2857 must include the reason or reasons for the nonrenewal,  
2858 cancellation, or termination, except that:

2859 1. The insurer shall give the named insured written notice  
2860 of nonrenewal, cancellation, or termination at least 180 days  
2861 prior to the effective date of the nonrenewal, cancellation, or  
2862 termination for a named insured whose residential structure has  
2863 been insured by that insurer or an affiliated insurer for at  
2864 least a 5-year period immediately prior to date of the written  
2865 notice.

2866 2.1- When cancellation is for nonpayment of premium, at  
2867 least 10 days' written notice of cancellation accompanied by the  
2868 reason therefor shall be given. As used in this subparagraph, the  
2869 term "nonpayment of premium" means failure of the named insured  
2870 to discharge when due any of her or his obligations in connection  
2871 with the payment of premiums on a policy or any installment of

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2872 such premium, whether the premium is payable directly to the  
2873 insurer or its agent or indirectly under any premium finance plan  
2874 or extension of credit, or failure to maintain membership in an  
2875 organization if such membership is a condition precedent to  
2876 insurance coverage. "Nonpayment of premium" also means the  
2877 failure of a financial institution to honor an insurance  
2878 applicant's check after delivery to a licensed agent for payment  
2879 of a premium, even if the agent has previously delivered or  
2880 transferred the premium to the insurer. If a dishonored check  
2881 represents the initial premium payment, the contract and all  
2882 contractual obligations shall be void ab initio unless the  
2883 nonpayment is cured within the earlier of 5 days after actual  
2884 notice by certified mail is received by the applicant or 15 days  
2885 after notice is sent to the applicant by certified mail or  
2886 registered mail, and if the contract is void, any premium  
2887 received by the insurer from a third party shall be refunded to  
2888 that party in full.

2889 ~~3.2.~~ When such cancellation or termination occurs during  
2890 the first 90 days during which the insurance is in force and the  
2891 insurance is canceled or terminated for reasons other than  
2892 nonpayment of premium, at least 20 days' written notice of  
2893 cancellation or termination accompanied by the reason therefor  
2894 shall be given except where there has been a material  
2895 misstatement or misrepresentation or failure to comply with the  
2896 underwriting requirements established by the insurer.

2897 ~~4.3.~~ The requirement for providing written notice of  
2898 nonrenewal by June 1 of any nonrenewal that would be effective  
2899 between June 1 and November 30 does not apply to the following  
2900 situations, but the insurer remains subject to the requirement to

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2901 provide such notice at least 100 days prior to the effective date  
2902 of nonrenewal:

2903 a. A policy that is nonrenewed due to a revision in the  
2904 coverage for sinkhole losses and catastrophic ground cover  
2905 collapse pursuant to s. 627.730, as amended by s. 30, chapter  
2906 2007-1, Laws of Florida.

2907 b. A policy that is nonrenewed by Citizens Property  
2908 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
2909 that has been assumed by an authorized insurer offering  
2910 replacement or renewal coverage to the policyholder.

2911  
2912 After the policy has been in effect for 90 days, the policy shall  
2913 not be canceled by the insurer except when there has been a  
2914 material misstatement, a nonpayment of premium, a failure to  
2915 comply with underwriting requirements established by the insurer  
2916 within 90 days of the date of effectuation of coverage, or a  
2917 substantial change in the risk covered by the policy or when the  
2918 cancellation is for all insureds under such policies for a given  
2919 class of insureds. This paragraph does not apply to individually  
2920 rated risks having a policy term of less than 90 days.

2921 Section 15. Effective January 1, 2011, section 689.262,  
2922 Florida Statutes, is created to read:

2923 689.262 Sale of residential property; disclosure of  
2924 windstorm mitigation rating.--A purchaser of residential property  
2925 that is located in the wind-borne debris region, as defined in s.  
2926 1609.2 of the International Building Code(2006), must be  
2927 informed of the windstorm mitigation rating of the structure,  
2928 based on the uniform home grading scale adopted pursuant to s.  
2929 215.55865. The rating must be included in the contract for sale

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2930 or as a separate document attached to the contract for sale. The  
2931 Financial Services Commission may adopt rules, consistent with  
2932 other state laws, to administer this section, including the form  
2933 of the disclosure and the requirements for the windstorm  
2934 mitigation inspection or report that is required for purposes of  
2935 determining the rating.

2936 Section 16. (1) By December 15, 2008, Citizens Property  
2937 Insurance Corporation shall transfer \$250 million to the General  
2938 Revenue Fund, from the personal lines account and the commercial  
2939 lines account only, if the combined surplus of the personal lines  
2940 account and commercial lines account as defined in s. 627.351(6),  
2941 Florida Statutes, exceeds \$1 billion. The board of governors of  
2942 Citizens Property Insurance Corporation must make a reasonable  
2943 estimate of such surplus on or after December 1, 2008, and no  
2944 later than December 14, 2008, using generally accepted actuarial  
2945 and accounting practices, recognizing that audited financial  
2946 statements will not yet be available.

2947 (2) Beginning July 1, 2009, the board shall make quarterly  
2948 transfers of any interest earned prior to the issuance of any  
2949 surplus notes, interest paid, and principal repaid to the state  
2950 for any surplus notes issued by the program after December 1,  
2951 2008, to Citizens Property Insurance Corporation, provided such  
2952 surplus notes were funded exclusively by an appropriation to the  
2953 program by the Legislature for the 2008-2009 fiscal year. The  
2954 corporation shall credit each account as defined in s. 627.351(6)  
2955 in a pro rata manner for the funds removed from each account to  
2956 make the transfer required by subsection (1).

2957 (3) On July 1, 2009, the State Board of Administration  
2958 shall transfer to Citizens Property Insurance Corporation any

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2959 funds that have not been committed or reserved for insurers  
2960 approved to receive such funds under the program from the funds  
2961 that were appropriated from the corporation in 2008-2009 for such  
2962 purposes.

2963 Section 17. Citizens Property Insurance Corporation may not  
2964 use any amendments made to s. 215.5595, Florida Statutes, by this  
2965 act or any transfer of funds authorized by this act as  
2966 justification or cause in seeking any rate or assessment  
2967 increase.

2968 Section 18. Subsection (3) is added to section 627.06281,  
2969 Florida Statutes, to read:

2970 627.06281 Public hurricane loss projection model; reporting  
2971 of data by insurers.--

2972 (3) (a) A residential property insurer may have access to  
2973 and use the public hurricane loss projection model, including all  
2974 assumptions and factors and all detailed loss results, for the  
2975 purpose of calculating rate indications in a rate filing and for  
2976 analytical purposes, including any analysis or evaluation of the  
2977 model required under actuarial standards of practice.

2978 (b) By January 1, 2009, the office shall establish by rule  
2979 a fee schedule for access to and the use of the model. The fee  
2980 schedule must be reasonably calculated to cover only the actual  
2981 costs of providing access to and the use of the model.

2982 Section 19. Section 627.0655, Florida Statutes, is amended  
2983 to read:

2984 627.0655 Policyholder loss or expense-related premium  
2985 discounts.--An insurer or person authorized to engage in the  
2986 business of insurance in this state may include, in the premium  
2987 charged an insured for any policy, contract, or certificate of

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2988 insurance, a discount based on the fact that another policy,  
2989 contract, or certificate of any type has been purchased by the  
2990 insured from the same insurer or insurer group, the Citizens  
2991 Property Insurance Corporation created under s. 627.351(6) if the  
2992 same insurance agent is servicing both policies, or an insurer  
2993 that has removed the policy from the Citizens Property Insurance  
2994 Corporation if the same insurance agent is servicing both  
2995 policies.

2996 Section 20. (1) The Citizens Property Insurance  
2997 Corporation Mission Review Task Force is created to analyze and  
2998 compile available data and to develop a report setting forth the  
2999 statutory and operational changes needed to return Citizens  
3000 Property Insurance Corporation to its former role as a state-  
3001 created, noncompetitive residual market mechanism that provides  
3002 property insurance coverage to risks that are otherwise entitled  
3003 but unable to obtain such coverage in the private insurance  
3004 market. The task force shall submit a report to the Governor, the  
3005 President of the Senate, and the Speaker of the House of  
3006 Representatives by January 31, 2009. At a minimum, the task force  
3007 shall analyze and evaluate relevant and applicable information  
3008 and data and develop recommendations concerning:

3009 (a) The nature of Citizens Property Insurance Corporation's  
3010 role in providing property insurance coverage only if such  
3011 coverage is not available from private insurers.

3012 (b) The ability of the admitted market to offer policies to  
3013 those consumers formerly insured through Citizens Property  
3014 Insurance Corporation. This consideration shall include, but not  
3015 be limited to, the availability of private market reinsurance and  
3016 coverage through the Florida Hurricane Catastrophe Fund and the



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3017 capacity of the industry to offer policies to former Citizens  
3018 Property Insurance Corporation policyholders within existing  
3019 writing ratio limitations.

3020 (c) The relationship of rates charged by Citizens Property  
3021 Insurance Corporation to rates charged by private insurers, with  
3022 due consideration for the corporation's role as a noncompetitive  
3023 residual market mechanism.

3024 (d) The relationships between the exposure of Citizens  
3025 Property Insurance Corporation to catastrophic hurricane losses,  
3026 the corporation's history of purchasing any reinsurance coverage,  
3027 and the corporation's capital capacity to meet its potential  
3028 claim obligations without incurring large deficits.

3029 (e) The projected assessments on all policies required to  
3030 offset the lack of capitol to pay claims.

3031 (f) The projections under paragraph (e) shall be specific  
3032 to losses of \$3 billion, \$12 billion, and \$23 billion caused by a  
3033 storm or a group of storms in any given year.

3034 (g) The operational implications of the variation in the  
3035 number of policies in force over time in Citizens Property  
3036 Insurance Corporation and the merits of outsourcing some or all  
3037 of its operational responsibilities.

3038 (h) Changes in the mission and operations of Citizens  
3039 Property Insurance Corporation to reduce or eliminate any adverse  
3040 effect such mission and operations may be having on the promotion  
3041 of sound and economic growth and development of the coastal areas  
3042 of this state.

3043 (i) Appropriate and consistent geographic boundaries of the  
3044 high-risk account.

3045 (j) The rankings, by county, of the average approved rates

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3046 in Citizens Property Insurance Corporation and any savings  
3047 associated with policyholder choice in selecting Citizens.

3048 (2) The task force shall be composed of 11 members as  
3049 follows:

3050 (a) Two members appointed by the Speaker of the House of  
3051 Representatives.

3052 1. One member representing a property and casualty  
3053 residential insurer that provides at least 150,000 homeowner's  
3054 insurance policies in this state at the time of the creation of  
3055 the task force.

3056 2. One member representing a surplus lines insurance  
3057 company.

3058 (b) Two members appointed by the President of the  
3059 Senate.

3060 1. One member representing a property and casualty  
3061 commercial non-residential insurer.

3062 2. One member representing a property and casualty  
3063 residential insurer with fewer than 150,000 homeowner's policies  
3064 in this state at the time of the creation of the task force.

3065 (c) Three members appointed by the Governor who are not  
3066 employed by or professionally affiliated with an insurance  
3067 company or a subsidiary of an insurance company, at least one of  
3068 whom must be consumer advocates or members of a consumer advocacy  
3069 organization or agency.

3070 (d) Two members appointed by the Chief Financial Officer  
3071 representing insurance agents in this state.

3072 (e) One member representing Citizens Property Insurance  
3073 Corporation selected by Citizens Chairman of the Board.

3074 (f) The Commissioner of Insurance Regulation or his or her

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3075 designee.

3076 (3) The task force shall conduct research, hold public  
3077 meetings, receive testimony, employ consultants and  
3078 administrative staff, and undertake other activities determined  
3079 by its members to be necessary to complete its responsibilities.  
3080 Citizens Property Insurance Corporation shall have appropriate  
3081 senior staff attend task force meetings, shall respond to  
3082 requests for testimony and data by the task force, shall  
3083 otherwise cooperate with the task force, and shall provide  
3084 funding for the necessary costs of implementing the provisions of  
3085 this section.

3086 (4) A member of the task force may not delegate his or her  
3087 attendance or voting power to a designee.

3088 (5) Members of the task force shall serve without  
3089 compensation but are entitled to receive reimbursement for travel  
3090 and per diem as provided in s. 112.061, Florida Statutes.

3091 (6) The appointments to the task force must be completed  
3092 within 30 calendar days after the effective date of this act, and  
3093 the task force must hold its initial meeting within 1 month after  
3094 appointment of all members. The task force shall expire no later  
3095 than 60 calendar days after submission of the report required in  
3096 subsection (1).

3097 Section 21. The Chief Financial Officer shall provide a  
3098 report on the economic impact on the state of a 1-in-100-year  
3099 hurricane to the Governor, the President of the Senate, and the  
3100 Speaker of the House of Representatives by March 1 of each year.  
3101 The report shall include an estimate of the short-term and long-  
3102 term fiscal impacts of such a storm on Citizens Property  
3103 Insurance Corporation, the Florida Hurricane Catastrophe Fund,

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3104 the private insurance and reinsurance markets, the state economy,  
3105 and the state debt. The report shall also include an analysis of  
3106 the average premium increase to fund a 1-in-100-year hurricane  
3107 event and list the average cost, in both a percentage and dollar  
3108 amount, impact to consumers on a county-level basis. The report  
3109 may also include recommendations by the Chief Financial Officer  
3110 for preparing for such a hurricane and reducing the economic  
3111 impact of such a hurricane on the state. In preparing the  
3112 analysis, the Chief Financial Officer shall coordinate with and  
3113 obtain data from the Office of Insurance Regulation, Citizens  
3114 Property Insurance Corporation, the Florida Hurricane Catastrophe  
3115 Fund, the Florida Commission on Hurricane Loss Projection  
3116 Methodology, the State Board of Administration, the Office of  
3117 Economic and Demographic Research, and other state agencies.

3118 Section 22. Section 627.0621, Florida Statutes, is created  
3119 to read:

3120 627.0621 Transparency in rate regulation.--

3121 (1) DEFINITIONS.--As used in this section, the term:

3122 (a) "Rate filing" means any original or amended rate  
3123 residential property insurance filing.

3124 (b) "Recommendation" means any proposed, preliminary, or  
3125 final recommendation from an office actuary reviewing a rate  
3126 filing with respect to the issue of approval or disapproval of  
3127 the rate filing or with respect to rate indications that the  
3128 office would consider acceptable.

3129 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING

3130 INFORMATION.--With respect to any rate filing made on after July  
3131 1, 2008, the office shall provide the following information on a  
3132 publicly accessible Internet website:

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- 3133        (a) The overall rate change requested by the insurer.
- 3134        (b) All assumptions made by the office's actuaries.
- 3135        (c) A statement describing any assumptions or methods that  
3136 deviate from the actuarial standards of practice of the Casualty  
3137 Actuarial Society or the American Academy of Actuaries, including  
3138 an explanation of the nature, rationale, and effect of the  
3139 deviation.
- 3140        (d) All recommendations made by any office actuary who  
3141 reviewed the rate filing.
- 3142        (e) Certification by the office's actuary that, based on  
3143 the actuary's knowledge, his or her recommendations are  
3144 consistent with accepted actuarial principles.
- 3145        (f) The overall rate change approved by the office.
- 3146        (3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT.--It is the  
3147 intent of the Legislature that the principles of the public  
3148 records and open meetings laws apply to the assertion of  
3149 attorney-client privilege and work product confidentiality by the  
3150 office in connection with a challenge to its actions on a rate  
3151 filing. Therefore, in any administrative or judicial proceeding  
3152 relating to a rate filing, attorney-client privilege and work  
3153 product exemptions from disclosure do not apply to communications  
3154 with office attorneys or records prepared by or at the direction  
3155 of an office attorney, except when the conditions of paragraphs  
3156 (a) and (b) have been met:
- 3157        (a) The communication or record reflects a mental  
3158 impression, conclusion, litigation strategy, or legal theory of  
3159 the attorney or office that was prepared exclusively for civil or  
3160 criminal litigation or adversarial administrative proceedings.
- 3161        (b) The communication occurred or the record was prepared

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3162 after the initiation of an action in a court of competent  
3163 jurisdiction, after the issuance of a notice of intent to deny a  
3164 rate filing, or after the filing of a request for a proceeding  
3165 under ss. 120.569 and 120.57.

3166 Section 23. Paragraph (b) of subsection (4) of section  
3167 215.555, Florida Statutes, is amended to read:

3168 215.555 Florida Hurricane Catastrophe Fund.--

3169 (4) REIMBURSEMENT CONTRACTS.--

3170 (b)1. The contract shall contain a promise by the board to  
3171 reimburse the insurer for 45 percent, 75 percent, or 90 percent  
3172 of its losses from each covered event in excess of the insurer's  
3173 retention, plus 5 percent of the reimbursed losses to cover loss  
3174 adjustment expenses.

3175 2. The insurer must elect one of the percentage coverage  
3176 levels specified in this paragraph and may, upon renewal of a  
3177 reimbursement contract, elect a lower percentage coverage level  
3178 if no revenue bonds issued under subsection (6) after a covered  
3179 event are outstanding, or elect a higher percentage coverage  
3180 level, regardless of whether or not revenue bonds are  
3181 outstanding. All members of an insurer group must elect the same  
3182 percentage coverage level. Any joint underwriting association,  
3183 risk apportionment plan, or other entity created under s. 627.351  
3184 must elect the 90-percent coverage level.

3185 3. The contract shall provide that reimbursement amounts  
3186 shall not be reduced by reinsurance paid or payable to the  
3187 insurer from other sources.

3188 4. Notwithstanding any other provision contained in this  
3189 section, the board shall make available to insurers that  
3190 purchased coverage provided by this subparagraph in 2007 ~~2006~~,

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3191 insurers qualifying as limited apportionment companies under s.  
3192 627.351(6)(c), and insurers that have been ~~were~~ approved to  
3193 participate in ~~2006 or that are approved in 2007~~ for the  
3194 Insurance Capital Build-Up Incentive Program pursuant to s.  
3195 215.5595~~7~~, a contract or contract addendum that provides an  
3196 additional amount of reimbursement coverage of up to \$10 million.  
3197 The premium to be charged for this additional reimbursement  
3198 coverage shall be 50 percent of the additional reimbursement  
3199 coverage provided, which shall include one prepaid reinstatement.  
3200 The minimum retention level that an eligible participating  
3201 insurer must retain associated with this additional coverage  
3202 layer is 30 percent of the insurer's surplus as of December 31,  
3203 2007 ~~2006~~. This coverage shall be in addition to all other  
3204 coverage that may be provided under this section. The coverage  
3205 provided by the fund under this subparagraph shall be in addition  
3206 to the claims-paying capacity as defined in subparagraph (c)1.,  
3207 but only with respect to those insurers that select the  
3208 additional coverage option and meet the requirements of this  
3209 subparagraph. The claims-paying capacity with respect to all  
3210 other participating insurers and limited apportionment companies  
3211 that do not select the additional coverage option shall be  
3212 limited to their reimbursement premium's proportionate share of  
3213 the actual claims-paying capacity otherwise defined in  
3214 subparagraph (c)1. and as provided for under the terms of the  
3215 reimbursement contract. Coverage provided in the reimbursement  
3216 contract shall ~~will~~ not be affected by the additional premiums  
3217 paid by participating insurers exercising the additional coverage  
3218 option allowed in this subparagraph. This subparagraph expires on  
3219 May 31, 2009 ~~2008~~.

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3220 Section 24. Subsection (1) of section 627.0613, Florida  
3221 Statutes, is amended to read:

3222 627.0613 Consumer advocate.--The Chief Financial Officer  
3223 must appoint a consumer advocate who must represent the general  
3224 public of the state before the department and the office. The  
3225 consumer advocate must report directly to the Chief Financial  
3226 Officer, but is not otherwise under the authority of the  
3227 department or of any employee of the department. The consumer  
3228 advocate has such powers as are necessary to carry out the duties  
3229 of the office of consumer advocate, including, but not limited  
3230 to, the powers to:

3231 (1) Recommend to the department or office, by petition, the  
3232 commencement of any proceeding or action; appear in any  
3233 proceeding or action before the department or office; or appear  
3234 in any proceeding before the Division of Administrative Hearings  
3235 ~~or arbitration panel specified in s. 627.062(6)~~ relating to  
3236 subject matter under the jurisdiction of the department or  
3237 office.

3238 Section 25. Subsections (1) and (2) of section 627.712,  
3239 Florida Statutes, are amended to read:

3240 627.712 Residential windstorm coverage required;  
3241 availability of exclusions for windstorm or contents.--

3242 (1) An insurer issuing a residential property insurance  
3243 policy must provide windstorm coverage. Except as provided in  
3244 paragraph (2)(c), this section subsection does not apply with  
3245 respect to risks that are eligible for wind-only coverage from  
3246 Citizens Property Insurance Corporation under s. 627.351(6).

3247 (2) A property insurer must make available, at the option  
3248 of the policyholder, an exclusion of windstorm coverage.



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3249        (a) The coverage may be excluded only if:

3250        ~~(a)~~1. When the policyholder is a natural person, the  
3251 policyholder personally writes and provides to the insurer the  
3252 following statement in his or her own handwriting and signs his  
3253 or her name, which must also be signed by every other named  
3254 insured on the policy, and dated: "I do not want the insurance on  
3255 my (home/mobile home/condominium unit) to pay for damage from  
3256 windstorms. I will pay those costs. My insurance will not."

3257        2. When the policyholder is other than a natural person,  
3258 the policyholder provides to the insurer on the policyholder's  
3259 letterhead the following statement that must be signed by the  
3260 policyholder's authorized representative and dated: " (Name of  
3261 entity) does not want the insurance on its (type of  
3262 structure) to pay for damage from windstorms. (Name of  
3263 entity) will be responsible for these costs. (Name of  
3264 entity's) insurance will not."

3265        (b) If the structure insured by the policy is subject to a  
3266 mortgage or lien, the policyholder must provide the insurer with  
3267 a written statement from the mortgageholder or lienholder  
3268 indicating that the mortgageholder or lienholder approves the  
3269 policyholder electing to exclude windstorm coverage or hurricane  
3270 coverage from his or her or its property insurance policy.

3271        (c) If the residential structure is eligible for wind-only  
3272 coverage from Citizens Property Insurance Corporation, an insurer  
3273 nonrenewing a policy and issuing a replacement policy, or issuing  
3274 a new policy, that does not provide wind coverage shall provide a  
3275 notice to the mortgageholder or lienholder indicating the  
3276 policyholder has elected coverage that does not cover wind.

3277        Section 26. The provisions of this act shall supersede and

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3278 | control over any conflicting provisions adopted in House Bill  
3279 | 5057, 2008 Regular Session, to the extent of such conflict, if  
3280 | that bill becomes a law.

3281 |       Section 27. Except as otherwise expressly provided in this  
3282 | act, this act shall take effect July 1, 2008.