

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Hays offered the following:
2

3 **Amendment to Senate Amendment (947090) (with title**
4 **amendment)**

5 Remove lines 5-2187 and insert:

6 Section 1. Subsection (20) is added to section 215.47,
7 Florida Statutes, to read:

8 215.47 Investments; authorized securities; loan of
9 securities.--Subject to the limitations and conditions of the
10 State Constitution or of the trust agreement relating to a trust
11 fund, moneys available for investments under ss. 215.44-215.53
12 may be invested as follows:

13 (20) The State Board of Administration may, consistent
14 with sound investment policy, invest in revenue bonds issued
15 pursuant to s. 215.555(6).

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16 Section 2. Paragraph (e) of subsection (2), paragraphs (b)
17 and (c) of subsection (4), paragraph (b) of subsection (5), and
18 subsection (17) of section 215.555, Florida Statutes, are
19 amended, and paragraph (f) is added to subsection (7) of that
20 section, to read:

21 215.555 Florida Hurricane Catastrophe Fund.--

22 (2) DEFINITIONS.--As used in this section:

23 (e) "Retention" means the amount of losses below which an
24 insurer is not entitled to reimbursement from the fund. An
25 insurer's retention shall be calculated as follows:

26 1. The board shall calculate and report to each insurer
27 the retention multiples for that year. For the contract year
28 beginning June 1, 2005, the retention multiple shall be equal to
29 \$4.5 billion divided by the total estimated reimbursement
30 premium for the contract year; for subsequent years, the
31 retention multiple shall be equal to \$4.5 billion, adjusted
32 based upon the reported exposure from the prior contract year to
33 reflect the percentage growth in exposure to the fund for
34 covered policies since 2004, divided by the total estimated
35 reimbursement premium for the contract year. Total reimbursement
36 premium for purposes of the calculation under this subparagraph
37 shall be estimated using the assumption that all insurers have
38 selected the 90-percent coverage level. In 2010, the contract
39 year begins June 1 and ends December 31. In 2011 and thereafter,
40 the contract year begins January 1 and ends December 31.

41 2. The retention multiple as determined under subparagraph
42 1. shall be adjusted to reflect the coverage level elected by
43 the insurer. For insurers electing the 90-percent coverage
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44 level, the adjusted retention multiple is 100 percent of the
45 amount determined under subparagraph 1. For insurers electing
46 the 75-percent coverage level, the retention multiple is 120
47 percent of the amount determined under subparagraph 1. For
48 insurers electing the 45-percent coverage level, the adjusted
49 retention multiple is 200 percent of the amount determined under
50 subparagraph 1.

51 3. An insurer shall determine its provisional retention by
52 multiplying its provisional reimbursement premium by the
53 applicable adjusted retention multiple and shall determine its
54 actual retention by multiplying its actual reimbursement premium
55 by the applicable adjusted retention multiple.

56 4. For insurers who experience multiple covered events
57 causing loss during the contract year, beginning June 1, 2005,
58 each insurer's full retention shall be applied to each of the
59 covered events causing the two largest losses for that insurer.
60 For each other covered event resulting in losses, the insurer's
61 retention shall be reduced to one-third of the full retention.
62 The reimbursement contract shall provide for the reimbursement
63 of losses for each covered event based on the full retention
64 with adjustments made to reflect the reduced retentions after
65 January 1 of the contract year provided the insurer reports its
66 losses as specified in the reimbursement contract.

67 (4) REIMBURSEMENT CONTRACTS.--

68 (b)1. The contract shall contain a promise by the board to
69 reimburse the insurer for 45 percent, 75 percent, or 90 percent
70 of its losses from each covered event in excess of the insurer's

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71 retention, plus 5 percent of the reimbursed losses to cover loss
72 adjustment expenses.

73 2. The insurer must elect one of the percentage coverage
74 levels specified in this paragraph and may, upon renewal of a
75 reimbursement contract, elect a lower percentage coverage level
76 if no revenue bonds issued under subsection (6) after a covered
77 event are outstanding, or elect a higher percentage coverage
78 level, regardless of whether or not revenue bonds are
79 outstanding. All members of an insurer group must elect the same
80 percentage coverage level. Any joint underwriting association,
81 risk apportionment plan, or other entity created under s.
82 627.351 must elect the 90-percent coverage level.

83 3. The contract shall provide that reimbursement amounts
84 shall not be reduced by reinsurance paid or payable to the
85 insurer from other sources.

86 4. Notwithstanding any other provision contained in this
87 section, the board shall make available to insurers that
88 purchased coverage provided by this subparagraph in 2008 ~~2007~~,
89 insurers qualifying as limited apportionment companies under s.
90 627.351(6)(c), and insurers that have been approved to
91 participate in the Insurance Capital Build-Up Incentive Program
92 pursuant to s. 215.5595 a contract or contract addendum that
93 provides an additional amount of reimbursement coverage of up to
94 \$10 million. The premium to be charged for this additional
95 reimbursement coverage shall be 50 percent of the additional
96 reimbursement coverage provided, which shall include one prepaid
97 reinstatement. The minimum retention level that an eligible
98 participating insurer must retain associated with this

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99 additional coverage layer is 30 percent of the insurer's surplus
100 as of December 31, 2008, for the 2009-2010 contract year; as of
101 December 31, 2009, for the contract year beginning June 1, 2010,
102 and ending December 31, 2010; and as of December 31, 2010, for
103 the 2011 contract year 2007. This coverage shall be in addition
104 to all other coverage that may be provided under this section.
105 The coverage provided by the fund under this subparagraph shall
106 be in addition to the claims-paying capacity as defined in
107 subparagraph (c)1., but only with respect to those insurers that
108 select the additional coverage option and meet the requirements
109 of this subparagraph. The claims-paying capacity with respect to
110 all other participating insurers and limited apportionment
111 companies that do not select the additional coverage option
112 shall be limited to their reimbursement premium's proportionate
113 share of the actual claims-paying capacity otherwise defined in
114 subparagraph (c)1. and as provided for under the terms of the
115 reimbursement contract. The optional coverage retention as
116 specified shall be accessed before the mandatory coverage under
117 the reimbursement contract, but once the limit of coverage
118 selected under this option is exhausted, the insurer's retention
119 under the mandatory coverage shall apply. This coverage shall
120 apply and be paid concurrently with the mandatory coverage.
121 ~~Coverage provided in the reimbursement contract shall not be~~
122 ~~affected by the additional premiums paid by participating~~
123 ~~insurers exercising the additional coverage option allowed in~~
124 ~~this subparagraph.~~ This subparagraph expires on December ~~May~~ 31,
125 2011 ~~2009~~.

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126 (c)1. The contract shall also provide that the obligation
127 of the board with respect to all contracts covering a particular
128 contract year shall not exceed the actual claims-paying capacity
129 of the fund up to a limit of \$15 billion for that contract year
130 adjusted based upon the reported exposure from the prior
131 contract year to reflect the percentage growth in exposure to
132 the fund for covered policies since 2003, provided the dollar
133 growth in the limit may not increase in any year by an amount
134 greater than the dollar growth of the balance of the fund as of
135 December 31, less any premiums or interest attributable to
136 optional coverage, as defined by rule which occurred over the
137 prior calendar year.

138 2. In May ~~before the start of the upcoming contract year~~
139 and ~~in~~ October of ~~during~~ the contract year, the board shall
140 publish in the Florida Administrative Weekly a statement of the
141 fund's estimated borrowing capacity, the fund's estimated
142 claims-paying capacity, and the projected balance of the fund as
143 of December 31. After the end of each calendar year, the board
144 shall notify insurers of the estimated borrowing capacity, the
145 estimated claims-paying capacity, and the balance of the fund as
146 of December 31 to provide insurers with data necessary to assist
147 them in determining their retention and projected payout from
148 the fund for loss reimbursement purposes. In conjunction with
149 the development of the premium formula, as provided for in
150 subsection (5), the board shall publish factors or multiples
151 that assist insurers in determining their retention and
152 projected payout for the next contract year. For all regulatory
153 and reinsurance purposes, an insurer may calculate its projected

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154 payout from the fund as its share of the total fund premium for
155 the current contract year multiplied by the sum of the projected
156 balance of the fund as of December 31 and the estimated
157 borrowing capacity for that contract year as reported under this
158 subparagraph.

159 (5) REIMBURSEMENT PREMIUMS.--

160 (b) The State Board of Administration shall select an
161 independent consultant to develop a formula for determining the
162 actuarially indicated premium to be paid to the fund. The
163 formula shall specify, for each zip code or other limited
164 geographical area, the amount of premium to be paid by an
165 insurer for each \$1,000 of insured value under covered policies
166 in that zip code or other area. In establishing premiums, the
167 board shall consider the coverage elected under paragraph (4) (b)
168 and any factors that tend to enhance the actuarial
169 sophistication of ratemaking for the fund, including
170 deductibles, type of construction, type of coverage provided,
171 relative concentration of risks, and other such factors deemed
172 by the board to be appropriate. The formula must provide for a
173 cash build-up factor. For the contract year 2009-2010, the
174 factor is 5 percent; for the contract year beginning June 1,
175 2010, and ending December 31, 2010, the factor is 10 percent;
176 for the 2011 contract year, the factor is 15 percent; for the
177 2012 contract year, the factor is 20 percent; and for the 2013
178 contract year and thereafter, the factor is 25 percent. The
179 formula may provide for a procedure to determine the premiums to
180 be paid by new insurers that begin writing covered policies
181 after the beginning of a contract year, taking into

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182 consideration when the insurer starts writing covered policies,
183 the potential exposure of the insurer, the potential exposure of
184 the fund, the administrative costs to the insurer and to the
185 fund, and any other factors deemed appropriate by the board. The
186 formula must be approved by unanimous vote of the board. The
187 board may, at any time, revise the formula pursuant to the
188 procedure provided in this paragraph.

189 (7) ADDITIONAL POWERS AND DUTIES.--

190 (f) The board may require insurers to notarize documents
191 submitted to the board.

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

193 (a) Findings and intent.--

194 1. The Legislature finds that:

195 a. Because of temporary disruptions in the market for
196 catastrophic reinsurance, many property insurers were unable to
197 procure sufficient amounts of reinsurance for the 2006 hurricane
198 season or were able to procure such reinsurance only by
199 incurring substantially higher costs than in prior years.

200 b. The reinsurance market problems were responsible, at
201 least in part, for substantial premium increases to many
202 consumers and increases in the number of policies issued by
203 Citizens Property Insurance Corporation.

204 c. It is likely that the reinsurance market disruptions
205 will not significantly abate prior to the 2007 hurricane season.

206 2. It is the intent of the Legislature to create options
207 for insurers to purchase a temporary increased coverage limit
208 above the statutorily determined limit in subparagraph (4)(c)1.,
209 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and
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210 2013 hurricane seasons, to address market disruptions and enable
211 insurers, at their option, to procure additional coverage from
212 the Florida Hurricane Catastrophe Fund.

213 (b) Applicability of other provisions of this
214 section.--All provisions of this section and the rules adopted
215 under this section apply to the coverage created by this
216 subsection unless specifically superseded by provisions in this
217 subsection.

218 (c) Optional coverage.--For the contract year commencing
219 June 1, 2007, and ending May 31, 2008, the contract year
220 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the
221 contract year commencing June 1, 2009, and ending May 31, 2010,
222 the contract year commencing June 1, 2010, and ending December
223 31, 2010, the contract year commencing January 1, 2011, and
224 ending December 31, 2011, the contract year commencing January
225 1, 2012, and ending December 31, 2012, and the contract year
226 commencing January 1, 2013, and ending December 31, 2013, the
227 board shall offer, for each of such years, the optional coverage
228 as provided in this subsection.

229 (d) Additional definitions.--As used in this subsection,
230 the term:

231 1. "FHCF" means Florida Hurricane Catastrophe Fund.
232 2. "FHCF reimbursement premium" means the premium paid by
233 an insurer for its coverage as a mandatory participant in the
234 FHCF, but does not include additional premiums for optional
235 coverages.

236 3. "Payout multiple" means the number or multiple created
237 by dividing the statutorily defined claims-paying capacity as
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238 determined in subparagraph (4)(c)1. by the aggregate
239 reimbursement premiums paid by all insurers estimated or
240 projected as of calendar year-end.

241 4. "TICL" means the temporary increase in coverage limit.

242 5. "TICL options" means the temporary increase in coverage
243 options created under this subsection.

244 6. "TICL insurer" means an insurer that has opted to
245 obtain coverage under the TICL options addendum in addition to
246 the coverage provided to the insurer under its FHCF
247 reimbursement contract, but does not include Citizens Property
248 Insurance Corporation.

249 7. "TICL reimbursement premium" means the premium charged
250 by the fund for coverage provided under the TICL option.

251 8. "TICL coverage multiple" means the coverage multiple
252 when multiplied by an insurer's reimbursement premium that
253 defines the temporary increase in coverage limit.

254 9. "TICL coverage" means the coverage for an insurer's
255 losses above the insurer's statutorily determined claims-paying
256 capacity based on the claims-paying limit in subparagraph
257 (4)(c)1., which an insurer selects as its temporary increase in
258 coverage from the fund under the TICL options selected. A TICL
259 insurer's increased coverage limit options shall be calculated
260 as follows:

261 a. The board shall calculate and report to each TICL
262 insurer the TICL coverage multiples based on 12 options for
263 increasing the insurer's FHCF coverage limit. Each TICL coverage
264 multiple shall be calculated by dividing \$1 billion, \$2 billion,
265 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
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266 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by
267 the total estimated aggregate FHCF reimbursement premiums for
268 the 2007-2008 contract year ~~and~~ the 2008-2009 contract year,
269 ~~and the 2009-2010 contract year.~~

270 b. For the 2009-2010 contract year, the board shall
271 calculate and report to each TICL insurer the TICL coverage
272 multiples based on 10 options for increasing the insurer's FHCF
273 coverage limit. Each TICL coverage multiple shall be calculated
274 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
275 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10
276 billion by the total estimated aggregate FHCF reimbursement
277 premiums for the 2009-2010 contract year.

278 c. For the contract year beginning June 1, 2010, and
279 ending December 31, 2010, the board shall calculate and report
280 to each TICL insurer the TICL coverage multiples based on eight
281 options for increasing the insurer's FHCF coverage limit. Each
282 TICL coverage multiple shall be calculated by dividing \$1
283 billion, \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6
284 billion, \$7 billion, and \$8 billion by the total estimated
285 aggregate FHCF reimbursement premiums for the contract year.

286 d. For the 2011 contract year, the board shall calculate
287 and report to each TICL insurer the TICL coverage multiples
288 based on six options for increasing the insurer's FHCF coverage
289 limit. Each TICL coverage multiple shall be calculated by
290 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
291 billion, and \$6 billion by the total estimated aggregate FHCF
292 reimbursement premiums for the 2011 contract year.

293 e. For the 2012 contract year, the board shall calculate

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294 and report to each TICL insurer the TICL coverage multiples
295 based on four options for increasing the insurer's FHCF coverage
296 limit. Each TICL coverage multiple shall be calculated by
297 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by
298 the total estimated aggregate FHCF reimbursement premiums for
299 the 2012 contract year.

300 f. For the 2013 contract year, the board shall calculate
301 and report to each TICL insurer the TICL coverage multiples
302 based on two options for increasing the insurer's FHCF coverage
303 limit. Each TICL coverage multiple shall be calculated by
304 dividing \$1 billion and \$2 billion by the total estimated
305 aggregate FHCF reimbursement premiums for the 2013 contract
306 year.

307 ~~g.b.~~ The TICL insurer's increased coverage shall be the
308 FHCF reimbursement premium multiplied by the TICL coverage
309 multiple. In order to determine an insurer's total limit of
310 coverage, an insurer shall add its TICL coverage multiple to its
311 payout multiple. The total shall represent a number that, when
312 multiplied by an insurer's FHCF reimbursement premium for a
313 given reimbursement contract year, defines an insurer's total
314 limit of FHCF reimbursement coverage for that reimbursement
315 contract year.

316 10. "TICL options addendum" means an addendum to the
317 reimbursement contract reflecting the obligations of the fund
318 and insurers selecting an option to increase an insurer's FHCF
319 coverage limit.

320 (e) TICL options addendum.--

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321 1. The TICL options addendum shall provide for
322 reimbursement of TICL insurers for covered events occurring
323 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,
324 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,
325 2010, between June 1, 2010, and December 31, 2010, between
326 January 1, 2011, and December 31, 2011, between January 1, 2012,
327 and December 31, 2012, or between January 1, 2013, and December
328 31, 2013, in exchange for the TICL reimbursement premium paid
329 into the fund under paragraph (f). Any insurer writing covered
330 policies has the option of selecting an increased limit of
331 coverage under the TICL options addendum and shall select such
332 coverage at the time that it executes the FHCF reimbursement
333 contract.

334 2.a. The TICL addendum for the contract year commencing
335 June 1, 2007, and ending May 31, 2008, or the contract year
336 commencing June 1, 2008, and ending May 31, 2009, shall contain
337 a promise by the board to reimburse the TICL insurer for 45
338 percent, 75 percent, or 90 percent of its losses from each
339 covered event in excess of the insurer's retention, plus 5
340 percent of the reimbursed losses to cover loss adjustment
341 expenses. The percentage shall be the same as the coverage level
342 selected by the insurer under paragraph (4) (b).

343 b. The TICL addendum for the contract year commencing June
344 1, 2009, and ending May 31, 2010, shall contain a promise by the
345 board to reimburse the TICL insurer for 45 percent or 75 percent
346 of its losses from each covered event in excess of the insurer's
347 retention, plus 5 percent of the reimbursed losses to cover loss
348 adjustment expenses.

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349 c. The TICL addendum for the contract year commencing June
350 1, 2010, and ending December 31, 2010, shall contain a promise
351 by the board to reimburse the TICL insurer for 45 percent or 65
352 percent of its losses from each covered event in excess of the
353 insurer's retention, plus 5 percent of the reimbursed losses to
354 cover loss adjustment expenses.

355 d. The TICL addendum for the contract year commencing
356 January 1, 2011, and ending December 31, 2011, shall contain a
357 promise by the board to reimburse the TICL insurer for 45
358 percent or 55 percent of its losses from each covered event in
359 excess of the insurer's retention, plus 5 percent of the
360 reimbursed losses to cover loss adjustment expenses.

361 e. The TICL addendum for the contract year commencing
362 January 1, 2012, and ending December 31, 2012, shall contain a
363 promise by the board to reimburse the TICL insurer for 45
364 percent of its losses from each covered event in excess of the
365 insurer's retention, plus 5 percent of the reimbursed losses to
366 cover loss adjustment expenses.

367 f. The TICL addendum for the contract year commencing
368 January 1, 2013, and ending December 31, 2013, shall contain a
369 promise by the board to reimburse the TICL insurer for 30
370 percent of its losses from each covered event in excess of the
371 insurer's retention, plus 5 percent of the reimbursed losses to
372 cover loss adjustment expenses.

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

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376 4. The priorities, schedule, and method of reimbursements
377 under the TICL addendum shall be the same as provided under
378 subsection (4).

379 (f) TICL reimbursement premiums.--Each TICL insurer shall
380 pay to the fund, in the manner and at the time provided in the
381 reimbursement contract for payment of reimbursement premiums, a
382 TICL reimbursement premium determined as specified in subsection
383 (5), except that a cash build-up factor does not apply to the
384 TICL reimbursement premiums. However, the TICL reimbursement
385 premium shall be increased in contract year 2009-2010 by a
386 factor of two, in the contract year beginning June 1, 2010, and
387 ending December 31, 2010, by a factor of three, in the 2011
388 contract year by a factor of four, in the 2012 contract year by
389 a factor of five, and in the 2013 contract year by a factor of
390 six.

391 (g) Effect on claims-paying capacity of the fund.--For the
392 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June
393 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and
394 January 1, 2013, the program created by this subsection shall
395 increase the claims-paying capacity of the fund as provided in
396 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and
397 shall depend on the TICL coverage options selected and the
398 number of insurers that select the TICL optional coverage. The
399 additional capacity shall apply only to the additional coverage
400 provided under the TICL options and shall not otherwise affect
401 any insurer's reimbursement from the fund if the insurer chooses
402 not to select the temporary option to increase its limit of
403 coverage under the FHCF.

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404 ~~(h) Increasing the claims paying capacity of the~~
405 ~~fund.--For the contract years commencing June 1, 2007, June 1,~~
406 ~~2008, and June 1, 2009, the board may increase the claims-paying~~
407 ~~capacity of the fund as provided in paragraph (g) by an amount~~
408 ~~not to exceed \$4 billion in four \$1 billion options and shall~~
409 ~~depend on the TICL coverage options selected and the number of~~
410 ~~insurers that select the TICL optional coverage. Each insurer's~~
411 ~~TICL premium shall be calculated based upon the additional limit~~
412 ~~of increased coverage that the insurer selects. Such limit is~~
413 ~~determined by multiplying the TICL multiple associated with one~~
414 ~~of the four options times the insurer's FHCF reimbursement~~
415 ~~premium. The reimbursement premium associated with the~~
416 ~~additional coverage provided in this paragraph shall be~~
417 ~~determined as specified in subsection (5).~~

418 Section 3. Section 215.5586, Florida Statutes, as amended
419 by section 1 of chapter 2009-10, Laws of Florida, is amended to
420 read:

421 215.5586 My Safe Florida Home Program.--There is
422 established within the Department of Financial Services the My
423 Safe Florida Home Program. The department shall provide fiscal
424 accountability, contract management, and strategic leadership
425 for the program, consistent with this section. This section does
426 not create an entitlement for property owners or obligate the
427 state in any way to fund the inspection or retrofitting of
428 residential property in this state. Implementation of this
429 program is subject to annual legislative appropriations. It is
430 the intent of the Legislature that the My Safe Florida Home
431 Program provide trained and certified inspectors to perform
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432 inspections for owners of ~~for at least 400,000~~ site-built,
433 single-family, residential properties and ~~provide~~ grants to
434 eligible at least 35,000 applicants as funding allows before
435 ~~June 30, 2009~~. The program shall develop and implement a
436 comprehensive and coordinated approach for hurricane damage
437 mitigation that may ~~shall~~ include the following:

438 (1) HURRICANE MITIGATION INSPECTIONS.--

439 (a) Certified inspectors to provide ~~free~~ home-retrofit
440 inspections of site-built, single-family, residential property
441 may ~~shall~~ be offered ~~throughout the state~~ to determine what
442 mitigation measures are needed, what insurance premium discounts
443 may be available, and what improvements to existing residential
444 properties are needed to reduce the property's vulnerability to
445 hurricane damage. The Department of Financial Services shall
446 contract with wind certification entities to provide ~~free~~
447 hurricane mitigation inspections. The inspections provided to
448 homeowners, at a minimum, must include:

449 1. A home inspection and report that summarizes the
450 results and identifies recommended improvements a homeowner may
451 take to mitigate hurricane damage.

452 2. A range of cost estimates regarding the recommended
453 mitigation improvements.

454 3. Insurer-specific information regarding premium
455 discounts correlated to the current mitigation features and the
456 recommended mitigation improvements identified by the
457 inspection.

458 4. A hurricane resistance rating scale specifying the
459 home's current as well as projected wind resistance

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460 capabilities. As soon as practical, the rating scale must be the
461 uniform home grading scale adopted by the Financial Services
462 Commission pursuant to s. 215.55865.

463 (b) To qualify for selection by the department as a wind
464 certification entity to provide hurricane mitigation
465 inspections, the entity shall, at a minimum, meet the following
466 requirements:

467 1. Use hurricane mitigation inspectors who:

468 a. Are certified as a building inspector under s. 468.607;

469 b. Are licensed as a general or residential contractor
470 under s. 489.111;

471 c. Are licensed as a professional engineer under s.
472 471.015 and who have passed the appropriate equivalency test of
473 the Building Code Training Program as required by s. 553.841;

474 d. Are licensed as a professional architect under s.
475 481.213; or

476 e. Have at least 2 years of experience in residential
477 construction or residential building inspection and have
478 received specialized training in hurricane mitigation
479 procedures. Such training may be provided by a class offered
480 online or in person.

481 2. Use hurricane mitigation inspectors who also:

482 a. Have undergone drug testing and level 2 background
483 checks pursuant to s. 435.04. The department may conduct
484 criminal record checks of inspectors used by wind certification
485 entities. Inspectors must submit a set of the fingerprints to
486 the department for state and national criminal history checks
487 and must pay the fingerprint processing fee set forth in s.
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488 624.501. The fingerprints shall be sent by the department to the
489 Department of Law Enforcement and forwarded to the Federal
490 Bureau of Investigation for processing. The results shall be
491 returned to the department for screening. The fingerprints shall
492 be taken by a law enforcement agency, designated examination
493 center, or other department-approved entity; and

494 b. Have been certified, in a manner satisfactory to the
495 department, to conduct the inspections.

496 3. Provide a quality assurance program including a
497 reinspection component.

498 (c) The department shall implement a quality assurance
499 program that includes a statistically valid number of
500 reinspections.

501 (d) An application for an inspection must contain a signed
502 or electronically verified statement made under penalty of
503 perjury that the applicant has submitted only a single
504 application for that home.

505 (e) The owner of a site-built, single-family, residential
506 property may apply for and receive an inspection without also
507 applying for a grant pursuant to subsection (2) and without
508 meeting the requirements of paragraph (2) (a).

509 (2) MITIGATION GRANTS.--Financial grants shall be used to
510 encourage single-family, site-built, owner-occupied, residential
511 property owners to retrofit their properties to make them less
512 vulnerable to hurricane damage.

513 (a) For a homeowner to be eligible for a grant, the
514 following criteria for persons who have obtained a completed
515 inspection after May 1, 2007, a residential property must be
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516 met:

517 1. The homeowner must have been granted a homestead
518 exemption on the home under chapter 196.

519 2. The home must be a dwelling with an insured value of
520 \$300,000 or less. Homeowners who are low-income persons, as
521 defined in s. 420.0004(10), are exempt from this requirement.

522 3. The home must have undergone an acceptable hurricane
523 mitigation inspection after May 1, 2007.

524 4. The home must be located in the "wind-borne debris
525 region" as that term is defined in s. 1609.2, International
526 Building Code (2006), or as subsequently amended.

527 5. ~~Be a home for which~~ The building permit application for
528 initial construction of the home must have been ~~was~~ made before
529 March 1, 2002.

530
531 An application for a grant must contain a signed or
532 electronically verified statement made under penalty of perjury
533 that the applicant has submitted only a single application and
534 must have attached documents demonstrating the applicant meets
535 the requirements of this paragraph.

536 (b) All grants must be matched on a dollar-for-dollar
537 basis up to ~~for~~ a total of \$10,000 for the actual cost of the
538 mitigation project with the state's contribution not to exceed
539 \$5,000.

540 (c) The program shall create a process in which
541 contractors agree to participate and homeowners select from a
542 list of participating contractors. All mitigation must be based
543 upon the securing of all required local permits and inspections
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544 and must be performed by properly licensed contractors.
545 Mitigation projects are subject to random reinspection of up to
546 at least 5 percent of all projects. Hurricane mitigation
547 inspectors qualifying for the program may also participate as
548 mitigation contractors as long as the inspectors meet the
549 department's qualifications and certification requirements for
550 mitigation contractors.

551 (d) Matching fund grants shall also be made available to
552 local governments and nonprofit entities for projects that will
553 reduce hurricane damage to single-family, site-built, owner-
554 occupied, residential property. The department shall liberally
555 construe those requirements in favor of availing the state of
556 the opportunity to leverage funding for the My Safe Florida Home
557 Program with other sources of funding.

558 (e) When recommended by a hurricane mitigation inspection,
559 grants may be used for the following improvements ~~only~~:

- 560 1. Opening protection.
- 561 2. Exterior doors, including garage doors.
- 562 3. Brace gable ends.
- 563 4. Reinforcing roof-to-wall connections.
- 564 5. Improving the strength of roof-deck attachments.
- 565 6. Upgrading roof covering from code to code plus.
- 566 7. Secondary water barrier for roof.

567
568 The department may require that improvements be made to all
569 openings, including exterior doors and garage doors, as a
570 condition of reimbursing a homeowner approved for a grant.

571 (f) Grants may be used on a previously inspected existing
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572 structure or on a rebuild. A rebuild is defined as a site-built,
573 single-family dwelling under construction to replace a home that
574 was destroyed or significantly damaged by a hurricane and deemed
575 unlivable by a regulatory authority. The homeowner must be a
576 low-income homeowner as defined in paragraph (g), must have had
577 a homestead exemption for that home prior to the hurricane, and
578 must be intending to rebuild the home as that homeowner's
579 homestead.

580 (g) Low-income homeowners, as defined in s. 420.0004(10),
581 who otherwise meet the requirements of paragraphs (a), (c), (e),
582 and (f) are eligible for a grant of up to \$5,000 and are not
583 required to provide a matching amount to receive the grant.
584 Additionally, for low-income homeowners, grant funding may be
585 used for repair to existing structures leading to any of the
586 mitigation improvements provided in paragraph (e), limited to 20
587 percent of the grant value. The program may accept a
588 certification directly from a low-income homeowner that the
589 homeowner meets the requirements of s. 420.0004(10) if the
590 homeowner provides such certification in a signed or
591 electronically verified statement made under penalty of perjury.

592 (h) The department shall establish objective, reasonable
593 criteria for prioritizing grant applications, consistent with
594 the requirements of this section.

595 (i) The department shall develop a process that ensures
596 the most efficient means to collect and verify grant
597 applications to determine eligibility and may direct hurricane
598 mitigation inspectors to collect and verify grant application
599 information or use the Internet or other electronic means to
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600 collect information and determine eligibility.

601 (3) EDUCATION AND CONSUMER AWARENESS.--The department may
602 undertake a statewide multimedia public outreach and advertising
603 campaign to inform consumers of the availability and benefits of
604 hurricane inspections and of the safety and financial benefits
605 of residential hurricane damage mitigation. The department may
606 seek out and use local, state, federal, and private funds to
607 support the campaign.

608 (4) ADVISORY COUNCIL.--There is created an advisory
609 council to provide advice and assistance to the department
610 regarding administration of the program. The advisory council
611 shall consist of:

612 (a) A representative of lending institutions, selected by
613 the Financial Services Commission from a list of at least three
614 persons recommended by the Florida Bankers Association.

615 (b) A representative of residential property insurers,
616 selected by the Financial Services Commission from a list of at
617 least three persons recommended by the Florida Insurance
618 Council.

619 (c) A representative of home builders, selected by the
620 Financial Services Commission from a list of at least three
621 persons recommended by the Florida Home Builders Association.

622 (d) A faculty member of a state university, selected by
623 the Financial Services Commission, who is an expert in
624 hurricane-resistant construction methodologies and materials.

625 (e) Two members of the House of Representatives, selected
626 by the Speaker of the House of Representatives.

627 (f) Two members of the Senate, selected by the President
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of the Senate.

(g) The Chief Executive Officer of the Federal Alliance for Safe Homes, Inc., or his or her designee.

(h) The senior officer of the Florida Hurricane Catastrophe Fund.

(i) The executive director of Citizens Property Insurance Corporation.

(j) The director of the Division of Emergency Management of the Department of Community Affairs.

Members appointed under paragraphs (a)-(d) shall serve at the pleasure of the Financial Services Commission. Members appointed under paragraphs (e) and (f) shall serve at the pleasure of the appointing officer. All other members shall serve as voting ex officio members. Members of the advisory council shall serve without compensation but may receive reimbursement as provided in s. 112.061 for per diem and travel expenses incurred in the performance of their official duties.

(5) FUNDING.--The department may seek out and leverage local, state, federal, or private funds to enhance the financial resources of the program.

(6) RULES.--The Department of Financial Services shall adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the program; implement the provisions of this section; including rules governing hurricane mitigation inspections and grants, mitigation contractors, and training of inspectors and contractors; and carry out the duties of the department under this section.

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656 (7) HURRICANE MITIGATION INSPECTOR LIST.--The department
657 shall develop and maintain as a public record a current list of
658 hurricane mitigation inspectors authorized to conduct hurricane
659 mitigation inspections pursuant to this section.

660 ~~(8) NO-INTEREST LOANS.--The department shall implement a~~
661 ~~no-interest loan program by October 1, 2008, contingent upon the~~
662 ~~selection of a qualified vendor and execution of a contract~~
663 ~~acceptable to the department and the vendor. The department~~
664 ~~shall enter into partnerships with the private sector to provide~~
665 ~~loans to owners of site-built, single-family, residential~~
666 ~~property to pay for mitigation measures listed in subsection~~
667 ~~(2). A loan eligible for interest payments pursuant to this~~
668 ~~subsection may be for a term of up to 3 years and cover up to~~
669 ~~\$5,000 in mitigation measures. The department shall pay the~~
670 ~~creditor the market rate of interest using funds appropriated~~
671 ~~for the My Safe Florida Home Program. In no case shall the~~
672 ~~department pay more than the interest rate set by s. 687.03. To~~
673 ~~be eligible for a loan, a loan applicant must first obtain a~~
674 ~~home inspection and report that specifies what improvements are~~
675 ~~needed to reduce the property's vulnerability to windstorm~~
676 ~~damage pursuant to this section and meet loan underwriting~~
677 ~~requirements set by the lender. The department may adopt rules~~
678 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~
679 ~~subsection which may include eligibility criteria.~~

680 (8)~~(9)~~ PUBLIC OUTREACH FOR CONTRACTORS AND REAL ESTATE
681 BROKERS AND SALES ASSOCIATES.--The program shall develop
682 brochures for distribution to general contractors, roofing
683 contractors, and real estate brokers and sales associates
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684 licensed under part I of chapter 475 explaining the benefits to
685 homeowners of residential hurricane damage mitigation. The
686 program shall encourage contractors to distribute the brochures
687 to homeowners at the first meeting with a homeowner who is
688 considering contracting for home or roof repairs or contracting
689 for the construction of a new home. The program shall encourage
690 real estate brokers and sales associates licensed under part I
691 of chapter 475 to distribute the brochures to clients prior to
692 the purchase of a home. The brochures may be made available
693 electronically.

694 (9) ~~(10)~~ CONTRACT MANAGEMENT.--The department may contract
695 with third parties for grants management, inspection services,
696 contractor services for low-income homeowners, information
697 technology, educational outreach, and auditing services. Such
698 contracts shall be considered direct costs of the program and
699 shall not be subject to administrative cost limits, but
700 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject
701 to review and approval by the Legislative Budget Commission. The
702 department shall contract with providers that have a
703 demonstrated record of successful business operations in areas
704 directly related to the services to be provided and shall ensure
705 the highest accountability for use of state funds, consistent
706 with this section.

707 (10) ~~(11)~~ INTENT.--It is the intent of the Legislature that
708 grants made to residential property owners under this section
709 shall be considered disaster-relief assistance within the
710 meaning of s. 139 of the Internal Revenue Code of 1986, as
711 amended.

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712 ~~(11)~~ ~~(12)~~ REPORTS.--The department shall make an annual
713 report on the activities of the program that shall account for
714 the use of state funds and indicate the number of inspections
715 requested, the number of inspections performed, the number of
716 grant applications received, and the number and value of grants
717 approved. The report shall be delivered to the President of the
718 Senate and the Speaker of the House of Representatives by
719 February 1 of each year.

720 (12) CONDOMINIUM WEATHERIZATION AND MITIGATION LOAN
721 PROGRAM.--

722 (a) Subject to a specific appropriation by the Legislature
723 from funds received pursuant to the American Recovery and
724 Reinvestment Act of 2009, Pub. L. No. 111-5, specifically for
725 the purpose of condominium weatherization, the department shall
726 implement a condominium weatherization and mitigation loan
727 program to assist condominium unit owners in weatherizing their
728 condominium units and mitigating all such units against wind
729 damage. The program shall have the following minimum
730 requirements:

731 1. The department shall contract with lenders to offer
732 weatherization and hurricane mitigation loan subsidies equal to
733 a competitive rate of interest on a loan balance of up to \$5,000
734 per condominium unit for 3 years. The interest subsidy may be
735 paid in advance by the department to a lender participating in
736 the program.

737 2. The loans must be used to purchase or install
738 weatherization measures and hurricane mitigation measures
739 identified in paragraph (2) (e) that comply with the requirements

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740 of part A, Title IV of the Energy Conservation and Production
741 Act, 42 U.S.C. ss. 6861 et seq., as amended by the American
742 Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as
743 determined by the department.

744 3. A participating condominium association must agree to
745 purchase and install weatherization and mitigation measures for
746 each unit in the condominium that lacks the weatherization and
747 mitigation measures.

748 4. To be eligible, a condominium must have been permitted
749 for construction on or before March 1, 2002, be located in the
750 wind-borne debris region.

751 5. Condominiums of more than 200 units are not eligible
752 for the loan program.

753 6. The department may contract with third parties for
754 auditing and related services to ensure accountability and
755 program quality.

756 (b) The loan program shall be administered on a first-
757 come, first-served basis.

758 (c) The department shall adopt rules pursuant to ss.
759 120.536(1) and 120.54 to implement the loan program.

760 Section 4. Subsections (5) and (6) are added to section
761 624.4622, Florida Statutes, to read:

762 624.4622 Local government self-insurance funds.--

763 (5) A local government self-insurance fund may not require
764 its members to provide more than 30 days' notice of the member's
765 intention to withdraw from the self-insurance fund as a
766 prerequisite for withdrawing from the self-insurance fund.

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767 (6) (a) Each local government self-insurance fund shall
768 submit annually to the office, to the governing body of each
769 member participant, and to the governing board of each new
770 member before the inception of the policy an affidavit stating
771 whether an officer or owner of or the manager or administrator
772 of a local government self-insurance fund has ever:

773 1. Been charged with, or indicted for, any criminal
774 offense other than a motor vehicle offense;

775 2. Pled guilty or nolo contendere to, or been convicted
776 of, any criminal offense other than a motor vehicle offense;

777 3. Had adjudication of guilt withheld, had a sentence
778 imposed or suspended, had a pronouncement of a sentence
779 suspended, or been pardoned, fined, or placed on probation for
780 any criminal offense other than a motor vehicle offense; or

781 4. Been, within the last 10 years, found liable in any
782 civil action involving dishonesty or a breach of trust.

783 (b) If the record has been sealed or expunged and the
784 respondent has personally verified that the record was sealed or
785 expunged, a respondent may respond "no" to the question.

786 Section 5. Paragraph (r) of subsection (1) of section
787 624.605, Florida Statutes, is amended to read:

788 624.605 "Casualty insurance" defined.--

789 (1) "Casualty insurance" includes:

790 (r) Insurance for debt cancellation products.--Insurance
791 that a creditor may purchase against the risk of financial loss
792 from the use of debt cancellation products with consumer loans
793 or leases or retail installment contracts. Insurance for debt
794 cancellation products is not liability insurance but shall be
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795 considered credit insurance only for the purposes of s.
796 631.52(4).

797 1. For purposes of this paragraph, the term "debt
798 cancellation products" means loan, lease, or retail installment
799 contract terms, or modifications to loan, lease, or retail
800 installment contracts, under which a creditor agrees to cancel
801 or suspend all or part of a customer's obligation to make
802 payments upon the occurrence of specified events and includes,
803 but is not limited to, debt cancellation contracts, debt
804 suspension agreements, and guaranteed asset protection
805 contracts. However, the term "debt cancellation products" does
806 not include title insurance as defined in s. 624.608.

807 2. Debt cancellation products may be offered by financial
808 institutions, as defined in s. 655.005(1)(h), insured depository
809 institutions, as defined in 12 U.S.C. s. 1813(c), and
810 subsidiaries of such institutions, as provided in the financial
811 institutions codes, or by other business entities selling or
812 leasing a product that may be goods, services, or real property
813 and interests in real property, the sale or lease of which
814 product is regulated by an agency of the state and when the
815 extension of credit is offered in connection with the purchase
816 or lease of such product. ~~as may be specifically authorized by~~
817 law, and Such debt cancellation products shall not constitute
818 insurance for purposes of the Florida Insurance Code.

819 Section 6. Subsection (3) of section 626.753, Florida
820 Statutes, is amended to read:

821 626.753 Sharing commissions; penalty.--

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822 (3) (a) A general lines agent may share commissions derived
823 from the sale of crop hail or multiple-peril crop insurance with
824 a production credit association organized under 12 U.S.C. ss.
825 2071-2077 ~~12 U.S.C.A. ss. 2071-2077~~ or a federal land bank
826 association organized under 12 U.S.C. ss. 2091-2098 ~~U.S.C.A. ss.~~
827 ~~2091-2098~~ if the association has specifically approved the
828 insurance activity by its employees. The amount of commission to
829 be shared shall be determined by the general lines agent and the
830 company paying the commission.

831 (b) This subsection does not allow such shared commissions
832 to be used, directly or indirectly, for the purpose of providing
833 any patronage dividend or other payment, discount, or credit to
834 a member of a production credit association or federal land bank
835 association if the dividend, payment, discount, or credit is
836 directly or indirectly calculated on the basis of the premium
837 charged to that member for crop hail or multiple-peril crop
838 insurance.

839 (c) Any patronage dividend or other payment, discount, or
840 credit provided to a member of a production credit association
841 or federal land bank association, which dividend, payment,
842 discount, or credit is directly or indirectly calculated on the
843 basis of the premium charged to that member for crop hail or
844 multiple-peril crop insurance, is an unlawful rebate that
845 violates ss. 626.572 and 626.9541(1)(h).

846 (d) An agent violates this section if he or she knowingly
847 engages in commission sharing with a production credit
848 association or federal land bank association that provides

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849 patronage dividends or other payments, discounts, or credits
850 which are unlawful rebates under paragraph (c).

851 Section 7. Paragraph (h) of subsection (1) of section
852 626.9541, Florida Statutes, is amended to read:

853 626.9541 Unfair methods of competition and unfair or
854 deceptive acts or practices defined.--

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

858 (h) Unlawful rebates.--

859 1. Except as otherwise expressly provided by law, or in an
860 applicable filing with the office, knowingly:

861 a. Permitting, or offering to make, or making, any
862 contract or agreement as to such contract other than as plainly
863 expressed in the insurance contract issued thereon;

864 b. Paying, allowing, or giving, or offering to pay, allow,
865 or give, directly or indirectly, as inducement to such insurance
866 contract, any unlawful rebate of premiums payable on the
867 contract, any special favor or advantage in the dividends or
868 other benefits thereon, or any valuable consideration or
869 inducement whatever not specified in the contract;

870 c. Giving, selling, or purchasing, or offering to give,
871 sell, or purchase, as inducement to such insurance contract or
872 in connection therewith, any stocks, bonds, or other securities
873 of any insurance company or other corporation, association, or
874 partnership, or any dividends or profits accrued thereon, or
875 anything of value whatsoever not specified in the insurance
876 contract.

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877 2. Nothing in paragraph (g) or subparagraph 1. of this
878 paragraph shall be construed as including within the definition
879 of discrimination or unlawful rebates:

880 a. In the case of any contract of life insurance or life
881 annuity, paying bonuses to all policyholders or otherwise
882 abating their premiums in whole or in part out of surplus
883 accumulated from nonparticipating insurance; provided that any
884 such bonuses or abatement of premiums is fair and equitable to
885 all policyholders and for the best interests of the company and
886 its policyholders.

887 b. In the case of life insurance policies issued on the
888 industrial debit plan, making allowance to policyholders who
889 have continuously for a specified period made premium payments
890 directly to an office of the insurer in an amount which fairly
891 represents the saving in collection expenses.

892 c. Readjustment of the rate of premium for a group
893 insurance policy based on the loss or expense thereunder, at the
894 end of the first or any subsequent policy year of insurance
895 thereunder, which may be made retroactive only for such policy
896 year.

897 d. Issuance of life insurance policies or annuity
898 contracts at rates less than the usual rates of premiums for
899 such policies or contracts, as group insurance or employee
900 insurance as defined in this code.

901 e. Issuing life or disability insurance policies on a
902 salary savings, bank draft, preauthorized check, payroll
903 deduction, or other similar plan at a reduced rate reasonably
904 related to the savings made by the use of such plan.

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905 3.a. No title insurer, or any member, employee, attorney,
906 agent, or agency thereof, shall pay, allow, or give, or offer to
907 pay, allow, or give, directly or indirectly, as inducement to
908 title insurance, or after such insurance has been effected, any
909 rebate or abatement of the premium or any other charge or fee,
910 or provide any special favor or advantage, or any monetary
911 consideration or inducement whatever.

912 b. Nothing in this subparagraph shall be construed as
913 prohibiting the payment of fees to attorneys at law duly
914 licensed to practice law in the courts of this state, for
915 professional services, or as prohibiting the payment of earned
916 portions of the premium to duly appointed agents or agencies who
917 actually perform services for the title insurer. Nothing in this
918 subparagraph shall be construed as prohibiting a rebate or
919 abatement of an attorney's fee charged for professional
920 services, or that portion of the premium that is not required to
921 be retained by the insurer pursuant to s. 627.782(1), or any
922 other agent charge or fee to the person responsible for paying
923 the premium, charge, or fee.

924 c. No insured named in a policy, or any other person
925 directly or indirectly connected with the transaction involving
926 the issuance of such policy, including, but not limited to, any
927 mortgage broker, real estate broker, builder, or attorney, any
928 employee, agent, agency, or representative thereof, or any other
929 person whatsoever, shall knowingly receive or accept, directly
930 or indirectly, any rebate or abatement of any portion of the
931 title insurance premium or of any other charge or fee or any
932 monetary consideration or inducement whatsoever, except as set
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933 forth in sub-subparagraph b.; provided, in no event shall any
934 portion of the attorney's fee, any portion of the premium that
935 is not required to be retained by the insurer pursuant to s.
936 627.782(1), any agent charge or fee, or any other monetary
937 consideration or inducement be paid directly or indirectly for
938 the referral of title insurance business.

939 4. Providing a patronage dividend or other payment,
940 discount, or credit to a member of a production credit
941 association organized under 12 U.S.C. ss. 2071-2077 or a federal
942 land bank association organized under 12 U.S.C. ss. 2091-2098 is
943 an unlawful rebate if the dividend or other payment, discount,
944 or credit is directly or indirectly calculated on the basis of
945 the premium charged to that member for crop hail or multiple-
946 peril crop insurance.

947 Section 8. Paragraphs (a) and (i) of subsection (2) of
948 section 627.062, Florida Statutes, are amended, and paragraph
949 (k) is added to that subsection, to read:

950 627.062 Rate standards.--

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

952 (a) Insurers or rating organizations shall establish and
953 use rates, rating schedules, or rating manuals to allow the
954 insurer a reasonable rate of return on such classes of insurance
955 written in this state. A copy of rates, rating schedules, rating
956 manuals, premium credits or discount schedules, and surcharge
957 schedules, and changes thereto, shall be filed with the office
958 under one of the following procedures except as provided in
959 subparagraph 3.:

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960 1. If the filing is made at least 90 days before the
961 proposed effective date and the filing is not implemented during
962 the office's review of the filing and any proceeding and
963 judicial review, then such filing shall be considered a "file
964 and use" filing. In such case, the office shall finalize its
965 review by issuance of a notice of intent to approve or a notice
966 of intent to disapprove within 90 days after receipt of the
967 filing. The notice of intent to approve and the notice of intent
968 to disapprove constitute agency action for purposes of the
969 Administrative Procedure Act. Requests for supporting
970 information, requests for mathematical or mechanical
971 corrections, or notification to the insurer by the office of its
972 preliminary findings shall not toll the 90-day period during any
973 such proceedings and subsequent judicial review. The rate shall
974 be deemed approved if the office does not issue a notice of
975 intent to approve or a notice of intent to disapprove within 90
976 days after receipt of the filing.

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

984 3. For all property insurance filings made or submitted
985 after January 25, 2007, but before December 31, 2010 ~~2009~~, an
986 insurer seeking a rate that is greater than the rate most
987 recently approved by the office shall make a "file and use"

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988 filing. For purposes of this subparagraph, motor vehicle
989 collision and comprehensive coverages are not considered to be
990 property coverages.

991 (i) 1. Except as otherwise specifically provided in this
992 chapter, the office shall not prohibit any insurer, including
993 any residual market plan or joint underwriting association, from
994 paying acquisition costs based on the full amount of premium, as
995 defined in s. 627.403, applicable to any policy, or prohibit any
996 such insurer from including the full amount of acquisition costs
997 in a rate filing.

998 2. Unless specifically authorized by law, the office shall
999 not interfere, directly or indirectly, with an insurer's right
1000 to solicit, sell, promote, or otherwise acquire policyholders
1001 and implement coverage using its own lawful methodologies,
1002 systems, agents, and approaches, including the calculation,
1003 manner, or amount of agent commissions, if any. This
1004 subparagraph applies only to rate filings made pursuant to this
1005 section.

1006 (k) Effective January 1, 2010, notwithstanding any other
1007 provision of this section:

1008 1. With respect to any residential property insurance
1009 subject to regulation under this section, a rate filing,
1010 including, but not limited to, any rate changes, rating factors,
1011 territories, classifications, discounts, and credits, with
1012 respect to any policy form, including endorsements issued with
1013 the form, that results in an overall average statewide premium
1014 increase or decrease of no more than 10 percent above or below
1015 the premium that would result from the insurer's rates then in
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1016 effect shall not be subject to a determination by the office
1017 that the rate is excessive or unfairly discriminatory, except as
1018 provided in subparagraph 3. or any other provision of law,
1019 provided all changes specified in the filing do not result in an
1020 overall premium increase of more than 15 percent for any one
1021 territory for reasons related solely to the rate change. As used
1022 in this subparagraph, the term "insurer's rates then in effect"
1023 includes only rates that have been lawfully in effect under this
1024 section or rates that have been determined to be lawful through
1025 administrative proceedings or judicial proceedings.

1026 2. An insurer may not make filings under this paragraph
1027 with respect to any policy form, including endorsements issued
1028 with the form, if the overall premium changes resulting from
1029 such filings exceed the amounts specified in this paragraph in
1030 any 12-month period. An insurer may proceed under other
1031 provisions of this section or other provisions of the laws of
1032 this state if the insurer seeks to exceed the premium or rate
1033 limitations of this paragraph.

1034 3. This paragraph does not affect the authority of the
1035 office to disapprove a rate as inadequate or to disapprove a
1036 filing for the unlawful use of unfairly discriminatory rating
1037 factors that are prohibited by the laws of this state. An
1038 insurer electing to implement a rate change under this paragraph
1039 shall submit a filing to the office at least 30 days prior to
1040 the effective date of the rate change. The office shall have 30
1041 days after the filing's submission to review the filing and
1042 determine if the rate is inadequate or uses unfairly
1043 discriminatory rating factors. Absent a finding by the office

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1044 within such 30-day period that the rate is inadequate or that
1045 the insurer has used unfairly discriminatory rating factors, the
1046 filing is deemed approved. If the insurer is implementing an
1047 overall rate decrease and the office finds during the 30-day
1048 period that the filing will result in inadequate premiums or
1049 otherwise endanger the insurer's solvency, the office shall
1050 suspend the rate decrease. If the insurer is implementing an
1051 overall rate increase the results of which continue to produce
1052 an inadequate rate, such increase shall proceed pending
1053 additional action by the office to ensure the adequacy of the
1054 rate.

1055 4. This paragraph does not apply to rate filings for any
1056 insurance other than residential property insurance.

1057
1058 The provisions of this subsection shall not apply to workers'
1059 compensation and employer's liability insurance and to motor
1060 vehicle insurance.

1061 Section 9. Section 627.0621, Florida Statutes, as amended
1062 by section 82 of chapter 2009-21, Laws of Florida, is amended to
1063 read:

1064 627.0621 Transparency in rate regulation.--

1065 (1) DEFINITIONS.--As used in this section, the term:

1066 (a) "Rate filing" means any original or amended rate
1067 residential property insurance filing.

1068 (b) "Recommendation" means any proposed, preliminary, or
1069 final recommendation from an office actuary reviewing a rate
1070 filing with respect to the issue of approval or disapproval of
1071 the rate filing or with respect to rate indications that the
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1072 office would consider acceptable.

1073 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING

1074 INFORMATION.--With respect to any rate filing made on or after
1075 July 1, 2008, the office shall provide the following information
1076 on a publicly accessible Internet website:

1077 (a) The overall rate change requested by the insurer.

1078 (b) All assumptions made by the office's actuaries.

1079 (c) A statement describing any assumptions or methods that
1080 deviate from the actuarial standards of practice of the Casualty
1081 Actuarial Society or the American Academy of Actuaries,
1082 including an explanation of the nature, rationale, and effect of
1083 the deviation.

1084 (d) All recommendations made by any office actuary who
1085 reviewed the rate filing.

1086 (e) Certification by the office's actuary that, based on
1087 the actuary's knowledge, his or her recommendations are
1088 consistent with accepted actuarial principles.

1089 (f) The overall rate change approved by the office.

1090 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT.--It is the~~
1091 ~~intent of the Legislature that the principles of the public~~
1092 ~~records and open meetings laws apply to the assertion of~~
1093 ~~attorney-client privilege and work product confidentiality by~~
1094 ~~the office in connection with a challenge to its actions on a~~
1095 ~~rate filing. Therefore, in any administrative or judicial~~
1096 ~~proceeding relating to a rate filing, attorney-client privilege~~
1097 ~~and work product exemptions from disclosure do not apply to~~
1098 ~~communications with office attorneys or records prepared by or~~
1099 ~~at the direction of an office attorney, except when the~~

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1100 ~~conditions of paragraphs (a) and (b) have been met:~~

1101 ~~(a) The communication or record reflects a mental~~
1102 ~~impression, conclusion, litigation strategy, or legal theory of~~
1103 ~~the attorney or office that was prepared exclusively for civil~~
1104 ~~or criminal litigation or adversarial administrative~~
1105 ~~proceedings.~~

1106 ~~(b) The communication occurred or the record was prepared~~
1107 ~~after the initiation of an action in a court of competent~~
1108 ~~jurisdiction, after the issuance of a notice of intent to deny a~~
1109 ~~rate filing, or after the filing of a request for a proceeding~~
1110 ~~under ss. 120.569 and 120.57.~~

1111 Section 10. Subsection (4) is added to section 627.0628,
1112 Florida Statutes, to read:

1113 627.0628 Florida Commission on Hurricane Loss Projection
1114 Methodology; public records exemption; public meetings
1115 exemption.--

1116 (4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE
1117 DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO
1118 WINDSTORM MITIGATION.--The commission shall hold public meetings
1119 for the purpose of receiving testimony and data regarding the
1120 implementation of windstorm mitigation discounts, credits, other
1121 rate differentials, and appropriate reductions in deductibles
1122 pursuant to s. 627.0629. After reviewing the testimony and data
1123 as well as any other information the commission deems
1124 appropriate, the commission shall present a report by October 1,
1125 2009, to the Governor, the Cabinet, the President of the Senate,
1126 and the Speaker of the House of Representatives, including
1127 recommendations on improving the process of assessing,

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1128 determining, and applying windstorm mitigation discounts,
1129 credits, other rate differentials, and appropriate reductions in
1130 deductibles pursuant to s. 627.0629.

1131 Section 11. Paragraph (b) of subsection (1) and subsection
1132 (5) of section 627.0629, Florida Statutes, are amended to read:

1133 627.0629 Residential property insurance; rate filings.--

1134 (1)

1135 (b) By February 1, 2011, the Office of Insurance
1136 Regulation, in consultation with the Department of Financial
1137 Services and the Department of Community Affairs, shall develop
1138 and make publicly available a proposed method for insurers to
1139 establish discounts, credits, or other rate differentials for
1140 hurricane mitigation measures which directly correlate to the
1141 numerical rating assigned to a structure pursuant to the uniform
1142 home grading scale adopted by the Financial Services Commission
1143 pursuant to s. 215.55865, including any proposed changes to the
1144 uniform home grading scale. By October 1, 2011, the commission
1145 shall adopt rules requiring insurers to make rate filings for
1146 residential property insurance which revise insurers' discounts,
1147 credits, or other rate differentials for hurricane mitigation
1148 measures so that such rate differentials correlate directly to
1149 the uniform home grading scale. The rules may include such
1150 changes to the uniform home grading scale as the commission
1151 determines are necessary, and may specify the minimum required
1152 discounts, credits, or other rate differentials. Such rate
1153 differentials must be consistent with generally accepted
1154 actuarial principles and wind-loss mitigation studies. The rules
1155 shall allow a period of at least 2 years after the effective
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1156 date of the revised mitigation discounts, credits, or other rate
1157 differentials for a property owner to obtain an inspection or
1158 otherwise qualify for the revised credit, during which time the
1159 insurer shall continue to apply the mitigation credit that was
1160 applied immediately prior to the effective date of the revised
1161 credit. Discounts, credits, and other rate differentials
1162 established for rate filings under this paragraph shall
1163 supersede, after adoption, the discounts, credits, and other
1164 rate differentials included in rate filings under paragraph (a).

1165 (5) In order to provide an appropriate transition period,
1166 an insurer may, in its sole discretion, implement an approved
1167 rate filing for residential property insurance over a period of
1168 years. An insurer electing to phase in its rate filing must
1169 provide an informational notice to the office setting out its
1170 schedule for implementation of the phased-in rate filing. An
1171 insurer may include in its rate the actual cost of reinsurance
1172 without the addition of an expense or profit load for the
1173 insurer that duplicates coverage of the temporary increase in
1174 coverage limit (TICL) available from the Florida Hurricane
1175 Catastrophe Fund, even if the insurer does not purchase the TICL
1176 coverage, to the extent the total annual base rate increase does
1177 not exceed 10 percent as a result of such inclusion.

1178 Section 12. Section 627.0655, Florida Statutes, is amended
1179 to read:

1180 627.0655 Policyholder loss or expense-related premium
1181 discounts.--An insurer or person authorized to engage in the
1182 business of insurance in this state may include, in the premium
1183 charged an insured for any policy, contract, or certificate of
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1184 insurance, a discount based on the fact that another policy,
1185 contract, or certificate of any type has been purchased by the
1186 insured from the same insurer or insurer group, or, for policies
1187 issued or renewed before January 1, 2010, from the Citizens
1188 Property Insurance Corporation created under s. 627.351(6) if
1189 the same insurance agent is servicing both policies, or for
1190 policies issued or renewed before January 1, 2010, from an
1191 insurer that has removed the policy from the Citizens Property
1192 Insurance Corporation if the same insurance agent is servicing
1193 both policies.

1194 Section 13. Paragraphs (y) through (ee) of subsection (6)
1195 of section 627.351, Florida Statutes, are redesignated as
1196 paragraphs (x) through (dd), respectively, and paragraphs (a),
1197 (b), (c), and (m) and present paragraph (x) of that subsection
1198 are amended to read:

1199 627.351 Insurance risk apportionment plans.--

1200 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1201 (a)1. It is the public purpose of this subsection to
1202 ensure the existence of an orderly market for property insurance
1203 for Floridians and Florida businesses. The Legislature finds
1204 that private insurers are unwilling or unable to provide
1205 affordable property insurance coverage in this state to the
1206 extent sought and needed. The absence of affordable property
1207 insurance threatens the public health, safety, and welfare and
1208 likewise threatens the economic health of the state. The state
1209 therefore has a compelling public interest and a public purpose
1210 to assist in assuring that property in the state is insured and
1211 that it is insured at affordable rates so as to facilitate the
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1212 remediation, reconstruction, and replacement of damaged or
1213 destroyed property in order to reduce or avoid the negative
1214 effects otherwise resulting to the public health, safety, and
1215 welfare, to the economy of the state, and to the revenues of the
1216 state and local governments which are needed to provide for the
1217 public welfare. It is necessary, therefore, to provide
1218 affordable property insurance to applicants who are in good
1219 faith entitled to procure insurance through the voluntary market
1220 but are unable to do so. The Legislature intends by this
1221 subsection that affordable property insurance be provided and
1222 that it continue to be provided, as long as necessary, through
1223 Citizens Property Insurance Corporation, a government entity
1224 that is an integral part of the state, and that is not a private
1225 insurance company. To that end, Citizens Property Insurance
1226 Corporation shall strive to increase the availability of
1227 affordable property insurance in this state, while achieving
1228 efficiencies and economies, and while providing service to
1229 policyholders, applicants, and agents which is no less than the
1230 quality generally provided in the voluntary market, for the
1231 achievement of the foregoing public purposes. Because it is
1232 essential for this government entity to have the maximum
1233 financial resources to pay claims following a catastrophic
1234 hurricane, it is the intent of the Legislature that Citizens
1235 Property Insurance Corporation continue to be an integral part
1236 of the state and that the income of the corporation be exempt
1237 from federal income taxation and that interest on the debt
1238 obligations issued by the corporation be exempt from federal
1239 income taxation.

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1240 2. The Residential Property and Casualty Joint
1241 Underwriting Association originally created by this statute
1242 shall be known, as of July 1, 2002, as the Citizens Property
1243 Insurance Corporation. The corporation shall provide insurance
1244 for residential and commercial property, for applicants who are
1245 in good faith entitled, but are unable, to procure insurance
1246 through the voluntary market. The corporation shall operate
1247 pursuant to a plan of operation approved by order of the
1248 Financial Services Commission. The plan is subject to continuous
1249 review by the commission. The commission may, by order, withdraw
1250 approval of all or part of a plan if the commission determines
1251 that conditions have changed since approval was granted and that
1252 the purposes of the plan require changes in the plan. The
1253 corporation shall continue to operate pursuant to the plan of
1254 operation approved by the Office of Insurance Regulation until
1255 October 1, 2006. For the purposes of this subsection,
1256 residential coverage includes both personal lines residential
1257 coverage, which consists of the type of coverage provided by
1258 homeowner's, mobile home owner's, dwelling, tenant's,
1259 condominium unit owner's, and similar policies, and commercial
1260 lines residential coverage, which consists of the type of
1261 coverage provided by condominium association, apartment
1262 building, and similar policies.

1263 3. Effective January 1, 2009, a personal lines residential
1264 structure that has a dwelling replacement cost of \$2 million or
1265 more, or a single condominium unit that has a combined dwelling
1266 and content replacement cost of \$2 million or more is not
1267 eligible for coverage by the corporation. Such dwellings insured
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1268 by the corporation on December 31, 2008, may continue to be
1269 covered by the corporation until the end of the policy term.
1270 However, such dwellings that are insured by the corporation and
1271 become ineligible for coverage due to the provisions of this
1272 subparagraph may reapply and obtain coverage if the property
1273 owner provides the corporation with a sworn affidavit from one
1274 or more insurance agents, on a form provided by the corporation,
1275 stating that the agents have made their best efforts to obtain
1276 coverage and that the property has been rejected for coverage by
1277 at least one authorized insurer and at least three surplus lines
1278 insurers. If such conditions are met, the dwelling may be
1279 insured by the corporation for up to 3 years, after which time
1280 the dwelling is ineligible for coverage. The office shall
1281 approve the method used by the corporation for valuing the
1282 dwelling replacement cost for the purposes of this subparagraph.
1283 If a policyholder is insured by the corporation prior to being
1284 determined to be ineligible pursuant to this subparagraph and
1285 such policyholder files a lawsuit challenging the determination,
1286 the policyholder may remain insured by the corporation until the
1287 conclusion of the litigation.

1288 4. It is the intent of the Legislature that policyholders,
1289 applicants, and agents of the corporation receive service and
1290 treatment of the highest possible level but never less than that
1291 generally provided in the voluntary market. It also is intended
1292 that the corporation be held to service standards no less than
1293 those applied to insurers in the voluntary market by the office
1294 with respect to responsiveness, timeliness, customer courtesy,

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1295 and overall dealings with policyholders, applicants, or agents
1296 of the corporation.

1297 5. Effective January 1, 2009, a personal lines residential
1298 structure that is located in the "wind-borne debris region," as
1299 defined in s. 1609.2, International Building Code (2006), and
1300 that has an insured value on the structure of \$750,000 or more
1301 is not eligible for coverage by the corporation unless the
1302 structure has opening protections as required under the Florida
1303 Building Code for a newly constructed residential structure in
1304 that area. A residential structure shall be deemed to comply
1305 with the requirements of this subparagraph if it has shutters or
1306 opening protections on all openings and if such opening
1307 protections complied with the Florida Building Code at the time
1308 they were installed. ~~Effective January 1, 2010, for personal~~
1309 ~~lines residential property insured by the corporation that is~~
1310 ~~located in the wind-borne debris region and has an insured value~~
1311 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
1312 ~~any such residential property must be provided by the seller a~~
1313 ~~written disclosure that contains the structure's windstorm~~
1314 ~~mitigation rating based on the uniform home grading scale~~
1315 ~~adopted under s. 215.55865. Such rating shall be provided to the~~
1316 ~~purchaser at or before the time the purchaser executes a~~
1317 ~~contract for sale and purchase.~~

1318 (b)1. All insurers authorized to write one or more subject
1319 lines of business in this state are subject to assessment by the
1320 corporation and, for the purposes of this subsection, are
1321 referred to collectively as "assessable insurers." Insurers
1322 writing one or more subject lines of business in this state
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1323 pursuant to part VIII of chapter 626 are not assessable
1324 insurers, but insureds who procure one or more subject lines of
1325 business in this state pursuant to part VIII of chapter 626 are
1326 subject to assessment by the corporation and are referred to
1327 collectively as "assessable insureds." An authorized insurer's
1328 assessment liability shall begin on the first day of the
1329 calendar year following the year in which the insurer was issued
1330 a certificate of authority to transact insurance for subject
1331 lines of business in this state and shall terminate 1 year after
1332 the end of the first calendar year during which the insurer no
1333 longer holds a certificate of authority to transact insurance
1334 for subject lines of business in this state.

1335 2.a. All revenues, assets, liabilities, losses, and
1336 expenses of the corporation shall be divided into three separate
1337 accounts as follows:

1338 (I) A personal lines account for personal residential
1339 policies issued by the corporation or issued by the Residential
1340 Property and Casualty Joint Underwriting Association and renewed
1341 by the corporation that provide comprehensive, multiperil
1342 coverage on risks that are not located in areas eligible for
1343 coverage in the Florida Windstorm Underwriting Association as
1344 those areas were defined on January 1, 2002, and for such
1345 policies that do not provide coverage for the peril of wind on
1346 risks that are located in such areas;

1347 (II) A commercial lines account for commercial residential
1348 and commercial nonresidential policies issued by the corporation
1349 or issued by the Residential Property and Casualty Joint
1350 Underwriting Association and renewed by the corporation that
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1351 provide coverage for basic property perils on risks that are not
1352 located in areas eligible for coverage in the Florida Windstorm
1353 Underwriting Association as those areas were defined on January
1354 1, 2002, and for such policies that do not provide coverage for
1355 the peril of wind on risks that are located in such areas; and

1356 (III) A high-risk account for personal residential
1357 policies and commercial residential and commercial
1358 nonresidential property policies issued by the corporation or
1359 transferred to the corporation that provide coverage for the
1360 peril of wind on risks that are located in areas eligible for
1361 coverage in the Florida Windstorm Underwriting Association as
1362 those areas were defined on January 1, 2002. The corporation may
1363 offer policies that provide multiperil coverage and the
1364 corporation shall continue to offer policies that provide
1365 coverage only for the peril of wind for risks located in areas
1366 eligible for coverage in the high-risk account. In issuing
1367 multiperil coverage, the corporation may use its approved policy
1368 forms and rates for the personal lines account. An applicant or
1369 insured who is eligible to purchase a multiperil policy from the
1370 corporation may purchase a multiperil policy from an authorized
1371 insurer without prejudice to the applicant's or insured's
1372 eligibility to prospectively purchase a policy that provides
1373 coverage only for the peril of wind from the corporation. An
1374 applicant or insured who is eligible for a corporation policy
1375 that provides coverage only for the peril of wind may elect to
1376 purchase or retain such policy and also purchase or retain
1377 coverage excluding wind from an authorized insurer without
1378 prejudice to the applicant's or insured's eligibility to

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1379 prospectively purchase a policy that provides multiperil
1380 coverage from the corporation. It is the goal of the Legislature
1381 that there would be an overall average savings of 10 percent or
1382 more for a policyholder who currently has a wind-only policy
1383 with the corporation, and an ex-wind policy with a voluntary
1384 insurer or the corporation, and who then obtains a multiperil
1385 policy from the corporation. It is the intent of the Legislature
1386 that the offer of multiperil coverage in the high-risk account
1387 be made and implemented in a manner that does not adversely
1388 affect the tax-exempt status of the corporation or
1389 creditworthiness of or security for currently outstanding
1390 financing obligations or credit facilities of the high-risk
1391 account, the personal lines account, or the commercial lines
1392 account. The high-risk account must also include quota share
1393 primary insurance under subparagraph (c)2. The area eligible for
1394 coverage under the high-risk account also includes the area
1395 within Port Canaveral, which is bordered on the south by the
1396 City of Cape Canaveral, bordered on the west by the Banana
1397 River, and bordered on the north by Federal Government property.

1398 b. The three separate accounts must be maintained as long
1399 as financing obligations entered into by the Florida Windstorm
1400 Underwriting Association or Residential Property and Casualty
1401 Joint Underwriting Association are outstanding, in accordance
1402 with the terms of the corresponding financing documents. When
1403 the financing obligations are no longer outstanding, in
1404 accordance with the terms of the corresponding financing
1405 documents, the corporation may use a single account for all
1406 revenues, assets, liabilities, losses, and expenses of the
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1407 corporation. Consistent with the requirement of this
1408 subparagraph and prudent investment policies that minimize the
1409 cost of carrying debt, the board shall exercise its best efforts
1410 to retire existing debt or to obtain approval of necessary
1411 parties to amend the terms of existing debt, so as to structure
1412 the most efficient plan to consolidate the three separate
1413 accounts into a single account. By February 1, 2007, the board
1414 shall submit a report to the Financial Services Commission, the
1415 President of the Senate, and the Speaker of the House of
1416 Representatives which includes an analysis of consolidating the
1417 accounts, the actions the board has taken to minimize the cost
1418 of carrying debt, and its recommendations for executing the most
1419 efficient plan.

1420 c. Creditors of the Residential Property and Casualty
1421 Joint Underwriting Association and of the accounts specified in
1422 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
1423 and recourse to, the accounts referred to in sub-sub-
1424 subparagraphs a.(I) and (II) and shall have no claim against, or
1425 recourse to, the account referred to in sub-sub-subparagraph
1426 a.(III). Creditors of the Florida Windstorm Underwriting
1427 Association shall have a claim against, and recourse to, the
1428 account referred to in sub-sub-subparagraph a.(III) and shall
1429 have no claim against, or recourse to, the accounts referred to
1430 in sub-sub-subparagraphs a.(I) and (II).

1431 d. Revenues, assets, liabilities, losses, and expenses not
1432 attributable to particular accounts shall be prorated among the
1433 accounts.

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1434 e. The Legislature finds that the revenues of the
1435 corporation are revenues that are necessary to meet the
1436 requirements set forth in documents authorizing the issuance of
1437 bonds under this subsection.

1438 f. No part of the income of the corporation may inure to
1439 the benefit of any private person.

1440 3. With respect to a deficit in an account:

1441 a. After accounting for the Citizens policyholder
1442 surcharge imposed under sub-subparagraph i., when the remaining
1443 projected deficit incurred in a particular calendar year is not
1444 greater than 6 percent of the aggregate statewide direct written
1445 premium for the subject lines of business for the prior calendar
1446 year, the entire deficit shall be recovered through regular
1447 assessments of assessable insurers under paragraph (p) and
1448 assessable insureds.

1449 b. After accounting for the Citizens policyholder
1450 surcharge imposed under sub-subparagraph i., when the remaining
1451 projected deficit incurred in a particular calendar year exceeds
1452 6 percent of the aggregate statewide direct written premium for
1453 the subject lines of business for the prior calendar year, the
1454 corporation shall levy regular assessments on assessable
1455 insurers under paragraph (p) and on assessable insureds in an
1456 amount equal to the greater of 6 percent of the deficit or 6
1457 percent of the aggregate statewide direct written premium for
1458 the subject lines of business for the prior calendar year. Any
1459 remaining deficit shall be recovered through emergency
1460 assessments under sub-subparagraph d.

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1461 c. Each assessable insurer's share of the amount being
1462 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1463 be in the proportion that the assessable insurer's direct
1464 written premium for the subject lines of business for the year
1465 preceding the assessment bears to the aggregate statewide direct
1466 written premium for the subject lines of business for that year.
1467 The assessment percentage applicable to each assessable insured
1468 is the ratio of the amount being assessed under sub-subparagraph
1469 a. or sub-subparagraph b. to the aggregate statewide direct
1470 written premium for the subject lines of business for the prior
1471 year. Assessments levied by the corporation on assessable
1472 insurers under sub-subparagraphs a. and b. shall be paid as
1473 required by the corporation's plan of operation and paragraph
1474 (p). Assessments levied by the corporation on assessable
1475 insureds under sub-subparagraphs a. and b. shall be collected by
1476 the surplus lines agent at the time the surplus lines agent
1477 collects the surplus lines tax required by s. 626.932 and shall
1478 be paid to the Florida Surplus Lines Service Office at the time
1479 the surplus lines agent pays the surplus lines tax to the
1480 Florida Surplus Lines Service Office. Upon receipt of regular
1481 assessments from surplus lines agents, the Florida Surplus Lines
1482 Service Office shall transfer the assessments directly to the
1483 corporation as determined by the corporation.

1484 d. Upon a determination by the board of governors that a
1485 deficit in an account exceeds the amount that will be recovered
1486 through regular assessments under sub-subparagraph a. or sub-
1487 subparagraph b., plus the amount that is expected to be
1488 recovered through surcharges under sub-subparagraph i., as to
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1489 the remaining projected deficit the board shall levy, after
1490 verification by the office, emergency assessments, for as many
1491 years as necessary to cover the deficits, to be collected by
1492 assessable insurers and the corporation and collected from
1493 assessable insureds upon issuance or renewal of policies for
1494 subject lines of business, excluding National Flood Insurance
1495 policies. The amount of the emergency assessment collected in a
1496 particular year shall be a uniform percentage of that year's
1497 direct written premium for subject lines of business and all
1498 accounts of the corporation, excluding National Flood Insurance
1499 Program policy premiums, as annually determined by the board and
1500 verified by the office. The office shall verify the arithmetic
1501 calculations involved in the board's determination within 30
1502 days after receipt of the information on which the determination
1503 was based. Notwithstanding any other provision of law, the
1504 corporation and each assessable insurer that writes subject
1505 lines of business shall collect emergency assessments from its
1506 policyholders without such obligation being affected by any
1507 credit, limitation, exemption, or deferment. Emergency
1508 assessments levied by the corporation on assessable insureds
1509 shall be collected by the surplus lines agent at the time the
1510 surplus lines agent collects the surplus lines tax required by
1511 s. 626.932 and shall be paid to the Florida Surplus Lines
1512 Service Office at the time the surplus lines agent pays the
1513 surplus lines tax to the Florida Surplus Lines Service Office.
1514 The emergency assessments so collected shall be transferred
1515 directly to the corporation on a periodic basis as determined by
1516 the corporation and shall be held by the corporation solely in
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1517 the applicable account. The aggregate amount of emergency
1518 assessments levied for an account under this sub-subparagraph in
1519 any calendar year may, at the discretion of the board of
1520 governors, be less than but may not exceed the greater of 10
1521 percent of the amount needed to cover the deficit, plus
1522 interest, fees, commissions, required reserves, and other costs
1523 associated with financing of the original deficit, or 10 percent
1524 of the aggregate statewide direct written premium for subject
1525 lines of business and for all accounts of the corporation for
1526 the prior year, plus interest, fees, commissions, required
1527 reserves, and other costs associated with financing the deficit.

1528 e. The corporation may pledge the proceeds of assessments,
1529 projected recoveries from the Florida Hurricane Catastrophe
1530 Fund, other insurance and reinsurance recoverables, policyholder
1531 surcharges and other surcharges, and other funds available to
1532 the corporation as the source of revenue for and to secure bonds
1533 issued under paragraph (p), bonds or other indebtedness issued
1534 under subparagraph (c)3., or lines of credit or other financing
1535 mechanisms issued or created under this subsection, or to retire
1536 any other debt incurred as a result of deficits or events giving
1537 rise to deficits, or in any other way that the board determines
1538 will efficiently recover such deficits. The purpose of the lines
1539 of credit or other financing mechanisms is to provide additional
1540 resources to assist the corporation in covering claims and
1541 expenses attributable to a catastrophe. As used in this
1542 subsection, the term "assessments" includes regular assessments
1543 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1544 (p)1. and emergency assessments under sub-subparagraph d.

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1545 Emergency assessments collected under sub-subparagraph d. are
1546 not part of an insurer's rates, are not premium, and are not
1547 subject to premium tax, fees, or commissions; however, failure
1548 to pay the emergency assessment shall be treated as failure to
1549 pay premium. The emergency assessments under sub-subparagraph d.
1550 shall continue as long as any bonds issued or other indebtedness
1551 incurred with respect to a deficit for which the assessment was
1552 imposed remain outstanding, unless adequate provision has been
1553 made for the payment of such bonds or other indebtedness
1554 pursuant to the documents governing such bonds or other
1555 indebtedness.

1556 f. As used in this subsection for purposes of any deficit
1557 incurred on or after January 25, 2007, the term "subject lines
1558 of business" means insurance written by assessable insurers or
1559 procured by assessable insureds for all property and casualty
1560 lines of business in this state, but not including workers'
1561 compensation or medical malpractice. As used in the sub-
1562 subparagraph, the term "property and casualty lines of business"
1563 includes all lines of business identified on Form 2, Exhibit of
1564 Premiums and Losses, in the annual statement required of
1565 authorized insurers by s. 624.424 and any rule adopted under
1566 this section, except for those lines identified as accident and
1567 health insurance and except for policies written under the
1568 National Flood Insurance Program or the Federal Crop Insurance
1569 Program. For purposes of this sub-subparagraph, the term
1570 "workers' compensation" includes both workers' compensation
1571 insurance and excess workers' compensation insurance.

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1572 g. The Florida Surplus Lines Service Office shall
1573 determine annually the aggregate statewide written premium in
1574 subject lines of business procured by assessable insureds and
1575 shall report that information to the corporation in a form and
1576 at a time the corporation specifies to ensure that the
1577 corporation can meet the requirements of this subsection and the
1578 corporation's financing obligations.

1579 h. The Florida Surplus Lines Service Office shall verify
1580 the proper application by surplus lines agents of assessment
1581 percentages for regular assessments and emergency assessments
1582 levied under this subparagraph on assessable insureds and shall
1583 assist the corporation in ensuring the accurate, timely
1584 collection and payment of assessments by surplus lines agents as
1585 required by the corporation.

1586 i. If a deficit is incurred in any account in 2008 or
1587 thereafter, the board of governors shall levy a Citizens
1588 policyholder surcharge against all policyholders of the
1589 corporation for a 12-month period, which shall be collected at
1590 the time of issuance or renewal of a policy, as a uniform
1591 percentage of the premium for the policy of up to 25 ~~15~~ percent
1592 of such premium, which funds shall be used to offset the
1593 deficit. Citizens policyholder surcharges under this sub-
1594 subparagraph are not considered premium and are not subject to
1595 commissions, fees, or premium taxes. However, failure to pay
1596 such surcharges shall be treated as failure to pay premium.

1597 j. If the amount of any assessments or surcharges
1598 collected from corporation policyholders, assessable insurers or
1599 their policyholders, or assessable insureds exceeds the amount
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1600 of the deficits, such excess amounts shall be remitted to and
1601 retained by the corporation in a reserve to be used by the
1602 corporation, as determined by the board of governors and
1603 approved by the office, to pay claims or reduce any past,
1604 present, or future plan-year deficits or to reduce outstanding
1605 debt.

1606 (c) The plan of operation of the corporation:

1607 1. Must provide for adoption of residential property and
1608 casualty insurance policy forms and commercial residential and
1609 nonresidential property insurance forms, which forms must be
1610 approved by the office prior to use. The corporation shall adopt
1611 the following policy forms:

1612 a. Standard personal lines policy forms that are
1613 comprehensive multiperil policies providing full coverage of a
1614 residential property equivalent to the coverage provided in the
1615 private insurance market under an HO-3, HO-4, or HO-6 policy.

1616 b. Basic personal lines policy forms that are policies
1617 similar to an HO-8 policy or a dwelling fire policy that provide
1618 coverage meeting the requirements of the secondary mortgage
1619 market, but which coverage is more limited than the coverage
1620 under a standard policy.

1621 c. Commercial lines residential and nonresidential policy
1622 forms that are generally similar to the basic perils of full
1623 coverage obtainable for commercial residential structures and
1624 commercial nonresidential structures in the admitted voluntary
1625 market.

1626 d. Personal lines and commercial lines residential
1627 property insurance forms that cover the peril of wind only. The
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1628 forms are applicable only to residential properties located in
1629 areas eligible for coverage under the high-risk account referred
1630 to in sub-subparagraph (b)2.a.

1631 e. Commercial lines nonresidential property insurance
1632 forms that cover the peril of wind only. The forms are
1633 applicable only to nonresidential properties located in areas
1634 eligible for coverage under the high-risk account referred to in
1635 sub-subparagraph (b)2.a.

1636 f. The corporation may adopt variations of the policy
1637 forms listed in sub-subparagraphs a.-e. that contain more
1638 restrictive coverage.

1639 2.a. Must provide that the corporation adopt a program in
1640 which the corporation and authorized insurers enter into quota
1641 share primary insurance agreements for hurricane coverage, as
1642 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1643 property insurance forms for eligible risks which cover the
1644 peril of wind only. As used in this subsection, the term:

1645 (I) "Quota share primary insurance" means an arrangement
1646 in which the primary hurricane coverage of an eligible risk is
1647 provided in specified percentages by the corporation and an
1648 authorized insurer. The corporation and authorized insurer are
1649 each solely responsible for a specified percentage of hurricane
1650 coverage of an eligible risk as set forth in a quota share
1651 primary insurance agreement between the corporation and an
1652 authorized insurer and the insurance contract. The
1653 responsibility of the corporation or authorized insurer to pay
1654 its specified percentage of hurricane losses of an eligible
1655 risk, as set forth in the quota share primary insurance

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1656 agreement, may not be altered by the inability of the other
1657 party to the agreement to pay its specified percentage of
1658 hurricane losses. Eligible risks that are provided hurricane
1659 coverage through a quota share primary insurance arrangement
1660 must be provided policy forms that set forth the obligations of
1661 the corporation and authorized insurer under the arrangement,
1662 clearly specify the percentages of quota share primary insurance
1663 provided by the corporation and authorized insurer, and
1664 conspicuously and clearly state that neither the authorized
1665 insurer nor the corporation may be held responsible beyond its
1666 specified percentage of coverage of hurricane losses.

1667 (II) "Eligible risks" means personal lines residential and
1668 commercial lines residential risks that meet the underwriting
1669 criteria of the corporation and are located in areas that were
1670 eligible for coverage by the Florida Windstorm Underwriting
1671 Association on January 1, 2002.

1672 b. The corporation may enter into quota share primary
1673 insurance agreements with authorized insurers at corporation
1674 coverage levels of 90 percent and 50 percent.

1675 c. If the corporation determines that additional coverage
1676 levels are necessary to maximize participation in quota share
1677 primary insurance agreements by authorized insurers, the
1678 corporation may establish additional coverage levels. However,
1679 the corporation's quota share primary insurance coverage level
1680 may not exceed 90 percent.

1681 d. Any quota share primary insurance agreement entered
1682 into between an authorized insurer and the corporation must
1683 provide for a uniform specified percentage of coverage of
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1684 hurricane losses, by county or territory as set forth by the
1685 corporation board, for all eligible risks of the authorized
1686 insurer covered under the quota share primary insurance
1687 agreement.

1688 e. Any quota share primary insurance agreement entered
1689 into between an authorized insurer and the corporation is
1690 subject to review and approval by the office. However, such
1691 agreement shall be authorized only as to insurance contracts
1692 entered into between an authorized insurer and an insured who is
1693 already insured by the corporation for wind coverage.

1694 f. For all eligible risks covered under quota share
1695 primary insurance agreements, the exposure and coverage levels
1696 for both the corporation and authorized insurers shall be
1697 reported by the corporation to the Florida Hurricane Catastrophe
1698 Fund. For all policies of eligible risks covered under quota
1699 share primary insurance agreements, the corporation and the
1700 authorized insurer shall maintain complete and accurate records
1701 for the purpose of exposure and loss reimbursement audits as
1702 required by Florida Hurricane Catastrophe Fund rules. The
1703 corporation and the authorized insurer shall each maintain
1704 duplicate copies of policy declaration pages and supporting
1705 claims documents.

1706 g. The corporation board shall establish in its plan of
1707 operation standards for quota share agreements which ensure that
1708 there is no discriminatory application among insurers as to the
1709 terms of quota share agreements, pricing of quota share
1710 agreements, incentive provisions if any, and consideration paid
1711 for servicing policies or adjusting claims.

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1712 h. The quota share primary insurance agreement between the
1713 corporation and an authorized insurer must set forth the
1714 specific terms under which coverage is provided, including, but
1715 not limited to, the sale and servicing of policies issued under
1716 the agreement by the insurance agent of the authorized insurer
1717 producing the business, the reporting of information concerning
1718 eligible risks, the payment of premium to the corporation, and
1719 arrangements for the adjustment and payment of hurricane claims
1720 incurred on eligible risks by the claims adjuster and personnel
1721 of the authorized insurer. Entering into a quota sharing
1722 insurance agreement between the corporation and an authorized
1723 insurer shall be voluntary and at the discretion of the
1724 authorized insurer.

1725 3. May provide that the corporation may employ or
1726 otherwise contract with individuals or other entities to provide
1727 administrative or professional services that may be appropriate
1728 to effectuate the plan. The corporation shall have the power to
1729 borrow funds, by issuing bonds or by incurring other
1730 indebtedness, and shall have other powers reasonably necessary
1731 to effectuate the requirements of this subsection, including,
1732 without limitation, the power to issue bonds and incur other
1733 indebtedness in order to refinance outstanding bonds or other
1734 indebtedness. The corporation may, but is not required to, seek
1735 judicial validation of its bonds or other indebtedness under
1736 chapter 75. The corporation may issue bonds or incur other
1737 indebtedness, or have bonds issued on its behalf by a unit of
1738 local government pursuant to subparagraph (p)2., in the absence
1739 of a hurricane or other weather-related event, upon a

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1740 determination by the corporation, subject to approval by the
1741 office, that such action would enable it to efficiently meet the
1742 financial obligations of the corporation and that such
1743 financings are reasonably necessary to effectuate the
1744 requirements of this subsection. The corporation is authorized
1745 to take all actions needed to facilitate tax-free status for any
1746 such bonds or indebtedness, including formation of trusts or
1747 other affiliated entities. The corporation shall have the
1748 authority to pledge assessments, projected recoveries from the
1749 Florida Hurricane Catastrophe Fund, other reinsurance
1750 recoverables, market equalization and other surcharges, and
1751 other funds available to the corporation as security for bonds
1752 or other indebtedness. In recognition of s. 10, Art. I of the
1753 State Constitution, prohibiting the impairment of obligations of
1754 contracts, it is the intent of the Legislature that no action be
1755 taken whose purpose is to impair any bond indenture or financing
1756 agreement or any revenue source committed by contract to such
1757 bond or other indebtedness.

1758 4.a. Must require that the corporation operate subject to
1759 the supervision and approval of a board of governors consisting
1760 of eight individuals who are residents of this state, from
1761 different geographical areas of this state. The Governor, the
1762 Chief Financial Officer, the President of the Senate, and the
1763 Speaker of the House of Representatives shall each appoint two
1764 members of the board. At least one of the two members appointed
1765 by each appointing officer must have demonstrated expertise in
1766 insurance. The Chief Financial Officer shall designate one of
1767 the appointees as chair. All board members serve at the pleasure
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1768 of the appointing officer. All members of the board of governors
1769 are subject to removal at will by the officers who appointed
1770 them. Except as otherwise provided, all board members, including
1771 the chair, must be appointed to serve for 3-year terms beginning
1772 annually on a date designated by the plan. However, for the
1773 first term beginning on or after July 1, 2009, each appointing
1774 officer shall appoint one member of the board for a 2-year term
1775 and one member for a 3-year term. Any board vacancy shall be
1776 filled for the unexpired term by the appointing officer. The
1777 Chief Financial Officer shall appoint a technical advisory group
1778 to provide information and advice to the board of governors in
1779 connection with the board's duties under this subsection. The
1780 executive director and senior managers of the corporation shall
1781 be engaged by the board and serve at the pleasure of the board.
1782 Any executive director appointed on or after July 1, 2006, is
1783 subject to confirmation by the Senate. The executive director is
1784 responsible for employing other staff as the corporation may
1785 require, subject to review and concurrence by the board.

1786 b. The board shall create a Market Accountability Advisory
1787 Committee to assist the corporation in developing awareness of
1788 its rates and its customer and agent service levels in
1789 relationship to the voluntary market insurers writing similar
1790 coverage. The members of the advisory committee shall consist of
1791 the following 11 persons, one of whom must be elected chair by
1792 the members of the committee: four representatives, one
1793 appointed by the Florida Association of Insurance Agents, one by
1794 the Florida Association of Insurance and Financial Advisors, one
1795 by the Professional Insurance Agents of Florida, and one by the
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1796 Latin American Association of Insurance Agencies; three
1797 representatives appointed by the insurers with the three highest
1798 voluntary market share of residential property insurance
1799 business in the state; one representative from the Office of
1800 Insurance Regulation; one consumer appointed by the board who is
1801 insured by the corporation at the time of appointment to the
1802 committee; one representative appointed by the Florida
1803 Association of Realtors; and one representative appointed by the
1804 Florida Bankers Association. All members must serve for 3-year
1805 terms and may serve for consecutive terms. The committee shall
1806 report to the corporation at each board meeting on insurance
1807 market issues which may include rates and rate competition with
1808 the voluntary market; service, including policy issuance, claims
1809 processing, and general responsiveness to policyholders,
1810 applicants, and agents; and matters relating to depopulation.

1811 5. Must provide a procedure for determining the
1812 eligibility of a risk for coverage, as follows:

1813 a. Subject to the provisions of s. 627.3517, with respect
1814 to personal lines residential risks, if the risk is offered
1815 coverage from an authorized insurer at the insurer's approved
1816 rate under either a standard policy including wind coverage or,
1817 if consistent with the insurer's underwriting rules as filed
1818 with the office, a basic policy including wind coverage, for a
1819 new application to the corporation for coverage, the risk is not
1820 eligible for any policy issued by the corporation unless the
1821 premium for coverage from the authorized insurer is more than 15
1822 percent greater than the premium for comparable coverage from
1823 the corporation. If the risk is not able to obtain any such

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1824 offer, the risk is eligible for either a standard policy
1825 including wind coverage or a basic policy including wind
1826 coverage issued by the corporation; however, if the risk could
1827 not be insured under a standard policy including wind coverage
1828 regardless of market conditions, the risk shall be eligible for
1829 a basic policy including wind coverage unless rejected under
1830 subparagraph 8. However, with regard to a policyholder of the
1831 corporation or a policyholder removed from the corporation
1832 through an assumption agreement until the end of the assumption
1833 period, the policyholder remains eligible for coverage from the
1834 corporation regardless of any offer of coverage from an
1835 authorized insurer or surplus lines insurer. The corporation
1836 shall determine the type of policy to be provided on the basis
1837 of objective standards specified in the underwriting manual and
1838 based on generally accepted underwriting practices.

1839 (I) If the risk accepts an offer of coverage through the
1840 market assistance plan or an offer of coverage through a
1841 mechanism established by the corporation before a policy is
1842 issued to the risk by the corporation or during the first 30
1843 days of coverage by the corporation, and the producing agent who
1844 submitted the application to the plan or to the corporation is
1845 not currently appointed by the insurer, the insurer shall:

1846 (A) Pay to the producing agent of record of the policy,
1847 for the first year, an amount that is the greater of the
1848 insurer's usual and customary commission for the type of policy
1849 written or a fee equal to the usual and customary commission of
1850 the corporation; or

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1851 (B) Offer to allow the producing agent of record of the
1852 policy to continue servicing the policy for a period of not less
1853 than 1 year and offer to pay the agent the greater of the
1854 insurer's or the corporation's usual and customary commission
1855 for the type of policy written.

1856
1857 If the producing agent is unwilling or unable to accept
1858 appointment, the new insurer shall pay the agent in accordance
1859 with sub-sub-sub-subparagraph (A).

1860 (II) When the corporation enters into a contractual
1861 agreement for a take-out plan, the producing agent of record of
1862 the corporation policy is entitled to retain any unearned
1863 commission on the policy, and the insurer shall:

1864 (A) Pay to the producing agent of record of the
1865 corporation policy, for the first year, an amount that is the
1866 greater of the insurer's usual and customary commission for the
1867 type of policy written or a fee equal to the usual and customary
1868 commission of the corporation; or

1869 (B) Offer to allow the producing agent of record of the
1870 corporation policy to continue servicing the policy for a period
1871 of not less than 1 year and offer to pay the agent the greater
1872 of the insurer's or the corporation's usual and customary
1873 commission for the type of policy written.

1874
1875 If the producing agent is unwilling or unable to accept
1876 appointment, the new insurer shall pay the agent in accordance
1877 with sub-sub-sub-subparagraph (A).

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1878 b. With respect to commercial lines residential risks, for
1879 a new application to the corporation for coverage, if the risk
1880 is offered coverage under a policy including wind coverage from
1881 an authorized insurer at its approved rate, the risk is not
1882 eligible for any policy issued by the corporation unless the
1883 premium for coverage from the authorized insurer is more than 15
1884 percent greater than the premium for comparable coverage from
1885 the corporation. If the risk is not able to obtain any such
1886 offer, the risk is eligible for a policy including wind coverage
1887 issued by the corporation. However, with regard to a
1888 policyholder of the corporation or a policyholder removed from
1889 the corporation through an assumption agreement until the end of
1890 the assumption period, the policyholder remains eligible for
1891 coverage from the corporation regardless of any offer of
1892 coverage from an authorized insurer or surplus lines insurer.

1893 (I) If the risk accepts an offer of coverage through the
1894 market assistance plan or an offer of coverage through a
1895 mechanism established by the corporation before a policy is
1896 issued to the risk by the corporation or during the first 30
1897 days of coverage by the corporation, and the producing agent who
1898 submitted the application to the plan or the corporation is not
1899 currently appointed by the insurer, the insurer shall:

1900 (A) Pay to the producing agent of record of the policy,
1901 for the first year, an amount that is the greater of the
1902 insurer's usual and customary commission for the type of policy
1903 written or a fee equal to the usual and customary commission of
1904 the corporation; or

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1905 (B) Offer to allow the producing agent of record of the
1906 policy to continue servicing the policy for a period of not less
1907 than 1 year and offer to pay the agent the greater of the
1908 insurer's or the corporation's usual and customary commission
1909 for the type of policy written.

1910
1911 If the producing agent is unwilling or unable to accept
1912 appointment, the new insurer shall pay the agent in accordance
1913 with sub-sub-sub-subparagraph (A).

1914 (II) When the corporation enters into a contractual
1915 agreement for a take-out plan, the producing agent of record of
1916 the corporation policy is entitled to retain any unearned
1917 commission on the policy, and the insurer shall:

1918 (A) Pay to the producing agent of record of the
1919 corporation policy, for the first year, an amount that is the
1920 greater of the insurer's usual and customary commission for the
1921 type of policy written or a fee equal to the usual and customary
1922 commission of the corporation; or

1923 (B) Offer to allow the producing agent of record of the
1924 corporation policy to continue servicing the policy for a period
1925 of not less than 1 year and offer to pay the agent the greater
1926 of the insurer's or the corporation's usual and customary
1927 commission for the type of policy written.

1928
1929 If the producing agent is unwilling or unable to accept
1930 appointment, the new insurer shall pay the agent in accordance
1931 with sub-sub-sub-subparagraph (A).

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1932 c. For purposes of determining comparable coverage under
1933 sub-subparagraphs a. and b., the comparison shall be based on
1934 those forms and coverages that are reasonably comparable. The
1935 corporation may rely on a determination of comparable coverage
1936 and premium made by the producing agent who submits the
1937 application to the corporation, made in the agent's capacity as
1938 the corporation's agent. A comparison may be made solely of the
1939 premium with respect to the main building or structure only on
1940 the following basis: the same coverage A or other building
1941 limits; the same percentage hurricane deductible that applies on
1942 an annual basis or that applies to each hurricane for commercial
1943 residential property; the same percentage of ordinance and law
1944 coverage, if the same limit is offered by both the corporation
1945 and the authorized insurer; the same mitigation credits, to the
1946 extent the same types of credits are offered both by the
1947 corporation and the authorized insurer; the same method for loss
1948 payment, such as replacement cost or actual cash value, if the
1949 same method is offered both by the corporation and the
1950 authorized insurer in accordance with underwriting rules; and
1951 any other form or coverage that is reasonably comparable as
1952 determined by the board. If an application is submitted to the
1953 corporation for wind-only coverage in the high-risk account, the
1954 premium for the corporation's wind-only policy plus the premium
1955 for the ex-wind policy that is offered by an authorized insurer
1956 to the applicant shall be compared to the premium for multiperil
1957 coverage offered by an authorized insurer, subject to the
1958 standards for comparison specified in this subparagraph. If the
1959 corporation or the applicant requests from the authorized

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1960 insurer a breakdown of the premium of the offer by types of
1961 coverage so that a comparison may be made by the corporation or
1962 its agent and the authorized insurer refuses or is unable to
1963 provide such information, the corporation may treat the offer as
1964 not being an offer of coverage from an authorized insurer at the
1965 insurer's approved rate.

1966 6. Must include rules for classifications of risks and
1967 rates therefor.

1968 7. Must provide that if premium and investment income for
1969 an account attributable to a particular calendar year are in
1970 excess of projected losses and expenses for the account
1971 attributable to that year, such excess shall be held in surplus
1972 in the account. Such surplus shall be available to defray
1973 deficits in that account as to future years and shall be used
1974 for that purpose prior to assessing assessable insurers and
1975 assessable insureds as to any calendar year.

1976 8. Must provide objective criteria and procedures to be
1977 uniformly applied for all applicants in determining whether an
1978 individual risk is so hazardous as to be uninsurable. In making
1979 this determination and in establishing the criteria and
1980 procedures, the following shall be considered:

1981 a. Whether the likelihood of a loss for the individual
1982 risk is substantially higher than for other risks of the same
1983 class; and

1984 b. Whether the uncertainty associated with the individual
1985 risk is such that an appropriate premium cannot be determined.
1986

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1987 The acceptance or rejection of a risk by the corporation shall
1988 be construed as the private placement of insurance, and the
1989 provisions of chapter 120 shall not apply.

1990 9. Must provide that the corporation shall make its best
1991 efforts to procure catastrophe reinsurance at reasonable rates,
1992 to cover its projected 100-year probable maximum loss as
1993 determined by the board of governors.

1994 10. The policies issued by the corporation must provide
1995 that, if the corporation or the market assistance plan obtains
1996 an offer from an authorized insurer to cover the risk at its
1997 approved rates, the risk is no longer eligible for renewal
1998 through the corporation, except as otherwise provided in this
1999 subsection.

2000 11. Corporation policies and applications must include a
2001 notice that the corporation policy could, under this section, be
2002 replaced with a policy issued by an authorized insurer that does
2003 not provide coverage identical to the coverage provided by the
2004 corporation. The notice shall also specify that acceptance of
2005 corporation coverage creates a conclusive presumption that the
2006 applicant or policyholder is aware of this potential.

2007 12. May establish, subject to approval by the office,
2008 different eligibility requirements and operational procedures
2009 for any line or type of coverage for any specified county or
2010 area if the board determines that such changes to the
2011 eligibility requirements and operational procedures are
2012 justified due to the voluntary market being sufficiently stable
2013 and competitive in such area or for such line or type of
2014 coverage and that consumers who, in good faith, are unable to
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2015 obtain insurance through the voluntary market through ordinary
2016 methods would continue to have access to coverage from the
2017 corporation. When coverage is sought in connection with a real
2018 property transfer, such requirements and procedures shall not
2019 provide for an effective date of coverage later than the date of
2020 the closing of the transfer as established by the transferor,
2021 the transferee, and, if applicable, the lender.

2022 13. Must provide that, with respect to the high-risk
2023 account, any assessable insurer with a surplus as to
2024 policyholders of \$25 million or less writing 25 percent or more
2025 of its total countrywide property insurance premiums in this
2026 state may petition the office, within the first 90 days of each
2027 calendar year, to qualify as a limited apportionment company. A
2028 regular assessment levied by the corporation on a limited
2029 apportionment company for a deficit incurred by the corporation
2030 for the high-risk account in 2006 or thereafter may be paid to
2031 the corporation on a monthly basis as the assessments are
2032 collected by the limited apportionment company from its insureds
2033 pursuant to s. 627.3512, but the regular assessment must be paid
2034 in full within 12 months after being levied by the corporation.
2035 A limited apportionment company shall collect from its
2036 policyholders any emergency assessment imposed under sub-
2037 subparagraph (b)3.d. The plan shall provide that, if the office
2038 determines that any regular assessment will result in an
2039 impairment of the surplus of a limited apportionment company,
2040 the office may direct that all or part of such assessment be
2041 deferred as provided in subparagraph (p)4. However, there shall

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2042 be no limitation or deferment of an emergency assessment to be
2043 collected from policyholders under sub-subparagraph (b)3.d.

2044 14. Must provide that the corporation appoint as its
2045 licensed agents only those agents who also hold an appointment
2046 as defined in s. 626.015(3) with an insurer who at the time of
2047 the agent's initial appointment by the corporation is authorized
2048 to write and is actually writing personal lines residential
2049 property coverage, commercial residential property coverage, or
2050 commercial nonresidential property coverage within the state.

2051 15. Must provide, by July 1, 2007, a premium payment plan
2052 option to its policyholders which allows at a minimum for
2053 quarterly and semiannual payment of premiums. A monthly payment
2054 plan may, but is not required to, be offered.

2055 16. Must limit coverage on mobile homes or manufactured
2056 homes built prior to 1994 to actual cash value of the dwelling
2057 rather than replacement costs of the dwelling.

2058 17. May provide such limits of coverage as the board
2059 determines, consistent with the requirements of this subsection.

2060 18. May require commercial property to meet specified
2061 hurricane mitigation construction features as a condition of
2062 eligibility for coverage.

2063 (m)1. Rates for coverage provided by the corporation shall
2064 be actuarially sound and subject to the requirements of s.
2065 627.062, except as otherwise provided in this paragraph. The
2066 corporation shall file its recommended rates with the office at
2067 least annually. The corporation shall provide any additional
2068 information regarding the rates which the office requires. The
2069 office shall consider the recommendations of the board and issue
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2070 a final order establishing the rates for the corporation within
2071 45 days after the recommended rates are filed. The corporation
2072 may not pursue an administrative challenge or judicial review of
2073 the final order of the office.

2074 2. In addition to the rates otherwise determined pursuant
2075 to this paragraph, the corporation shall impose and collect an
2076 amount equal to the premium tax provided for in s. 624.509 to
2077 augment the financial resources of the corporation.

2078 3. After the public hurricane loss-projection model under
2079 s. 627.06281 has been found to be accurate and reliable by the
2080 Florida Commission on Hurricane Loss Projection Methodology,
2081 that model shall serve as the minimum benchmark for determining
2082 the windstorm portion of the corporation's rates. This
2083 subparagraph does not require or allow the corporation to adopt
2084 rates lower than the rates otherwise required or allowed by this
2085 paragraph.

2086 4. The rate filings for the corporation which were
2087 approved by the office and which took effect January 1, 2007,
2088 are rescinded, except for those rates that were lowered. As soon
2089 as possible, the corporation shall begin using the lower rates
2090 that were in effect on December 31, 2006, and shall provide
2091 refunds to policyholders who have paid higher rates as a result
2092 of that rate filing. The rates in effect on December 31, 2006,
2093 shall remain in effect for the 2007 and 2008 calendar years
2094 except for any rate change that results in a lower rate. The
2095 next rate change that may increase rates shall take effect
2096 pursuant to a new rate filing recommended by the corporation and

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2097 established by the office, subject to the requirements of this
2098 paragraph.

2099 5. Beginning on July 15, 2009, and each year thereafter,
2100 the corporation must make a recommended actuarially sound rate
2101 filing for each personal and commercial line of business it
2102 writes, to be effective no earlier than January 1, 2010.

2103 6. The Legislature finds that it is in the public interest
2104 to ensure that actuarially sound rates for coverage by the
2105 corporation be implemented incrementally to provide rate
2106 stability and predictability to its policyholders.

2107 7. Beginning on or after January 1, 2010, the corporation
2108 shall begin to implement actuarially sound rates for each
2109 commercial and personal line of business it writes, which may
2110 not exceed an average statewide increase of 10 percent or exceed
2111 20 percent for any single policy issued by the corporation,
2112 excluding coverage changes and surcharges.

2113 8. The corporation's incremental implementation of rates
2114 as prescribed in subparagraph 7. shall cease for any line of
2115 business written by the corporation after actuarially sound
2116 rates as prescribed in subparagraph 1. are achieved. Thereafter,
2117 the corporation shall annually make a recommended actuarially
2118 sound rate filing for each commercial and personal line of
2119 business it writes.

2120 9. In addition to the rate increase required pursuant to
2121 subparagraph 7., the corporation may increase its rates an
2122 amount sufficient to recoup additional reimbursement premium
2123 paid to the Florida Hurricane Catastrophe Fund due to the
2124 application of a cash build-up factor.

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2125 10. Beginning April 1, 2010, and each quarter thereafter,
2126 the corporation shall transfer 10 percent of the funds received
2127 from the rate increase prescribed by subparagraph 7. to the
2128 Insurance Regulatory Trust Fund in the Department of Financial
2129 Services. The corporation's transfer of such funds shall cease
2130 upon the corporation's implementation of actuarially sound rates
2131 as prescribed in subparagraph 1.

2132 ~~(x) It is the intent of the Legislature that the~~
2133 ~~amendments to this subsection enacted in 2002 should, over time,~~
2134 ~~reduce the probable maximum windstorm losses in the residual~~
2135 ~~markets and should reduce the potential assessments to be levied~~
2136 ~~on property insurers and policyholders statewide. In furtherance~~
2137 ~~of this intent:~~

2138 ~~1. The board shall, on or before February 1 of each year,~~
2139 ~~provide a report to the President of the Senate and the Speaker~~
2140 ~~of the House of Representatives showing the reduction or~~
2141 ~~increase in the 100-year probable maximum loss attributable to~~
2142 ~~wind-only coverages and the quota share program under this~~
2143 ~~subsection combined, as compared to the benchmark 100-year~~
2144 ~~probable maximum loss of the Florida Windstorm Underwriting~~
2145 ~~Association. For purposes of this paragraph, the benchmark 100-~~
2146 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
2147 ~~Association shall be the calculation dated February 2001 and~~
2148 ~~based on November 30, 2000, exposures. In order to ensure~~
2149 ~~comparability of data, the board shall use the same methods for~~
2150 ~~calculating its probable maximum loss as were used to calculate~~
2151 ~~the benchmark probable maximum loss.~~

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2152 ~~2. Beginning February 1, 2010, if the report under~~
2153 ~~subparagraph 1. for any year indicates that the 100-year~~
2154 ~~probable maximum loss attributable to wind-only coverages and~~
2155 ~~the quota share program combined does not reflect a reduction of~~
2156 ~~at least 25 percent from the benchmark, the board shall reduce~~
2157 ~~the boundaries of the high risk area eligible for wind-only~~
2158 ~~coverages under this subsection in a manner calculated to reduce~~
2159 ~~such probable maximum loss to an amount at least 25 percent~~
2160 ~~below the benchmark.~~

2161 ~~3. Beginning February 1, 2015, if the report under~~
2162 ~~subparagraph 1. for any year indicates that the 100-year~~
2163 ~~probable maximum loss attributable to wind-only coverages and~~
2164 ~~the quota share program combined does not reflect a reduction of~~
2165 ~~at least 50 percent from the benchmark, the boundaries of the~~
2166 ~~high risk area eligible for wind-only coverages under this~~
2167 ~~subsection shall be reduced by the elimination of any area that~~
2168 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
2169 ~~Waterway.~~

2170 Section 14. Subsection (2) of section 627.711, Florida
2171 Statutes, is amended, and subsection (3) is added to that
2172 section, to read:

2173 627.711 Notice of premium discounts for hurricane loss
2174 mitigation; uniform mitigation verification inspection form.--

2175 (2) (a) By July 1, 2007, the Financial Services Commission
2176 shall develop by rule a uniform mitigation verification
2177 inspection form that shall be used by all insurers when
2178 submitted by policyholders for the purpose of factoring
2179 discounts for wind insurance. In developing the form, the
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2180 commission shall seek input from insurance, construction, and
2181 building code representatives. Further, the commission shall
2182 provide guidance as to the length of time the inspection results
2183 are valid. An insurer shall accept as valid a uniform mitigation
2184 verification form certified by the Department of Financial
2185 Services or signed by:

2186 ~~(a) A hurricane mitigation inspector employed by an~~
2187 ~~approved My Safe Florida Home wind certification entity;~~

2188 1.(b) A building code inspector certified under s.
2189 468.607;

2190 2.(e) A general, building, or residential contractor
2191 licensed under s. 489.111;

2192 3.(d) A professional engineer licensed under s. 471.015
2193 who has passed the appropriate equivalency test of the Building
2194 Code Training Program as required by s. 553.841; or

2195 4.(e) A professional architect licensed under s. 481.213.

2196 (b) An insurer may contract with inspection firms at the
2197 insurer's expense to review mitigation verification forms and to
2198 reinspect properties for which the insurer receives mitigation
2199 verification forms to ensure that the forms are valid.

2200 (3) An individual or entity who knowingly provides or
2201 utters a false or fraudulent mitigation verification form with
2202 the intent to obtain or receive a discount on an insurance
2203 premium to which the individual or entity is not entitled
2204 commits a misdemeanor of the first degree, punishable as
2205 provided in s. 775.082 or s. 775.083.

2206 Section 15. Subsection (1) and paragraph (c) of subsection
2207 (2) of section 627.712, Florida Statutes, are amended to read:
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2208 627.712 Residential windstorm coverage required;
2209 availability of exclusions for windstorm or contents.--

2210 (1) An insurer issuing a residential property insurance
2211 policy must provide windstorm coverage. Except as provided in
2212 paragraph (2) (c), this section does not apply with respect to
2213 risks that are eligible for wind-only coverage from Citizens
2214 Property Insurance Corporation under s. 627.351(6) and with
2215 respect to risks that are not eligible for coverage from
2216 Citizens Property Insurance Corporation under s. 627.351(6) (a)3.
2217 or 5. A risk ineligible for Citizens coverage under s.
2218 627.351(6) (a)3. or 5. is exempt from the requirements of this
2219 section only if the risk is located within the boundaries of the
2220 high-risk account of the corporation.

2221 (2) A property insurer must make available, at the option
2222 of the policyholder, an exclusion of windstorm coverage.

2223 ~~(c) If the residential structure is eligible for wind-only~~
2224 ~~coverage from Citizens Property Insurance Corporation,~~ An
2225 insurer nonrenewing a policy and issuing a replacement policy,
2226 or issuing a new policy, that does not provide wind coverage
2227 shall provide a notice to the mortgageholder or lienholder
2228 indicating the policyholder has elected coverage that does not
2229 cover wind.

2230 Section 16. Section 631.65, Florida Statutes, is amended
2231 to read:

2232 631.65 Prohibited advertisement or solicitation.--No
2233 person shall make, publish, disseminate, circulate, or place
2234 before the public, or cause, directly or indirectly, to be made,
2235 published, disseminated, circulated, or placed before the
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2236 public, in a newspaper, magazine, or other publication, or in
2237 the form of a notice, circular, pamphlet, letter, or poster, or
2238 over any radio station or television station, or in any other
2239 way, any advertisement, announcement, or statement which uses
2240 the existence of the insurance guaranty association for the
2241 purpose of sales, solicitation, or inducement to purchase any
2242 form of insurance covered under this part. However, nothing in
2243 this section may be construed to prevent a duly licensed
2244 insurance agent from providing explanations concerning the
2245 existence or application of the insurance guaranty association
2246 to policyholders, prospective policyholders, or applicants for
2247 coverage.

2248 Section 17. The My Safe Florida Home Program specified in
2249 s. 215.5586, Florida Statutes, shall use the funds transferred
2250 to the Insurance Regulatory Trust Fund pursuant to s.
2251 627.351(6)(m)10., Florida Statutes, solely for the provision of
2252 mitigation grants in accordance with s. 215.5586(2), Florida
2253 Statutes, to policyholders of Citizens Property Insurance
2254 Corporation on June 1, 2009, who are otherwise eligible for
2255 grants from the My Safe Florida Home Program. The department
2256 shall establish a separate account within the trust fund for
2257 accounting purposes.

2258 Section 18. Section 626.854, Florida Statutes, is amended
2259 to read:

2260 626.854 "Public adjuster" defined; prohibitions.--The
2261 Legislature finds that it is necessary for the protection of the
2262 public to regulate public insurance adjusters and to prevent the
2263 unauthorized practice of law.

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2264 (1) A "public adjuster" is any person, except a duly
2265 licensed attorney at law as hereinafter in s. 626.860 provided,
2266 who, for money, commission, or any other thing of value,
2267 prepares, completes, or files an insurance claim form for an
2268 insured or third-party claimant or who, for money, commission,
2269 or any other thing of value, acts or aids in any manner on
2270 behalf of an insured or third-party claimant in negotiating for
2271 or effecting the settlement of a claim or claims for loss or
2272 damage covered by an insurance contract or who advertises for
2273 employment as an adjuster of such claims, and also includes any
2274 person who, for money, commission, or any other thing of value,
2275 solicits, investigates, or adjusts such claims on behalf of any
2276 such public adjuster.

2277 (2) This definition does not apply to:

2278 (a) A licensed health care provider or employee thereof
2279 who prepares or files a health insurance claim form on behalf of
2280 a patient.

2281 (b) A person who files a health claim on behalf of another
2282 and does so without compensation.

2283 (3) A public adjuster may not give legal advice. A public
2284 adjuster may not act on behalf of or aid any person in
2285 negotiating or settling a claim relating to bodily injury,
2286 death, or noneconomic damages.

2287 (4) For purposes of this section, the term "insured"
2288 includes only the policyholder and any beneficiaries named or
2289 similarly identified in the policy.

2290 (5) A public adjuster may not directly or indirectly
2291 through any other person or entity solicit an insured or
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2292 claimant by any means except on Monday through Saturday of each
2293 week and only between the hours of 8 a.m. and 8 p.m. on those
2294 days.

2295 (6) A public adjuster may not directly or indirectly
2296 through any other person or entity initiate contact or engage in
2297 face-to-face or telephonic solicitation or enter into a contract
2298 with any insured or claimant under an insurance policy until at
2299 least 48 hours after the occurrence of an event that may be the
2300 subject of a claim under the insurance policy unless contact is
2301 initiated by the insured or claimant.

2302 (7) An insured or claimant may cancel a public adjuster's
2303 contract to adjust a claim without penalty or obligation within
2304 3 business days after the date on which the contract is executed
2305 or within 3 business days after the date on which the insured or
2306 claimant has notified the insurer of the claim, by phone or in
2307 writing, whichever is later. The public adjuster's contract
2308 shall disclose to the insured or claimant his or her right to
2309 cancel the contract and advise the insured or claimant that
2310 notice of cancellation must be submitted in writing and sent by
2311 certified mail, return receipt requested, or other form of
2312 mailing which provides proof thereof, to the public adjuster at
2313 the address specified in the contract; provided, during any
2314 state of emergency as declared by the Governor and for a period
2315 of 1 year after the date of loss, the insured or claimant shall
2316 have 5 business days after the date on which the contract is
2317 executed to cancel a public adjuster's contract.

2318 (8) It is an unfair and deceptive insurance trade practice
2319 pursuant to s. 626.9541 for a public adjuster or any other
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2320 person to circulate or disseminate any advertisement,
2321 announcement, or statement containing any assertion,
2322 representation, or statement with respect to the business of
2323 insurance which is untrue, deceptive, or misleading.

2324 (9) A public adjuster, a public adjuster apprentice, or
2325 any person or entity acting on behalf of a public adjuster or
2326 public adjuster apprentice may not give or offer to give a
2327 monetary loan or advance to a client or prospective client.

2328 (10) A public adjuster, public adjuster apprentice, or any
2329 individual or entity acting on behalf of a public adjuster or
2330 public adjuster apprentice may not give or offer to give,
2331 directly or indirectly, any article of merchandise having a
2332 value in excess of \$25 to any individual for the purpose of
2333 advertising or as an inducement to entering into a contract with
2334 a public adjuster.

2335 (11) (a) If a public adjuster enters into a contract with
2336 an insured or claimant to reopen a claim or to file a
2337 supplemental claim that seeks additional payments for a claim
2338 that has been previously paid in part or in full or settled by
2339 the insurer, the public adjuster may not charge, agree to, or
2340 accept any compensation, payment, commission, fee, or other
2341 thing of value based on a previous settlement or previous claim
2342 payments by the insurer for the same cause of loss. The charge,
2343 compensation, payment, commission, fee, or other thing of value
2344 may be based only on the claim payments or settlement obtained
2345 through the work of the public adjuster after entering into the
2346 contract with the insured or claimant. The contracts described

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2347 in this paragraph are not subject to the limitations in
2348 paragraph (b).

2349 (b) A public adjuster may not charge, agree to, or accept
2350 any compensation, payment, commission, fee, or other thing of
2351 value in excess of:

2352 1. Ten percent of the amount of insurance claim payments
2353 by the insurer for claims based on events that are the subject
2354 of a declaration of a state of emergency by the Governor. This
2355 provision applies to claims made during the period of 1 year
2356 after the declaration of emergency.

2357 2. Twenty percent of the amount of all other insurance
2358 claim payments.

2359 (12) Each public adjuster shall provide to the claimant or
2360 insured a written estimate of the loss to assist in the
2361 submission of a proof of loss or any other claim for payment of
2362 insurance proceeds. The public adjuster shall retain such
2363 written estimate for at least 5 years and shall make such
2364 estimate available to the claimant or insured and the department
2365 upon request.

2366 (13) A public adjuster, public adjuster apprentice, or any
2367 person acting on behalf of a public adjuster or apprentice may
2368 not accept referrals of business from any person with whom the
2369 public adjuster conducts business if there is any form or manner
2370 of agreement to compensate the person, whether directly or
2371 indirectly, for referring business to the public adjuster. A
2372 public adjuster may not compensate any person, except for
2373 another public adjuster, whether directly or indirectly, for the
2374 principal purpose of referring business to the public adjuster.

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2375
2376 The provisions of subsections (5)-(13) ~~(5)-(12)~~ apply only to
2377 residential property insurance policies and condominium
2378 association policies as defined in s. 718.111(11).

2379 Section 19. Paragraph (e) of subsection (1) of section
2380 626.865, Florida Statutes, is amended to read:

2381 626.865 Public adjuster's qualifications, bond.--

2382 (1) The department shall issue a license to an applicant
2383 for a public adjuster's license upon determining that the
2384 applicant has paid the applicable fees specified in s. 624.501
2385 and possesses the following qualifications:

2386 ~~(e) Has passed the required written examination.~~

2387 Section 20. Section 626.8651, Florida Statutes, is amended
2388 to read:

2389 626.8651 Public adjuster apprentice license;
2390 qualifications.--

2391 (1) The department shall issue a license as a public
2392 adjuster apprentice to an applicant who is:

2393 (a) A natural person at least 18 years of age.

2394 (b) A United States citizen or legal alien who possesses
2395 work authorization from the United States Bureau of Citizenship
2396 and Immigration Services and is a resident of this state.

2397 (c) Trustworthy and has such business reputation as would
2398 reasonably ensure that the applicant will conduct business as a
2399 public adjuster apprentice fairly and in good faith and without
2400 detriment to the public.

2401 (2) All applicable license fees, as prescribed in s.
2402 624.501, must be paid in full before issuance of the license.

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2403 (3) The applicant must have passed the required written
2404 examination before issuance of the license.

2405 (4) At the time of application for license as a public
2406 adjuster apprentice, each applicant must have completed the
2407 training and received the Accredited Claims Adjuster designation
2408 which provides experience, training, and instruction concerning
2409 the adjusting of damages and losses under insurance contracts,
2410 other than life and annuity contracts, provides education on the
2411 terms and effects of the provisions of those types of insurance
2412 contracts, and provides knowledge of the laws of this state
2413 relating to such contracts as to enable and qualify him or her
2414 to engage in the business of a public adjuster apprentice fairly
2415 and without injury to the public or any member of the public
2416 with whom the applicant may conduct business as a public
2417 adjuster apprentice.

2418 (5)-(3) At the time of application for license as a public
2419 adjuster apprentice, the applicant shall file with the
2420 department a bond executed and issued by a surety insurer
2421 authorized to transact such business in this state in the amount
2422 of \$50,000, conditioned upon the faithful performance of his or
2423 her duties as a public adjuster apprentice under the license for
2424 which the applicant has applied, and thereafter maintain the
2425 bond unimpaired throughout the existence of the license and for
2426 at least 1 year after termination of the license. The bond shall
2427 be in favor of the department and shall specifically authorize
2428 recovery by the department of the damages sustained in case the
2429 licensee commits fraud or unfair practices in connection with
2430 his or her business as a public adjuster apprentice. The

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2431 aggregate liability of the surety for all such damages may not
2432 exceed the amount of the bond, and the bond may not be
2433 terminated by the issuing insurer unless written notice of at
2434 least 30 days is given to the licensee and filed with the
2435 department.

2436 ~~(6)~~(4) A public adjuster apprentice shall complete at a
2437 minimum 100 hours of employment per month for 12 months of
2438 employment under the supervision of a licensed and appointed
2439 all-lines public adjuster in order to qualify for licensure as a
2440 public adjuster. The department may adopt rules that establish
2441 standards for such employment requirements.

2442 ~~(7)~~(5) An appointing public adjusting firm shall maintain
2443 no more than 12 public adjuster apprentices simultaneously;
2444 however, a supervising public adjuster shall be responsible for
2445 no more than 3 public adjuster apprentices simultaneously and
2446 accountable for the acts of all a public adjuster apprentices
2447 that apprentice which are related to transacting business as a
2448 public adjuster apprentice.

2449 ~~(8)~~(6) An apprentice license is effective for 18 months
2450 unless the license expires due to lack of maintaining an
2451 appointment; is surrendered by the licensee; is terminated,
2452 suspended, or revoked by the department; or is canceled by the
2453 department upon issuance of a public adjuster license. The
2454 department may not issue a public adjuster apprentice license to
2455 any individual who has held such a license in this state within
2456 2 years after expiration, surrender, termination, revocation, or
2457 cancellation of the license.

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2458 ~~(9)~~~~(7)~~ After completing the requirements for employment as
2459 a public adjuster apprentice, the licensee may file an
2460 application for a public adjuster license. The applicant and
2461 supervising public adjuster or public adjusting firm must each
2462 file a sworn affidavit, on a form prescribed by the department,
2463 verifying that the employment of the public adjuster apprentice
2464 meets the requirements of this section.

2465 ~~(10)~~~~(8)~~ In no event shall a public adjuster apprentice
2466 licensed under this section perform any of the functions for
2467 which a public adjuster's license is required after expiration
2468 of the public adjuster apprentice license without having
2469 obtained a public adjuster license.

2470 ~~(11)~~~~(9)~~ A public adjuster apprentice has the same
2471 authority as the licensed public adjuster or public adjusting
2472 firm that employs the apprentice except that an apprentice may
2473 not execute contracts for the services of a public adjuster or
2474 public adjusting firm and may not solicit contracts for the
2475 services except under the direct supervision and guidance of the
2476 supervisory public adjuster. An individual may not be, act as,
2477 or hold himself or herself out to be a public adjuster
2478 apprentice unless the individual is licensed and holds a current
2479 appointment by a licensed public all-lines adjuster or a public
2480 adjusting firm that employs a licensed all-lines public
2481 adjuster.

2482 Section 21. Subsection (7) is added to section 627.7011,
2483 Florida Statutes, to read:

2484 627.7011 Homeowners' policies; offer of replacement cost
2485 coverage and law and ordinance coverage.--

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2486 (7) This section does not prohibit an insurer from
2487 exercising its right to repair damaged property in compliance
2488 with its policy and s. 627.702(7).

2489 Section 22. By February 1, 2010, the Office of Program
2490 Policy Analysis and Government Accountability shall submit a
2491 report to the Speaker of the House of Representatives, the
2492 President of the Senate, the Commissioner of Insurance, the
2493 Chief Financial Officer, and the Governor reviewing the laws
2494 governing public adjusters as defined in s. 626.854, Florida
2495 Statutes. The report shall include a review of relevant
2496 Citizens Property Insurance Corporation claims and statistics
2497 involving public adjusters, public adjuster claims submission
2498 practices, and a review of the laws of this state and rules
2499 governing public adjusters. The report shall also review state
2500 laws governing public adjusters throughout the United States.
2501 The review shall encompass a review of both catastrophe and
2502 noncatastrophe related claims, with a specific focus on new and
2503 supplemental or reopened catastrophe claims originated in 2009
2504 which relate to hurricanes that occurred in 2004 and 2005. The
2505 study shall review the effects on consumers of the laws of this
2506 state relating to public adjusters.

2507 Section 23. In the interest of full disclosure and
2508 transparency to insurance policy owners and since most insurance
2509 policies sold in this state are subject to assessments to make
2510 up for the funding deficiencies of the Citizens Property
2511 Insurance Corporation or the Florida Hurricane Catastrophe Fund,
2512 the following warning shall be printed in bold type of not less
2513 than 16 points and shall be displayed on the declarations page
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2514 or on the renewal notice of every insurance policy sold or
2515 issued in this state that is or may be subject to assessment by
2516 the Citizens Property Insurance Corporation or the Florida
2517 Hurricane Catastrophe Fund:

2518
2519 WARNING

2520 The premium you are about to pay may NOT be the full cost
2521 of this insurance policy. If a hurricane strikes Florida,
2522 you may be forced to pay additional moneys to offset the
2523 inability of the state-owned Citizens Property Insurance
2524 Corporation or the Florida Hurricane Catastrophe Fund to
2525 pay claims resulting from the losses due to the
2526 hurricane.

2527
2528 Section 24. Paragraph (o) of subsection (1) of section
2529 626.9541, Florida Statutes, is amended to read:

2530 626.9541 Unfair methods of competition and unfair or
2531 deceptive acts or practices defined.--

2532 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
2533 ACTS.--The following are defined as unfair methods of
2534 competition and unfair or deceptive acts or practices:

2535 (o) Illegal dealings in premiums; excess or reduced
2536 charges for insurance.--

2537 1. Knowingly collecting any sum as a premium or charge for
2538 insurance, which is not then provided, or is not in due course
2539 to be provided, subject to acceptance of the risk by the
2540 insurer, by an insurance policy issued by an insurer as
2541 permitted by this code.

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2542 2. Knowingly collecting as a premium or charge for
2543 insurance any sum in excess of or less than the premium or
2544 charge applicable to such insurance, in accordance with the
2545 applicable classifications and rates as filed with and approved
2546 by the office, and as specified in the policy; or, in cases when
2547 classifications, premiums, or rates are not required by this
2548 code to be so filed and approved, premiums and charges collected
2549 from a Florida resident in excess of or less than those
2550 specified in the policy and as fixed by the insurer. This
2551 provision shall not be deemed to prohibit the charging and
2552 collection, by surplus lines agents licensed under part VIII of
2553 this chapter, of the amount of applicable state and federal
2554 taxes, or fees as authorized by s. 626.916(4), in addition to
2555 the premium required by the insurer or the charging and
2556 collection, by licensed agents, of the exact amount of any
2557 discount or other such fee charged by a credit card facility in
2558 connection with the use of a credit card, as authorized by
2559 subparagraph (q)3., in addition to the premium required by the
2560 insurer. This subparagraph shall not be construed to prohibit
2561 collection of a premium for a universal life or a variable or
2562 indeterminate value insurance policy made in accordance with the
2563 terms of the contract.

2564 3.a. Imposing or requesting an additional premium for a
2565 policy of motor vehicle liability, personal injury protection,
2566 medical payment, or collision insurance or any combination
2567 thereof or refusing to renew the policy solely because the
2568 insured was involved in a motor vehicle accident unless the
2569 insurer's file contains information from which the insurer in
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2570 good faith determines that the insured was substantially at
2571 fault in the accident.

2572 b. An insurer which imposes and collects such a surcharge
2573 or which refuses to renew such policy shall, in conjunction with
2574 the notice of premium due or notice of nonrenewal, notify the
2575 named insured that he or she is entitled to reimbursement of
2576 such amount or renewal of the policy under the conditions listed
2577 below and will subsequently reimburse him or her or renew the
2578 policy, if the named insured demonstrates that the operator
2579 involved in the accident was:

2580 (I) Lawfully parked;

2581 (II) Reimbursed by, or on behalf of, a person responsible
2582 for the accident or has a judgment against such person;

2583 (III) Struck in the rear by another vehicle headed in the
2584 same direction and was not convicted of a moving traffic
2585 violation in connection with the accident;

2586 (IV) Hit by a "hit-and-run" driver, if the accident was
2587 reported to the proper authorities within 24 hours after
2588 discovering the accident;

2589 (V) Not convicted of a moving traffic violation in
2590 connection with the accident, but the operator of the other
2591 automobile involved in such accident was convicted of a moving
2592 traffic violation;

2593 (VI) Finally adjudicated not to be liable by a court of
2594 competent jurisdiction;

2595 (VII) In receipt of a traffic citation which was dismissed
2596 or nolle prossed; or

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2597 (VIII) Not at fault as evidenced by a written statement
2598 from the insured establishing facts demonstrating lack of fault
2599 which are not rebutted by information in the insurer's file from
2600 which the insurer in good faith determines that the insured was
2601 substantially at fault.

2602 c. In addition to the other provisions of this
2603 subparagraph, an insurer may not fail to renew a policy if the
2604 insured has had only one accident in which he or she was at
2605 fault within the current 3-year period. However, an insurer may
2606 nonrenew a policy for reasons other than accidents in accordance
2607 with s. 627.728. This subparagraph does not prohibit nonrenewal
2608 of a policy under which the insured has had three or more
2609 accidents, regardless of fault, during the most recent 3-year
2610 period.

2611 4. Imposing or requesting an additional premium for, or
2612 refusing to renew, a policy for motor vehicle insurance solely
2613 because the insured committed a noncriminal traffic infraction
2614 as described in s. 318.14 unless the infraction is:

2615 a. A second infraction committed within an 18-month
2616 period, or a third or subsequent infraction committed within a
2617 36-month period.

2618 b. A violation of s. 316.183, when such violation is a
2619 result of exceeding the lawful speed limit by more than 15 miles
2620 per hour.

2621 5. Upon the request of the insured, the insurer and
2622 licensed agent shall supply to the insured the complete proof of
2623 fault or other criteria which justifies the additional charge or
2624 cancellation.

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2625 6. No insurer shall impose or request an additional
2626 premium for motor vehicle insurance, cancel or refuse to issue a
2627 policy, or refuse to renew a policy because the insured or the
2628 applicant is a handicapped or physically disabled person, so
2629 long as such handicap or physical disability does not
2630 substantially impair such person's mechanically assisted driving
2631 ability.

2632 7. No insurer may cancel or otherwise terminate any
2633 insurance contract or coverage, or require execution of a
2634 consent to rate endorsement, during the stated policy term for
2635 the purpose of offering to issue, or issuing, a similar or
2636 identical contract or coverage to the same insured with the same
2637 exposure at a higher premium rate or continuing an existing
2638 contract or coverage with the same exposure at an increased
2639 premium.

2640 8. No insurer may issue a nonrenewal notice on any
2641 insurance contract or coverage, or require execution of a
2642 consent to rate endorsement, for the purpose of offering to
2643 issue, or issuing, a similar or identical contract or coverage
2644 to the same insured at a higher premium rate or continuing an
2645 existing contract or coverage at an increased premium without
2646 meeting any applicable notice requirements.

2647 9. No insurer shall, with respect to premiums charged for
2648 motor vehicle insurance, unfairly discriminate solely on the
2649 basis of age, sex, marital status, or scholastic achievement.

2650 10. Imposing or requesting an additional premium for motor
2651 vehicle comprehensive or uninsured motorist coverage solely

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2652 because the insured was involved in a motor vehicle accident or
2653 was convicted of a moving traffic violation.

2654 11. No insurer shall cancel or issue a nonrenewal notice
2655 on any insurance policy or contract without complying with any
2656 applicable cancellation or nonrenewal provision required under
2657 the Florida Insurance Code.

2658 12. No insurer shall impose or request an additional
2659 premium, cancel a policy, or issue a nonrenewal notice on any
2660 insurance policy or contract because of any traffic infraction
2661 when adjudication has been withheld and no points have been
2662 assessed pursuant to s. 318.14(9) and (10). However, this
2663 subparagraph does not apply to traffic infractions involving
2664 accidents in which the insurer has incurred a loss due to the
2665 fault of the insured.

2666 13. Notwithstanding this paragraph, a licensed general
2667 lines agent may also collect a reasonable service charge, not to
2668 exceed \$5, from the insured when the licensed general lines
2669 agent processes, as a convenience and accommodation to the
2670 insured, an installment payment from the insured to the
2671 insurance company or premium finance company when such payments
2672 can be made directly to the insurance company or premium finance
2673 company by the insured. In no case may an agent collect more
2674 than one service charge for any single payment, and a schedule
2675 of any such service charge must be prominently posted in the
2676 public area of the agency and also on the agency's website if a
2677 service charge is to be collected.

2678 Section 25. Subsection (7) is added to section 624.46226,
2679 Florida Statutes, to read:

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Amendment No.

2680 624.46226 Public housing authorities self-insurance funds;
2681 exemption for taxation and assessments.--

2682 (7) Reinsurance companies complying with s. 624.610 may
2683 issue coverage directly to a public housing authority self-
2684 insuring its liabilities under this section. A public housing
2685 authority purchasing reinsurance shall be considered an insurer
2686 for the sole purpose of entering into such reinsurance
2687 contracts. Contracts of reinsurance issued to public housing
2688 authorities self-insuring under this section shall receive the
2689 same tax treatment as reinsurance contracts issued to insurance
2690 companies. However, the purchase of reinsurance coverage by a
2691 public housing authority self-insuring under this section shall
2692 not be construed as authorization to otherwise act as an
2693 insurer.

2694 Section 26. All rating agencies or rating services must
2695 clearly state in their public reports and ratings whether they
2696 allowed any reinsurance from the Florida Hurricane Catastrophe
2697 Fund to be counted as an asset of the rated entity.

2698 Section 27. This act shall take effect upon becoming a
2699 law.

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2702

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

2704 Remove lines 2194-2334 and insert:
2705 An act relating to property and casualty insurance; amending s.
2706 215.47, F.S.; authorizing the State Board of Administration to
2707 invest in certain revenue bonds under certain circumstances;
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HOUSE AMENDMENT

Bill No. CS/CS/CS/HB 1495

Amendment No.

2708 amending s. 215.555, F.S., relating to the Florida Hurricane
2709 Catastrophe Fund; revising the dates of an insurer's contract
2710 year for purposes of calculating the insurer's retention;
2711 revising reimbursement contract coverage payment provisions;
2712 extending application of provisions relating to reimbursement
2713 contracts; revising the dates on which the State Board of
2714 Administration is required to publish a statement of the
2715 estimated borrowing capacity of the Florida Hurricane
2716 Catastrophe Fund; requiring the board to publish a statement of
2717 the estimated claims-paying capacity of the Florida Hurricane
2718 Catastrophe Fund; requiring a reimbursement premium formula to
2719 provide cash build-up factors for certain contract years;
2720 extending provisions relating to temporary increase in coverage
2721 limit operations for the fund; providing additional
2722 reimbursement requirements for temporary increase in coverage
2723 addenda for additional contract years; expanding the powers and
2724 duties of the board; specifying required increases in TICL
2725 reimbursement premiums for certain contract years; specifying
2726 nonapplication of cash build-up factors to TICL reimbursement
2727 premiums; deleting authority for the State Board of
2728 Administration to increase the claims-paying capacity of the
2729 fund; amending s. 215.5586, F.S., relating to the My Safe
2730 Florida Home Program; revising legislative intent; revising
2731 criteria for hurricane mitigation inspections; revising criteria
2732 for eligibility for a mitigation grant; expanding the list of
2733 improvements for which grants may be used; deleting provisions
2734 relating to no-interest loans; requiring that contracts valued
2735 at or greater than a specified amount be subject to review and
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HOUSE AMENDMENT

Bill No. CS/CS/CS/HB 1495

Amendment No.

2736 approval by the Legislative Budget Commission; requiring the
2737 Department of Financial Services to implement a condominium
2738 weatherization and mitigation loan program for certain purposes;
2739 specifying program requirements; specifying an administration
2740 requirement for the program; requiring the department to adopt
2741 rules; amending s. 624.4622, F.S.; prohibiting withdrawal notice
2742 requirements of longer than 30 days for members of a local
2743 government self-insurance fund; requiring local government self-
2744 insurance funds to submit an affidavit to specified entities;
2745 specifying affidavit contents; amending s. 624.605, F.S.;
2746 revising the definition of the term "casualty insurance" to
2747 include certain debt cancellation products sold or leased by
2748 certain business entities; amending s.626.753, F.S.; prohibiting
2749 certain uses of commissions derived from the sale of crop hail
2750 or multiple-peril crop insurance which are shared between
2751 certain agents and certain production credit associations or
2752 federal land bank associations; providing penalties; providing
2753 that patronage dividends and other payments to members of
2754 production credit associations or federal land bank associations
2755 are unlawful rebates under certain circumstances; providing
2756 penalties for an agent who shares commissions with a production
2757 credit association or federal land bank association under
2758 certain circumstances; amending s. 626.9541, F.S.; specifying
2759 that certain patronage dividends and other payments are unfair
2760 methods of competition and unfair or deceptive acts; providing
2761 penalties; amending s. 627.062, F.S.; extending application of
2762 file and use filing requirements for certain property insurance
2763 filings; prohibiting the Office of Insurance Regulation from
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HOUSE AMENDMENT

Bill No. CS/CS/CS/HB 1495

Amendment No.

2764 interfering with an insurer's right to solicit, sell, promote,
2765 or otherwise acquire policyholders and implement coverage;
2766 specifying limited application to certain rates; specifying that
2767 certain rate filings are not subject to office determination as
2768 excessive or unfairly discriminatory; providing limitations;
2769 providing a definition; prohibiting certain rate filings under
2770 certain circumstances; preserving the office's authority to
2771 disapprove certain rate filings under certain circumstances;
2772 providing procedures for insurers submitting certain rate
2773 filings; specifying nonapplication to certain types of
2774 insurance; amending s. 627.0621, F.S.; deleting a limitation on
2775 the application of the attorney-client privilege and work
2776 product doctrine in challenges to actions by the office relating
2777 to rate filings; amending s. 627.0628, F.S.; requiring the
2778 Florida Commission on Hurricane Loss Projection Methodology to
2779 hold public meetings for purposes of implementing certain
2780 windstorm mitigation discounts, credits, other rate
2781 differentials, and deductible reductions; requiring a report to
2782 the Governor, Cabinet, and Legislature; amending s. 627.0629,
2783 F.S.; requiring certain hurricane mitigation measure discounts,
2784 credits, and rate differentials to supersede certain other
2785 discounts, credits, and rate differentials; authorizing
2786 residential property insurers to include reinsurance costs
2787 without certain TICL adjustments; amending s. 627.0655, F.S.;;
2788 discontinuing authorization for a premium discount for a
2789 policyholder having multiple policies from Citizens Property
2790 Insurance Corporation or a policy that has been removed from the
2791 corporation by another insurer; amending s. 627.351, F.S.;

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HOUSE AMENDMENT

Bill No. CS/CS/CS/HB 1495

Amendment No.

2792 deleting application of certain personal lines residential
2793 property insurance requirements for wind-borne debris regions
2794 insured by the corporation; revising the basis of a surcharge to
2795 offset an account deficit; providing for members of the board of
2796 governors of the corporation to serve staggered terms; providing
2797 exceptions to actuarially sound rate requirements for the
2798 corporation; providing legislative findings; requiring the
2799 corporation to implement certain actuarially sound rates for
2800 certain lines of business; providing limitations; providing for
2801 cessation of certain rate increases upon implementation of
2802 actuarially sound rates; requiring the corporation to transfer
2803 certain funds from the rate increase to the Insurance Regulatory
2804 Trust Fund in the Department of Financial Services for a certain
2805 time; deleting certain wind-only coverage maximum loss reporting
2806 requirements; amending s. 627.711, F.S.; revising eligible
2807 entities authorized to certify uniform mitigation inspection
2808 forms; authorizing insurers to contract with inspection firms to
2809 review certain verification forms and reinspect properties for
2810 certain purposes; providing for such contracts to be at the
2811 insurer's expense; providing a criminal penalty for knowingly
2812 submitting a false or fraudulent mitigation form with the intent
2813 to receive an undeserved discount; amending s. 627.712, F.S.;
2814 providing an additional exception to residential property
2815 insurance windstorm coverage requirements for certain risks;
2816 expanding a requirement that insurers notify mortgageholders or
2817 lienholders of policyholder elections for coverage not covering
2818 wind; amending s. 631.65, F.S.; providing construction relating
2819 to certain prohibited advertisements or solicitations; requiring
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HOUSE AMENDMENT

Bill No. CS/CS/CS/HB 1495

Amendment No.

2820 the My Safe Florida Home Program to use certain funds for
2821 certain mitigation grants; authorizing the department to
2822 establish a separate account in the trust fund for accounting
2823 purposes; amending s. 626.854, F.S.; prohibiting public
2824 adjusters from compensating, or agreeing to compensate, any
2825 person for referrals of business; providing an exception;
2826 amending s. 626.865, F.S.; revising qualifications for public
2827 adjuster's license; deleting requirement that applicant for
2828 public adjuster's license pass a written examination; amending
2829 s. 626.8651, F.S.; revising qualifications for public adjuster
2830 apprentice license; requiring that applicant for public adjuster
2831 apprentice license pass a written examination, complete certain
2832 training, and receive a specified designation; limiting the
2833 number of public adjuster apprentices that may appointed by a
2834 public adjusting firm or supervised by a supervising public
2835 adjuster; amending s. 627.7011, F.S.; specifying that provisions
2836 regulating homeowners' policies do not prohibit insurers from
2837 repairing damaged property; requiring the Office of Program
2838 Policy Analysis and Government Accountability to submit a report
2839 to the Legislature, Commissioner of Insurance, Chief Financial
2840 Officer, and Governor reviewing laws governing public adjuster;
2841 specifying review requirements; specifying a required notice for
2842 insurance policies issued or renewed in this state; providing
2843 notice requirements; amending s. 626.9541, F.S.; authorizing
2844 licensed general lines agents to collect a service charge for
2845 processing certain installment payments under certain
2846 circumstances; providing a limitation; providing requirements;
2847 amending s. 624.46226, F.S.; authorizing reinsurance companies
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HOUSE AMENDMENT

Bill No. CS/CS/CS/HB 1495

Amendment No.

2848 to issue coverage directly to certain public housing authorities
2849 under certain circumstances; specifying that a public housing
2850 authority is considered an insurer under certain circumstances;
2851 requiring that certain reinsurance contracts issued to public
2852 housing authorities receive the same tax treatment as contracts
2853 issued to insurance companies; providing construction; requiring
2854 rating agencies or rating services to disclose certain
2855 information in public reports and ratings; providing an
2856 effective date.
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