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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/3R	.	Floor: C
04/28/2009 09:33 AM	.	05/01/2009 12:16 PM
	.	

Senator Richter moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) of subsection (2), subsection (4),
paragraph (b) of subsection (5), and subsections (7) and (17) of
section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(2) DEFINITIONS.—As used in this section:

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



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13 1. The board shall calculate and report to each insurer the
14 retention multiples for that year. For the contract year
15 beginning June 1, 2005, the retention multiple shall be equal to
16 \$4.5 billion divided by the total estimated reimbursement
17 premium for the contract year; for subsequent years, the
18 retention multiple shall be equal to \$4.5 billion, adjusted
19 based upon the reported exposure from the prior contract year to
20 reflect the percentage growth in exposure to the fund for
21 covered policies since 2004, divided by the total estimated
22 reimbursement premium for the contract year. Total reimbursement
23 premium for purposes of the calculation under this subparagraph
24 shall be estimated using the assumption that all insurers have
25 selected the 90-percent coverage level. In 2010, the contract
26 year begins June 1 and ends December 31, 2010. In 2011 and
27 thereafter, the contract year begins January 1 and ends December
28 31.

29 2. The retention multiple as determined under subparagraph
30 1. shall be adjusted to reflect the coverage level elected by
31 the insurer. For insurers electing the 90-percent coverage
32 level, the adjusted retention multiple is 100 percent of the
33 amount determined under subparagraph 1. For insurers electing
34 the 75-percent coverage level, the retention multiple is 120
35 percent of the amount determined under subparagraph 1. For
36 insurers electing the 45-percent coverage level, the adjusted
37 retention multiple is 200 percent of the amount determined under
38 subparagraph 1.

39 3. An insurer shall determine its provisional retention by
40 multiplying its provisional reimbursement premium by the
41 applicable adjusted retention multiple and shall determine its



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42 actual retention by multiplying its actual reimbursement premium
43 by the applicable adjusted retention multiple.

44 4. For insurers who experience multiple covered events
45 causing loss during the contract year, beginning June 1, 2005,
46 each insurer's full retention shall be applied to each of the
47 covered events causing the two largest losses for that insurer.
48 For each other covered event resulting in losses, the insurer's
49 retention shall be reduced to one-third of the full retention.
50 The reimbursement contract shall provide for the reimbursement
51 of losses for each covered event based on the full retention
52 with adjustments made to reflect the reduced retentions on or
53 after January 1 of the contract year provided the insurer
54 reports its losses as specified in the reimbursement contract.

55 (4) REIMBURSEMENT CONTRACTS.-

56 (a) The board shall enter into a contract with each insurer
57 writing covered policies in this state to provide to the insurer
58 the reimbursement described in paragraphs (b) and (d), in
59 exchange for the reimbursement premium paid into the fund under
60 subsection (5). As a condition of doing business in this state,
61 each such insurer shall enter into such a contract.

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

67 2. The insurer must elect one of the percentage coverage
68 levels specified in this paragraph and may, upon renewal of a
69 reimbursement contract, elect a lower percentage coverage level
70 if no revenue bonds issued under subsection (6) after a covered



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71 event are outstanding, or elect a higher percentage coverage
72 level, regardless of whether or not revenue bonds are
73 outstanding. All members of an insurer group must elect the same
74 percentage coverage level. Any joint underwriting association,
75 risk apportionment plan, or other entity created under s.
76 627.351 must elect the 90-percent coverage level.

77 3. The contract shall provide that reimbursement amounts
78 shall not be reduced by reinsurance paid or payable to the
79 insurer from other sources.

80 4. Notwithstanding any other provision contained in this
81 section, the board shall make available to insurers that
82 purchased coverage provided by this subparagraph in 2008 ~~2007~~,
83 insurers qualifying as limited apportionment companies under s.
84 627.351(6)(c), and insurers that have been approved to
85 participate in the Insurance Capital Build-Up Incentive Program
86 pursuant to s. 215.5595 a contract or contract addendum that
87 provides an additional amount of reimbursement coverage of up to
88 \$10 million. The premium to be charged for this additional
89 reimbursement coverage shall be 50 percent of the additional
90 reimbursement coverage provided, which shall include one prepaid
91 reinstatement. The minimum retention level that an eligible
92 participating insurer must retain associated with this
93 additional coverage layer is 30 percent of the insurer's surplus
94 as of December 31, 2008, for the 2009 contract year; as of
95 December 31, 2009, for the 2010 contract year; and as of
96 December 31, 2010, for the 2011 contract year ~~December 31, 2007~~.
97 This coverage shall be in addition to all other coverage that
98 may be provided under this section. The coverage provided by the
99 fund under this subparagraph shall be in addition to the claims-



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

119 (c)1. The contract shall also provide that the obligation
120 of the board with respect to all contracts covering a particular
121 contract year shall not exceed the actual claims-paying capacity
122 of the fund up to a limit of \$15 billion for that contract year
123 adjusted based upon the reported exposure from the prior
124 contract year to reflect the percentage growth in exposure to
125 the fund for covered policies since 2003, provided the dollar
126 growth in the limit may not increase in any year by an amount
127 greater than the dollar growth of the balance of the fund as of
128 December 31, less any premiums or interest attributable to



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129 optional coverage, as defined by rule which occurred over the
130 prior calendar year.

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

152 (d)1. For purposes of determining potential liability and
153 to aid in the sound administration of the fund, the contract
154 shall require each insurer to report such insurer's losses from
155 each covered event on an interim basis, as directed by the
156 board. The contract shall require the insurer to report to the
157 board no later than December 31 of each year, and quarterly



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158 thereafter, its reimbursable losses from covered events for the
159 year. The contract shall require the board to determine and pay,
160 as soon as practicable after receiving these reports of
161 reimbursable losses, the initial amount of reimbursement due and
162 adjustments to this amount based on later loss information. The
163 adjustments to reimbursement amounts shall require the board to
164 pay, or the insurer to return, amounts reflecting the most
165 recent calculation of losses.

166 2. In determining reimbursements pursuant to this
167 subsection, the contract shall provide that the board shall pay
168 to each insurer such insurer's projected payout, which is the
169 amount of reimbursement it is owed, up to an amount equal to the
170 insurer's share of the actual premium paid for that contract
171 year, multiplied by the actual claims-paying capacity available
172 for that contract year.

173 3. The board may reimburse insurers for amounts up to the
174 published factors or multiples for determining each
175 participating insurer's retention and projected payout derived
176 as a result of the development of the premium formula in those
177 situations in which the total reimbursement of losses to such
178 insurers would not exceed the estimated claims-paying capacity
179 of the fund. Otherwise, such factors or multiples shall be
180 reduced uniformly among all insurers to reflect the estimated
181 claims-paying capacity.

182 (e)1. Except as provided in subparagraphs 2. and 3., the
183 contract shall provide that if an insurer demonstrates to the
184 board that it is likely to qualify for reimbursement under the
185 contract, and demonstrates to the board that the immediate
186 receipt of moneys from the board is likely to prevent the



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187 insurer from becoming insolvent, the board shall advance the
188 insurer, at market interest rates, the amounts necessary to
189 maintain the solvency of the insurer, up to 50 percent of the
190 board's estimate of the reimbursement due the insurer. The
191 insurer's reimbursement shall be reduced by an amount equal to
192 the amount of the advance and interest thereon.

193 2. With respect only to an entity created under s. 627.351,
194 the contract shall also provide that the board may, upon
195 application by such entity, advance to such entity, at market
196 interest rates, up to 90 percent of the lesser of:

197 a. The board's estimate of the amount of reimbursement due
198 to such entity; or

199 b. The entity's share of the actual reimbursement premium
200 paid for that contract year, multiplied by the currently
201 available liquid assets of the fund. In order for the entity to
202 qualify for an advance under this subparagraph, the entity must
203 demonstrate to the board that the advance is essential to allow
204 the entity to pay claims for a covered event and the board must
205 determine that the fund's assets are sufficient and are
206 sufficiently liquid to allow the board to make an advance to the
207 entity and still fulfill the board's reimbursement obligations
208 to other insurers. The entity's final reimbursement for any
209 contract year in which an advance has been made under this
210 subparagraph must be reduced by an amount equal to the amount of
211 the advance and any interest on such advance. In order to
212 determine what amounts, if any, are due the entity, the board
213 may require the entity to report its exposure and its losses at
214 any time to determine retention levels and reimbursements
215 payable.



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216 3. The contract shall also provide specifically and solely
217 with respect to any limited apportionment company under s.
218 627.351(2)(b)3. that the board may, upon application by such
219 company, advance to such company the amount of the estimated
220 reimbursement payable to such company as calculated pursuant to
221 paragraph (d), at market interest rates, if the board determines
222 that the fund's assets are sufficient and are sufficiently
223 liquid to permit the board to make an advance to such company
224 and at the same time fulfill its reimbursement obligations to
225 the insurers that are participants in the fund. Such company's
226 final reimbursement for any contract year in which an advance
227 pursuant to this subparagraph has been made shall be reduced by
228 an amount equal to the amount of the advance and interest
229 thereon. In order to determine what amounts, if any, are due to
230 such company, the board may require such company to report its
231 exposure and its losses at such times as may be required to
232 determine retention levels and loss reimbursements payable.

233 (f) In order to ensure that insurers have properly reported
234 the insured values on which the reimbursement premium is based
235 and to ensure that insurers have properly reported the losses
236 for which reimbursements have been made, the board shall
237 inspect, examine, and verify the records of each insurer's
238 covered policies at such times as the board deems appropriate
239 and according to standards established by rule for the specific
240 purpose of validating the accuracy of exposures and losses
241 required to be reported under the terms and conditions of the
242 reimbursement contract. The costs of the examinations shall be
243 borne by the board. However, in order to remove any incentive
244 for an insurer to delay preparations for an examination, the



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245 board shall be reimbursed by the insurer for any examination
246 expenses incurred in addition to the usual and customary costs
247 of the examination, which additional expenses were incurred as a
248 result of an insurer's failure, despite proper notice, to be
249 prepared for the examination or as a result of an insurer's
250 failure to provide requested information while the examination
251 is in progress. If the board finds any insurer's records or
252 other necessary information to be inadequate or inadequately
253 posted, recorded, or maintained, the board may employ experts to
254 reconstruct, rewrite, record, post, or maintain such records or
255 information, at the expense of the insurer being examined, if
256 such insurer has failed to maintain, complete, or correct such
257 records or deficiencies after the board has given the insurer
258 notice and a reasonable opportunity to do so. Any information
259 contained in an examination report, which information is
260 described in s. 215.557, is confidential and exempt from the
261 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
262 Constitution, as provided in s. 215.557. Nothing in this
263 paragraph expands the exemption in s. 215.557.

264 (g) The contract shall provide that in the event of the
265 insolvency of an insurer, the fund shall pay directly to the
266 Florida Insurance Guaranty Association for the benefit of
267 Florida policyholders of the insurer the net amount of all
268 reimbursement moneys owed to the insurer. As used in this
269 paragraph, the term "net amount of all reimbursement moneys"
270 means that amount which remains after reimbursement for:

271 1. Preliminary or duplicate payments owed to private
272 reinsurers or other inuring reinsurance payments to private
273 reinsurers that satisfy statutory or contractual obligations of



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274 the insolvent insurer attributable to covered events to such
275 reinsurers; or

276 2. Funds owed to a bank or other financial institution to
277 cover obligations of the insolvent insurer under a credit
278 agreement that assists the insolvent insurer in paying claims
279 attributable to covered events.

280

281 The private reinsurers, banks, or other financial institutions
282 shall be reimbursed or otherwise paid prior to payment to the
283 Florida Insurance Guaranty Association, notwithstanding any law
284 to the contrary. The guaranty association shall pay all claims
285 up to the maximum amount permitted by chapter 631; thereafter,
286 any remaining moneys shall be paid pro rata to claims not fully
287 satisfied. This paragraph does not apply to a joint underwriting
288 association, risk apportionment plan, or other entity created
289 under s. 627.351.

290 (5) REIMBURSEMENT PREMIUMS.—

291 (b) The State Board of Administration shall select an
292 independent consultant to develop a formula for determining the
293 actuarially indicated premium to be paid to the fund. The
294 formula shall specify, for each zip code or other limited
295 geographical area, the amount of premium to be paid by an
296 insurer for each \$1,000 of insured value under covered policies
297 in that zip code or other area. In establishing premiums, the
298 board shall consider the coverage elected under paragraph (4) (b)
299 and any factors that tend to enhance the actuarial
300 sophistication of ratemaking for the fund, including
301 deductibles, type of construction, type of coverage provided,
302 relative concentration of risks, and other such factors deemed



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303 by the board to be appropriate. The formula must provide for a
304 cash build-up factor. For the 2009-2010 contract year, the
305 factor is 5 percent. For the contract year beginning June 1,
306 2010, and ending December 31, 2010, the factor is 10 percent.
307 For the 2011 contract year, the factor is 15 percent. For the
308 2012 contract year, the factor is 20 percent. For the 2013
309 contract year and thereafter, the factor is 25 percent. The
310 formula may provide for a procedure to determine the premiums to
311 be paid by new insurers that begin writing covered policies
312 after the beginning of a contract year, taking into
313 consideration when the insurer starts writing covered policies,
314 the potential exposure of the insurer, the potential exposure of
315 the fund, the administrative costs to the insurer and to the
316 fund, and any other factors deemed appropriate by the board. The
317 formula must be approved by unanimous vote of the board. The
318 board may, at any time, revise the formula pursuant to the
319 procedure provided in this paragraph.

320 (7) ADDITIONAL POWERS AND DUTIES.—

321 (a) The board may procure reinsurance from reinsurers
322 acceptable to the Office of Insurance Regulation for the purpose
323 of maximizing the capacity of the fund and may enter into
324 capital market transactions, including, but not limited to,
325 industry loss warranties, catastrophe bonds, side-car
326 arrangements, or financial contracts permissible for the board's
327 usage under s. 215.47(10) and (11), consistent with prudent
328 management of the fund.

329 (b) In addition to borrowing under subsection (6), the
330 board may also borrow from, or enter into other financing
331 arrangements with, any market sources at prevailing interest



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332 rates.

333 (c) Each fiscal year, the Legislature shall appropriate
334 from the investment income of the Florida Hurricane Catastrophe
335 Fund an amount no less than \$10 million and no more than 35
336 percent of the investment income based upon the most recent
337 fiscal year-end audited financial statements for the purpose of
338 providing funding for local governments, state agencies, public
339 and private educational institutions, and nonprofit
340 organizations to support programs intended to improve hurricane
341 preparedness, reduce potential losses in the event of a
342 hurricane, provide research into means to reduce such losses,
343 educate or inform the public as to means to reduce hurricane
344 losses, assist the public in determining the appropriateness of
345 particular upgrades to structures or in the financing of such
346 upgrades, or protect local infrastructure from potential damage
347 from a hurricane. Moneys shall first be available for
348 appropriation under this paragraph in fiscal year 1997-1998.
349 Moneys in excess of the \$10 million specified in this paragraph
350 shall not be available for appropriation under this paragraph if
351 the State Board of Administration finds that an appropriation of
352 investment income from the fund would jeopardize the actuarial
353 soundness of the fund.

354 (d) The board may allow insurers to comply with reporting
355 requirements and reporting format requirements by using
356 alternative methods of reporting if the proper administration of
357 the fund is not thereby impaired and if the alternative methods
358 produce data which is consistent with the purposes of this
359 section.

360 (e) In order to assure the equitable operation of the fund,



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361 the board may impose a reasonable fee on an insurer to recover
362 costs involved in reprocessing inaccurate, incomplete, or
363 untimely exposure data submitted by the insurer.

364 (f) The board may require insurers to notarize documents
365 submitted to the board.

366 (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

367 (a) Findings and intent.—

368 1. The Legislature finds that:

369 a. Because of temporary disruptions in the market for
370 catastrophic reinsurance, many property insurers were unable to
371 procure sufficient amounts of reinsurance for the 2006 hurricane
372 season or were able to procure such reinsurance only by
373 incurring substantially higher costs than in prior years.

374 b. The reinsurance market problems were responsible, at
375 least in part, for substantial premium increases to many
376 consumers and increases in the number of policies issued by
377 Citizens Property Insurance Corporation.

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

380 2. It is the intent of the Legislature to create options
381 for insurers to purchase a temporary increased coverage limit
382 above the statutorily determined limit in subparagraph (4)(c)1.,
383 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and
384 2013 hurricane seasons, to address market disruptions and enable
385 insurers, at their option, to procure additional coverage from
386 the Florida Hurricane Catastrophe Fund.

387 (b) Applicability of other provisions of this section.—All
388 provisions of this section and the rules adopted under this
389 section apply to the coverage created by this subsection unless



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390 specifically superseded by provisions in this subsection.

391 (c) Optional coverage.—For the contract year commencing
392 June 1, 2007, and ending May 31, 2008, the contract year
393 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the
394 contract year commencing June 1, 2009, and ending May 31, 2010,
395 the contract year commencing June 1, 2010, and ending December
396 31, 2010, the contract year commencing January 1, 2011, and
397 ending December 31, 2011, the contract year commencing January
398 1, 2012, and ending December 31, 2012, and the contract year
399 commencing January 1, 2013, and ending December 31, 2013, the
400 board shall offer, for each of such years, the optional coverage
401 as provided in this subsection.

402 (d) Additional definitions.—As used in this subsection, the
403 term:

404 1. "FHCF" means Florida Hurricane Catastrophe Fund.

405 2. "FHCF reimbursement premium" means the premium paid by
406 an insurer for its coverage as a mandatory participant in the
407 FHCF, but does not include additional premiums for optional
408 coverages.

409 3. "Payout multiple" means the number or multiple created
410 by dividing the statutorily defined claims-paying capacity as
411 determined in subparagraph (4)(c)1. by the aggregate
412 reimbursement premiums paid by all insurers estimated or
413 projected as of calendar year-end.

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

415 5. "TICL options" means the temporary increase in coverage
416 options created under this subsection.

417 6. "TICL insurer" means an insurer that has opted to obtain
418 coverage under the TICL options addendum in addition to the



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419 coverage provided to the insurer under its FHCF reimbursement
420 contract.

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

423 8. "TICL coverage multiple" means the coverage multiple
424 when multiplied by an insurer's reimbursement premium that
425 defines the temporary increase in coverage limit.

426 9. "TICL coverage" means the coverage for an insurer's
427 losses above the insurer's statutorily determined claims-paying
428 capacity based on the claims-paying limit in subparagraph
429 (4)(c)1., which an insurer selects as its temporary increase in
430 coverage from the fund under the TICL options selected. A TICL
431 insurer's increased coverage limit options shall be calculated
432 as follows:

433 a. The board shall calculate and report to each TICL
434 insurer the TICL coverage multiples based on 12 options for
435 increasing the insurer's FHCF coverage limit. Each TICL coverage
436 multiple shall be calculated by dividing \$1 billion, \$2 billion,
437 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
438 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by
439 the total estimated aggregate FHCF reimbursement premiums for
440 the 2007-2008 contract year, and the 2008-2009 contract year,
441 ~~and the 2009-2010 contract year.~~

442 b. For the 2009-2010 contract year, the board shall
443 calculate and report to each TICL insurer the TICL coverage
444 multiples based on 10 options for increasing the insurer's FHCF
445 coverage limit. Each TICL coverage multiple shall be calculated
446 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
447 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10



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448 billion by the total estimated aggregate FHCF reimbursement
449 premiums for the 2009-2010 contract year.

450 c. For the contract year beginning June 1, 2010, and ending
451 December 31, 2010, the board shall calculate and report to each
452 TICL insurer the TICL coverage multiples based on eight options
453 for increasing the insurer's FHCF coverage limit. Each TICL
454 coverage multiple shall be calculated by dividing \$1 billion, \$2
455 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7
456 billion, and \$8 billion by the total estimated aggregate FHCF
457 reimbursement premiums for the contract year.

458 d. For the 2011 contract year, the board shall calculate
459 and report to each TICL insurer the TICL coverage multiples
460 based on six options for increasing the insurer's FHCF coverage
461 limit. Each TICL coverage multiple shall be calculated by
462 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
463 billion, and \$6 billion by the total estimated aggregate FHCF
464 reimbursement premiums for the 2011 contract year.

465 e. For the 2012 contract year, the board shall calculate
466 and report to each TICL insurer the TICL coverage multiples
467 based on four options for increasing the insurer's FHCF coverage
468 limit. Each TICL coverage multiple shall be calculated by
469 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by
470 the total estimated aggregate FHCF reimbursement premiums for
471 the 2012 contract year.

472 f. For the 2013 contract year, the board shall calculate
473 and report to each TICL insurer the TICL coverage multiples
474 based on two options for increasing the insurer's FHCF coverage
475 limit. Each TICL coverage multiple shall be calculated by
476 dividing \$1 billion and \$2 billion by the total estimated



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477 aggregate FHCF reimbursement premiums for the 2013 contract
478 year.

479 ~~g.b.~~ The TICL insurer's increased coverage shall be the
480 FHCF reimbursement premium multiplied by the TICL coverage
481 multiple. In order to determine an insurer's total limit of
482 coverage, an insurer shall add its TICL coverage multiple to its
483 payout multiple. The total shall represent a number that, when
484 multiplied by an insurer's FHCF reimbursement premium for a
485 given reimbursement contract year, defines an insurer's total
486 limit of FHCF reimbursement coverage for that reimbursement
487 contract year.

488 10. "TICL options addendum" means an addendum to the
489 reimbursement contract reflecting the obligations of the fund
490 and insurers selecting an option to increase an insurer's FHCF
491 coverage limit.

492 (e) TICL options addendum.—

493 1. The TICL options addendum shall provide for
494 reimbursement of TICL insurers for covered events occurring
495 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,
496 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,
497 2010, between June 1, 2010, and December 31, 2010, between
498 January 1, 2011, and December 31, 2011, between January 1, 2012,
499 and December 31, 2012, or between January 1, 2013, and December
500 31, 2013, in exchange for the TICL reimbursement premium paid
501 into the fund under paragraph (f). Any insurer writing covered
502 policies has the option of selecting an increased limit of
503 coverage under the TICL options addendum and shall select such
504 coverage at the time that it executes the FHCF reimbursement
505 contract.



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506 2. The TICL addendum shall contain a promise by the board
507 to reimburse the TICL insurer for 45 percent, 75 percent, or 90
508 percent of its losses from each covered event in excess of the
509 insurer's retention, plus 5 percent of the reimbursed losses to
510 cover loss adjustment expenses. The percentage shall be the same
511 as the coverage level selected by the insurer under paragraph
512 (4) (b).

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

516 4. The priorities, schedule, and method of reimbursements
517 under the TICL addendum shall be the same as provided under
518 subsection (4).

519 (f) TICL reimbursement premiums.—Each TICL insurer shall
520 pay to the fund, in the manner and at the time provided in the
521 reimbursement contract for payment of reimbursement premiums, a
522 TICL reimbursement premium determined as specified in subsection
523 (5), except that a cash build-up factor does not apply to the
524 TICL reimbursement premiums. However, the TICL reimbursement
525 premium shall be increased in contract year 2009-2010 by a
526 factor of two, in the contract year beginning June 1, 2010, and
527 ending December 31, 2010, by a factor of three, in the 2011
528 contract year by a factor of four, in the 2012 contract year by
529 a factor of five, and in the 2013 contract year by a factor of
530 six.

531 (g) Effect on claims-paying capacity of the fund.—For the
532 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June
533 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and
534 January 1, 2013, the program created by this subsection shall



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535 increase the claims-paying capacity of the fund as provided in
536 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and
537 shall depend on the TICL coverage options selected and the
538 number of insurers that select the TICL optional coverage. The
539 additional capacity shall apply only to the additional coverage
540 provided under the TICL options and shall not otherwise affect
541 any insurer's reimbursement from the fund if the insurer chooses
542 not to select the temporary option to increase its limit of
543 coverage under the FHCF.

544 ~~(h) Increasing the claims-paying capacity of the fund. For~~
545 ~~the contract years commencing June 1, 2007, June 1, 2008, and~~
546 ~~June 1, 2009, the board may increase the claims-paying capacity~~
547 ~~of the fund as provided in paragraph (g) by an amount not to~~
548 ~~exceed \$4 billion in four \$1 billion options and shall depend on~~
549 ~~the TICL coverage options selected and the number of insurers~~
550 ~~that select the TICL optional coverage. Each insurer's TICL~~
551 ~~premium shall be calculated based upon the additional limit of~~
552 ~~increased coverage that the insurer selects. Such limit is~~
553 ~~determined by multiplying the TICL multiple associated with one~~
554 ~~of the four options times the insurer's FHCF reimbursement~~
555 ~~premium. The reimbursement premium associated with the~~
556 ~~additional coverage provided in this paragraph shall be~~
557 ~~determined as specified in subsection (5).~~

558 Section 2. Section 215.5586, Florida Statutes, as amended
559 by section 1 of chapter 2009-10, Laws of Florida, is amended to
560 read:

561 215.5586 My Safe Florida Home Program.—There is established
562 within the Department of Financial Services the My Safe Florida
563 Home Program. The department shall provide fiscal



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564 accountability, contract management, and strategic leadership
565 for the program, consistent with this section. This section does
566 not create an entitlement for property owners or obligate the
567 state in any way to fund the inspection or retrofitting of
568 residential property in this state. Implementation of this
569 program is subject to annual legislative appropriations. It is
570 the intent of the Legislature that the My Safe Florida Home
571 Program provide trained and certified inspectors to perform
572 inspections for owners of ~~for at least 400,000~~ site-built,
573 single-family, residential properties and ~~provide~~ grants to
574 eligible ~~at least 35,000~~ applicants as funding allows ~~before~~
575 ~~June 30, 2009~~. The program shall develop and implement a
576 comprehensive and coordinated approach for hurricane damage
577 mitigation that may ~~shall~~ include the following:

578 (1) HURRICANE MITIGATION INSPECTIONS.

579 (a) Certified inspectors to provide ~~free~~ home-retrofit
580 inspections of site-built, single-family, residential property
581 may ~~shall~~ be offered ~~throughout the state~~ to determine what
582 mitigation measures are needed, what insurance premium discounts
583 may be available, and what improvements to existing residential
584 properties are needed to reduce the property's vulnerability to
585 hurricane damage. The Department of Financial Services shall
586 contract with wind certification entities to provide ~~free~~
587 hurricane mitigation inspections. The inspections provided to
588 homeowners, at a minimum, must include:

589 1. A home inspection and report that summarizes the results
590 and identifies recommended improvements a homeowner may take to
591 mitigate hurricane damage.

592 2. A range of cost estimates regarding the recommended



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593 mitigation improvements.

594 3. Insurer-specific information regarding premium discounts
595 correlated to the current mitigation features and the
596 recommended mitigation improvements identified by the
597 inspection.

598 4. A hurricane resistance rating scale specifying the
599 home's current as well as projected wind resistance
600 capabilities. As soon as practical, the rating scale must be the
601 uniform home grading scale adopted by the Financial Services
602 Commission pursuant to s. 215.55865.

603 (b) To qualify for selection by the department as a wind
604 certification entity to provide hurricane mitigation
605 inspections, the entity shall, at a minimum, meet the following
606 requirements:

607 1. Use hurricane mitigation inspectors who:

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

609 b. Are licensed as a general or residential contractor
610 under s. 489.111;

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

614 d. Are licensed as a professional architect under s.
615 481.213; or

616 e. Have at least 2 years of experience in residential
617 construction or residential building inspection and have
618 received specialized training in hurricane mitigation
619 procedures. Such training may be provided by a class offered
620 online or in person.

621 2. Use hurricane mitigation inspectors who also:



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622 a. Have undergone drug testing and level 2 background
623 checks pursuant to s. 435.04. The department may conduct
624 criminal record checks of inspectors used by wind certification
625 entities. Inspectors must submit a set of the fingerprints to
626 the department for state and national criminal history checks
627 and must pay the fingerprint processing fee set forth in s.
628 624.501. The fingerprints shall be sent by the department to the
629 Department of Law Enforcement and forwarded to the Federal
630 Bureau of Investigation for processing. The results shall be
631 returned to the department for screening. The fingerprints shall
632 be taken by a law enforcement agency, designated examination
633 center, or other department-approved entity; and

634 b. Have been certified, in a manner satisfactory to the
635 department, to conduct the inspections.

636 3. Provide a quality assurance program including a
637 reinspection component.

638 (c) The department shall implement a quality assurance
639 program that includes a statistically valid number of
640 reinspections.

641 (d) An application for an inspection must contain a signed
642 or electronically verified statement made under penalty of
643 perjury that the applicant has submitted only a single
644 application for that home.

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

649 (2) MITIGATION GRANTS.—Financial grants shall be used to
650 encourage single-family, site-built, owner-occupied, residential



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651 property owners to retrofit their properties to make them less
652 vulnerable to hurricane damage.

653 (a) For a homeowner to be eligible for a grant, the
654 following criteria for persons who have obtained a completed
655 inspection after May 1, 2007, a residential property must be
656 met:

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

659 2. The home must be a dwelling with an insured value of
660 \$300,000 or less. Homeowners who are low-income persons, as
661 defined in s. 420.0004(10), are exempt from this requirement.

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

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

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

670
671 An application for a grant must contain a signed or
672 electronically verified statement made under penalty of perjury
673 that the applicant has submitted only a single application and
674 must have attached documents demonstrating the applicant meets
675 the requirements of this paragraph.

676 (b) All grants must be matched on a dollar-for-dollar basis
677 up to ~~for~~ a total of \$10,000 for the actual cost of the
678 mitigation project with the state's contribution not to exceed
679 \$5,000.



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680 (c) The program shall create a process in which contractors
681 agree to participate and homeowners select from a list of
682 participating contractors. All mitigation must be based upon the
683 securing of all required local permits and inspections and must
684 be performed by properly licensed contractors. Mitigation
685 projects are subject to random reinspection of up to at least 5
686 percent of all projects. Hurricane mitigation inspectors
687 qualifying for the program may also participate as mitigation
688 contractors as long as the inspectors meet the department's
689 qualifications and certification requirements for mitigation
690 contractors.

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

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

- 700 1. Opening protection.
701 2. Exterior doors, including garage doors.
702 3. Brace gable ends.
703 4. Reinforcing roof-to-wall connections.
704 5. Improving the strength of roof-deck attachments.
705 6. Upgrading roof covering from code to code plus.
706 7. Secondary water barrier for roof.

707
708 The department may require that improvements be made to all



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709 openings, including exterior doors and garage doors, as a
710 condition of reimbursing a homeowner approved for a grant. The
711 department may adopt, by rule, the maximum grant allowances for
712 any improvement allowable under this paragraph.

713 (f) Grants may be used on a previously inspected existing
714 structure or on a rebuild. A rebuild is defined as a site-built,
715 single-family dwelling under construction to replace a home that
716 was destroyed or significantly damaged by a hurricane and deemed
717 unlivable by a regulatory authority. The homeowner must be a
718 low-income homeowner as defined in paragraph (g), must have had
719 a homestead exemption for that home prior to the hurricane, and
720 must be intending to rebuild the home as that homeowner's
721 homestead.

722 (g) Low-income homeowners, as defined in s. 420.0004(10),
723 who otherwise meet the requirements of paragraphs (a), (c), (e),
724 and (f) are eligible for a grant of up to \$5,000 and are not
725 required to provide a matching amount to receive the grant.
726 Additionally, for low-income homeowners, grant funding may be
727 used for repair to existing structures leading to any of the
728 mitigation improvements provided in paragraph (e), limited to 20
729 percent of the grant value. The program may accept a
730 certification directly from a low-income homeowner that the
731 homeowner meets the requirements of s. 420.0004(10) if the
732 homeowner provides such certification in a signed or
733 electronically verified statement made under penalty of perjury.

734 (h) The department shall establish objective, reasonable
735 criteria for prioritizing grant applications, consistent with
736 the requirements of this section.

737 (i) The department shall develop a process that ensures the



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738 most efficient means to collect and verify grant applications to
739 determine eligibility and may direct hurricane mitigation
740 inspectors to collect and verify grant application information
741 or use the Internet or other electronic means to collect
742 information and determine eligibility.

743 (3) EDUCATION AND CONSUMER AWARENESS.—The department may
744 undertake a statewide multimedia public outreach and advertising
745 campaign to inform consumers of the availability and benefits of
746 hurricane inspections and of the safety and financial benefits
747 of residential hurricane damage mitigation. The department may
748 seek out and use local, state, federal, and private funds to
749 support the campaign.

750 (4) ADVISORY COUNCIL.—There is created an advisory council
751 to provide advice and assistance to the department regarding
752 administration of the program. The advisory council shall
753 consist of:

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

757 (b) A representative of residential property insurers,
758 selected by the Financial Services Commission from a list of at
759 least three persons recommended by the Florida Insurance
760 Council.

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

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



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767 (e) Two members of the House of Representatives, selected
768 by the Speaker of the House of Representatives.

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

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

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

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

777 (j) The director of the Florida Division of Emergency
778 Management ~~of the Department of Community Affairs.~~

779
780 Members appointed under paragraphs (a)-(d) shall serve at the
781 pleasure of the Financial Services Commission. Members appointed
782 under paragraphs (e) and (f) shall serve at the pleasure of the
783 appointing officer. All other members shall serve as voting ex
784 officio members. Members of the advisory council shall serve
785 without compensation but may receive reimbursement as provided
786 in s. 112.061 for per diem and travel expenses incurred in the
787 performance of their official duties.

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

791 (6) RULES.—The Department of Financial Services shall adopt
792 rules pursuant to ss. 120.536(1) and 120.54 to govern the
793 program; implement the provisions of this section; including
794 rules governing hurricane mitigation inspections and grants,
795 mitigation contractors, and training of inspectors and



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796 contractors; and carry out the duties of the department under
797 this section.

798 (7) HURRICANE MITIGATION INSPECTOR LIST.—The department
799 shall develop and maintain as a public record a current list of
800 hurricane mitigation inspectors authorized to conduct hurricane
801 mitigation inspections pursuant to this section.

802 ~~(8) NO INTEREST LOANS.—The department shall implement a no-~~
803 ~~interest loan program by October 1, 2008, contingent upon the~~
804 ~~selection of a qualified vendor and execution of a contract~~
805 ~~acceptable to the department and the vendor. The department~~
806 ~~shall enter into partnerships with the private sector to provide~~
807 ~~loans to owners of site-built, single-family, residential~~
808 ~~property to pay for mitigation measures listed in subsection~~
809 ~~(2). A loan eligible for interest payments pursuant to this~~
810 ~~subsection may be for a term of up to 3 years and cover up to~~
811 ~~\$5,000 in mitigation measures. The department shall pay the~~
812 ~~creditor the market rate of interest using funds appropriated~~
813 ~~for the My Safe Florida Home Program. In no case shall the~~
814 ~~department pay more than the interest rate set by s. 687.03. To~~
815 ~~be eligible for a loan, a loan applicant must first obtain a~~
816 ~~home inspection and report that specifies what improvements are~~
817 ~~needed to reduce the property's vulnerability to windstorm~~
818 ~~damage pursuant to this section and meet loan underwriting~~
819 ~~requirements set by the lender. The department may adopt rules~~
820 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~
821 ~~subsection which may include eligibility criteria.~~

822 (8) ~~(9)~~ PUBLIC OUTREACH FOR CONTRACTORS AND REAL ESTATE
823 BROKERS AND SALES ASSOCIATES.—The program shall develop
824 brochures for distribution to general contractors, roofing



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825 contractors, and real estate brokers and sales associates
826 licensed under part I of chapter 475 explaining the benefits to
827 homeowners of residential hurricane damage mitigation. The
828 program shall encourage contractors to distribute the brochures
829 to homeowners at the first meeting with a homeowner who is
830 considering contracting for home or roof repairs or contracting
831 for the construction of a new home. The program shall encourage
832 real estate brokers and sales associates licensed under part I
833 of chapter 475 to distribute the brochures to clients prior to
834 the purchase of a home. The brochures may be made available
835 electronically.

836 (9)~~(10)~~ CONTRACT MANAGEMENT.—The department may contract
837 with third parties for grants management, inspection services,
838 contractor services for low-income homeowners, information
839 technology, educational outreach, and auditing services. Such
840 contracts shall be considered direct costs of the program and
841 shall not be subject to administrative cost limits, but
842 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject
843 to review and approval by the Legislative Budget Commission. The
844 department shall contract with providers that have a
845 demonstrated record of successful business operations in areas
846 directly related to the services to be provided and shall ensure
847 the highest accountability for use of state funds, consistent
848 with this section.

849 (10)~~(11)~~ INTENT.—It is the intent of the Legislature that
850 grants made to residential property owners under this section
851 shall be considered disaster-relief assistance within the
852 meaning of s. 139 of the Internal Revenue Code of 1986, as
853 amended.



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854 (11)~~(12)~~ REPORTS.—The department shall make an annual
855 report on the activities of the program that shall account for
856 the use of state funds and indicate the number of inspections
857 requested, the number of inspections performed, the number of
858 grant applications received, and the number and value of grants
859 approved. The report shall be delivered to the President of the
860 Senate and the Speaker of the House of Representatives by
861 February 1 of each year.

862 Section 3. Subsection (13) is added to section 626.854,
863 Florida Statutes, to read:

864 626.854 "Public adjuster" defined; prohibitions.—The
865 Legislature finds that it is necessary for the protection of the
866 public to regulate public insurance adjusters and to prevent the
867 unauthorized practice of law.

868 (13) A public adjuster, public adjuster apprentice, or any
869 person acting on behalf of a public adjuster or apprentice may
870 not accept referrals of business from any person with whom the
871 public adjuster conducts business if there is any form or manner
872 of agreement to compensate the person, whether directly or
873 indirectly, for referring business to the public adjuster. A
874 public adjuster may not compensate any person, except for
875 another public adjuster, whether directly or indirectly, for the
876 principal purpose of referring business to the public adjuster.

877
878 The provisions of subsections (5)-(13) ~~subsections (5)-(12)~~
879 apply only to residential property insurance policies and
880 condominium association policies as defined in s. 718.111(11).

881 Section 4. Subsection (7) is added to section 627.7011,
882 Florida Statutes, to read:



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883 627.7011 Homeowners' policies; offer of replacement cost
884 coverage and law and ordinance coverage.-

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

888 Section 5. Subsection (1) of section 626.865, Florida
889 Statutes, is amended to read:

890 626.865 Public adjuster's qualifications, bond.-

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

895 (a) Is a natural person at least 18 years of age.

896 (b) Is a United States citizen or legal alien who possesses
897 work authorization from the United States Bureau of Citizenship
898 and Immigration Services and a bona fide resident of this state.

899 (c) Is trustworthy and has such business reputation as
900 would reasonably assure that the applicant will conduct his or
901 her business as insurance adjuster fairly and in good faith and
902 without detriment to the public.

903 (d) Has had sufficient experience, training, or instruction
904 concerning the adjusting of damages or losses under insurance
905 contracts, other than life and annuity contracts, is
906 sufficiently informed as to the terms and effects of the
907 provisions of those types of insurance contracts, and possesses
908 adequate knowledge of the laws of this state relating to such
909 contracts as to enable and qualify him or her to engage in the
910 business of insurance adjuster fairly and without injury to the
911 public or any member thereof with whom the applicant may have



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912 business as a public adjuster.

913 ~~(c) Has passed the required written examination.~~

914 Section 6. Section 626.8651, Florida Statutes, is amended
915 to read:

916 626.8651 Public adjuster apprentice license;
917 qualifications.—

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

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

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

924 (c) Trustworthy and has such business reputation as would
925 reasonably ensure that the applicant will conduct business as a
926 public adjuster apprentice fairly and in good faith and without
927 detriment to the public.

928 (2) All applicable license fees, as prescribed in s.
929 624.501, must be paid in full before issuance of the license.

930 (3) An applicant must pass the required written examination
931 before a license may be issued.

932 (4) An applicant must have received designation as an
933 Accredited Claims Adjuster (ACA) after completion of training
934 that qualifies the applicant to engage in the business of a
935 public adjuster apprentice fairly and without injury to the
936 public. Such training and instruction must address adjusting
937 damages and losses under insurance contracts, the terms and
938 effects of insurance contracts, and knowledge of the laws of
939 this state relating to insurance contracts.

940 (5) At the time of application for license as a public



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941 adjuster apprentice, the applicant shall file with the
942 department a bond executed and issued by a surety insurer
943 authorized to transact such business in this state in the amount
944 of \$50,000, conditioned upon the faithful performance of his or
945 her duties as a public adjuster apprentice under the license for
946 which the applicant has applied, and thereafter maintain the
947 bond unimpaired throughout the existence of the license and for
948 at least 1 year after termination of the license. The bond shall
949 be in favor of the department and shall specifically authorize
950 recovery by the department of the damages sustained in case the
951 licensee commits fraud or unfair practices in connection with
952 his or her business as a public adjuster apprentice. The
953 aggregate liability of the surety for all such damages may not
954 exceed the amount of the bond, and the bond may not be
955 terminated by the issuing insurer unless written notice of at
956 least 30 days is given to the licensee and filed with the
957 department.

958 (6)-(4) A public adjuster apprentice shall complete at a
959 minimum 100 hours of employment per month for 12 months of
960 employment under the supervision of a licensed and appointed
961 all-lines public adjuster in order to qualify for licensure as a
962 public adjuster. The department may adopt rules that establish
963 standards for such employment requirements.

964 (7)-(5) An appointing public adjusting firm may not maintain
965 more than 12 public adjuster apprentices simultaneously.
966 However, a supervising public adjuster may not ~~shall~~ be
967 responsible for more than 3 public adjuster apprentices
968 simultaneously and shall be accountable for the acts of all a
969 public adjuster apprentices ~~apprentice~~ which are related to



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970 transacting business as a public adjuster apprentice.

971 ~~(8)~~~~(6)~~ An apprentice license is effective for 18 months
972 unless the license expires due to lack of maintaining an
973 appointment; is surrendered by the licensee; is terminated,
974 suspended, or revoked by the department; or is canceled by the
975 department upon issuance of a public adjuster license. The
976 department may not issue a public adjuster apprentice license to
977 any individual who has held such a license in this state within
978 2 years after expiration, surrender, termination, revocation, or
979 cancellation of the license.

980 ~~(9)~~~~(7)~~ After completing the requirements for employment as
981 a public adjuster apprentice, the licensee may file an
982 application for a public adjuster license. The applicant and
983 supervising public adjuster or public adjusting firm must each
984 file a sworn affidavit, on a form prescribed by the department,
985 verifying that the employment of the public adjuster apprentice
986 meets the requirements of this section.

987 ~~(10)~~~~(8)~~ In no event shall a public adjuster apprentice
988 licensed under this section perform any of the functions for
989 which a public adjuster's license is required after expiration
990 of the public adjuster apprentice license without having
991 obtained a public adjuster license.

992 ~~(11)~~~~(9)~~ A public adjuster apprentice has the same authority
993 as the licensed public adjuster or public adjusting firm that
994 employs the apprentice except that an apprentice may not execute
995 contracts for the services of a public adjuster or public
996 adjusting firm and may not solicit contracts for the services
997 except under the direct supervision and guidance of the
998 supervisory public adjuster. An individual may not be, act as,



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999 or hold himself or herself out to be a public adjuster
1000 apprentice unless the individual is licensed and holds a current
1001 appointment by a licensed public all-lines adjuster or a public
1002 adjusting firm that employs a licensed all-lines public
1003 adjuster.

1004 Section 7. Subsections (2) and (5) of section 627.062,
1005 Florida Statutes, are amended to read:

1006 627.062 Rate standards.—

1007 (2) As to all such classes of insurance:

1008 (a) Insurers or rating organizations shall establish and
1009 use rates, rating schedules, or rating manuals to allow the
1010 insurer a reasonable rate of return on such classes of insurance
1011 written in this state. A copy of rates, rating schedules, rating
1012 manuals, premium credits or discount schedules, and surcharge
1013 schedules, and changes thereto, shall be filed with the office
1014 under one of the following procedures except as provided in
1015 subparagraph 3.:

1016 1. If the filing is made at least 90 days before the
1017 proposed effective date and the filing is not implemented during
1018 the office's review of the filing and any proceeding and
1019 judicial review, then such filing shall be considered a "file
1020 and use" filing. In such case, the office shall finalize its
1021 review by issuance of a notice of intent to approve or a notice
1022 of intent to disapprove within 90 days after receipt of the
1023 filing. The notice of intent to approve and the notice of intent
1024 to disapprove constitute agency action for purposes of the
1025 Administrative Procedure Act. Requests for supporting
1026 information, requests for mathematical or mechanical
1027 corrections, or notification to the insurer by the office of its



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1028 preliminary findings shall not toll the 90-day period during any
1029 such proceedings and subsequent judicial review. The rate shall
1030 be deemed approved if the office does not issue a notice of
1031 intent to approve or a notice of intent to disapprove within 90
1032 days after receipt of the filing.

1033 2. If the filing is not made in accordance with the
1034 provisions of subparagraph 1., such filing shall be made as soon
1035 as practicable, but no later than 30 days after the effective
1036 date, and shall be considered a "use and file" filing. An
1037 insurer making a "use and file" filing is potentially subject to
1038 an order by the office to return to policyholders portions of
1039 rates found to be excessive, as provided in paragraph (h).

1040 3. For all residential property insurance filings made or
1041 submitted after January 25, 2007, but before December 31, 2012
1042 ~~2009~~, an insurer seeking a rate that is greater than the rate
1043 most recently approved by the office shall make a "file and use"
1044 filing. For purposes of this subparagraph, motor vehicle
1045 collision and comprehensive coverages are not considered to be
1046 property coverages.

1047 (b) Upon receiving a rate filing, the office shall review
1048 the rate filing to determine if a rate is excessive, inadequate,
1049 or unfairly discriminatory. In making that determination, the
1050 office shall, in accordance with generally accepted and
1051 reasonable actuarial techniques, consider the following factors:

1052 1. Past and prospective loss experience within and without
1053 this state.

1054 2. Past and prospective expenses.

1055 3. The degree of competition among insurers for the risk
1056 insured.



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1057 4. Investment income reasonably expected by the insurer,
1058 consistent with the insurer's investment practices, from
1059 investable premiums anticipated in the filing, plus any other
1060 expected income from currently invested assets representing the
1061 amount expected on unearned premium reserves and loss reserves.
1062 The commission may adopt rules using reasonable techniques of
1063 actuarial science and economics to specify the manner in which
1064 insurers shall calculate investment income attributable to such
1065 classes of insurance written in this state and the manner in
1066 which such investment income shall be used to calculate
1067 insurance rates. Such manner shall contemplate allowances for an
1068 underwriting profit factor and full consideration of investment
1069 income which produce a reasonable rate of return; however,
1070 investment income from invested surplus may not be considered.

1071 5. The reasonableness of the judgment reflected in the
1072 filing.

1073 6. Dividends, savings, or unabsorbed premium deposits
1074 allowed or returned to Florida policyholders, members, or
1075 subscribers.

1076 7. The adequacy of loss reserves.

1077 8. The cost of reinsurance. The office shall not disapprove
1078 a rate as excessive solely due to the insurer having obtained
1079 catastrophic reinsurance to cover the insurer's estimated 250-
1080 year probable maximum loss or any lower level of loss.

1081 9. Trend factors, including trends in actual losses per
1082 insured unit for the insurer making the filing.

1083 10. Conflagration and catastrophe hazards, if applicable.

1084 11. Projected hurricane losses, if applicable, which must
1085 be estimated using a model or method found to be acceptable or



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1086 reliable by the Florida Commission on Hurricane Loss Projection
1087 Methodology, and as further provided in s. 627.0628.

1088 12. A reasonable margin for underwriting profit and
1089 contingencies.

1090 13. The cost of medical services, if applicable.

1091 14. Other relevant factors which impact upon the frequency
1092 or severity of claims or upon expenses.

1093 (c) In the case of fire insurance rates, consideration
1094 shall be given to the availability of water supplies and the
1095 experience of the fire insurance business during a period of not
1096 less than the most recent 5-year period for which such
1097 experience is available.

1098 (d) If conflagration or catastrophe hazards are given
1099 consideration by an insurer in its rates or rating plan,
1100 including surcharges and discounts, the insurer shall establish
1101 a reserve for that portion of the premium allocated to such
1102 hazard and shall maintain the premium in a catastrophe reserve.
1103 Any removal of such premiums from the reserve for purposes other
1104 than paying claims associated with a catastrophe or purchasing
1105 reinsurance for catastrophes shall be subject to approval of the
1106 office. Any ceding commission received by an insurer purchasing
1107 reinsurance for catastrophes shall be placed in the catastrophe
1108 reserve.

1109 (e) After consideration of the rate factors provided in
1110 paragraphs (b), (c), and (d), a rate may be found by the office
1111 to be excessive, inadequate, or unfairly discriminatory based
1112 upon the following standards:

1113 1. Rates shall be deemed excessive if they are likely to
1114 produce a profit from Florida business that is unreasonably high



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1115 in relation to the risk involved in the class of business or if
1116 expenses are unreasonably high in relation to services rendered.

1117 2. Rates shall be deemed excessive if, among other things,
1118 the rate structure established by a stock insurance company
1119 provides for replenishment of surpluses from premiums, when the
1120 replenishment is attributable to investment losses.

1121 3. Rates shall be deemed inadequate if they are clearly
1122 insufficient, together with the investment income attributable
1123 to them, to sustain projected losses and expenses in the class
1124 of business to which they apply.

1125 4. A rating plan, including discounts, credits, or
1126 surcharges, shall be deemed unfairly discriminatory if it fails
1127 to clearly and equitably reflect consideration of the
1128 policyholder's participation in a risk management program
1129 adopted pursuant to s. 627.0625.

1130 5. A rate shall be deemed inadequate as to the premium
1131 charged to a risk or group of risks if discounts or credits are
1132 allowed which exceed a reasonable reflection of expense savings
1133 and reasonably expected loss experience from the risk or group
1134 of risks.

1135 6. A rate shall be deemed unfairly discriminatory as to a
1136 risk or group of risks if the application of premium discounts,
1137 credits, or surcharges among such risks does not bear a
1138 reasonable relationship to the expected loss and expense
1139 experience among the various risks.

1140 (f) In reviewing a rate filing, the office may require the
1141 insurer to provide at the insurer's expense all information
1142 necessary to evaluate the condition of the company and the
1143 reasonableness of the filing according to the criteria



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1144 enumerated in this section.

1145 (g) The office may at any time review a rate, rating
1146 schedule, rating manual, or rate change; the pertinent records
1147 of the insurer; and market conditions. If the office finds on a
1148 preliminary basis that a rate may be excessive, inadequate, or
1149 unfairly discriminatory, the office shall initiate proceedings
1150 to disapprove the rate and shall so notify the insurer. However,
1151 the office may not disapprove as excessive any rate for which it
1152 has given final approval or which has been deemed approved for a
1153 period of 1 year after the effective date of the filing unless
1154 the office finds that a material misrepresentation or material
1155 error was made by the insurer or was contained in the filing.
1156 Upon being so notified, the insurer or rating organization
1157 shall, within 60 days, file with the office all information
1158 which, in the belief of the insurer or organization, proves the
1159 reasonableness, adequacy, and fairness of the rate or rate
1160 change. The office shall issue a notice of intent to approve or
1161 a notice of intent to disapprove pursuant to the procedures of
1162 paragraph (a) within 90 days after receipt of the insurer's
1163 initial response. In such instances and in any administrative
1164 proceeding relating to the legality of the rate, the insurer or
1165 rating organization shall carry the burden of proof by a
1166 preponderance of the evidence to show that the rate is not
1167 excessive, inadequate, or unfairly discriminatory. After the
1168 office notifies an insurer that a rate may be excessive,
1169 inadequate, or unfairly discriminatory, unless the office
1170 withdraws the notification, the insurer shall not alter the rate
1171 except to conform with the office's notice until the earlier of
1172 120 days after the date the notification was provided or 180



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1173 days after the date of the implementation of the rate. The
1174 office may, subject to chapter 120, disapprove without the 60-
1175 day notification any rate increase filed by an insurer within
1176 the prohibited time period or during the time that the legality
1177 of the increased rate is being contested.

1178 (h) In the event the office finds that a rate or rate
1179 change is excessive, inadequate, or unfairly discriminatory, the
1180 office shall issue an order of disapproval specifying that a new
1181 rate or rate schedule which responds to the findings of the
1182 office be filed by the insurer. The office shall further order,
1183 for any "use and file" filing made in accordance with
1184 subparagraph (a)2., that premiums charged each policyholder
1185 constituting the portion of the rate above that which was
1186 actuarially justified be returned to such policyholder in the
1187 form of a credit or refund. If the office finds that an
1188 insurer's rate or rate change is inadequate, the new rate or
1189 rate schedule filed with the office in response to such a
1190 finding shall be applicable only to new or renewal business of
1191 the insurer written on or after the effective date of the
1192 responsive filing.

1193 (i) Except as otherwise specifically provided in this
1194 chapter, the office shall not prohibit any insurer, including
1195 any residual market plan or joint underwriting association, from
1196 paying acquisition costs based on the full amount of premium, as
1197 defined in s. 627.403, applicable to any policy, or prohibit any
1198 such insurer from including the full amount of acquisition costs
1199 in a rate filing.

1200 (j) With respect to residential property insurance rate
1201 filings, the rate filing must account for mitigation measures



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1202 undertaken by policyholders to reduce hurricane losses.

1203 (k)1. An insurer may make a separate filing limited solely
1204 to an adjustment of its rates for reinsurance or financing costs
1205 to replace or finance payment of amounts covered by the Florida
1206 Hurricane Catastrophe Fund if:

1207 a. Reinsurance costs contained in the filing do not result
1208 in an overall premium increase of more than 10 percent for any
1209 individual policyholder. If the insurer elects to purchase a
1210 liquidity instrument or line of credit instead of reinsurance,
1211 the cost included in the filing for the liquidity instrument or
1212 line of credit may not result in a premium increase exceeding 3
1213 percent for any individual policyholder;

1214 b. The insurer includes in the filing a copy of all of its
1215 reinsurance, liquidity instrument, or line of credit contracts;
1216 proof of the billing or payment for the contracts; and the
1217 calculations upon which the proposed rate changes are based
1218 demonstrating that the costs meet the criteria of this section
1219 and are not loaded for expenses or profit;

1220 c. The insurer makes no other changes to its rates; and

1221 d. The insurer has not implemented an increase in its rate
1222 within the 6 months immediately preceding the filing.

1223 2. An insurer making a filing pursuant to this paragraph is
1224 not eligible to file for any additional rate increase for the
1225 same business for at least 12 months after implementation of the
1226 limited filing.

1227 3. This paragraph does not limit the authority of the
1228 office to disapprove the rate filing as excessive, inadequate,
1229 or unfairly discriminatory. All other standards of the rating
1230 law apply, including the standard of reasonableness.



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1231 4. This paragraph does not apply to rate filings for any
1232 insurance other than residential property insurance.

1233
1234 The provisions of this subsection do ~~shall~~ not apply to workers'
1235 compensation and employer's liability insurance and to motor
1236 vehicle insurance.

1237 (5) With respect to a rate filing involving coverage of the
1238 type for which the insurer is required to pay a reimbursement
1239 premium to the Florida Hurricane Catastrophe Fund, the insurer
1240 may fully recoup in its property insurance premiums any
1241 reimbursement premiums paid to the Florida Hurricane Catastrophe
1242 Fund, together with reasonable costs of other reinsurance, but
1243 except as otherwise provided in this section, may not recoup
1244 reinsurance costs that duplicate coverage provided by the
1245 Florida Hurricane Catastrophe Fund. An insurer may not recoup
1246 more than 1 year of reimbursement premium at a time. Any under-
1247 recoupment from the prior year may be added to the following
1248 year's reimbursement premium and any over-recoupment shall be
1249 subtracted from the following year's reimbursement premium.

1250 Section 8. Section 627.0621, Florida Statutes, is amended
1251 to read:

1252 627.0621 Transparency in rate regulation.—

1253 (1) DEFINITIONS.—As used in this section, the term:

1254 (a) "Rate filing" means any original or amended rate
1255 residential property insurance filing.

1256 (b) "Recommendation" means any proposed, preliminary, or
1257 final recommendation from an office actuary reviewing a rate
1258 filing with respect to the issue of approval or disapproval of
1259 the rate filing or with respect to rate indications that the



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1260 office would consider acceptable.

1261 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—

1262 (a) With respect to any residential property rate filing

1263 ~~made on or after July 1, 2008,~~ the office shall provide the

1264 following information on a publicly accessible Internet website:

1265 1. (a) The overall rate change requested by the insurer.

1266 2. The rate change approved by the office along with all of

1267 the actuary's assumptions and recommendations forming the basis

1268 of the office's decision.

1269 3. Certification by the office's actuary that, based on the

1270 actuary's knowledge, his or her recommendations are consistent

1271 with accepted actuarial principles.

1272 (b) For any rate filing, whether or not the filing is

1273 subject to a public hearing, the office shall provide on its

1274 website a means for any policyholder who may be affected by a

1275 proposed rate change to send an e-mail regarding the proposed

1276 rate change. Such e-mail must be accessible to the actuary

1277 assigned to review the rate filing.

1278 ~~(b) All assumptions made by the office's actuaries.~~

1279 ~~(c) A statement describing any assumptions or methods that~~

1280 ~~deviate from the actuarial standards of practice of the Casualty~~

1281 ~~Actuarial Society or the American Academy of Actuaries,~~

1282 ~~including an explanation of the nature, rationale, and effect of~~

1283 ~~the deviation.~~

1284 ~~(d) All recommendations made by any office actuary who~~

1285 ~~reviewed the rate filing.~~

1286 ~~(e) Certification by the office's actuary that, based on~~

1287 ~~the actuary's knowledge, his or her recommendations are~~

1288 ~~consistent with accepted actuarial principles.~~



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1289 ~~(f) The overall rate change approved by the office.~~
1290 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT. It is the~~
1291 ~~intent of the Legislature that the principles of the public~~
1292 ~~records and open meetings laws apply to the assertion of~~
1293 ~~attorney-client privilege and work product confidentiality by~~
1294 ~~the office in connection with a challenge to its actions on a~~
1295 ~~rate filing. Therefore, in any administrative or judicial~~
1296 ~~proceeding relating to a rate filing, attorney-client privilege~~
1297 ~~and work product exemptions from disclosure do not apply to~~
1298 ~~communications with office attorneys or records prepared by or~~
1299 ~~at the direction of an office attorney, except when the~~
1300 ~~conditions of paragraphs (a) and (b) have been met:~~
1301 ~~(a) The communication or record reflects a mental~~
1302 ~~impression, conclusion, litigation strategy, or legal theory of~~
1303 ~~the attorney or office that was prepared exclusively for civil~~
1304 ~~or criminal litigation or adversarial administrative~~
1305 ~~proceedings.~~
1306 ~~(b) The communication occurred or the record was prepared~~
1307 ~~after the initiation of an action in a court of competent~~
1308 ~~jurisdiction, after the issuance of a notice of intent to deny a~~
1309 ~~rate filing, or after the filing of a request for a proceeding~~
1310 ~~under ss. 120.569 and 120.57.~~
1311 Section 9. Section 627.0612, Florida Statutes, is repealed.
1312 Section 10. Subsection (5) of section 627.0629, Florida
1313 Statutes, is amended to read:
1314 627.0629 Residential property insurance; rate filings.—
1315 (5) In order to provide an appropriate transition period,
1316 an insurer may, in its sole discretion, implement an approved
1317 rate filing for residential property insurance over a period of



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1318 years. An insurer electing to phase in its rate filing must
1319 provide an informational notice to the office setting out its
1320 schedule for implementation of the phased-in rate filing. An
1321 insurer may include in its rate the actual cost of private
1322 market reinsurance that corresponds to available coverage of the
1323 Temporary Increase in Coverage Limits, TICL, from the Florida
1324 Hurricane Catastrophe Fund. The insurer may also include the
1325 cost of reinsurance to replace the TICL reduction implemented
1326 pursuant to s. 215.555(17)(d)9. However, this cost for
1327 reinsurance may not include any expense or profit load or result
1328 in a total annual base rate increase in excess of 10 percent.

1329 Section 11. Paragraphs (a), (c), (m), and (x) of subsection
1330 (6) of section 627.351, Florida Statutes, are amended to read:

1331 627.351 Insurance risk apportionment plans.—

1332 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1333 (a)1. It is the public purpose of this subsection to ensure
1334 the existence of an orderly market for property insurance for
1335 Floridians and Florida businesses. The Legislature finds that
1336 private insurers are unwilling or unable to provide affordable
1337 property insurance coverage in this state to the extent sought
1338 and needed. The absence of affordable property insurance
1339 threatens the public health, safety, and welfare and likewise
1340 threatens the economic health of the state. The state therefore
1341 has a compelling public interest and a public purpose to assist
1342 in assuring that property in the state is insured and that it is
1343 insured at affordable rates so as to facilitate the remediation,
1344 reconstruction, and replacement of damaged or destroyed property
1345 in order to reduce or avoid the negative effects otherwise
1346 resulting to the public health, safety, and welfare, to the



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1347 economy of the state, and to the revenues of the state and local
1348 governments which are needed to provide for the public welfare.
1349 It is necessary, therefore, to provide affordable property
1350 insurance to applicants who are in good faith entitled to
1351 procure insurance through the voluntary market but are unable to
1352 do so. The Legislature intends by this subsection that
1353 affordable property insurance be provided and that it continue
1354 to be provided, as long as necessary, through Citizens Property
1355 Insurance Corporation, a government entity that is an integral
1356 part of the state, and that is not a private insurance company.
1357 To that end, Citizens Property Insurance Corporation shall
1358 strive to increase the availability of affordable property
1359 insurance in this state, while achieving efficiencies and
1360 economies, and while providing service to policyholders,
1361 applicants, and agents which is no less than the quality
1362 generally provided in the voluntary market, for the achievement
1363 of the foregoing public purposes. Because it is essential for
1364 this government entity to have the maximum financial resources
1365 to pay claims following a catastrophic hurricane, it is the
1366 intent of the Legislature that Citizens Property Insurance
1367 Corporation continue to be an integral part of the state and
1368 that the income of the corporation be exempt from federal income
1369 taxation and that interest on the debt obligations issued by the
1370 corporation be exempt from federal income taxation.

1371 2. The Residential Property and Casualty Joint Underwriting
1372 Association originally created by this statute shall be known,
1373 as of July 1, 2002, as the Citizens Property Insurance
1374 Corporation. The corporation shall provide insurance for
1375 residential and commercial property, for applicants who are in



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1376 good faith entitled, but are unable, to procure insurance
1377 through the voluntary market. The corporation shall operate
1378 pursuant to a plan of operation approved by order of the
1379 Financial Services Commission. The plan is subject to continuous
1380 review by the commission. The commission may, by order, withdraw
1381 approval of all or part of a plan if the commission determines
1382 that conditions have changed since approval was granted and that
1383 the purposes of the plan require changes in the plan. The
1384 corporation shall continue to operate pursuant to the plan of
1385 operation approved by the Office of Insurance Regulation until
1386 October 1, 2006. For the purposes of this subsection,
1387 residential coverage includes both personal lines residential
1388 coverage, which consists of the type of coverage provided by
1389 homeowner's, mobile home owner's, dwelling, tenant's,
1390 condominium unit owner's, and similar policies, and commercial
1391 lines residential coverage, which consists of the type of
1392 coverage provided by condominium association, apartment
1393 building, and similar policies.

1394 3. Effective January 1, 2009, a personal lines residential
1395 structure that has a dwelling replacement cost of \$2 million or
1396 more, or a single condominium unit that has a combined dwelling
1397 and content replacement cost of \$2 million or more is not
1398 eligible for coverage by the corporation. Such dwellings insured
1399 by the corporation on December 31, 2008, may continue to be
1400 covered by the corporation until the end of the policy term.
1401 However, such dwellings that are insured by the corporation and
1402 become ineligible for coverage due to the provisions of this
1403 subparagraph may reapply and obtain coverage if the property
1404 owner provides the corporation with a sworn affidavit from one



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1405 or more insurance agents, on a form provided by the corporation,
1406 stating that the agents have made their best efforts to obtain
1407 coverage and that the property has been rejected for coverage by
1408 at least one authorized insurer and at least three surplus lines
1409 insurers. If such conditions are met, the dwelling may be
1410 insured by the corporation for up to 3 years, after which time
1411 the dwelling is ineligible for coverage. The office shall
1412 approve the method used by the corporation for valuing the
1413 dwelling replacement cost for the purposes of this subparagraph.
1414 If a policyholder is insured by the corporation prior to being
1415 determined to be ineligible pursuant to this subparagraph and
1416 such policyholder files a lawsuit challenging the determination,
1417 the policyholder may remain insured by the corporation until the
1418 conclusion of the litigation.

1419 4. It is the intent of the Legislature that policyholders,
1420 applicants, and agents of the corporation receive service and
1421 treatment of the highest possible level but never less than that
1422 generally provided in the voluntary market. It also is intended
1423 that the corporation be held to service standards no less than
1424 those applied to insurers in the voluntary market by the office
1425 with respect to responsiveness, timeliness, customer courtesy,
1426 and overall dealings with policyholders, applicants, or agents
1427 of the corporation.

1428 5. Effective January 1, 2009, a personal lines residential
1429 structure that is located in the "wind-borne debris region," as
1430 defined in s. 1609.2, International Building Code (2006), and
1431 that has an insured value on the structure of \$750,000 or more
1432 is not eligible for coverage by the corporation unless the
1433 structure has opening protections as required under the Florida



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1434 Building Code for a newly constructed residential structure in
1435 that area. A residential structure shall be deemed to comply
1436 with the requirements of this subparagraph if it has shutters or
1437 opening protections on all openings and if such opening
1438 protections complied with the Florida Building Code at the time
1439 they were installed. ~~Effective January 1, 2010, for personal~~
1440 ~~lines residential property insured by the corporation that is~~
1441 ~~located in the wind-borne debris region and has an insured value~~
1442 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
1443 ~~any such residential property must be provided by the seller a~~
1444 ~~written disclosure that contains the structure's windstorm~~
1445 ~~mitigation rating based on the uniform home grading scale~~
1446 ~~adopted under s. 215.55865. Such rating shall be provided to the~~
1447 ~~purchaser at or before the time the purchaser executes a~~
1448 ~~contract for sale and purchase.~~

1449 (c) The plan of operation of the corporation:

1450 1. Must provide for adoption of residential property and
1451 casualty insurance policy forms and commercial residential and
1452 nonresidential property insurance forms, which forms must be
1453 approved by the office prior to use. The corporation shall adopt
1454 the following policy forms:

1455 a. Standard personal lines policy forms that are
1456 comprehensive multiperil policies providing full coverage of a
1457 residential property equivalent to the coverage provided in the
1458 private insurance market under an HO-3, HO-4, or HO-6 policy.

1459 b. Basic personal lines policy forms that are policies
1460 similar to an HO-8 policy or a dwelling fire policy that provide
1461 coverage meeting the requirements of the secondary mortgage
1462 market, but which coverage is more limited than the coverage



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1463 under a standard policy.

1464 c. Commercial lines residential and nonresidential policy
1465 forms that are generally similar to the basic perils of full
1466 coverage obtainable for commercial residential structures and
1467 commercial nonresidential structures in the admitted voluntary
1468 market.

1469 d. Personal lines and commercial lines residential property
1470 insurance forms that cover the peril of wind only. The forms are
1471 applicable only to residential properties located in areas
1472 eligible for coverage under the high-risk account referred to in
1473 sub-subparagraph (b)2.a.

1474 e. Commercial lines nonresidential property insurance forms
1475 that cover the peril of wind only. The forms are applicable only
1476 to nonresidential properties located in areas eligible for
1477 coverage under the high-risk account referred to in sub-
1478 subparagraph (b)2.a.

1479 f. The corporation may adopt variations of the policy forms
1480 listed in sub-subparagraphs a.-e. that contain more restrictive
1481 coverage.

1482 2.a. Must provide that the corporation adopt a program in
1483 which the corporation and authorized insurers enter into quota
1484 share primary insurance agreements for hurricane coverage, as
1485 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1486 property insurance forms for eligible risks which cover the
1487 peril of wind only. As used in this subsection, the term:

1488 (I) "Quota share primary insurance" means an arrangement in
1489 which the primary hurricane coverage of an eligible risk is
1490 provided in specified percentages by the corporation and an
1491 authorized insurer. The corporation and authorized insurer are



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1492 each solely responsible for a specified percentage of hurricane
1493 coverage of an eligible risk as set forth in a quota share
1494 primary insurance agreement between the corporation and an
1495 authorized insurer and the insurance contract. The
1496 responsibility of the corporation or authorized insurer to pay
1497 its specified percentage of hurricane losses of an eligible
1498 risk, as set forth in the quota share primary insurance
1499 agreement, may not be altered by the inability of the other
1500 party to the agreement to pay its specified percentage of
1501 hurricane losses. Eligible risks that are provided hurricane
1502 coverage through a quota share primary insurance arrangement
1503 must be provided policy forms that set forth the obligations of
1504 the corporation and authorized insurer under the arrangement,
1505 clearly specify the percentages of quota share primary insurance
1506 provided by the corporation and authorized insurer, and
1507 conspicuously and clearly state that neither the authorized
1508 insurer nor the corporation may be held responsible beyond its
1509 specified percentage of coverage of hurricane losses.

1510 (II) "Eligible risks" means personal lines residential and
1511 commercial lines residential risks that meet the underwriting
1512 criteria of the corporation and are located in areas that were
1513 eligible for coverage by the Florida Windstorm Underwriting
1514 Association on January 1, 2002.

1515 b. The corporation may enter into quota share primary
1516 insurance agreements with authorized insurers at corporation
1517 coverage levels of 90 percent and 50 percent.

1518 c. If the corporation determines that additional coverage
1519 levels are necessary to maximize participation in quota share
1520 primary insurance agreements by authorized insurers, the



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1521 corporation may establish additional coverage levels. However,
1522 the corporation's quota share primary insurance coverage level
1523 may not exceed 90 percent.

1524 d. Any quota share primary insurance agreement entered into
1525 between an authorized insurer and the corporation must provide
1526 for a uniform specified percentage of coverage of hurricane
1527 losses, by county or territory as set forth by the corporation
1528 board, for all eligible risks of the authorized insurer covered
1529 under the quota share primary insurance agreement.

1530 e. Any quota share primary insurance agreement entered into
1531 between an authorized insurer and the corporation is subject to
1532 review and approval by the office. However, such agreement shall
1533 be authorized only as to insurance contracts entered into
1534 between an authorized insurer and an insured who is already
1535 insured by the corporation for wind coverage.

1536 f. For all eligible risks covered under quota share primary
1537 insurance agreements, the exposure and coverage levels for both
1538 the corporation and authorized insurers shall be reported by the
1539 corporation to the Florida Hurricane Catastrophe Fund. For all
1540 policies of eligible risks covered under quota share primary
1541 insurance agreements, the corporation and the authorized insurer
1542 shall maintain complete and accurate records for the purpose of
1543 exposure and loss reimbursement audits as required by Florida
1544 Hurricane Catastrophe Fund rules. The corporation and the
1545 authorized insurer shall each maintain duplicate copies of
1546 policy declaration pages and supporting claims documents.

1547 g. The corporation board shall establish in its plan of
1548 operation standards for quota share agreements which ensure that
1549 there is no discriminatory application among insurers as to the



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1550 terms of quota share agreements, pricing of quota share
1551 agreements, incentive provisions if any, and consideration paid
1552 for servicing policies or adjusting claims.

1553 h. The quota share primary insurance agreement between the
1554 corporation and an authorized insurer must set forth the
1555 specific terms under which coverage is provided, including, but
1556 not limited to, the sale and servicing of policies issued under
1557 the agreement by the insurance agent of the authorized insurer
1558 producing the business, the reporting of information concerning
1559 eligible risks, the payment of premium to the corporation, and
1560 arrangements for the adjustment and payment of hurricane claims
1561 incurred on eligible risks by the claims adjuster and personnel
1562 of the authorized insurer. Entering into a quota sharing
1563 insurance agreement between the corporation and an authorized
1564 insurer shall be voluntary and at the discretion of the
1565 authorized insurer.

1566 3. May provide that the corporation may employ or otherwise
1567 contract with individuals or other entities to provide
1568 administrative or professional services that may be appropriate
1569 to effectuate the plan. The corporation shall have the power to
1570 borrow funds, by issuing bonds or by incurring other
1571 indebtedness, and shall have other powers reasonably necessary
1572 to effectuate the requirements of this subsection, including,
1573 without limitation, the power to issue bonds and incur other
1574 indebtedness in order to refinance outstanding bonds or other
1575 indebtedness. The corporation may, but is not required to, seek
1576 judicial validation of its bonds or other indebtedness under
1577 chapter 75. The corporation may issue bonds or incur other
1578 indebtedness, or have bonds issued on its behalf by a unit of



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1579 local government pursuant to subparagraph (p)2., in the absence
1580 of a hurricane or other weather-related event, upon a
1581 determination by the corporation, subject to approval by the
1582 office, that such action would enable it to efficiently meet the
1583 financial obligations of the corporation and that such
1584 financings are reasonably necessary to effectuate the
1585 requirements of this subsection. The corporation is authorized
1586 to take all actions needed to facilitate tax-free status for any
1587 such bonds or indebtedness, including formation of trusts or
1588 other affiliated entities. The corporation shall have the
1589 authority to pledge assessments, projected recoveries from the
1590 Florida Hurricane Catastrophe Fund, other reinsurance
1591 recoverables, market equalization and other surcharges, and
1592 other funds available to the corporation as security for bonds
1593 or other indebtedness. In recognition of s. 10, Art. I of the
1594 State Constitution, prohibiting the impairment of obligations of
1595 contracts, it is the intent of the Legislature that no action be
1596 taken whose purpose is to impair any bond indenture or financing
1597 agreement or any revenue source committed by contract to such
1598 bond or other indebtedness.

1599 4.a. Must require that the corporation operate subject to
1600 the supervision and approval of a board of governors consisting
1601 of eight individuals who are residents of this state, from
1602 different geographical areas of this state. The Governor, the
1603 Chief Financial Officer, the President of the Senate, and the
1604 Speaker of the House of Representatives shall each appoint two
1605 members of the board. At least one of the two members appointed
1606 by each appointing officer must have demonstrated expertise in
1607 insurance. The Chief Financial Officer shall designate one of



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1608 the appointees as chair. All board members serve at the pleasure
1609 of the appointing officer. All members of the board of governors
1610 are subject to removal at will by the officers who appointed
1611 them. All board members, including the chair, must be appointed
1612 to serve for 3-year terms beginning annually on a date
1613 designated by the plan. However, for the first term beginning on
1614 or after July 1, 2009, each appointing officer shall appoint one
1615 member of the board for a 2-year term and one member for a 3-
1616 year term. Any board vacancy shall be filled for the unexpired
1617 term by the appointing officer. The Chief Financial Officer
1618 shall appoint a technical advisory group to provide information
1619 and advice to the board of governors in connection with the
1620 board's duties under this subsection. The executive director and
1621 senior managers of the corporation shall be engaged by the board
1622 and serve at the pleasure of the board. Any executive director
1623 appointed on or after July 1, 2006, is subject to confirmation
1624 by the Senate. The executive director is responsible for
1625 employing other staff as the corporation may require, subject to
1626 review and concurrence by the board.

1627 b. The board shall create a Market Accountability Advisory
1628 Committee to assist the corporation in developing awareness of
1629 its rates and its customer and agent service levels in
1630 relationship to the voluntary market insurers writing similar
1631 coverage. The members of the advisory committee shall consist of
1632 the following 11 persons, one of whom must be elected chair by
1633 the members of the committee: four representatives, one
1634 appointed by the Florida Association of Insurance Agents, one by
1635 the Florida Association of Insurance and Financial Advisors, one
1636 by the Professional Insurance Agents of Florida, and one by the



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1637 Latin American Association of Insurance Agencies; three
1638 representatives appointed by the insurers with the three highest
1639 voluntary market share of residential property insurance
1640 business in the state; one representative from the Office of
1641 Insurance Regulation; one consumer appointed by the board who is
1642 insured by the corporation at the time of appointment to the
1643 committee; one representative appointed by the Florida
1644 Association of Realtors; and one representative appointed by the
1645 Florida Bankers Association. All members must serve for 3-year
1646 terms and may serve for consecutive terms. The committee shall
1647 report to the corporation at each board meeting on insurance
1648 market issues which may include rates and rate competition with
1649 the voluntary market; service, including policy issuance, claims
1650 processing, and general responsiveness to policyholders,
1651 applicants, and agents; and matters relating to depopulation.

1652 5. Must provide a procedure for determining the eligibility
1653 of a risk for coverage, as follows:

1654 a. Subject to the provisions of s. 627.3517, with respect
1655 to personal lines residential risks, if the risk is offered
1656 coverage from an authorized insurer at the insurer's approved
1657 rate under either a standard policy including wind coverage or,
1658 if consistent with the insurer's underwriting rules as filed
1659 with the office, a basic policy including wind coverage, for a
1660 new application to the corporation for coverage, the risk is not
1661 eligible for any policy issued by the corporation unless the
1662 premium for coverage from the authorized insurer is more than 15
1663 percent greater than the premium for comparable coverage from
1664 the corporation. If the risk is not able to obtain any such
1665 offer, the risk is eligible for either a standard policy



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1666 including wind coverage or a basic policy including wind
1667 coverage issued by the corporation; however, if the risk could
1668 not be insured under a standard policy including wind coverage
1669 regardless of market conditions, the risk shall be eligible for
1670 a basic policy including wind coverage unless rejected under
1671 subparagraph 8. However, with regard to a policyholder of the
1672 corporation or a policyholder removed from the corporation
1673 through an assumption agreement until the end of the assumption
1674 period, the policyholder remains eligible for coverage from the
1675 corporation regardless of any offer of coverage from an
1676 authorized insurer or surplus lines insurer. The corporation
1677 shall determine the type of policy to be provided on the basis
1678 of objective standards specified in the underwriting manual and
1679 based on generally accepted underwriting practices.

1680 (I) If the risk accepts an offer of coverage through the
1681 market assistance plan or an offer of coverage through a
1682 mechanism established by the corporation before a policy is
1683 issued to the risk by the corporation or during the first 30
1684 days of coverage by the corporation, and the producing agent who
1685 submitted the application to the plan or to the corporation is
1686 not currently appointed by the insurer, the insurer shall:

1687 (A) Pay to the producing agent of record of the policy, for
1688 the first year, an amount that is the greater of the insurer's
1689 usual and customary commission for the type of policy written or
1690 a fee equal to the usual and customary commission of the
1691 corporation; or

1692 (B) Offer to allow the producing agent of record of the
1693 policy to continue servicing the policy for a period of not less
1694 than 1 year and offer to pay the agent the greater of the



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1695 insurer's or the corporation's usual and customary commission
1696 for the type of policy written.

1697

1698 If the producing agent is unwilling or unable to accept
1699 appointment, the new insurer shall pay the agent in accordance
1700 with sub-sub-sub-subparagraph (A).

1701 (II) When the corporation enters into a contractual
1702 agreement for a take-out plan, the producing agent of record of
1703 the corporation policy is entitled to retain any unearned
1704 commission on the policy, and the insurer shall:

1705 (A) Pay to the producing agent of record of the corporation
1706 policy, for the first year, an amount that is the greater of the
1707 insurer's usual and customary commission for the type of policy
1708 written or a fee equal to the usual and customary commission of
1709 the corporation; or

1710 (B) Offer to allow the producing agent of record of the
1711 corporation policy to continue servicing the policy for a period
1712 of not less than 1 year and offer to pay the agent the greater
1713 of the insurer's or the corporation's usual and customary
1714 commission for the type of policy written.

1715

1716 If the producing agent is unwilling or unable to accept
1717 appointment, the new insurer shall pay the agent in accordance
1718 with sub-sub-sub-subparagraph (A).

1719 b. With respect to commercial lines residential risks, for
1720 a new application to the corporation for coverage, if the risk
1721 is offered coverage under a policy including wind coverage from
1722 an authorized insurer at its approved rate, the risk is not
1723 eligible for any policy issued by the corporation unless the



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1724 premium for coverage from the authorized insurer is more than 15
1725 percent greater than the premium for comparable coverage from
1726 the corporation. If the risk is not able to obtain any such
1727 offer, the risk is eligible for a policy including wind coverage
1728 issued by the corporation. However, with regard to a
1729 policyholder of the corporation or a policyholder removed from
1730 the corporation through an assumption agreement until the end of
1731 the assumption period, the policyholder remains eligible for
1732 coverage from the corporation regardless of any offer of
1733 coverage from an authorized insurer or surplus lines insurer.

1734 (I) If the risk accepts an offer of coverage through the
1735 market assistance plan or an offer of coverage through a
1736 mechanism established by the corporation before a policy is
1737 issued to the risk by the corporation or during the first 30
1738 days of coverage by the corporation, and the producing agent who
1739 submitted the application to the plan or the corporation is not
1740 currently appointed by the insurer, the insurer shall:

1741 (A) Pay to the producing agent of record of the policy, for
1742 the first year, an amount that is the greater of the insurer's
1743 usual and customary commission for the type of policy written or
1744 a fee equal to the usual and customary commission of the
1745 corporation; or

1746 (B) Offer to allow the producing agent of record of the
1747 policy to continue servicing the policy for a period of not less
1748 than 1 year and offer to pay the agent the greater of the
1749 insurer's or the corporation's usual and customary commission
1750 for the type of policy written.

1751
1752 If the producing agent is unwilling or unable to accept



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1753 appointment, the new insurer shall pay the agent in accordance
1754 with sub-sub-sub-subparagraph (A).

1755 (II) When the corporation enters into a contractual
1756 agreement for a take-out plan, the producing agent of record of
1757 the corporation policy is entitled to retain any unearned
1758 commission on the policy, and the insurer shall:

1759 (A) Pay to the producing agent of record of the corporation
1760 policy, for the first year, an amount that is the greater of the
1761 insurer's usual and customary commission for the type of policy
1762 written or a fee equal to the usual and customary commission of
1763 the corporation; or

1764 (B) Offer to allow the producing agent of record of the
1765 corporation policy to continue servicing the policy for a period
1766 of not less than 1 year and offer to pay the agent the greater
1767 of the insurer's or the corporation's usual and customary
1768 commission for the type of policy written.

1769
1770 If the producing agent is unwilling or unable to accept
1771 appointment, the new insurer shall pay the agent in accordance
1772 with sub-sub-sub-subparagraph (A).

1773 c. For purposes of determining comparable coverage under
1774 sub-subparagraphs a. and b., the comparison shall be based on
1775 those forms and coverages that are reasonably comparable. The
1776 corporation may rely on a determination of comparable coverage
1777 and premium made by the producing agent who submits the
1778 application to the corporation, made in the agent's capacity as
1779 the corporation's agent. A comparison may be made solely of the
1780 premium with respect to the main building or structure only on
1781 the following basis: the same coverage A or other building



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1782 limits; the same percentage hurricane deductible that applies on
1783 an annual basis or that applies to each hurricane for commercial
1784 residential property; the same percentage of ordinance and law
1785 coverage, if the same limit is offered by both the corporation
1786 and the authorized insurer; the same mitigation credits, to the
1787 extent the same types of credits are offered both by the
1788 corporation and the authorized insurer; the same method for loss
1789 payment, such as replacement cost or actual cash value, if the
1790 same method is offered both by the corporation and the
1791 authorized insurer in accordance with underwriting rules; and
1792 any other form or coverage that is reasonably comparable as
1793 determined by the board. If an application is submitted to the
1794 corporation for wind-only coverage in the high-risk account, the
1795 premium for the corporation's wind-only policy plus the premium
1796 for the ex-wind policy that is offered by an authorized insurer
1797 to the applicant shall be compared to the premium for multiperil
1798 coverage offered by an authorized insurer, subject to the
1799 standards for comparison specified in this subparagraph. If the
1800 corporation or the applicant requests from the authorized
1801 insurer a breakdown of the premium of the offer by types of
1802 coverage so that a comparison may be made by the corporation or
1803 its agent and the authorized insurer refuses or is unable to
1804 provide such information, the corporation may treat the offer as
1805 not being an offer of coverage from an authorized insurer at the
1806 insurer's approved rate.

1807 6. Must include rules for classifications of risks and
1808 rates therefor.

1809 7. Must provide that if premium and investment income for
1810 an account attributable to a particular calendar year are in



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1811 excess of projected losses and expenses for the account
1812 attributable to that year, such excess shall be held in surplus
1813 in the account. Such surplus shall be available to defray
1814 deficits in that account as to future years and shall be used
1815 for that purpose prior to assessing assessable insurers and
1816 assessable insureds as to any calendar year.

1817 8. Must provide objective criteria and procedures to be
1818 uniformly applied for all applicants in determining whether an
1819 individual risk is so hazardous as to be uninsurable. In making
1820 this determination and in establishing the criteria and
1821 procedures, the following shall be considered:

1822 a. Whether the likelihood of a loss for the individual risk
1823 is substantially higher than for other risks of the same class;
1824 and

1825 b. Whether the uncertainty associated with the individual
1826 risk is such that an appropriate premium cannot be determined.

1827

1828 The acceptance or rejection of a risk by the corporation shall
1829 be construed as the private placement of insurance, and the
1830 provisions of chapter 120 shall not apply.

1831 9. Must provide that the corporation shall make its best
1832 efforts to procure catastrophe reinsurance at reasonable rates,
1833 to cover its projected 100-year probable maximum loss as
1834 determined by the board of governors.

1835 10. The policies issued by the corporation must provide
1836 that, if the corporation or the market assistance plan obtains
1837 an offer from an authorized insurer to cover the risk at its
1838 approved rates, the risk is no longer eligible for renewal
1839 through the corporation, except as otherwise provided in this



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1840 subsection.

1841 11. Corporation policies and applications must include a
1842 notice that the corporation policy could, under this section, be
1843 replaced with a policy issued by an authorized insurer that does
1844 not provide coverage identical to the coverage provided by the
1845 corporation. The notice shall also specify that acceptance of
1846 corporation coverage creates a conclusive presumption that the
1847 applicant or policyholder is aware of this potential.

1848 12. May establish, subject to approval by the office,
1849 different eligibility requirements and operational procedures
1850 for any line or type of coverage for any specified county or
1851 area if the board determines that such changes to the
1852 eligibility requirements and operational procedures are
1853 justified due to the voluntary market being sufficiently stable
1854 and competitive in such area or for such line or type of
1855 coverage and that consumers who, in good faith, are unable to
1856 obtain insurance through the voluntary market through ordinary
1857 methods would continue to have access to coverage from the
1858 corporation. When coverage is sought in connection with a real
1859 property transfer, such requirements and procedures shall not
1860 provide for an effective date of coverage later than the date of
1861 the closing of the transfer as established by the transferor,
1862 the transferee, and, if applicable, the lender.

1863 13. Must provide that, with respect to the high-risk
1864 account, any assessable insurer with a surplus as to
1865 policyholders of \$25 million or less writing 25 percent or more
1866 of its total countrywide property insurance premiums in this
1867 state may petition the office, within the first 90 days of each
1868 calendar year, to qualify as a limited apportionment company. A



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1869 regular assessment levied by the corporation on a limited
1870 apportionment company for a deficit incurred by the corporation
1871 for the high-risk account in 2006 or thereafter may be paid to
1872 the corporation on a monthly basis as the assessments are
1873 collected by the limited apportionment company from its insureds
1874 pursuant to s. 627.3512, but the regular assessment must be paid
1875 in full within 12 months after being levied by the corporation.
1876 A limited apportionment company shall collect from its
1877 policyholders any emergency assessment imposed under sub-
1878 subparagraph (b)3.d. The plan shall provide that, if the office
1879 determines that any regular assessment will result in an
1880 impairment of the surplus of a limited apportionment company,
1881 the office may direct that all or part of such assessment be
1882 deferred as provided in subparagraph (p)4. However, there shall
1883 be no limitation or deferment of an emergency assessment to be
1884 collected from policyholders under sub-subparagraph (b)3.d.

1885 14. Must provide that the corporation appoint as its
1886 licensed agents only those agents who also hold an appointment
1887 as defined in s. 626.015(3) with an insurer who at the time of
1888 the agent's initial appointment by the corporation is authorized
1889 to write and is actually writing personal lines residential
1890 property coverage, commercial residential property coverage, or
1891 commercial nonresidential property coverage within the state.

1892 15. Must provide, by July 1, 2007, a premium payment plan
1893 option to its policyholders which allows at a minimum for
1894 quarterly and semiannual payment of premiums. A monthly payment
1895 plan may, but is not required to, be offered.

1896 16. Must limit coverage on mobile homes or manufactured
1897 homes built prior to 1994 to actual cash value of the dwelling



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1898 rather than replacement costs of the dwelling.

1899 17. May provide such limits of coverage as the board
1900 determines, consistent with the requirements of this subsection.

1901 18. May require commercial property to meet specified
1902 hurricane mitigation construction features as a condition of
1903 eligibility for coverage.

1904 (m)1. Rates for coverage provided by the corporation shall
1905 be actuarially sound and subject to the requirements of s.
1906 627.062, except as otherwise provided in this paragraph. The
1907 corporation shall file its recommended rates with the office at
1908 least annually. The corporation shall provide any additional
1909 information regarding the rates which the office requires. The
1910 office shall consider the recommendations of the board and issue
1911 a final order establishing the rates for the corporation within
1912 45 days after the recommended rates are filed. The corporation
1913 may not pursue an administrative challenge or judicial review of
1914 the final order of the office.

1915 2. In addition to the rates otherwise determined pursuant
1916 to this paragraph, the corporation shall impose and collect an
1917 amount equal to the premium tax provided for in s. 624.509 to
1918 augment the financial resources of the corporation.

1919 3. After the public hurricane loss-projection model under
1920 s. 627.06281 has been found to be accurate and reliable by the
1921 Florida Commission on Hurricane Loss Projection Methodology,
1922 that model shall serve as the minimum benchmark for determining
1923 the windstorm portion of the corporation's rates. This
1924 subparagraph does not require or allow the corporation to adopt
1925 rates lower than the rates otherwise required or allowed by this
1926 paragraph.



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1927 4. The rate filings for the corporation which were approved
1928 by the office and which took effect January 1, 2007, are
1929 rescinded, except for those rates that were lowered. As soon as
1930 possible, the corporation shall begin using the lower rates that
1931 were in effect on December 31, 2006, and shall provide refunds
1932 to policyholders who have paid higher rates as a result of that
1933 rate filing. The rates in effect on December 31, 2006, shall
1934 remain in effect for the 2007 and 2008 calendar years except for
1935 any rate change that results in a lower rate. The next rate
1936 change that may increase rates shall take effect pursuant to a
1937 new rate filing recommended by the corporation and established
1938 by the office, subject to the requirements of this paragraph.

1939 5. Beginning on July 15, 2009, and each year thereafter,
1940 the corporation must make a recommended actuarially sound rate
1941 filing for each personal and commercial line of business it
1942 writes, to be effective no earlier than January 1, 2010.

1943 6. Notwithstanding the board's recommended rates and the
1944 office's final order regarding the corporation's filed rates
1945 under subparagraph 1., the corporation shall implement a rate
1946 increase each year which does not exceed 5 percent for any
1947 single policy issued by the corporation, excluding coverage
1948 changes and surcharges.

1949 7. The corporation may also implement an increase to
1950 reflect the effect on the corporation of the cash buildup factor
1951 pursuant to s. 215.555(5)(b).

1952 8. The corporation's implementation of rates as prescribed
1953 in subparagraph 6. shall cease upon the corporation's
1954 implementation of actuarially sound rates.

1955 9. Beginning January 1, 2010, and each quarter thereafter,



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1956 the corporation shall transfer an amount equal to 10 percent of
1957 the funds projected to be collected from the rate increase
1958 prescribed by subparagraph 6. to the General Revenue Fund. The
1959 corporation shall cease such transfers upon the implementation
1960 of actuarially sound rates or the existence of a deficit in any
1961 account as described in subparagraph (b)3.

1962 (x) It is the intent of the Legislature that the amendments
1963 to this subsection enacted in 2002 should, over time, reduce the
1964 probable maximum windstorm losses in the residual markets and
1965 should reduce the potential assessments to be levied on property
1966 insurers and policyholders statewide. In furtherance of this
1967 intent:

1968 1. The board shall, on or before February 1 of each year,
1969 provide a report to the President of the Senate and the Speaker
1970 of the House of Representatives showing the reduction or
1971 increase in the 100-year probable maximum loss attributable to
1972 wind-only coverages and the quota share program under this
1973 subsection combined, as compared to the benchmark 100-year
1974 probable maximum loss of the Florida Windstorm Underwriting
1975 Association. For purposes of this paragraph, the benchmark 100-
1976 year probable maximum loss of the Florida Windstorm Underwriting
1977 Association shall be the calculation dated February 2001 and
1978 based on November 30, 2000, exposures. In order to ensure
1979 comparability of data, the board shall use the same methods for
1980 calculating its probable maximum loss as were used to calculate
1981 the benchmark probable maximum loss.

1982 2. Beginning December 1, 2010 ~~February 1, 2010~~, if the
1983 report under subparagraph 1. for any year indicates that the
1984 100-year probable maximum loss attributable to wind-only



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1985 coverages and the quota share program combined does not reflect
1986 a reduction of at least 25 percent from the benchmark, the board
1987 shall reduce the boundaries of the high-risk area eligible for
1988 wind-only coverages under this subsection in a manner calculated
1989 to reduce such probable maximum loss to an amount at least 25
1990 percent below the benchmark.

1991 3. Beginning February 1, 2015, if the report under
1992 subparagraph 1. for any year indicates that the 100-year
1993 probable maximum loss attributable to wind-only coverages and
1994 the quota share program combined does not reflect a reduction of
1995 at least 50 percent from the benchmark, the boundaries of the
1996 high-risk area eligible for wind-only coverages under this
1997 subsection shall be reduced by the elimination of any area that
1998 is not seaward of a line 1,000 feet inland from the Intracoastal
1999 Waterway.

2000 Section 12. Section 627.3512, Florida Statutes, is amended
2001 to read:

2002 627.3512 Recoupment of residual market deficit
2003 assessments.-

2004 (1) The Legislature finds and declares that all assessments
2005 paid by an insurer or insurer group as a result of a levy by any
2006 residual market entity, including regular assessments levied on
2007 insurers by Citizens Property Insurance Corporation and any
2008 other assessments levied on insurers by an insurance risk
2009 apportionment plan or assigned risk plan under s. 627.311 or s.
2010 627.351 constitute advances of funds from the insurer to the
2011 residual market entity, and that the insurer is entitled to
2012 fully recoup such advances. An insurer or insurer group may
2013 recoup any assessments that have been paid during or after 1995



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2014 by the insurer or insurer group to defray deficits of an
2015 insurance risk apportionment plan or assigned risk plan under
2016 ss. 627.311 and 627.351, net of any earnings returned to the
2017 insurer or insurer group by the association or plan for any year
2018 after 1993. A limited apportionment company as defined in s.
2019 627.351(6)(c) may recoup any regular assessment that has been
2020 levied by, or paid to, Citizens Property Insurance Corporation.

2021 (2) The recoupment shall be made by applying a separate
2022 recoupment ~~assessment~~ factor on policies of the same line or
2023 type as were considered by the residual markets in determining
2024 the assessment liability of the insurer or insurer group. An
2025 insurer or insurer group shall calculate a separate assessment
2026 factor for personal lines and commercial lines. The separate
2027 assessment factor shall provide for full recoupment of the
2028 assessments over a period of 1 year, unless the insurer or
2029 insurer group, at its option, elects to recoup the assessments
2030 over a longer period. The assessment factor expires upon
2031 collection of the full amount allowed to be recouped. Amounts
2032 recouped under this section are not subject to premium taxes,
2033 fees, or commissions.

2034 (3) ~~(2)~~ The recoupment ~~assessment~~ factor may ~~must~~ not be
2035 more than 3 percentage points above the ratio of the deficit
2036 assessment to the Florida direct written premium for policies
2037 for the lines or types of business as to which the assessment
2038 was calculated, as written in the year the deficit assessment
2039 was paid. If an insurer or insurer group does not ~~fails to~~
2040 collect the full amount of the deficit assessment during one 12-
2041 month period, the insurer or insurer group may apply
2042 recalculated recoupment factors to policies issued or renewed



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2043 during one or more succeeding 12-month periods ~~must carry~~
2044 ~~forward the amount of the deficit and adjust the deficit~~
2045 ~~assessment to be recouped in a subsequent year by that amount.~~

2046 (4)~~(3)~~ The insurer or insurer group shall file with the
2047 office a statement for informational purposes only setting forth
2048 the amount of the recoupment ~~assessment~~ factor and an
2049 explanation of how the factor will be applied, at least 15 days
2050 prior to the factor being applied to any policies. The
2051 informational statement shall include documentation of the
2052 assessment paid by the insurer or insurer group and the
2053 arithmetic calculations supporting the recoupment ~~assessment~~
2054 factor. ~~The office shall complete its review within 15 days~~
2055 ~~after receipt of the filing and shall limit its review to~~
2056 ~~verification of the arithmetic calculations.~~ The insurer or
2057 insurer group may use the recoupment ~~assessment~~ factor at any
2058 time after the expiration of the 15-day period ~~unless the office~~
2059 ~~has notified the insurer or insurer group in writing that the~~
2060 ~~arithmetic calculations are incorrect.~~ The recoupment factor
2061 shall apply to all policies described in subsection (3) that are
2062 issued or renewed by the insurer or insurer group during a 12-
2063 month period. If full recoupment requires the insurer or insurer
2064 group to apply a recoupment factor over a subsequent 12-month
2065 period, the insurer or insurer group must file a supplemental
2066 informational statement pursuant to this subsection.

2067 (5) No later than 90 days after the insurer or insurer
2068 group has completed the recoupment process, it shall file with
2069 the office a final accounting report documenting the recoupment.
2070 The report shall provide the amounts of assessments paid by the
2071 insurer or insurer group, the amounts and percentages recouped



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2072 by year from each affected line of business, and the direct
2073 written premium subject to recoupment by year.

2074 (6)~~(4)~~ The commission may adopt rules to implement this
2075 section.

2076 Section 13. Subsection (2) of section 627.711, Florida
2077 Statutes, is amended, and subsection (3) is added to that
2078 section, to read:

2079 627.711 Notice of premium discounts for hurricane loss
2080 mitigation; uniform mitigation verification inspection form.—

2081 (2) By July 1, 2007, the Financial Services Commission
2082 shall develop by rule a uniform mitigation verification
2083 inspection form that shall be used by all insurers when
2084 submitted by policyholders for the purpose of factoring
2085 discounts for wind insurance. In developing the form, the
2086 commission shall seek input from insurance, construction, and
2087 building code representatives. Further, the commission shall
2088 provide guidance as to the length of time the inspection results
2089 are valid. An insurer shall accept as valid a uniform mitigation
2090 verification form certified by the Department of Financial
2091 Services or signed by:

2092 (a) A hurricane mitigation inspector certified ~~employed by~~
2093 ~~the an approved~~ My Safe Florida Home program ~~wind certification~~
2094 ~~entity;~~

2095 (b) A building code inspector certified under s. 468.607;

2096 (c) A general or residential contractor licensed under s.
2097 489.111;

2098 (d) A professional engineer licensed under s. 471.015 who
2099 has passed the appropriate equivalency test of the Building Code
2100 Training Program as required by s. 553.841; ~~or~~



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2101 (e) A professional architect licensed under s. 481.213; or
2102 (f) Any other individual or entity recognized by the
2103 insurer as possessing the necessary qualifications to properly
2104 complete a uniform mitigation verification form.

2105 (3) An individual or entity who knowingly provides or
2106 utters a false or fraudulent mitigation verification form with
2107 the intent to obtain or receive a discount on an insurance
2108 premium to which the individual or entity is not entitled
2109 commits a misdemeanor of the first degree, punishable as
2110 provided in s. 775.082 or s. 775.083.

2111 Section 14. Subsections (1) and (2) of section 627.712,
2112 Florida Statutes, are amended to read:

2113 627.712 Residential windstorm coverage required;
2114 availability of exclusions for windstorm or contents.—

2115 (1) An insurer issuing a residential property insurance
2116 policy must provide windstorm coverage. Except as provided in
2117 paragraph (2) (c), this section does not apply with respect to
2118 risks that are eligible for wind-only coverage from Citizens
2119 Property Insurance Corporation under s. 627.351(6), and with
2120 respect to risks that are not eligible for coverage from
2121 Citizens Property Insurance Corporation under s. 627.351(6) (a)3.
2122 or s. 627.351(6) (a)5. A risk ineligible for Citizens coverage
2123 under s. 627.351(6) (a)3. or s. 627.351(6) (a)5. is exempt from
2124 the requirements of this section only if the risk is located
2125 within the boundaries of the high-risk account of the
2126 corporation.

2127 (2) A property insurer must make available, at the option
2128 of the policyholder, an exclusion of windstorm coverage.

2129 (a) The coverage may be excluded only if:



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2130 1. When the policyholder is a natural person, the
2131 policyholder personally writes and provides to the insurer the
2132 following statement in his or her own handwriting and signs his
2133 or her name, which must also be signed by every other named
2134 insured on the policy, and dated: "I do not want the insurance
2135 on my (home/mobile home/condominium unit) to pay for damage from
2136 windstorms. I will pay those costs. My insurance will not."

2137 2. When the policyholder is other than a natural person,
2138 the policyholder provides to the insurer on the policyholder's
2139 letterhead the following statement that must be signed by the
2140 policyholder's authorized representative and dated: "... (Name of
2141 entity)... does not want the insurance on its ...(type of
2142 structure)... to pay for damage from windstorms. ...(Name of
2143 entity)... will be responsible for these costs. ...(Name of
2144 entity's)... insurance will not."

2145 (b) If the structure insured by the policy is subject to a
2146 mortgage or lien, the policyholder must provide the insurer with
2147 a written statement from the mortgageholder or lienholder
2148 indicating that the mortgageholder or lienholder approves the
2149 policyholder electing to exclude windstorm coverage or hurricane
2150 coverage from his or her or its property insurance policy.

2151 (c) ~~If the residential structure is eligible for wind only~~
2152 ~~coverage from Citizens Property Insurance Corporation,~~ An
2153 insurer nonrenewing a policy and issuing a replacement policy,
2154 or issuing a new policy, that does not provide wind coverage
2155 shall provide a notice to the mortgageholder or lienholder
2156 indicating the policyholder has elected coverage that does not
2157 cover wind.

2158 Section 15. Section 631.65, Florida Statutes, is amended to



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2159 read:

2160 631.65 Prohibited advertisement or solicitation.—No person
2161 shall make, publish, disseminate, circulate, or place before the
2162 public, or cause, directly or indirectly, to be made, published,
2163 disseminated, circulated, or placed before the public, in a
2164 newspaper, magazine, or other publication, or in the form of a
2165 notice, circular, pamphlet, letter, or poster, or over any radio
2166 station or television station, or in any other way, any
2167 advertisement, announcement, or statement which uses the
2168 existence of the insurance guaranty association for the purpose
2169 of sales, solicitation, or inducement to purchase any form of
2170 insurance covered under this part. However, this section does
2171 not prohibit a duly licensed insurance agent from explaining the
2172 existence or function of the insurance guaranty association to
2173 policyholders, prospects, or applicants for coverage.

2174 Section 16. Upon receipt of funds transferred to the
2175 General Revenue fund pursuant to s. 627.351(6)(m)8., Florida
2176 Statutes, the funds transferred are appropriated on a
2177 nonrecurring basis from the General Revenue Fund to the
2178 Insurance Regulatory Trust Fund in the Department of Financial
2179 Services for purposes of the My Safe Florida Home Program
2180 specified in s. 215.5586, Florida Statutes. The My Safe Florida
2181 Home Program shall use the funds solely for the provision of
2182 mitigation grants pursuant to s. 215.5586(2), Florida Statutes,
2183 for single-family homes insured by the Citizens Property
2184 Insurance Corporation on June 1, 2009. The department shall
2185 establish a separate account within the trust fund for
2186 accounting purposes.

2187 Section 17. This act shall take effect June 1, 2009.



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2188
2189 ===== T I T L E A M E N D M E N T =====

2190 And the title is amended as follows:

2191 Delete everything before the enacting clause
2192 and insert:

2193 A bill to be entitled
2194 An act relating to property insurance; amending s.
2195 215.555, F.S.; revising the dates of an insurer's
2196 contract year for purposes of calculating the
2197 insurer's retention; requiring the State Board of
2198 Administration to offer an additional amount of
2199 reimbursement coverage to certain insurers that
2200 purchased coverage during a certain calendar year;
2201 requiring an insurer that purchases certain coverage
2202 to retain an amount equal to a percentage of the
2203 insurer's surplus on a certain date; providing that an
2204 insurer's retention will apply along with a mandatory
2205 coverage after an optional coverage is exhausted;
2206 revising an expiration date on the requirement for the
2207 State Board of Administration to offer certain
2208 optional coverage to insurers; requiring the State
2209 Board of Administration to publish a statement of the
2210 estimated claims-paying capacity of the Hurricane
2211 Catastrophe Fund; authorizing the State Board of
2212 Administration to reimburse insurers based on a
2213 formula related to the claims-paying capacity of the
2214 Hurricane Catastrophe Fund; requiring the formula to
2215 determine an actuarially indicated premium to include
2216 specified cash build-up factors; authorizing the State



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2217 Board of Administration to require insurers to
2218 notarize documents submitted to the board; authorizing
2219 insurers to purchase temporary increased coverage
2220 limit for certain future hurricane seasons; providing
2221 that a cash build-up factor does not apply to
2222 temporary increased coverage limit premiums; providing
2223 dates on which the claims-paying capacity of the fund
2224 will increase; deleting authority for the State Board
2225 of Administration to increase the claims-paying
2226 capacity of the Hurricane Catastrophe Fund; amending
2227 s. 215.5586, F.S.; revising legislative intent;
2228 revising criteria for hurricane mitigation
2229 inspections; revising criteria for eligibility for a
2230 mitigation grant; expanding the list of improvements
2231 for which grants may be used; correcting a reference
2232 to the Florida Division of Emergency Management;
2233 deleting provisions relating to no-interest loans;
2234 requiring that contracts valued at or greater than a
2235 specified amount be subject to review and approval of
2236 the Legislative Budget Commission; amending s.
2237 626.854, F.S.; prohibiting a public adjuster from
2238 accepting referrals for compensation from a person
2239 with whom the public adjuster conducts business;
2240 prohibiting a public adjuster from compensating a
2241 person other than a public adjuster for referrals;
2242 amending s. 627.7011, F.S.; providing that an insurer
2243 may repair damaged property in compliance with its
2244 policy; amending s. 626.865, F.S.; deleting a
2245 requirement that an applicant for a license as a



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2246 public adjuster pass a written examination as a
2247 prerequisite to licensure; amending s. 626.8651, F.S.;
2248 requiring an applicant for a public adjuster
2249 apprentice license to pass a written exam and receive
2250 an Accredited Claims Adjuster designation and related
2251 training before licensure; limiting the number of
2252 public adjuster apprentices that may be maintained by
2253 a single public adjusting firm or supervised by a
2254 public adjuster; amending s. 627.062, F.S.; extending
2255 the period for which an insurer seeking a residential
2256 property insurance rate that is greater than the rate
2257 most recently approved by the Office of Insurance
2258 Regulation must make a "file and use" filing;
2259 authorizing an insurer to make a separate filing
2260 limited solely to an adjustment of its rates for
2261 reinsurance or financing costs to replace or finance
2262 payment of amounts covered by the Florida Hurricane
2263 Catastrophe Fund under certain circumstances;
2264 providing that certain insurers are not eligible to
2265 file for certain additional rate increases during a
2266 specified period after implementation of a limited
2267 filing; preserving the authority of the office to
2268 disapprove a rate filing as excessive, inadequate, or
2269 unfairly discriminatory; providing for the
2270 applicability of certain provisions of state law;
2271 amending s. 627.0621, F.S.; requiring that the Office
2272 of Insurance Regulation provide certain information
2273 regarding any residential property rate filing on a
2274 publicly accessible Internet website; requiring that



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2275 the office provide a means on its website for certain
2276 persons to submit e-mail regarding any rate filing;
2277 requiring that such e-mail be accessible by the
2278 actuary assigned to review the subject rate filing;
2279 deleting a limitation on the application of the
2280 attorney-client privilege and work product doctrine in
2281 challenges to actions by the Office of Insurance
2282 Regulation relating to rate filings; repealing s.
2283 627.0612, F.S., relating to administrative proceedings
2284 in rating determinations; amending s. 627.0629, F.S.;
2285 authorizing an insurer to include in its rates the
2286 actual cost of certain reinsurance; amending s.
2287 627.351, F.S.; deleting a provision requiring a seller
2288 of certain residential property to disclose the
2289 structure's windstorm mitigation rating to the
2290 prospective purchaser of the property; providing for
2291 members of the board of governors of Citizens Property
2292 Insurance Corporation to serve staggered terms;
2293 requiring Citizen's Property Insurance Corporation to
2294 implement rate increases until the implementation of
2295 actuarially sound rates; requiring the corporation to
2296 transfer a portion of the funds received from the rate
2297 increase into the General Revenue Fund; revising the
2298 date after which the State Board of Administration is
2299 required to reduce the boundaries of high-risk areas
2300 eligible for wind-only coverages under certain
2301 circumstances; amending s. 627.3512, F.S.; providing
2302 legislative findings; providing for the recoupment of
2303 residual market assessments paid by insurers or



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2304 insurer groups; limiting the amount of a recoupment
2305 factor; authorizing an insurer to apply recalculated
2306 recoupment factors to policies issued or renewed
2307 during specified periods under certain circumstances;
2308 requiring that insurers or insurer groups file a
2309 statement setting forth certain information; providing
2310 for the application of recoupment factors to certain
2311 policies upon issuance or renewal; requiring that
2312 insurers or insurer groups file a supplemental
2313 statement under certain circumstances; requiring that
2314 such entities file a final accounting report
2315 documenting certain information within a specified
2316 period after the completion of the recoupment process;
2317 requiring that such report provide certain
2318 information; amending s. 627.711, F.S.; requiring that
2319 an insurer accept as valid a uniform mitigation
2320 verification form certified by the Department of
2321 Financial Services or signed by certain individuals or
2322 entities; providing a criminal penalty for knowingly
2323 submitting a false or fraudulent mitigation form with
2324 the intent to receive an undeserved discount; amending
2325 s. 627.712, F.S.; revising the properties for which an
2326 insurer must make policies available which exclude
2327 windstorm coverage; amending s. 631.65, F.S.;;
2328 providing that an insurance agent is not prohibited
2329 from explaining the existence or function of the
2330 insurance guaranty association; providing for the
2331 appropriation of certain transferred funds to the
2332 Insurance Regulatory Trust Fund for purposes of the My



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Safe Florida Home Program; providing an effective
date.