

1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 215.47, F.S.; authorizing the State Board of
4 Administration to invest in certain revenue bonds under
5 certain circumstances; amending s. 215.555, F.S., relating
6 to the Florida Hurricane Catastrophe Fund; revising
7 reimbursement contract coverage payment provisions;
8 extending application of provisions relating to
9 reimbursement contracts; requiring a reimbursement premium
10 formula to provide cash build-up factors for certain
11 contract years; extending provisions relating to temporary
12 increase in coverage limit operations for the fund;
13 providing additional reimbursement requirements for
14 temporary increase in coverage addenda for additional
15 contract years; specifying required increases in TICL
16 reimbursement premiums for certain contract years;
17 specifying nonapplication of cash build-up factors to TICL
18 reimbursement premiums; deleting authority for the State
19 Board of Administration to increase the claims-paying
20 capacity of the fund; amending s. 215.5586, F.S., relating
21 to the My Safe Florida Home Program; revising legislative
22 intent; revising criteria for hurricane mitigation
23 inspections; revising criteria for eligibility for a
24 mitigation grant; expanding the list of improvements for
25 which grants may be used; deleting provisions relating to
26 no-interest loans; requiring that contracts valued at or
27 greater than a specified amount be subject to review and
28 approval by the Legislative Budget Commission; requiring

29 | the Department of Financial Services to implement a
 30 | condominium mitigation loan program for certain purposes;
 31 | specifying program requirements; specifying an
 32 | administration requirement for the program; requiring the
 33 | department to adopt rules; amending s. 624.605, F.S.;
 34 | revising the definition of the term "casualty insurance"
 35 | to include certain debt cancellation products sold by
 36 | certain business entities; amending s. 626.854, F.S.;
 37 | extending a period during which a public adjuster is
 38 | prohibited from contacting or contracting with an insured
 39 | for certain purposes after certain events; prohibiting the
 40 | giving of referral fees, compensation, or anything of
 41 | value to public adjusters for referrals; requiring public
 42 | adjusters to provide an insurer with a recorded statement
 43 | and examination under oath under certain circumstances;
 44 | providing a limited purpose of such statement and
 45 | examination; amending s. 627.062, F.S.; extending
 46 | application of file and use filing requirements for
 47 | certain property insurance filings; prohibiting the Office
 48 | of Insurance Regulation from interfering with an insurer's
 49 | right to solicit, sell, promote, or otherwise acquire
 50 | policyholders and implement coverage; specifying that
 51 | certain rate filings are not subject to office
 52 | determination as excessive or unfairly discriminatory;
 53 | providing limitations; providing a definition; prohibiting
 54 | certain rate filings under certain circumstances;
 55 | preserving the office's authority to disapprove certain
 56 | rate filings under certain circumstances; providing

57 | procedures for insurers submitting certain rate filings;
58 | specifying nonapplication to certain types of insurance;
59 | amending s. 627.0621, F.S.; deleting a limitation on the
60 | application of the attorney-client privilege and work
61 | product doctrine in challenges to actions by the office
62 | relating to rate filings; amending s. 627.0628, F.S.;
63 | requiring the Florida Commission on Hurricane Loss
64 | Projection Methodology to hold public meetings for
65 | purposes of implementing certain windstorm mitigation
66 | discounts, credits, other rate differentials, and
67 | deductible reductions; requiring a report to the Governor,
68 | Cabinet, and Legislature; amending s. 627.0629, F.S.;
69 | requiring certain hurricane mitigation measure discounts,
70 | credits, and rate differentials to supersede certain other
71 | discounts, credits, and rate differentials; authorizing
72 | residential property insurers to include reinsurance costs
73 | without certain TICL adjustments; amending s. 627.0655,
74 | F.S.; discontinuing authorization for a premium discount
75 | for a policyholder having multiple policies from Citizens
76 | Property Insurance Corporation or a policy that has been
77 | removed from the corporation by another insurer; amending
78 | s. 627.351, F.S.; deleting application of certain personal
79 | lines residential property insurance requirements for
80 | wind-borne debris regions insured by the corporation;
81 | revising the basis of a surcharge to offset an account
82 | deficit; providing for members of the board of governors
83 | of the corporation to serve staggered terms; providing
84 | exceptions to actuarially sound rate requirements for the

85 | corporation; providing legislative findings; requiring the
86 | corporation to implement certain actuarially sound rates
87 | for certain lines of business; providing limitations;
88 | providing for cessation of certain rate increases upon
89 | implementation of actuarially sound rates; requiring the
90 | corporation to transfer certain funds from the rate
91 | increase to the General Revenue Fund for a certain time;
92 | deleting certain wind-only coverage maximum loss reporting
93 | requirements; amending s. 627.711, F.S.; revising eligible
94 | entities authorized to certify uniform mitigation
95 | inspection forms; authorizing insurers to contract with
96 | inspection firms to review certain verification forms and
97 | reinspect properties for certain purposes; providing for
98 | such contracts to be at the insurer's expense; providing a
99 | criminal penalty for knowingly submitting a false or
100 | fraudulent mitigation form with the intent to receive an
101 | undeserved discount; amending s. 627.712, F.S.; providing
102 | an additional exception to residential property insurance
103 | windstorm coverage requirements for certain risks;
104 | expanding a requirement that insurers notify
105 | mortgageholders or lienholders of policyholder elections
106 | for coverage not covering wind; amending s. 631.65, F.S.;
107 | providing construction relating to certain prohibited
108 | advertisements or solicitations; providing for
109 | appropriation of certain transferred funds to the
110 | Insurance Regulatory Trust Fund for certain purposes;
111 | requiring the My Safe Florida Home Program to use certain
112 | funds for certain mitigation grants; authorizing the

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113 department to establish a separate account in the trust
114 fund for accounting purposes; providing an effective date.
115

116 Be It Enacted by the Legislature of the State of Florida:
117

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

120 215.47 Investments; authorized securities; loan of
121 securities.--Subject to the limitations and conditions of the
122 State Constitution or of the trust agreement relating to a trust
123 fund, moneys available for investments under ss. 215.44-215.53
124 may be invested as follows:

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

128 Section 2. Paragraph (b) of subsection (4), paragraph (b)
129 of subsection (5), and subsection (17) of section 215.555,
130 Florida Statutes, are amended to read:

131 215.555 Florida Hurricane Catastrophe Fund.--

132 (4) REIMBURSEMENT CONTRACTS.--

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

138 2. The insurer must elect one of the percentage coverage
139 levels specified in this paragraph and may, upon renewal of a
140 reimbursement contract, elect a lower percentage coverage level

141 | if no revenue bonds issued under subsection (6) after a covered
142 | event are outstanding, or elect a higher percentage coverage
143 | level, regardless of whether or not revenue bonds are
144 | outstanding. All members of an insurer group must elect the same
145 | percentage coverage level. Any joint underwriting association,
146 | risk apportionment plan, or other entity created under s.
147 | 627.351 must elect the 90-percent coverage level.

148 | 3. The contract shall provide that reimbursement amounts
149 | shall not be reduced by reinsurance paid or payable to the
150 | insurer from other sources.

151 | 4. Notwithstanding any other provision contained in this
152 | section, the board shall make available to insurers that
153 | purchased coverage provided by this subparagraph in 2008 ~~2007~~,
154 | insurers qualifying as limited apportionment companies under s.
155 | 627.351(6)(c), and insurers that have been approved to
156 | participate in the Insurance Capital Build-Up Incentive Program
157 | pursuant to s. 215.5595 a contract or contract addendum that
158 | provides an additional amount of reimbursement coverage of up to
159 | \$10 million. The premium to be charged for this additional
160 | reimbursement coverage shall be 50 percent of the additional
161 | reimbursement coverage provided, which shall include one prepaid
162 | reinstatement. The minimum retention level that an eligible
163 | participating insurer must retain associated with this
164 | additional coverage layer is 30 percent of the insurer's surplus
165 | as of December 31, 2008 ~~2007~~. This coverage shall be paid as
166 | soon as practicable after ~~in addition to all other coverage that~~
167 | ~~may be provided under this section. The coverage provided by the~~
168 | ~~fund under this subparagraph shall be in addition to the claims-~~

169 ~~paying capacity as defined in subparagraph (c)1., but only with~~
 170 ~~respect to~~ those insurers that selected this ~~select the~~
 171 additional coverage option report such covered losses from a
 172 covered event ~~and meet the requirements of this subparagraph.~~
 173 The claims-paying capacity with respect to all other
 174 participating insurers and limited apportionment companies that
 175 do not select the additional coverage option shall be limited to
 176 their reimbursement premium's proportionate share of the actual
 177 claims-paying capacity otherwise defined in subparagraph (c)1.
 178 and as provided for under the terms of the reimbursement
 179 contract. Coverage provided in the reimbursement contract shall
 180 not be affected by the additional premiums paid by participating
 181 insurers exercising the additional coverage option allowed in
 182 this subparagraph. This subparagraph expires on December ~~May~~ 31,
 183 2011 ~~2009~~.

184 (5) REIMBURSEMENT PREMIUMS.--

185 (b) The State Board of Administration shall select an
 186 independent consultant to develop a formula for determining the
 187 actuarially indicated premium to be paid to the fund. The
 188 formula shall specify, for each zip code or other limited
 189 geographical area, the amount of premium to be paid by an
 190 insurer for each \$1,000 of insured value under covered policies
 191 in that zip code or other area. In establishing premiums, the
 192 board shall consider the coverage elected under paragraph (4) (b)
 193 and any factors that tend to enhance the actuarial
 194 sophistication of ratemaking for the fund, including
 195 deductibles, type of construction, type of coverage provided,
 196 relative concentration of risks, and other such factors deemed

197 | by the board to be appropriate. The formula must provide for a
 198 | cash build-up factor. For the contract year 2009-2010, the
 199 | factor is 5 percent; for the contract year beginning June 1,
 200 | 2010, and ending December 31, 2010, the factor is 10 percent;
 201 | for the 2011 contract year, the factor is 15 percent; for the
 202 | 2012 contract year, the factor is 20 percent; and for the 2013
 203 | contract year and thereafter, the factor is 25 percent. The
 204 | formula may provide for a procedure to determine the premiums to
 205 | be paid by new insurers that begin writing covered policies
 206 | after the beginning of a contract year, taking into
 207 | consideration when the insurer starts writing covered policies,
 208 | the potential exposure of the insurer, the potential exposure of
 209 | the fund, the administrative costs to the insurer and to the
 210 | fund, and any other factors deemed appropriate by the board. The
 211 | formula must be approved by unanimous vote of the board. The
 212 | board may, at any time, revise the formula pursuant to the
 213 | procedure provided in this paragraph.

214 | (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

215 | (a) Findings and intent.--

216 | 1. The Legislature finds that:

217 | a. Because of temporary disruptions in the market for
 218 | catastrophic reinsurance, many property insurers were unable to
 219 | procure sufficient amounts of reinsurance for the 2006 hurricane
 220 | season or were able to procure such reinsurance only by
 221 | incurring substantially higher costs than in prior years.

222 | b. The reinsurance market problems were responsible, at
 223 | least in part, for substantial premium increases to many
 224 | consumers and increases in the number of policies issued by

225 Citizens Property Insurance Corporation.

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

228 2. It is the intent of the Legislature to create options
229 for insurers to purchase a temporary increased coverage limit
230 above the statutorily determined limit in subparagraph (4)(c)1.,
231 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and
232 2013 hurricane seasons, to address market disruptions and enable
233 insurers, at their option, to procure additional coverage from
234 the Florida Hurricane Catastrophe Fund.

235 (b) Applicability of other provisions of this
236 section.--All provisions of this section and the rules adopted
237 under this section apply to the coverage created by this
238 subsection unless specifically superseded by provisions in this
239 subsection.

240 (c) Optional coverage.--For the contract year commencing
241 June 1, 2007, and ending May 31, 2008, the contract year
242 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the
243 contract year commencing June 1, 2009, and ending May 31, 2010,
244 the contract year commencing June 1, 2010, and ending December
245 31, 2010, the contract year commencing January 1, 2011, and
246 ending December 31, 2011, the contract year commencing January
247 1, 2012, and ending December 31, 2012, and the contract year
248 commencing January 1, 2013, and ending December 31, 2013, the
249 board shall offer, for each of such years, the optional coverage
250 as provided in this subsection.

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

- 253 1. "FHCF" means Florida Hurricane Catastrophe Fund.
- 254 2. "FHCF reimbursement premium" means the premium paid by
 255 an insurer for its coverage as a mandatory participant in the
 256 FHCF, but does not include additional premiums for optional
 257 coverages.
- 258 3. "Payout multiple" means the number or multiple created
 259 by dividing the statutorily defined claims-paying capacity as
 260 determined in subparagraph (4)(c)1. by the aggregate
 261 reimbursement premiums paid by all insurers estimated or
 262 projected as of calendar year-end.
- 263 4. "TICL" means the temporary increase in coverage limit.
- 264 5. "TICL options" means the temporary increase in coverage
 265 options created under this subsection.
- 266 6. "TICL insurer" means an insurer that has opted to
 267 obtain coverage under the TICL options addendum in addition to
 268 the coverage provided to the insurer under its FHCF
 269 reimbursement contract, but does not include Citizens Property
 270 Insurance Corporation.
- 271 7. "TICL reimbursement premium" means the premium charged
 272 by the fund for coverage provided under the TICL option.
- 273 8. "TICL coverage multiple" means the coverage multiple
 274 when multiplied by an insurer's reimbursement premium that
 275 defines the temporary increase in coverage limit.
- 276 9. "TICL coverage" means the coverage for an insurer's
 277 losses above the insurer's statutorily determined claims-paying
 278 capacity based on the claims-paying limit in subparagraph
 279 (4)(c)1., which an insurer selects as its temporary increase in
 280 coverage from the fund under the TICL options selected. A TICL

281 insurer's increased coverage limit options shall be calculated
282 as follows:

283 a. The board shall calculate and report to each TICL
284 insurer the TICL coverage multiples based on 12 options for
285 increasing the insurer's FHCF coverage limit. Each TICL coverage
286 multiple shall be calculated by dividing \$1 billion, \$2 billion,
287 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
288 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by
289 the total estimated aggregate FHCF reimbursement premiums for
290 the 2007-2008 contract year and, ~~the 2008-2009 contract year,~~
291 ~~and the 2009-2010 contract year.~~

292 b. For the 2009-2010 contract year, the board shall
293 calculate and report to each TICL insurer the TICL coverage
294 multiples based on 10 options for increasing the insurer's FHCF
295 coverage limit. Each TICL coverage multiple shall be calculated
296 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
297 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10
298 billion by the total estimated aggregate FHCF reimbursement
299 premiums for the 2009-2010 contract year.

300 c. For the contract year beginning June 1, 2010, and
301 ending December 31, 2010, the board shall calculate and report
302 to each TICL insurer the TICL coverage multiples based on eight
303 options for increasing the insurer's FHCF coverage limit. Each
304 TICL coverage multiple shall be calculated by dividing \$1
305 billion, \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6
306 billion, \$7 billion, and \$8 billion by the total estimated
307 aggregate FHCF reimbursement premiums for the contract year.

308 d. For the 2011 contract year, the board shall calculate

309 and report to each TICL insurer the TICL coverage multiples
310 based on six options for increasing the insurer's FHCF coverage
311 limit. Each TICL coverage multiple shall be calculated by
312 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
313 billion, and \$6 billion by the total estimated aggregate FHCF
314 reimbursement premiums for the 2011 contract year.

315 e. For the 2012 contract year, the board shall calculate
316 and report to each TICL insurer the TICL coverage multiples
317 based on four options for increasing the insurer's FHCF coverage
318 limit. Each TICL coverage multiple shall be calculated by
319 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by
320 the total estimated aggregate FHCF reimbursement premiums for
321 the 2012 contract year.

322 f. For the 2013 contract year, the board shall calculate
323 and report to each TICL insurer the TICL coverage multiples
324 based on two options for increasing the insurer's FHCF coverage
325 limit. Each TICL coverage multiple shall be calculated by
326 dividing \$1 billion and \$2 billion by the total estimated
327 aggregate FHCF reimbursement premiums for the 2013 contract
328 year.

329 g.~~b.~~ The TICL insurer's increased coverage shall be the
330 FHCF reimbursement premium multiplied by the TICL coverage
331 multiple. In order to determine an insurer's total limit of
332 coverage, an insurer shall add its TICL coverage multiple to its
333 payout multiple. The total shall represent a number that, when
334 multiplied by an insurer's FHCF reimbursement premium for a
335 given reimbursement contract year, defines an insurer's total
336 limit of FHCF reimbursement coverage for that reimbursement

337 contract year.

338 10. "TICL options addendum" means an addendum to the
339 reimbursement contract reflecting the obligations of the fund
340 and insurers selecting an option to increase an insurer's FHCF
341 coverage limit.

342 (e) TICL options addendum.--

343 1. The TICL options addendum shall provide for
344 reimbursement of TICL insurers for covered events occurring
345 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,
346 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,
347 2010, between June 1, 2010, and December 31, 2010, between
348 January 1, 2011, and December 31, 2011, between January 1, 2012,
349 and December 31, 2012, or between January 1, 2013, and December
350 31, 2013, in exchange for the TICL reimbursement premium paid
351 into the fund under paragraph (f). Any insurer writing covered
352 policies has the option of selecting an increased limit of
353 coverage under the TICL options addendum and shall select such
354 coverage at the time that it executes the FHCF reimbursement
355 contract.

356 2.a. The TICL addendum for the contract year commencing
357 June 1, 2007, and ending May 31, 2008, or the contract year
358 commencing June 1, 2008, and ending May 31, 2009, shall contain
359 a promise by the board to reimburse the TICL insurer for 45
360 percent, 75 percent, or 90 percent of its losses from each
361 covered event in excess of the insurer's retention, plus 5
362 percent of the reimbursed losses to cover loss adjustment
363 expenses. The percentage shall be the same as the coverage level
364 selected by the insurer under paragraph (4) (b).

365 b. The TICL addendum for the contract year commencing June
366 1, 2009, and ending May 31, 2010, shall contain a promise by the
367 board to reimburse the TICL insurer for 45 percent or 75 percent
368 of its losses from each covered event in excess of the insurer's
369 retention, plus 5 percent of the reimbursed losses to cover loss
370 adjustment expenses.

371 c. The TICL addendum for the contract year commencing June
372 1, 2010, and ending December 31, 2010, shall contain a promise
373 by the board to reimburse the TICL insurer for 45 percent or 65
374 percent of its losses from each covered event in excess of the
375 insurer's retention, plus 5 percent of the reimbursed losses to
376 cover loss adjustment expenses.

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

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

389 f. The TICL addendum for the contract year commencing
390 January 1, 2013, and ending December 31, 2013, shall contain a
391 promise by the board to reimburse the TICL insurer for 30
392 percent of its losses from each covered event in excess of the

393 insurer's retention, plus 5 percent of the reimbursed losses to
394 cover loss adjustment expenses.

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

398 4. The priorities, schedule, and method of reimbursements
399 under the TICL addendum shall be the same as provided under
400 subsection (4).

401 (f) TICL reimbursement premiums.--Each TICL insurer shall
402 pay to the fund, in the manner and at the time provided in the
403 reimbursement contract for payment of reimbursement premiums, a
404 TICL reimbursement premium determined as specified in subsection
405 (5), except that a cash build-up factor does not apply to the
406 TICL reimbursement premiums. However, the TICL reimbursement
407 premium shall be increased in contract year 2009-2010 by a
408 factor of two, in the contract year beginning June 1, 2010, and
409 ending December 31, 2010, by a factor of three, in the 2011
410 contract year by a factor of four, in the 2012 contract year by
411 a factor of five, and in the 2013 contract year by a factor of
412 six.

413 (g) Effect on claims-paying capacity of the fund.--For the
414 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June
415 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and
416 January 1, 2013, the program created by this subsection shall
417 increase the claims-paying capacity of the fund as provided in
418 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and
419 shall depend on the TICL coverage options selected and the
420 number of insurers that select the TICL optional coverage. The

421 additional capacity shall apply only to the additional coverage
422 provided under the TICL options and shall not otherwise affect
423 any insurer's reimbursement from the fund if the insurer chooses
424 not to select the temporary option to increase its limit of
425 coverage under the FHCF.

426 ~~(h) Increasing the claims paying capacity of the~~
427 ~~fund. For the contract years commencing June 1, 2007, June 1,~~
428 ~~2008, and June 1, 2009, the board may increase the claims paying~~
429 ~~capacity of the fund as provided in paragraph (g) by an amount~~
430 ~~not to exceed \$4 billion in four \$1 billion options and shall~~
431 ~~depend on the TICL coverage options selected and the number of~~
432 ~~insurers that select the TICL optional coverage. Each insurer's~~
433 ~~TICL premium shall be calculated based upon the additional limit~~
434 ~~of increased coverage that the insurer selects. Such limit is~~
435 ~~determined by multiplying the TICL multiple associated with one~~
436 ~~of the four options times the insurer's FHCF reimbursement~~
437 ~~premium. The reimbursement premium associated with the~~
438 ~~additional coverage provided in this paragraph shall be~~
439 ~~determined as specified in subsection (5).~~

440 Section 3. Section 215.5586, Florida Statutes, as amended
441 by section 1 of chapter 2009-10, Laws of Florida, is amended to
442 read:

443 215.5586 My Safe Florida Home Program.--There is
444 established within the Department of Financial Services the My
445 Safe Florida Home Program. The department shall provide fiscal
446 accountability, contract management, and strategic leadership
447 for the program, consistent with this section. This section does
448 not create an entitlement for property owners or obligate the

449 state in any way to fund the inspection or retrofitting of
450 residential property in this state. Implementation of this
451 program is subject to annual legislative appropriations. It is
452 the intent of the Legislature that the My Safe Florida Home
453 Program provide trained and certified inspectors to perform
454 inspections for owners of ~~for at least 400,000~~ site-built,
455 single-family, residential properties and ~~provide~~ grants to
456 eligible at least 35,000 applicants as funding allows ~~before~~
457 ~~June 30, 2009~~. The program shall develop and implement a
458 comprehensive and coordinated approach for hurricane damage
459 mitigation that may ~~shall~~ include the following:

460 (1) HURRICANE MITIGATION INSPECTIONS.--

461 (a) Certified inspectors to provide ~~free~~ home-retrofit
462 inspections of site-built, single-family, residential property
463 may ~~shall~~ be offered ~~throughout the state~~ to determine what
464 mitigation measures are needed, what insurance premium discounts
465 may be available, and what improvements to existing residential
466 properties are needed to reduce the property's vulnerability to
467 hurricane damage. The Department of Financial Services shall
468 contract with wind certification entities to provide ~~free~~
469 hurricane mitigation inspections. The inspections provided to
470 homeowners, at a minimum, must include:

471 1. A home inspection and report that summarizes the
472 results and identifies recommended improvements a homeowner may
473 take to mitigate hurricane damage.

474 2. A range of cost estimates regarding the recommended
475 mitigation improvements.

476 3. Insurer-specific information regarding premium

477 discounts correlated to the current mitigation features and the
 478 recommended mitigation improvements identified by the
 479 inspection.

480 4. A hurricane resistance rating scale specifying the
 481 home's current as well as projected wind resistance
 482 capabilities. As soon as practical, the rating scale must be the
 483 uniform home grading scale adopted by the Financial Services
 484 Commission pursuant to s. 215.55865.

485 (b) To qualify for selection by the department as a wind
 486 certification entity to provide hurricane mitigation
 487 inspections, the entity shall, at a minimum, meet the following
 488 requirements:

489 1. Use hurricane mitigation inspectors who:

490 a. Are certified as a building inspector under s. 468.607;
 491 b. Are licensed as a general or residential contractor
 492 under s. 489.111;

493 c. Are licensed as a professional engineer under s.
 494 471.015 and who have passed the appropriate equivalency test of
 495 the Building Code Training Program as required by s. 553.841;

496 d. Are licensed as a professional architect under s.
 497 481.213; or

498 e. Have at least 2 years of experience in residential
 499 construction or residential building inspection and have
 500 received specialized training in hurricane mitigation
 501 procedures. Such training may be provided by a class offered
 502 online or in person.

503 2. Use hurricane mitigation inspectors who also:

504 a. Have undergone drug testing and level 2 background

505 checks pursuant to s. 435.04. The department may conduct
506 criminal record checks of inspectors used by wind certification
507 entities. Inspectors must submit a set of the fingerprints to
508 the department for state and national criminal history checks
509 and must pay the fingerprint processing fee set forth in s.
510 624.501. The fingerprints shall be sent by the department to the
511 Department of Law Enforcement and forwarded to the Federal
512 Bureau of Investigation for processing. The results shall be
513 returned to the department for screening. The fingerprints shall
514 be taken by a law enforcement agency, designated examination
515 center, or other department-approved entity; and

516 b. Have been certified, in a manner satisfactory to the
517 department, to conduct the inspections.

518 3. Provide a quality assurance program including a
519 reinspection component.

520 (c) The department shall implement a quality assurance
521 program that includes a statistically valid number of
522 reinspections.

523 (d) An application for an inspection must contain a signed
524 or electronically verified statement made under penalty of
525 perjury that the applicant has submitted only a single
526 application for that home.

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

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

533 property owners to retrofit their properties to make them less
 534 vulnerable to hurricane damage.

535 (a) For a homeowner to be eligible for a grant, the
 536 following criteria for persons who have obtained a completed
 537 inspection after May 1, 2007, a residential property must be
 538 met:

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

541 2. The home must be a dwelling with an insured value of
 542 \$300,000 or less. Homeowners who are low-income persons, as
 543 defined in s. 420.0004(10), are exempt from this requirement.

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

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

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

552
 553 An application for a grant must contain a signed or
 554 electronically verified statement made under penalty of perjury
 555 that the applicant has submitted only a single application and
 556 must have attached documents demonstrating the applicant meets
 557 the requirements of this paragraph.

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

561 \$5,000.

562 (c) The program shall create a process in which
563 contractors agree to participate and homeowners select from a
564 list of participating contractors. All mitigation must be based
565 upon the securing of all required local permits and inspections
566 and must be performed by properly licensed contractors.
567 Mitigation projects are subject to random reinspection of up to
568 at least 5 percent of all projects. Hurricane mitigation
569 inspectors qualifying for the program may also participate as
570 mitigation contractors as long as the inspectors meet the
571 department's qualifications and certification requirements for
572 mitigation contractors.

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

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

- 582 1. Opening protection.
- 583 2. Exterior doors, including garage doors.
- 584 3. Brace gable ends.
- 585 4. Reinforcing roof-to-wall connections.
- 586 5. Improving the strength of roof-deck attachments.
- 587 6. Upgrading roof covering from code to code plus.
- 588 7. Secondary water barrier for roof.

589
590 The department may require that improvements be made to all
591 openings, including exterior doors and garage doors, as a
592 condition of reimbursing a homeowner approved for a grant.

593 (f) Grants may be used on a previously inspected existing
594 structure or on a rebuild. A rebuild is defined as a site-built,
595 single-family dwelling under construction to replace a home that
596 was destroyed or significantly damaged by a hurricane and deemed
597 unlivable by a regulatory authority. The homeowner must be a
598 low-income homeowner as defined in paragraph (g), must have had
599 a homestead exemption for that home prior to the hurricane, and
600 must be intending to rebuild the home as that homeowner's
601 homestead.

602 (g) Low-income homeowners, as defined in s. 420.0004(10),
603 who otherwise meet the requirements of paragraphs (a), (c), (e),
604 and (f) are eligible for a grant of up to \$5,000 and are not
605 required to provide a matching amount to receive the grant.
606 Additionally, for low-income homeowners, grant funding may be
607 used for repair to existing structures leading to any of the
608 mitigation improvements provided in paragraph (e), limited to 20
609 percent of the grant value. The program may accept a
610 certification directly from a low-income homeowner that the
611 homeowner meets the requirements of s. 420.0004(10) if the
612 homeowner provides such certification in a signed or
613 electronically verified statement made under penalty of perjury.

614 (h) The department shall establish objective, reasonable
615 criteria for prioritizing grant applications, consistent with
616 the requirements of this section.

617 (i) The department shall develop a process that ensures
618 the most efficient means to collect and verify grant
619 applications to determine eligibility and may direct hurricane
620 mitigation inspectors to collect and verify grant application
621 information or use the Internet or other electronic means to
622 collect information and determine eligibility.

623 (3) EDUCATION AND CONSUMER AWARENESS.--The department may
624 undertake a statewide multimedia public outreach and advertising
625 campaign to inform consumers of the availability and benefits of
626 hurricane inspections and of the safety and financial benefits
627 of residential hurricane damage mitigation. The department may
628 seek out and use local, state, federal, and private funds to
629 support the campaign.

630 (4) ADVISORY COUNCIL.--There is created an advisory
631 council to provide advice and assistance to the department
632 regarding administration of the program. The advisory council
633 shall consist of:

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

637 (b) A representative of residential property insurers,
638 selected by the Financial Services Commission from a list of at
639 least three persons recommended by the Florida Insurance
640 Council.

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

644 (d) A faculty member of a state university, selected by

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645 the Financial Services Commission, who is an expert in
646 hurricane-resistant construction methodologies and materials.

647 (e) Two members of the House of Representatives, selected
648 by the Speaker of the House of Representatives.

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

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

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

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

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

659

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

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

671 (6) RULES.--The Department of Financial Services shall
672 adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the

673 program; implement the provisions of this section; including
674 rules governing hurricane mitigation inspections and grants,
675 mitigation contractors, and training of inspectors and
676 contractors; and carry out the duties of the department under
677 this section.

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

682 ~~(8) NO-INTEREST LOANS.--The department shall implement a~~
683 ~~no-interest loan program by October 1, 2008, contingent upon the~~
684 ~~selection of a qualified vendor and execution of a contract~~
685 ~~acceptable to the department and the vendor. The department~~
686 ~~shall enter into partnerships with the private sector to provide~~
687 ~~loans to owners of site-built, single-family, residential~~
688 ~~property to pay for mitigation measures listed in subsection~~
689 ~~(2). A loan eligible for interest payments pursuant to this~~
690 ~~subsection may be for a term of up to 3 years and cover up to~~
691 ~~\$5,000 in mitigation measures. The department shall pay the~~
692 ~~creditor the market rate of interest using funds appropriated~~
693 ~~for the My Safe Florida Home Program. In no case shall the~~
694 ~~department pay more than the interest rate set by s. 687.03. To~~
695 ~~be eligible for a loan, a loan applicant must first obtain a~~
696 ~~home inspection and report that specifies what improvements are~~
697 ~~needed to reduce the property's vulnerability to windstorm~~
698 ~~damage pursuant to this section and meet loan underwriting~~
699 ~~requirements set by the lender. The department may adopt rules~~
700 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~

701 ~~subsection which may include eligibility criteria.~~

702 (8)~~(9)~~ PUBLIC OUTREACH FOR CONTRACTORS AND REAL ESTATE
 703 BROKERS AND SALES ASSOCIATES.--The program shall develop
 704 brochures for distribution to general contractors, roofing
 705 contractors, and real estate brokers and sales associates
 706 licensed under part I of chapter 475 explaining the benefits to
 707 homeowners of residential hurricane damage mitigation. The
 708 program shall encourage contractors to distribute the brochures
 709 to homeowners at the first meeting with a homeowner who is
 710 considering contracting for home or roof repairs or contracting
 711 for the construction of a new home. The program shall encourage
 712 real estate brokers and sales associates licensed under part I
 713 of chapter 475 to distribute the brochures to clients prior to
 714 the purchase of a home. The brochures may be made available
 715 electronically.

716 (9)~~(10)~~ CONTRACT MANAGEMENT.--The department may contract
 717 with third parties for grants management, inspection services,
 718 contractor services for low-income homeowners, information
 719 technology, educational outreach, and auditing services. Such
 720 contracts shall be considered direct costs of the program and
 721 shall not be subject to administrative cost limits, but
 722 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject
 723 to review and approval by the Legislative Budget Commission. The
 724 department shall contract with providers that have a
 725 demonstrated record of successful business operations in areas
 726 directly related to the services to be provided and shall ensure
 727 the highest accountability for use of state funds, consistent
 728 with this section.

729 ~~(10)~~~~(11)~~ INTENT.--It is the intent of the Legislature that
 730 grants made to residential property owners under this section
 731 shall be considered disaster-relief assistance within the
 732 meaning of s. 139 of the Internal Revenue Code of 1986, as
 733 amended.

734 ~~(11)~~~~(12)~~ REPORTS.--The department shall make an annual
 735 report on the activities of the program that shall account for
 736 the use of state funds and indicate the number of inspections
 737 requested, the number of inspections performed, the number of
 738 grant applications received, and the number and value of grants
 739 approved. The report shall be delivered to the President of the
 740 Senate and the Speaker of the House of Representatives by
 741 February 1 of each year.

742 (12) CONDOMINIUM MITIGATION LOAN PROGRAM.--

743 (a) The department may implement a condominium mitigation
 744 loan program to assist condominiums in mitigating all units in
 745 their structure against wind damage. The program shall have the
 746 following minimum requirements:

747 1. The department shall contract with lenders to offer
 748 hurricane mitigation loan subsidies equal to a competitive rate
 749 of interest on a loan balance of up to \$5,000 per condominium
 750 unit for 3 years. The interest subsidy may be paid in advance by
 751 the department to a lender participating in the program.

752 2. The loans must be used to purchase or install hurricane
 753 mitigation measures identified in paragraph (2) (e).

754 3. A participating condominium association must agree to
 755 purchase and install approved mitigation measures for 100
 756 percent of the units in the condominium structure that lack the

757 approved mitigation measures.

758 4. To be eligible, a condominium must have been permitted
 759 for construction on or before March 1, 2002, be located in the
 760 wind-borne debris region, and be insured by Citizens Property
 761 Insurance Corporation.

762 5. Condominiums of more than 200 units are not eligible
 763 for the loan program.

764 6. The department may contract with third parties for
 765 auditing and related services to ensure accountability and
 766 program quality.

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

769 (c) The department shall adopt rules pursuant to ss.
 770 120.536(1) and 120.54 to implement the loan program.

771 Section 4. Paragraph (r) of subsection (1) of section
 772 624.605, Florida Statutes, is amended to read:

773 624.605 "Casualty insurance" defined.--

774 (1) "Casualty insurance" includes:

775 (r) Insurance for debt cancellation products.--Insurance
 776 that a creditor may purchase against the risk of financial loss
 777 from the use of debt cancellation products with consumer loans
 778 or leases or retail installment contracts. Insurance for debt
 779 cancellation products is not liability insurance but shall be
 780 considered credit insurance only for the purposes of s.
 781 631.52(4).

782 1. For purposes of this paragraph, the term "debt
 783 cancellation products" means loan, lease, or retail installment
 784 contract terms, or modifications to loan, lease, or retail

785 installment contracts, under which a creditor agrees to cancel
 786 or suspend all or part of a customer's obligation to make
 787 payments upon the occurrence of specified events and includes,
 788 but is not limited to, debt cancellation contracts, debt
 789 suspension agreements, and guaranteed asset protection
 790 contracts. However, the term "debt cancellation products" does
 791 not include title insurance as defined in s. 624.608.

792 2. Debt cancellation products may be offered by financial
 793 institutions, as defined in s. 655.005(1)(h), insured depository
 794 institutions, as defined in 12 U.S.C. s. 1813(c), and
 795 subsidiaries of such institutions, as provided in the financial
 796 institutions codes, or by other business entities selling a
 797 product that may be goods, services, or real property and
 798 interests in real property, the sale of which product is
 799 regulated by an agency of the state and when the extension of
 800 credit is offered in connection with the purchase of such
 801 product. ~~as may be specifically authorized by law, and Such debt~~
 802 ~~cancellation~~ products shall not constitute insurance for
 803 purposes of the Florida Insurance Code.

804 Section 5. Section 626.854, Florida Statutes, is amended
 805 to read:

806 626.854 "Public adjuster" defined; prohibitions.--The
 807 Legislature finds that it is necessary for the protection of the
 808 public to regulate public insurance adjusters and to prevent the
 809 unauthorized practice of law.

810 (1) A "public adjuster" is any person, except a duly
 811 licensed attorney at law as hereinafter in s. 626.860 provided,
 812 who, for money, commission, or any other thing of value,

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813 prepares, completes, or files an insurance claim form for an
814 insured or third-party claimant or who, for money, commission,
815 or any other thing of value, acts or aids in any manner on
816 behalf of an insured or third-party claimant in negotiating for
817 or effecting the settlement of a claim or claims for loss or
818 damage covered by an insurance contract or who advertises for
819 employment as an adjuster of such claims, and also includes any
820 person who, for money, commission, or any other thing of value,
821 solicits, investigates, or adjusts such claims on behalf of any
822 such public adjuster.

823 (2) This definition does not apply to:

824 (a) A licensed health care provider or employee thereof
825 who prepares or files a health insurance claim form on behalf of
826 a patient.

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

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

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

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

841 (6) A public adjuster may not directly or indirectly
 842 through any other person or entity initiate contact or engage in
 843 face-to-face or telephonic solicitation or enter into a contract
 844 with any insured or claimant under an insurance policy until at
 845 least 20 days ~~48 hours~~ after the occurrence of an event that may
 846 be the subject of a claim under the insurance policy unless
 847 contact is initiated by the insured or claimant.

848 (7) An insured or claimant may cancel a public adjuster's
 849 contract to adjust a claim without penalty or obligation within
 850 3 business days after the date on which the contract is executed
 851 or within 3 business days after the date on which the insured or
 852 claimant has notified the insurer of the claim, by phone or in
 853 writing, whichever is later. The public adjuster's contract
 854 shall disclose to the insured or claimant his or her right to
 855 cancel the contract and advise the insured or claimant that
 856 notice of cancellation must be submitted in writing and sent by
 857 certified mail, return receipt requested, or other form of
 858 mailing which provides proof thereof, to the public adjuster at
 859 the address specified in the contract; provided, during any
 860 state of emergency as declared by the Governor and for a period
 861 of 1 year after the date of loss, the insured or claimant shall
 862 have 5 business days after the date on which the contract is
 863 executed to cancel a public adjuster's contract.

864 (8) It is an unfair and deceptive insurance trade practice
 865 pursuant to s. 626.9541 for a public adjuster or any other
 866 person to circulate or disseminate any advertisement,
 867 announcement, or statement containing any assertion,

868 representation, or statement with respect to the business of
869 insurance which is untrue, deceptive, or misleading.

870 (9) A public adjuster, a public adjuster apprentice, or
871 any person or entity acting on behalf of a public adjuster or
872 public adjuster apprentice may not give or offer to give a
873 monetary loan or advance to a client or prospective client.

874 (10) A public adjuster, public adjuster apprentice, or any
875 individual or entity acting on behalf of a public adjuster or
876 public adjuster apprentice may not give or offer to give,
877 directly or indirectly, any article of merchandise having a
878 value in excess of \$25 to any individual for the purpose of
879 advertising or as an inducement to entering into a contract with
880 a public adjuster.

881 (11) (a) If a public adjuster enters into a contract with
882 an insured or claimant to reopen a claim or to file a
883 supplemental claim that seeks additional payments for a claim
884 that has been previously paid in part or in full or settled by
885 the insurer, the public adjuster may not charge, agree to, or
886 accept any compensation, payment, commission, fee, or other
887 thing of value based on a previous settlement or previous claim
888 payments by the insurer for the same cause of loss. The charge,
889 compensation, payment, commission, fee, or other thing of value
890 may be based only on the claim payments or settlement obtained
891 through the work of the public adjuster after entering into the
892 contract with the insured or claimant. The contracts described
893 in this paragraph are not subject to the limitations in
894 paragraph (b).

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

898 1. Ten percent of the amount of insurance claim payments
899 by the insurer for claims based on events that are the subject
900 of a declaration of a state of emergency by the Governor. This
901 provision applies to claims made during the period of 1 year
902 after the declaration of emergency.

903 2. Twenty percent of the amount of all other insurance
904 claim payments.

905 (12) Each public adjuster shall provide to the claimant or
906 insured a written estimate of the loss to assist in the
907 submission of a proof of loss or any other claim for payment of
908 insurance proceeds. The public adjuster shall retain such
909 written estimate for at least 5 years and shall make such
910 estimate available to the claimant or insured and the department
911 upon request.

912 (13) A public adjuster, a public adjuster apprentice, and
913 any person or entity acting on behalf of the public adjuster may
914 not provide a referral fee, compensation, or anything of value
915 to any individual or entity that refers any client or potential
916 client to the public adjuster.

917 (14) A public adjuster shall provide a recorded statement
918 and examination under oath upon a request by the insurer after
919 reasonable notice to the public adjuster. The purpose of such
920 statement and examination is limited to providing the insurer
921 with such information as may be reasonably necessary to evaluate

922 the factual basis and validity of a claim and the public
 923 adjuster's actions related to the claim.

924
 925 The provisions of subsections (5)-(13) ~~(5)-(12)~~ apply only to
 926 residential property insurance policies and condominium
 927 association policies as defined in s. 718.111(11).

928 Section 6. Paragraphs (a) and (i) of subsection (2) of
 929 section 627.062, Florida Statutes, are amended, and paragraph
 930 (k) is added to that subsection, to read:

931 627.062 Rate standards.--

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

933 (a) Insurers or rating organizations shall establish and
 934 use rates, rating schedules, or rating manuals to allow the
 935 insurer a reasonable rate of return on such classes of insurance
 936 written in this state. A copy of rates, rating schedules, rating
 937 manuals, premium credits or discount schedules, and surcharge
 938 schedules, and changes thereto, shall be filed with the office
 939 under one of the following procedures except as provided in
 940 subparagraph 3.:

941 1. If the filing is made at least 90 days before the
 942 proposed effective date and the filing is not implemented during
 943 the office's review of the filing and any proceeding and
 944 judicial review, then such filing shall be considered a "file
 945 and use" filing. In such case, the office shall finalize its
 946 review by issuance of a notice of intent to approve or a notice
 947 of intent to disapprove within 90 days after receipt of the
 948 filing. The notice of intent to approve and the notice of intent
 949 to disapprove constitute agency action for purposes of the

950 Administrative Procedure Act. Requests for supporting
951 information, requests for mathematical or mechanical
952 corrections, or notification to the insurer by the office of its
953 preliminary findings shall not toll the 90-day period during any
954 such proceedings and subsequent judicial review. The rate shall
955 be deemed approved if the office does not issue a notice of
956 intent to approve or a notice of intent to disapprove within 90
957 days after receipt of the filing.

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

965 3. For all property insurance filings made or submitted
966 after January 25, 2007, but before December 31, 2010 ~~2009~~, an
967 insurer seeking a rate that is greater than the rate most
968 recently approved by the office shall make a "file and use"
969 filing. For purposes of this subparagraph, motor vehicle
970 collision and comprehensive coverages are not considered to be
971 property coverages.

972 (i) Except as otherwise specifically provided in this
973 chapter, the office shall not prohibit any insurer, including
974 any residual market plan or joint underwriting association, from
975 paying acquisition costs based on the full amount of premium, as
976 defined in s. 627.403, applicable to any policy, or prohibit any
977 such insurer from including the full amount of acquisition costs

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978 in a rate filing. Unless specifically authorized by law, the
979 office shall not interfere, directly or indirectly, with an
980 insurer's right to solicit, sell, promote, or otherwise acquire
981 policyholders and implement coverage using its own lawful
982 methodologies, systems, agents, and approaches, including the
983 calculation, manner, or amount of agent commissions, if any.

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

986 1. With respect to any residential property insurance
987 subject to regulation under this section, a rate filing,
988 including, but not limited to, any rate changes, rating factors,
989 territories, classifications, discounts, and credits, with
990 respect to any policy form, including endorsements issued with
991 the form, that results in an overall average statewide premium
992 increase or decrease of no more than 10 percent above or below
993 the premium that would result from the insurer's rates then in
994 effect shall not be subject to a determination by the office
995 that the rate is excessive or unfairly discriminatory, except as
996 provided in subparagraph 3. or any other provision of law,
997 provided all changes specified in the filing do not result in an
998 overall premium increase of more than 15 percent for any one
999 territory for reasons related solely to the rate change. As used
1000 in this subparagraph, the term "insurer's rates then in effect"
1001 includes only rates that have been lawfully in effect under this
1002 section or rates that have been determined to be lawful through
1003 administrative proceedings or judicial proceedings.

1004 2. An insurer may not make filings under this paragraph
1005 with respect to any policy form, including endorsements issued

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1006 with the form, if the overall premium changes resulting from
1007 such filings exceed the amounts specified in this paragraph in
1008 any 12-month period. An insurer may proceed under other
1009 provisions of this section or other provisions of the laws of
1010 this state if the insurer seeks to exceed the premium or rate
1011 limitations of this paragraph.

1012 3. This paragraph does not affect the authority of the
1013 office to disapprove a rate as inadequate or to disapprove a
1014 filing for the unlawful use of unfairly discriminatory rating
1015 factors that are prohibited by the laws of this state. An
1016 insurer electing to implement a rate change under this paragraph
1017 shall submit a filing to the office at least 30 days prior to
1018 the effective date of the rate change. The office shall have 30
1019 days after the filing's submission to review the filing and
1020 determine if the rate is inadequate or uses unfairly
1021 discriminatory rating factors. Absent a finding by the office
1022 within such 30-day period that the rate is inadequate or that
1023 the insurer has used unfairly discriminatory rating factors, the
1024 filing is deemed approved. If the insurer is implementing an
1025 overall rate decrease and the office finds during the 30-day
1026 period that the filing will result in inadequate premiums or
1027 otherwise endanger the insurer's solvency, the office shall
1028 suspend the rate decrease. If the insurer is implementing an
1029 overall rate increase the results of which continue to produce
1030 an inadequate rate, such increase shall proceed pending
1031 additional action by the office to ensure the adequacy of the
1032 rate.

1033 4. This paragraph does not apply to rate filings for any
 1034 insurance other than residential property insurance.

1035
 1036 The provisions of this subsection shall not apply to workers'
 1037 compensation and employer's liability insurance and to motor
 1038 vehicle insurance.

1039 Section 7. Section 627.0621, Florida Statutes, as amended
 1040 by section 82 of chapter 2009-21, Laws of Florida, is amended to
 1041 read:

1042 627.0621 Transparency in rate regulation.--

1043 (1) DEFINITIONS.--As used in this section, the term:

1044 (a) "Rate filing" means any original or amended rate
 1045 residential property insurance filing.

1046 (b) "Recommendation" means any proposed, preliminary, or
 1047 final recommendation from an office actuary reviewing a rate
 1048 filing with respect to the issue of approval or disapproval of
 1049 the rate filing or with respect to rate indications that the
 1050 office would consider acceptable.

1051 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING
 1052 INFORMATION.--With respect to any rate filing made on or after
 1053 July 1, 2008, the office shall provide the following information
 1054 on a publicly accessible Internet website:

1055 (a) The overall rate change requested by the insurer.

1056 (b) All assumptions made by the office's actuaries.

1057 (c) A statement describing any assumptions or methods that
 1058 deviate from the actuarial standards of practice of the Casualty
 1059 Actuarial Society or the American Academy of Actuaries,
 1060 including an explanation of the nature, rationale, and effect of

1061 the deviation.

1062 (d) All recommendations made by any office actuary who
1063 reviewed the rate filing.

1064 (e) Certification by the office's actuary that, based on
1065 the actuary's knowledge, his or her recommendations are
1066 consistent with accepted actuarial principles.

1067 (f) The overall rate change approved by the office.

1068 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT. It is the~~
1069 ~~intent of the Legislature that the principles of the public~~
1070 ~~records and open meetings laws apply to the assertion of~~
1071 ~~attorney-client privilege and work product confidentiality by~~
1072 ~~the office in connection with a challenge to its actions on a~~
1073 ~~rate filing. Therefore, in any administrative or judicial~~
1074 ~~proceeding relating to a rate filing, attorney-client privilege~~
1075 ~~and work product exemptions from disclosure do not apply to~~
1076 ~~communications with office attorneys or records prepared by or~~
1077 ~~at the direction of an office attorney, except when the~~
1078 ~~conditions of paragraphs (a) and (b) have been met:~~

1079 ~~(a) The communication or record reflects a mental~~
1080 ~~impression, conclusion, litigation strategy, or legal theory of~~
1081 ~~the attorney or office that was prepared exclusively for civil~~
1082 ~~or criminal litigation or adversarial administrative~~
1083 ~~proceedings.~~

1084 ~~(b) The communication occurred or the record was prepared~~
1085 ~~after the initiation of an action in a court of competent~~
1086 ~~jurisdiction, after the issuance of a notice of intent to deny a~~
1087 ~~rate filing, or after the filing of a request for a proceeding~~
1088 ~~under ss. 120.569 and 120.57.~~

1089 Section 8. Subsection (4) is added to section 627.0628,
 1090 Florida Statutes, to read:

1091 627.0628 Florida Commission on Hurricane Loss Projection
 1092 Methodology; public records exemption; public meetings
 1093 exemption.--

1094 (4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE
 1095 DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO
 1096 WINDSTORM MITIGATION.--The commission shall hold public meetings
 1097 for the purpose of receiving testimony and data regarding the
 1098 implementation of windstorm mitigation discounts, credits, other
 1099 rate differentials, and appropriate reductions in deductibles
 1100 pursuant to s. 627.0629. After reviewing the testimony and data
 1101 as well as any other information the commission deems
 1102 appropriate, the commission shall present a report by October 1,
 1103 2009, to the Governor, the Cabinet, the President of the Senate,
 1104 and the Speaker of the House of Representatives, including
 1105 recommendations on improving the process of assessing,
 1106 determining, and applying windstorm mitigation discounts,
 1107 credits, other rate differentials, and appropriate reductions in
 1108 deductibles pursuant to s. 627.0629.

1109 Section 9. Paragraph (b) of subsection (1) and subsection
 1110 (5) of section 627.0629, Florida Statutes, are amended to read:

1111 627.0629 Residential property insurance; rate filings.--

1112 (1)

1113 (b) By February 1, 2011, the Office of Insurance
 1114 Regulation, in consultation with the Department of Financial
 1115 Services and the Department of Community Affairs, shall develop
 1116 and make publicly available a proposed method for insurers to

1117 establish discounts, credits, or other rate differentials for
1118 hurricane mitigation measures which directly correlate to the
1119 numerical rating assigned to a structure pursuant to the uniform
1120 home grading scale adopted by the Financial Services Commission
1121 pursuant to s. 215.55865, including any proposed changes to the
1122 uniform home grading scale. By October 1, 2011, the commission
1123 shall adopt rules requiring insurers to make rate filings for
1124 residential property insurance which revise insurers' discounts,
1125 credits, or other rate differentials for hurricane mitigation
1126 measures so that such rate differentials correlate directly to
1127 the uniform home grading scale. The rules may include such
1128 changes to the uniform home grading scale as the commission
1129 determines are necessary, and may specify the minimum required
1130 discounts, credits, or other rate differentials. Such rate
1131 differentials must be consistent with generally accepted
1132 actuarial principles and wind-loss mitigation studies. The rules
1133 shall allow a period of at least 2 years after the effective
1134 date of the revised mitigation discounts, credits, or other rate
1135 differentials for a property owner to obtain an inspection or
1136 otherwise qualify for the revised credit, during which time the
1137 insurer shall continue to apply the mitigation credit that was
1138 applied immediately prior to the effective date of the revised
1139 credit. Discounts, credits, and other rate differentials
1140 established for rate filings under this paragraph shall
1141 supersede, after adoption, the discounts, credits, and other
1142 rate differentials included in rate filings under paragraph (a).

1143 (5) In order to provide an appropriate transition period,
1144 an insurer may, in its sole discretion, implement an approved

1145 rate filing for residential property insurance over a period of
 1146 years. An insurer electing to phase in its rate filing must
 1147 provide an informational notice to the office setting out its
 1148 schedule for implementation of the phased-in rate filing. An
 1149 insurer may include in its rate the actual cost of reinsurance
 1150 without the addition of an expense or profit load for the
 1151 insurer that duplicates coverage of the temporary increase in
 1152 coverage limit (TICL) available from the Florida Hurricane
 1153 Catastrophe Fund, even if the insurer does not purchase the TICL
 1154 coverage, to the extent the total annual base rate increase does
 1155 not exceed 10 percent as a result of such inclusion.

1156 Section 10. Section 627.0655, Florida Statutes, is amended
 1157 to read:

1158 627.0655 Policyholder loss or expense-related premium
 1159 discounts.--An insurer or person authorized to engage in the
 1160 business of insurance in this state may include, in the premium
 1161 charged an insured for any policy, contract, or certificate of
 1162 insurance, a discount based on the fact that another policy,
 1163 contract, or certificate of any type has been purchased by the
 1164 insured from the same insurer or insurer group, or, for policies
 1165 issued or renewed before January 1, 2010, from the Citizens
 1166 Property Insurance Corporation created under s. 627.351(6) if
 1167 the same insurance agent is servicing both policies, or for
 1168 policies issued or renewed before January 1, 2010, from an
 1169 insurer that has removed the policy from the Citizens Property
 1170 Insurance Corporation if the same insurance agent is servicing
 1171 both policies.

1172 Section 11. Paragraphs (y) through (ee) of subsection (6)

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1173 of section 627.351, Florida Statutes, are redesignated as
1174 paragraphs (x) through (dd), respectively, and paragraphs (a),
1175 (b), (c), and (m) and present paragraph (x) of that subsection
1176 are amended to read:

1177 627.351 Insurance risk apportionment plans.--

1178 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1179 (a)1. It is the public purpose of this subsection to
1180 ensure the existence of an orderly market for property insurance
1181 for Floridians and Florida businesses. The Legislature finds
1182 that private insurers are unwilling or unable to provide
1183 affordable property insurance coverage in this state to the
1184 extent sought and needed. The absence of affordable property
1185 insurance threatens the public health, safety, and welfare and
1186 likewise threatens the economic health of the state. The state
1187 therefore has a compelling public interest and a public purpose
1188 to assist in assuring that property in the state is insured and
1189 that it is insured at affordable rates so as to facilitate the
1190 remediation, reconstruction, and replacement of damaged or
1191 destroyed property in order to reduce or avoid the negative
1192 effects otherwise resulting to the public health, safety, and
1193 welfare, to the economy of the state, and to the revenues of the
1194 state and local governments which are needed to provide for the
1195 public welfare. It is necessary, therefore, to provide
1196 affordable property insurance to applicants who are in good
1197 faith entitled to procure insurance through the voluntary market
1198 but are unable to do so. The Legislature intends by this
1199 subsection that affordable property insurance be provided and
1200 that it continue to be provided, as long as necessary, through

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1201 Citizens Property Insurance Corporation, a government entity
1202 that is an integral part of the state, and that is not a private
1203 insurance company. To that end, Citizens Property Insurance
1204 Corporation shall strive to increase the availability of
1205 affordable property insurance in this state, while achieving
1206 efficiencies and economies, and while providing service to
1207 policyholders, applicants, and agents which is no less than the
1208 quality generally provided in the voluntary market, for the
1209 achievement of the foregoing public purposes. Because it is
1210 essential for this government entity to have the maximum
1211 financial resources to pay claims following a catastrophic
1212 hurricane, it is the intent of the Legislature that Citizens
1213 Property Insurance Corporation continue to be an integral part
1214 of the state and that the income of the corporation be exempt
1215 from federal income taxation and that interest on the debt
1216 obligations issued by the corporation be exempt from federal
1217 income taxation.

1218 2. The Residential Property and Casualty Joint
1219 Underwriting Association originally created by this statute
1220 shall be known, as of July 1, 2002, as the Citizens Property
1221 Insurance Corporation. The corporation shall provide insurance
1222 for residential and commercial property, for applicants who are
1223 in good faith entitled, but are unable, to procure insurance
1224 through the voluntary market. The corporation shall operate
1225 pursuant to a plan of operation approved by order of the
1226 Financial Services Commission. The plan is subject to continuous
1227 review by the commission. The commission may, by order, withdraw
1228 approval of all or part of a plan if the commission determines

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1229 | that conditions have changed since approval was granted and that
1230 | the purposes of the plan require changes in the plan. The
1231 | corporation shall continue to operate pursuant to the plan of
1232 | operation approved by the Office of Insurance Regulation until
1233 | October 1, 2006. For the purposes of this subsection,
1234 | residential coverage includes both personal lines residential
1235 | coverage, which consists of the type of coverage provided by
1236 | homeowner's, mobile home owner's, dwelling, tenant's,
1237 | condominium unit owner's, and similar policies, and commercial
1238 | lines residential coverage, which consists of the type of
1239 | coverage provided by condominium association, apartment
1240 | building, and similar policies.

1241 | 3. Effective January 1, 2009, a personal lines residential
1242 | structure that has a dwelling replacement cost of \$2 million or
1243 | more, or a single condominium unit that has a combined dwelling
1244 | and content replacement cost of \$2 million or more is not
1245 | eligible for coverage by the corporation. Such dwellings insured
1246 | by the corporation on December 31, 2008, may continue to be
1247 | covered by the corporation until the end of the policy term.
1248 | However, such dwellings that are insured by the corporation and
1249 | become ineligible for coverage due to the provisions of this
1250 | subparagraph may reapply and obtain coverage if the property
1251 | owner provides the corporation with a sworn affidavit from one
1252 | or more insurance agents, on a form provided by the corporation,
1253 | stating that the agents have made their best efforts to obtain
1254 | coverage and that the property has been rejected for coverage by
1255 | at least one authorized insurer and at least three surplus lines
1256 | insurers. If such conditions are met, the dwelling may be

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1257 insured by the corporation for up to 3 years, after which time
1258 the dwelling is ineligible for coverage. The office shall
1259 approve the method used by the corporation for valuing the
1260 dwelling replacement cost for the purposes of this subparagraph.
1261 If a policyholder is insured by the corporation prior to being
1262 determined to be ineligible pursuant to this subparagraph and
1263 such policyholder files a lawsuit challenging the determination,
1264 the policyholder may remain insured by the corporation until the
1265 conclusion of the litigation.

1266 4. It is the intent of the Legislature that policyholders,
1267 applicants, and agents of the corporation receive service and
1268 treatment of the highest possible level but never less than that
1269 generally provided in the voluntary market. It also is intended
1270 that the corporation be held to service standards no less than
1271 those applied to insurers in the voluntary market by the office
1272 with respect to responsiveness, timeliness, customer courtesy,
1273 and overall dealings with policyholders, applicants, or agents
1274 of the corporation.

1275 5. Effective January 1, 2009, a personal lines residential
1276 structure that is located in the "wind-borne debris region," as
1277 defined in s. 1609.2, International Building Code (2006), and
1278 that has an insured value on the structure of \$750,000 or more
1279 is not eligible for coverage by the corporation unless the
1280 structure has opening protections as required under the Florida
1281 Building Code for a newly constructed residential structure in
1282 that area. A residential structure shall be deemed to comply
1283 with the requirements of this subparagraph if it has shutters or
1284 opening protections on all openings and if such opening

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1285 protections complied with the Florida Building Code at the time
1286 they were installed. ~~Effective January 1, 2010, for personal~~
1287 ~~lines residential property insured by the corporation that is~~
1288 ~~located in the wind borne debris region and has an insured value~~
1289 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
1290 ~~any such residential property must be provided by the seller a~~
1291 ~~written disclosure that contains the structure's windstorm~~
1292 ~~mitigation rating based on the uniform home grading scale~~
1293 ~~adopted under s. 215.55865. Such rating shall be provided to the~~
1294 ~~purchaser at or before the time the purchaser executes a~~
1295 ~~contract for sale and purchase.~~

1296 (b)1. All insurers authorized to write one or more subject
1297 lines of business in this state are subject to assessment by the
1298 corporation and, for the purposes of this subsection, are
1299 referred to collectively as "assessable insurers." Insurers
1300 writing one or more subject lines of business in this state
1301 pursuant to part VIII of chapter 626 are not assessable
1302 insurers, but insureds who procure one or more subject lines of
1303 business in this state pursuant to part VIII of chapter 626 are
1304 subject to assessment by the corporation and are referred to
1305 collectively as "assessable insureds." An authorized insurer's
1306 assessment liability shall begin on the first day of the
1307 calendar year following the year in which the insurer was issued
1308 a certificate of authority to transact insurance for subject
1309 lines of business in this state and shall terminate 1 year after
1310 the end of the first calendar year during which the insurer no
1311 longer holds a certificate of authority to transact insurance
1312 for subject lines of business in this state.

1313 2.a. All revenues, assets, liabilities, losses, and
1314 expenses of the corporation shall be divided into three separate
1315 accounts as follows:

1316 (I) A personal lines account for personal residential
1317 policies issued by the corporation or issued by the Residential
1318 Property and Casualty Joint Underwriting Association and renewed
1319 by the corporation that provide comprehensive, multiperil
1320 coverage on risks that are not located in areas eligible for
1321 coverage in the Florida Windstorm Underwriting Association as
1322 those areas were defined on January 1, 2002, and for such
1323 policies that do not provide coverage for the peril of wind on
1324 risks that are located in such areas;

1325 (II) A commercial lines account for commercial residential
1326 and commercial nonresidential policies issued by the corporation
1327 or issued by the Residential Property and Casualty Joint
1328 Underwriting Association and renewed by the corporation that
1329 provide coverage for basic property perils on risks that are not
1330 located in areas eligible for coverage in the Florida Windstorm
1331 Underwriting Association as those areas were defined on January
1332 1, 2002, and for such policies that do not provide coverage for
1333 the peril of wind on risks that are located in such areas; and

1334 (III) A high-risk account for personal residential
1335 policies and commercial residential and commercial
1336 nonresidential property policies issued by the corporation or
1337 transferred to the corporation that provide coverage for the
1338 peril of wind on risks that are located in areas eligible for
1339 coverage in the Florida Windstorm Underwriting Association as
1340 those areas were defined on January 1, 2002. The corporation may

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1341 offer policies that provide multiperil coverage and the
1342 corporation shall continue to offer policies that provide
1343 coverage only for the peril of wind for risks located in areas
1344 eligible for coverage in the high-risk account. In issuing
1345 multiperil coverage, the corporation may use its approved policy
1346 forms and rates for the personal lines account. An applicant or
1347 insured who is eligible to purchase a multiperil policy from the
1348 corporation may purchase a multiperil policy from an authorized
1349 insurer without prejudice to the applicant's or insured's
1350 eligibility to prospectively purchase a policy that provides
1351 coverage only for the peril of wind from the corporation. An
1352 applicant or insured who is eligible for a corporation policy
1353 that provides coverage only for the peril of wind may elect to
1354 purchase or retain such policy and also purchase or retain
1355 coverage excluding wind from an authorized insurer without
1356 prejudice to the applicant's or insured's eligibility to
1357 prospectively purchase a policy that provides multiperil
1358 coverage from the corporation. It is the goal of the Legislature
1359 that there would be an overall average savings of 10 percent or
1360 more for a policyholder who currently has a wind-only policy
1361 with the corporation, and an ex-wind policy with a voluntary
1362 insurer or the corporation, and who then obtains a multiperil
1363 policy from the corporation. It is the intent of the Legislature
1364 that the offer of multiperil coverage in the high-risk account
1365 be made and implemented in a manner that does not adversely
1366 affect the tax-exempt status of the corporation or
1367 creditworthiness of or security for currently outstanding
1368 financing obligations or credit facilities of the high-risk

1369 account, the personal lines account, or the commercial lines
1370 account. The high-risk account must also include quota share
1371 primary insurance under subparagraph (c)2. The area eligible for
1372 coverage under the high-risk account also includes the area
1373 within Port Canaveral, which is bordered on the south by the
1374 City of Cape Canaveral, bordered on the west by the Banana
1375 River, and bordered on the north by Federal Government property.

1376 b. The three separate accounts must be maintained as long
1377 as financing obligations entered into by the Florida Windstorm
1378 Underwriting Association or Residential Property and Casualty
1379 Joint Underwriting Association are outstanding, in accordance
1380 with the terms of the corresponding financing documents. When
1381 the financing obligations are no longer outstanding, in
1382 accordance with the terms of the corresponding financing
1383 documents, the corporation may use a single account for all
1384 revenues, assets, liabilities, losses, and expenses of the
1385 corporation. Consistent with the requirement of this
1386 subparagraph and prudent investment policies that minimize the
1387 cost of carrying debt, the board shall exercise its best efforts
1388 to retire existing debt or to obtain approval of necessary
1389 parties to amend the terms of existing debt, so as to structure
1390 the most efficient plan to consolidate the three separate
1391 accounts into a single account. By February 1, 2007, the board
1392 shall submit a report to the Financial Services Commission, the
1393 President of the Senate, and the Speaker of the House of
1394 Representatives which includes an analysis of consolidating the
1395 accounts, the actions the board has taken to minimize the cost
1396 of carrying debt, and its recommendations for executing the most

1397 efficient plan.

1398 c. Creditors of the Residential Property and Casualty

1399 Joint Underwriting Association and of the accounts specified in

1400 sub-sub-subparagraphs a.(I) and (II) may have a claim against,

1401 and recourse to, the accounts referred to in sub-sub-

1402 subparagraphs a.(I) and (II) and shall have no claim against, or

1403 recourse to, the account referred to in sub-sub-subparagraph

1404 a.(III). Creditors of the Florida Windstorm Underwriting

1405 Association shall have a claim against, and recourse to, the

1406 account referred to in sub-sub-subparagraph a.(III) and shall

1407 have no claim against, or recourse to, the accounts referred to

1408 in sub-sub-subparagraphs a.(I) and (II).

1409 d. Revenues, assets, liabilities, losses, and expenses not

1410 attributable to particular accounts shall be prorated among the

1411 accounts.

1412 e. The Legislature finds that the revenues of the

1413 corporation are revenues that are necessary to meet the

1414 requirements set forth in documents authorizing the issuance of

1415 bonds under this subsection.

1416 f. No part of the income of the corporation may inure to

1417 the benefit of any private person.

1418 3. With respect to a deficit in an account:

1419 a. After accounting for the Citizens policyholder

1420 surcharge imposed under sub-subparagraph i., when the remaining

1421 projected deficit incurred in a particular calendar year is not

1422 greater than 6 percent of the aggregate statewide direct written

1423 premium for the subject lines of business for the prior calendar

1424 year, the entire deficit shall be recovered through regular

1425 assessments of assessable insurers under paragraph (p) and
 1426 assessable insureds.

1427 b. After accounting for the Citizens policyholder
 1428 surcharge imposed under sub-subparagraph i., when the remaining
 1429 projected deficit incurred in a particular calendar year exceeds
 1430 6 percent of the aggregate statewide direct written premium for
 1431 the subject lines of business for the prior calendar year, the
 1432 corporation shall levy regular assessments on assessable
 1433 insurers under paragraph (p) and on assessable insureds in an
 1434 amount equal to the greater of 6 percent of the deficit or 6
 1435 percent of the aggregate statewide direct written premium for
 1436 the subject lines of business for the prior calendar year. Any
 1437 remaining deficit shall be recovered through emergency
 1438 assessments under sub-subparagraph d.

1439 c. Each assessable insurer's share of the amount being
 1440 assessed under sub-subparagraph a. or sub-subparagraph b. shall
 1441 be in the proportion that the assessable insurer's direct
 1442 written premium for the subject lines of business for the year
 1443 preceding the assessment bears to the aggregate statewide direct
 1444 written premium for the subject lines of business for that year.
 1445 The assessment percentage applicable to each assessable insured
 1446 is the ratio of the amount being assessed under sub-subparagraph
 1447 a. or sub-subparagraph b. to the aggregate statewide direct
 1448 written premium for the subject lines of business for the prior
 1449 year. Assessments levied by the corporation on assessable
 1450 insurers under sub-subparagraphs a. and b. shall be paid as
 1451 required by the corporation's plan of operation and paragraph
 1452 (p). Assessments levied by the corporation on assessable

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1453 insureds under sub-subparagraphs a. and b. shall be collected by
1454 the surplus lines agent at the time the surplus lines agent
1455 collects the surplus lines tax required by s. 626.932 and shall
1456 be paid to the Florida Surplus Lines Service Office at the time
1457 the surplus lines agent pays the surplus lines tax to the
1458 Florida Surplus Lines Service Office. Upon receipt of regular
1459 assessments from surplus lines agents, the Florida Surplus Lines
1460 Service Office shall transfer the assessments directly to the
1461 corporation as determined by the corporation.

1462 d. Upon a determination by the board of governors that a
1463 deficit in an account exceeds the amount that will be recovered
1464 through regular assessments under sub-subparagraph a. or sub-
1465 subparagraph b., plus the amount that is expected to be
1466 recovered through surcharges under sub-subparagraph i., as to
1467 the remaining projected deficit the board shall levy, after
1468 verification by the office, emergency assessments, for as many
1469 years as necessary to cover the deficits, to be collected by
1470 assessable insurers and the corporation and collected from
1471 assessable insureds upon issuance or renewal of policies for
1472 subject lines of business, excluding National Flood Insurance
1473 policies. The amount of the emergency assessment collected in a
1474 particular year shall be a uniform percentage of that year's
1475 direct written premium for subject lines of business and all
1476 accounts of the corporation, excluding National Flood Insurance
1477 Program policy premiums, as annually determined by the board and
1478 verified by the office. The office shall verify the arithmetic
1479 calculations involved in the board's determination within 30
1480 days after receipt of the information on which the determination

1481 was based. Notwithstanding any other provision of law, the
 1482 corporation and each assessable insurer that writes subject
 1483 lines of business shall collect emergency assessments from its
 1484 policyholders without such obligation being affected by any
 1485 credit, limitation, exemption, or deferment. Emergency
 1486 assessments levied by the corporation on assessable insureds
 1487 shall be collected by the surplus lines agent at the time the
 1488 surplus lines agent collects the surplus lines tax required by
 1489 s. 626.932 and shall be paid to the Florida Surplus Lines
 1490 Service Office at the time the surplus lines agent pays the
 1491 surplus lines tax to the Florida Surplus Lines Service Office.
 1492 The emergency assessments so collected shall be transferred
 1493 directly to the corporation on a periodic basis as determined by
 1494 the corporation and shall be held by the corporation solely in
 1495 the applicable account. The aggregate amount of emergency
 1496 assessments levied for an account under this sub-subparagraph in
 1497 any calendar year may, at the discretion of the board of
 1498 governors, be less than but may not exceed the greater of 10
 1499 percent of the amount needed to cover the deficit, plus
 1500 interest, fees, commissions, required reserves, and other costs
 1501 associated with financing of the original deficit, or 10 percent
 1502 of the aggregate statewide direct written premium for subject
 1503 lines of business and for all accounts of the corporation for
 1504 the prior year, plus interest, fees, commissions, required
 1505 reserves, and other costs associated with financing the deficit.
 1506 e. The corporation may pledge the proceeds of assessments,
 1507 projected recoveries from the Florida Hurricane Catastrophe
 1508 Fund, other insurance and reinsurance recoverables, policyholder

1509 surcharges and other surcharges, and other funds available to
1510 the corporation as the source of revenue for and to secure bonds
1511 issued under paragraph (p), bonds or other indebtedness issued
1512 under subparagraph (c)3., or lines of credit or other financing
1513 mechanisms issued or created under this subsection, or to retire
1514 any other debt incurred as a result of deficits or events giving
1515 rise to deficits, or in any other way that the board determines
1516 will efficiently recover such deficits. The purpose of the lines
1517 of credit or other financing mechanisms is to provide additional
1518 resources to assist the corporation in covering claims and
1519 expenses attributable to a catastrophe. As used in this
1520 subsection, the term "assessments" includes regular assessments
1521 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1522 (p)1. and emergency assessments under sub-subparagraph d.
1523 Emergency assessments collected under sub-subparagraph d. are
1524 not part of an insurer's rates, are not premium, and are not
1525 subject to premium tax, fees, or commissions; however, failure
1526 to pay the emergency assessment shall be treated as failure to
1527 pay premium. The emergency assessments under sub-subparagraph d.
1528 shall continue as long as any bonds issued or other indebtedness
1529 incurred with respect to a deficit for which the assessment was
1530 imposed remain outstanding, unless adequate provision has been
1531 made for the payment of such bonds or other indebtedness
1532 pursuant to the documents governing such bonds or other
1533 indebtedness.

1534 f. As used in this subsection for purposes of any deficit
1535 incurred on or after January 25, 2007, the term "subject lines
1536 of business" means insurance written by assessable insurers or

1537 procured by assessable insureds for all property and casualty
1538 lines of business in this state, but not including workers'
1539 compensation or medical malpractice. As used in the sub-
1540 subparagraph, the term "property and casualty lines of business"
1541 includes all lines of business identified on Form 2, Exhibit of
1542 Premiums and Losses, in the annual statement required of
1543 authorized insurers by s. 624.424 and any rule adopted under
1544 this section, except for those lines identified as accident and
1545 health insurance and except for policies written under the
1546 National Flood Insurance Program or the Federal Crop Insurance
1547 Program. For purposes of this sub-subparagraph, the term
1548 "workers' compensation" includes both workers' compensation
1549 insurance and excess workers' compensation insurance.

1550 g. The Florida Surplus Lines Service Office shall
1551 determine annually the aggregate statewide written premium in
1552 subject lines of business procured by assessable insureds and
1553 shall report that information to the corporation in a form and
1554 at a time the corporation specifies to ensure that the
1555 corporation can meet the requirements of this subsection and the
1556 corporation's financing obligations.

1557 h. The Florida Surplus Lines Service Office shall verify
1558 the proper application by surplus lines agents of assessment
1559 percentages for regular assessments and emergency assessments
1560 levied under this subparagraph on assessable insureds and shall
1561 assist the corporation in ensuring the accurate, timely
1562 collection and payment of assessments by surplus lines agents as
1563 required by the corporation.

1564 i. If a deficit is incurred in any account in 2008 or

1565 thereafter, the board of governors shall levy a Citizens
 1566 policyholder surcharge against all policyholders of the
 1567 corporation for a 12-month period, which shall be collected at
 1568 the time of issuance or renewal of a policy, as a uniform
 1569 percentage of the premium for the policy of up to 25 ~~15~~ percent
 1570 of such premium, which funds shall be used to offset the
 1571 deficit. Citizens policyholder surcharges under this sub-
 1572 subparagraph are not considered premium and are not subject to
 1573 commissions, fees, or premium taxes. However, failure to pay
 1574 such surcharges shall be treated as failure to pay premium.

1575 j. If the amount of any assessments or surcharges
 1576 collected from corporation policyholders, assessable insurers or
 1577 their policyholders, or assessable insureds exceeds the amount
 1578 of the deficits, such excess amounts shall be remitted to and
 1579 retained by the corporation in a reserve to be used by the
 1580 corporation, as determined by the board of governors and
 1581 approved by the office, to pay claims or reduce any past,
 1582 present, or future plan-year deficits or to reduce outstanding
 1583 debt.

1584 (c) The plan of operation of the corporation:

1585 1. Must provide for adoption of residential property and
 1586 casualty insurance policy forms and commercial residential and
 1587 nonresidential property insurance forms, which forms must be
 1588 approved by the office prior to use. The corporation shall adopt
 1589 the following policy forms:

1590 a. Standard personal lines policy forms that are
 1591 comprehensive multiperil policies providing full coverage of a
 1592 residential property equivalent to the coverage provided in the

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1593 private insurance market under an HO-3, HO-4, or HO-6 policy.

1594 b. Basic personal lines policy forms that are policies
1595 similar to an HO-8 policy or a dwelling fire policy that provide
1596 coverage meeting the requirements of the secondary mortgage
1597 market, but which coverage is more limited than the coverage
1598 under a standard policy.

1599 c. Commercial lines residential and nonresidential policy
1600 forms that are generally similar to the basic perils of full
1601 coverage obtainable for commercial residential structures and
1602 commercial nonresidential structures in the admitted voluntary
1603 market.

1604 d. Personal lines and commercial lines residential
1605 property insurance forms that cover the peril of wind only. The
1606 forms are applicable only to residential properties located in
1607 areas eligible for coverage under the high-risk account referred
1608 to in sub-subparagraph (b)2.a.

1609 e. Commercial lines nonresidential property insurance
1610 forms that cover the peril of wind only. The forms are
1611 applicable only to nonresidential properties located in areas
1612 eligible for coverage under the high-risk account referred to in
1613 sub-subparagraph (b)2.a.

1614 f. The corporation may adopt variations of the policy
1615 forms listed in sub-subparagraphs a.-e. that contain more
1616 restrictive coverage.

1617 2.a. Must provide that the corporation adopt a program in
1618 which the corporation and authorized insurers enter into quota
1619 share primary insurance agreements for hurricane coverage, as
1620 defined in s. 627.4025(2)(a), for eligible risks, and adopt

1621 property insurance forms for eligible risks which cover the
1622 peril of wind only. As used in this subsection, the term:

1623 (I) "Quota share primary insurance" means an arrangement
1624 in which the primary hurricane coverage of an eligible risk is
1625 provided in specified percentages by the corporation and an
1626 authorized insurer. The corporation and authorized insurer are
1627 each solely responsible for a specified percentage of hurricane
1628 coverage of an eligible risk as set forth in a quota share
1629 primary insurance agreement between the corporation and an
1630 authorized insurer and the insurance contract. The
1631 responsibility of the corporation or authorized insurer to pay
1632 its specified percentage of hurricane losses of an eligible
1633 risk, as set forth in the quota share primary insurance
1634 agreement, may not be altered by the inability of the other
1635 party to the agreement to pay its specified percentage of
1636 hurricane losses. Eligible risks that are provided hurricane
1637 coverage through a quota share primary insurance arrangement
1638 must be provided policy forms that set forth the obligations of
1639 the corporation and authorized insurer under the arrangement,
1640 clearly specify the percentages of quota share primary insurance
1641 provided by the corporation and authorized insurer, and
1642 conspicuously and clearly state that neither the authorized
1643 insurer nor the corporation may be held responsible beyond its
1644 specified percentage of coverage of hurricane losses.

1645 (II) "Eligible risks" means personal lines residential and
1646 commercial lines residential risks that meet the underwriting
1647 criteria of the corporation and are located in areas that were
1648 eligible for coverage by the Florida Windstorm Underwriting

1649 Association on January 1, 2002.

1650 b. The corporation may enter into quota share primary
1651 insurance agreements with authorized insurers at corporation
1652 coverage levels of 90 percent and 50 percent.

1653 c. If the corporation determines that additional coverage
1654 levels are necessary to maximize participation in quota share
1655 primary insurance agreements by authorized insurers, the
1656 corporation may establish additional coverage levels. However,
1657 the corporation's quota share primary insurance coverage level
1658 may not exceed 90 percent.

1659 d. Any quota share primary insurance agreement entered
1660 into between an authorized insurer and the corporation must
1661 provide for a uniform specified percentage of coverage of
1662 hurricane losses, by county or territory as set forth by the
1663 corporation board, for all eligible risks of the authorized
1664 insurer covered under the quota share primary insurance
1665 agreement.

1666 e. Any quota share primary insurance agreement entered
1667 into between an authorized insurer and the corporation is
1668 subject to review and approval by the office. However, such
1669 agreement shall be authorized only as to insurance contracts
1670 entered into between an authorized insurer and an insured who is
1671 already insured by the corporation for wind coverage.

1672 f. For all eligible risks covered under quota share
1673 primary insurance agreements, the exposure and coverage levels
1674 for both the corporation and authorized insurers shall be
1675 reported by the corporation to the Florida Hurricane Catastrophe
1676 Fund. For all policies of eligible risks covered under quota

1677 share primary insurance agreements, the corporation and the
1678 authorized insurer shall maintain complete and accurate records
1679 for the purpose of exposure and loss reimbursement audits as
1680 required by Florida Hurricane Catastrophe Fund rules. The
1681 corporation and the authorized insurer shall each maintain
1682 duplicate copies of policy declaration pages and supporting
1683 claims documents.

1684 g. The corporation board shall establish in its plan of
1685 operation standards for quota share agreements which ensure that
1686 there is no discriminatory application among insurers as to the
1687 terms of quota share agreements, pricing of quota share
1688 agreements, incentive provisions if any, and consideration paid
1689 for servicing policies or adjusting claims.

1690 h. The quota share primary insurance agreement between the
1691 corporation and an authorized insurer must set forth the
1692 specific terms under which coverage is provided, including, but
1693 not limited to, the sale and servicing of policies issued under
1694 the agreement by the insurance agent of the authorized insurer
1695 producing the business, the reporting of information concerning
1696 eligible risks, the payment of premium to the corporation, and
1697 arrangements for the adjustment and payment of hurricane claims
1698 incurred on eligible risks by the claims adjuster and personnel
1699 of the authorized insurer. Entering into a quota sharing
1700 insurance agreement between the corporation and an authorized
1701 insurer shall be voluntary and at the discretion of the
1702 authorized insurer.

1703 3. May provide that the corporation may employ or
1704 otherwise contract with individuals or other entities to provide

1705 administrative or professional services that may be appropriate
 1706 to effectuate the plan. The corporation shall have the power to
 1707 borrow funds, by issuing bonds or by incurring other
 1708 indebtedness, and shall have other powers reasonably necessary
 1709 to effectuate the requirements of this subsection, including,
 1710 without limitation, the power to issue bonds and incur other
 1711 indebtedness in order to refinance outstanding bonds or other
 1712 indebtedness. The corporation may, but is not required to, seek
 1713 judicial validation of its bonds or other indebtedness under
 1714 chapter 75. The corporation may issue bonds or incur other
 1715 indebtedness, or have bonds issued on its behalf by a unit of
 1716 local government pursuant to subparagraph (p)2., in the absence
 1717 of a hurricane or other weather-related event, upon a
 1718 determination by the corporation, subject to approval by the
 1719 office, that such action would enable it to efficiently meet the
 1720 financial obligations of the corporation and that such
 1721 financings are reasonably necessary to effectuate the
 1722 requirements of this subsection. The corporation is authorized
 1723 to take all actions needed to facilitate tax-free status for any
 1724 such bonds or indebtedness, including formation of trusts or
 1725 other affiliated entities. The corporation shall have the
 1726 authority to pledge assessments, projected recoveries from the
 1727 Florida Hurricane Catastrophe Fund, other reinsurance
 1728 recoverables, market equalization and other surcharges, and
 1729 other funds available to the corporation as security for bonds
 1730 or other indebtedness. In recognition of s. 10, Art. I of the
 1731 State Constitution, prohibiting the impairment of obligations of
 1732 contracts, it is the intent of the Legislature that no action be

1733 taken whose purpose is to impair any bond indenture or financing
1734 agreement or any revenue source committed by contract to such
1735 bond or other indebtedness.

1736 4.a. Must require that the corporation operate subject to
1737 the supervision and approval of a board of governors consisting
1738 of eight individuals who are residents of this state, from
1739 different geographical areas of this state. The Governor, the
1740 Chief Financial Officer, the President of the Senate, and the
1741 Speaker of the House of Representatives shall each appoint two
1742 members of the board. At least one of the two members appointed
1743 by each appointing officer must have demonstrated expertise in
1744 insurance. The Chief Financial Officer shall designate one of
1745 the appointees as chair. All board members serve at the pleasure
1746 of the appointing officer. All members of the board of governors
1747 are subject to removal at will by the officers who appointed
1748 them. Except as otherwise provided, all board members, including
1749 the chair, must be appointed to serve for 3-year terms beginning
1750 annually on a date designated by the plan. However, for the
1751 first term beginning on or after July 1, 2009, each appointing
1752 officer shall appoint one member of the board for a 2-year term
1753 and one member for a 3-year term. Any board vacancy shall be
1754 filled for the unexpired term by the appointing officer. The
1755 Chief Financial Officer shall appoint a technical advisory group
1756 to provide information and advice to the board of governors in
1757 connection with the board's duties under this subsection. The
1758 executive director and senior managers of the corporation shall
1759 be engaged by the board and serve at the pleasure of the board.
1760 Any executive director appointed on or after July 1, 2006, is

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1761 subject to confirmation by the Senate. The executive director is
1762 responsible for employing other staff as the corporation may
1763 require, subject to review and concurrence by the board.

1764 b. The board shall create a Market Accountability Advisory
1765 Committee to assist the corporation in developing awareness of
1766 its rates and its customer and agent service levels in
1767 relationship to the voluntary market insurers writing similar
1768 coverage. The members of the advisory committee shall consist of
1769 the following 11 persons, one of whom must be elected chair by
1770 the members of the committee: four representatives, one
1771 appointed by the Florida Association of Insurance Agents, one by
1772 the Florida Association of Insurance and Financial Advisors, one
1773 by the Professional Insurance Agents of Florida, and one by the
1774 Latin American Association of Insurance Agencies; three
1775 representatives appointed by the insurers with the three highest
1776 voluntary market share of residential property insurance
1777 business in the state; one representative from the Office of
1778 Insurance Regulation; one consumer appointed by the board who is
1779 insured by the corporation at the time of appointment to the
1780 committee; one representative appointed by the Florida
1781 Association of Realtors; and one representative appointed by the
1782 Florida Bankers Association. All members must serve for 3-year
1783 terms and may serve for consecutive terms. The committee shall
1784 report to the corporation at each board meeting on insurance
1785 market issues which may include rates and rate competition with
1786 the voluntary market; service, including policy issuance, claims
1787 processing, and general responsiveness to policyholders,
1788 applicants, and agents; and matters relating to depopulation.

1789 5. Must provide a procedure for determining the
1790 eligibility of a risk for coverage, as follows:

1791 a. Subject to the provisions of s. 627.3517, with respect
1792 to personal lines residential risks, if the risk is offered
1793 coverage from an authorized insurer at the insurer's approved
1794 rate under either a standard policy including wind coverage or,
1795 if consistent with the insurer's underwriting rules as filed
1796 with the office, a basic policy including wind coverage, for a
1797 new application to the corporation for coverage, the risk is not
1798 eligible for any policy issued by the corporation unless the
1799 premium for coverage from the authorized insurer is more than 15
1800 percent greater than the premium for comparable coverage from
1801 the corporation. If the risk is not able to obtain any such
1802 offer, the risk is eligible for either a standard policy
1803 including wind coverage or a basic policy including wind
1804 coverage issued by the corporation; however, if the risk could
1805 not be insured under a standard policy including wind coverage
1806 regardless of market conditions, the risk shall be eligible for
1807 a basic policy including wind coverage unless rejected under
1808 subparagraph 8. However, with regard to a policyholder of the
1809 corporation or a policyholder removed from the corporation
1810 through an assumption agreement until the end of the assumption
1811 period, the policyholder remains eligible for coverage from the
1812 corporation regardless of any offer of coverage from an
1813 authorized insurer or surplus lines insurer. The corporation
1814 shall determine the type of policy to be provided on the basis
1815 of objective standards specified in the underwriting manual and
1816 based on generally accepted underwriting practices.

1817 (I) If the risk accepts an offer of coverage through the
 1818 market assistance plan or an offer of coverage through a
 1819 mechanism established by the corporation before a policy is
 1820 issued to the risk by the corporation or during the first 30
 1821 days of coverage by the corporation, and the producing agent who
 1822 submitted the application to the plan or to the corporation is
 1823 not currently appointed by the insurer, the insurer shall:

1824 (A) Pay to the producing agent of record of the policy,
 1825 for the first year, an amount that is the greater of the
 1826 insurer's usual and customary commission for the type of policy
 1827 written or a fee equal to the usual and customary commission of
 1828 the corporation; or

1829 (B) Offer to allow the producing agent of record of the
 1830 policy to continue servicing the policy for a period of not less
 1831 than 1 year and offer to pay the agent the greater of the
 1832 insurer's or the corporation's usual and customary commission
 1833 for the type of policy written.

1834
 1835 If the producing agent is unwilling or unable to accept
 1836 appointment, the new insurer shall pay the agent in accordance
 1837 with sub-sub-sub-subparagraph (A).

1838 (II) When the corporation enters into a contractual
 1839 agreement for a take-out plan, the producing agent of record of
 1840 the corporation policy is entitled to retain any unearned
 1841 commission on the policy, and the insurer shall:

1842 (A) Pay to the producing agent of record of the
 1843 corporation policy, for the first year, an amount that is the
 1844 greater of the insurer's usual and customary commission for the

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1845 type of policy written or a fee equal to the usual and customary
1846 commission of the corporation; or

1847 (B) Offer to allow the producing agent of record of the
1848 corporation policy to continue servicing the policy for a period
1849 of not less than 1 year and offer to pay the agent the greater
1850 of the insurer's or the corporation's usual and customary
1851 commission for the type of policy written.

1852

1853 If the producing agent is unwilling or unable to accept
1854 appointment, the new insurer shall pay the agent in accordance
1855 with sub-sub-sub-subparagraph (A).

1856 b. With respect to commercial lines residential risks, for
1857 a new application to the corporation for coverage, if the risk
1858 is offered coverage under a policy including wind coverage from
1859 an authorized insurer at its approved rate, the risk is not
1860 eligible for any policy issued by the corporation unless the
1861 premium for coverage from the authorized insurer is more than 15
1862 percent greater than the premium for comparable coverage from
1863 the corporation. If the risk is not able to obtain any such
1864 offer, the risk is eligible for a policy including wind coverage
1865 issued by the corporation. However, with regard to a
1866 policyholder of the corporation or a policyholder removed from
1867 the corporation through an assumption agreement until the end of
1868 the assumption period, the policyholder remains eligible for
1869 coverage from the corporation regardless of any offer of
1870 coverage from an authorized insurer or surplus lines insurer.

1871 (I) If the risk accepts an offer of coverage through the
1872 market assistance plan or an offer of coverage through a

1873 mechanism established by the corporation before a policy is
 1874 issued to the risk by the corporation or during the first 30
 1875 days of coverage by the corporation, and the producing agent who
 1876 submitted the application to the plan or the corporation is not
 1877 currently appointed by the insurer, the insurer shall:

1878 (A) Pay to the producing agent of record of the policy,
 1879 for the first year, an amount that is the greater of the
 1880 insurer's usual and customary commission for the type of policy
 1881 written or a fee equal to the usual and customary commission of
 1882 the corporation; or

1883 (B) Offer to allow the producing agent of record of the
 1884 policy to continue servicing the policy for a period of not less
 1885 than 1 year and offer to pay the agent the greater of the
 1886 insurer's or the corporation's usual and customary commission
 1887 for the type of policy written.

1888
 1889 If the producing agent is unwilling or unable to accept
 1890 appointment, the new insurer shall pay the agent in accordance
 1891 with sub-sub-sub-subparagraph (A).

1892 (II) When the corporation enters into a contractual
 1893 agreement for a take-out plan, the producing agent of record of
 1894 the corporation policy is entitled to retain any unearned
 1895 commission on the policy, and the insurer shall:

1896 (A) Pay to the producing agent of record of the
 1897 corporation policy, for the first year, an amount that is the
 1898 greater of the insurer's usual and customary commission for the
 1899 type of policy written or a fee equal to the usual and customary
 1900 commission of the corporation; or

1901 (B) Offer to allow the producing agent of record of the
 1902 corporation policy to continue servicing the policy for a period
 1903 of not less than 1 year and offer to pay the agent the greater
 1904 of the insurer's or the corporation's usual and customary
 1905 commission for the type of policy written.

1906
 1907 If the producing agent is unwilling or unable to accept
 1908 appointment, the new insurer shall pay the agent in accordance
 1909 with sub-sub-sub-subparagraph (A).

1910 c. For purposes of determining comparable coverage under
 1911 sub-subparagraphs a. and b., the comparison shall be based on
 1912 those forms and coverages that are reasonably comparable. The
 1913 corporation may rely on a determination of comparable coverage
 1914 and premium made by the producing agent who submits the
 1915 application to the corporation, made in the agent's capacity as
 1916 the corporation's agent. A comparison may be made solely of the
 1917 premium with respect to the main building or structure only on
 1918 the following basis: the same coverage A or other building
 1919 limits; the same percentage hurricane deductible that applies on
 1920 an annual basis or that applies to each hurricane for commercial
 1921 residential property; the same percentage of ordinance and law
 1922 coverage, if the same limit is offered by both the corporation
 1923 and the authorized insurer; the same mitigation credits, to the
 1924 extent the same types of credits are offered both by the
 1925 corporation and the authorized insurer; the same method for loss
 1926 payment, such as replacement cost or actual cash value, if the
 1927 same method is offered both by the corporation and the
 1928 authorized insurer in accordance with underwriting rules; and

1929 any other form or coverage that is reasonably comparable as
 1930 determined by the board. If an application is submitted to the
 1931 corporation for wind-only coverage in the high-risk account, the
 1932 premium for the corporation's wind-only policy plus the premium
 1933 for the ex-wind policy that is offered by an authorized insurer
 1934 to the applicant shall be compared to the premium for multiperil
 1935 coverage offered by an authorized insurer, subject to the
 1936 standards for comparison specified in this subparagraph. If the
 1937 corporation or the applicant requests from the authorized
 1938 insurer a breakdown of the premium of the offer by types of
 1939 coverage so that a comparison may be made by the corporation or
 1940 its agent and the authorized insurer refuses or is unable to
 1941 provide such information, the corporation may treat the offer as
 1942 not being an offer of coverage from an authorized insurer at the
 1943 insurer's approved rate.

1944 6. Must include rules for classifications of risks and
 1945 rates therefor.

1946 7. Must provide that if premium and investment income for
 1947 an account attributable to a particular calendar year are in
 1948 excess of projected losses and expenses for the account
 1949 attributable to that year, such excess shall be held in surplus
 1950 in the account. Such surplus shall be available to defray
 1951 deficits in that account as to future years and shall be used
 1952 for that purpose prior to assessing assessable insurers and
 1953 assessable insureds as to any calendar year.

1954 8. Must provide objective criteria and procedures to be
 1955 uniformly applied for all applicants in determining whether an
 1956 individual risk is so hazardous as to be uninsurable. In making

1957 | this determination and in establishing the criteria and
 1958 | procedures, the following shall be considered:

1959 | a. Whether the likelihood of a loss for the individual
 1960 | risk is substantially higher than for other risks of the same
 1961 | class; and

1962 | b. Whether the uncertainty associated with the individual
 1963 | risk is such that an appropriate premium cannot be determined.

1964 |
 1965 | The acceptance or rejection of a risk by the corporation shall
 1966 | be construed as the private placement of insurance, and the
 1967 | provisions of chapter 120 shall not apply.

1968 | 9. Must provide that the corporation shall make its best
 1969 | efforts to procure catastrophe reinsurance at reasonable rates,
 1970 | to cover its projected 100-year probable maximum loss as
 1971 | determined by the board of governors.

1972 | 10. The policies issued by the corporation must provide
 1973 | that, if the corporation or the market assistance plan obtains
 1974 | an offer from an authorized insurer to cover the risk at its
 1975 | approved rates, the risk is no longer eligible for renewal
 1976 | through the corporation, except as otherwise provided in this
 1977 | subsection.

1978 | 11. Corporation policies and applications must include a
 1979 | notice that the corporation policy could, under this section, be
 1980 | replaced with a policy issued by an authorized insurer that does
 1981 | not provide coverage identical to the coverage provided by the
 1982 | corporation. The notice shall also specify that acceptance of
 1983 | corporation coverage creates a conclusive presumption that the
 1984 | applicant or policyholder is aware of this potential.

1985 12. May establish, subject to approval by the office,
 1986 different eligibility requirements and operational procedures
 1987 for any line or type of coverage for any specified county or
 1988 area if the board determines that such changes to the
 1989 eligibility requirements and operational procedures are
 1990 justified due to the voluntary market being sufficiently stable
 1991 and competitive in such area or for such line or type of
 1992 coverage and that consumers who, in good faith, are unable to
 1993 obtain insurance through the voluntary market through ordinary
 1994 methods would continue to have access to coverage from the
 1995 corporation. When coverage is sought in connection with a real
 1996 property transfer, such requirements and procedures shall not
 1997 provide for an effective date of coverage later than the date of
 1998 the closing of the transfer as established by the transferor,
 1999 the transferee, and, if applicable, the lender.

2000 13. Must provide that, with respect to the high-risk
 2001 account, any assessable insurer with a surplus as to
 2002 policyholders of \$25 million or less writing 25 percent or more
 2003 of its total countrywide property insurance premiums in this
 2004 state may petition the office, within the first 90 days of each
 2005 calendar year, to qualify as a limited apportionment company. A
 2006 regular assessment levied by the corporation on a limited
 2007 apportionment company for a deficit incurred by the corporation
 2008 for the high-risk account in 2006 or thereafter may be paid to
 2009 the corporation on a monthly basis as the assessments are
 2010 collected by the limited apportionment company from its insureds
 2011 pursuant to s. 627.3512, but the regular assessment must be paid
 2012 in full within 12 months after being levied by the corporation.

2013 A limited apportionment company shall collect from its
 2014 policyholders any emergency assessment imposed under sub-
 2015 subparagraph (b)3.d. The plan shall provide that, if the office
 2016 determines that any regular assessment will result in an
 2017 impairment of the surplus of a limited apportionment company,
 2018 the office may direct that all or part of such assessment be
 2019 deferred as provided in subparagraph (p)4. However, there shall
 2020 be no limitation or deferment of an emergency assessment to be
 2021 collected from policyholders under sub-subparagraph (b)3.d.

2022 14. Must provide that the corporation appoint as its
 2023 licensed agents only those agents who also hold an appointment
 2024 as defined in s. 626.015(3) with an insurer who at the time of
 2025 the agent's initial appointment by the corporation is authorized
 2026 to write and is actually writing personal lines residential
 2027 property coverage, commercial residential property coverage, or
 2028 commercial nonresidential property coverage within the state.

2029 15. Must provide, by July 1, 2007, a premium payment plan
 2030 option to its policyholders which allows at a minimum for
 2031 quarterly and semiannual payment of premiums. A monthly payment
 2032 plan may, but is not required to, be offered.

2033 16. Must limit coverage on mobile homes or manufactured
 2034 homes built prior to 1994 to actual cash value of the dwelling
 2035 rather than replacement costs of the dwelling.

2036 17. May provide such limits of coverage as the board
 2037 determines, consistent with the requirements of this subsection.

2038 18. May require commercial property to meet specified
 2039 hurricane mitigation construction features as a condition of
 2040 eligibility for coverage.

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2041 (m)1. Rates for coverage provided by the corporation shall
2042 be actuarially sound and subject to the requirements of s.
2043 627.062, except as otherwise provided in this paragraph. The
2044 corporation shall file its recommended rates with the office at
2045 least annually. The corporation shall provide any additional
2046 information regarding the rates which the office requires. The
2047 office shall consider the recommendations of the board and issue
2048 a final order establishing the rates for the corporation within
2049 45 days after the recommended rates are filed. The corporation
2050 may not pursue an administrative challenge or judicial review of
2051 the final order of the office.

2052 2. In addition to the rates otherwise determined pursuant
2053 to this paragraph, the corporation shall impose and collect an
2054 amount equal to the premium tax provided for in s. 624.509 to
2055 augment the financial resources of the corporation.

2056 3. After the public hurricane loss-projection model under
2057 s. 627.06281 has been found to be accurate and reliable by the
2058 Florida Commission on Hurricane Loss Projection Methodology,
2059 that model shall serve as the minimum benchmark for determining
2060 the windstorm portion of the corporation's rates. This
2061 subparagraph does not require or allow the corporation to adopt
2062 rates lower than the rates otherwise required or allowed by this
2063 paragraph.

2064 4. The rate filings for the corporation which were
2065 approved by the office and which took effect January 1, 2007,
2066 are rescinded, except for those rates that were lowered. As soon
2067 as possible, the corporation shall begin using the lower rates
2068 that were in effect on December 31, 2006, and shall provide

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2069 refunds to policyholders who have paid higher rates as a result
2070 of that rate filing. The rates in effect on December 31, 2006,
2071 shall remain in effect for the 2007 and 2008 calendar years
2072 except for any rate change that results in a lower rate. The
2073 next rate change that may increase rates shall take effect
2074 pursuant to a new rate filing recommended by the corporation and
2075 established by the office, subject to the requirements of this
2076 paragraph.

2077 5. Beginning on July 15, 2009, and each year thereafter,
2078 the corporation must make a recommended actuarially sound rate
2079 filing for each personal and commercial line of business it
2080 writes, to be effective no earlier than January 1, 2010.

2081 6. The Legislature finds that it is in the public interest
2082 to ensure that actuarially sound rates for coverage by the
2083 corporation be implemented incrementally to provide rate
2084 stability and predictability to its policyholders.

2085 7. Beginning on or after January 1, 2010, the corporation
2086 shall begin to implement actuarially sound rates for each
2087 commercial and personal line of business it writes, which may
2088 not exceed an average statewide increase of 10 percent or exceed
2089 20 percent for any single policy issued by the corporation,
2090 excluding coverage changes and surcharges.

2091 8. The corporation's incremental implementation of rates
2092 as prescribed in subparagraph 7. shall cease for any line of
2093 business written by the corporation after actuarially sound
2094 rates as prescribed in subparagraph 1. are achieved. Thereafter,
2095 the corporation shall annually make a recommended actuarially
2096 sound rate filing for each commercial and personal line of

2097 business it writes.

2098 9. In addition to the rate increase required pursuant to
 2099 subparagraph 7., the corporation may increase its rates an
 2100 amount sufficient to recoup additional reimbursement premium
 2101 paid to the Florida Hurricane Catastrophe Fund due to the
 2102 application of a cash build-up factor.

2103 10. Beginning April 1, 2010, and each quarter thereafter,
 2104 the corporation shall transfer 10 percent of the funds received
 2105 from the rate increase prescribed by subparagraph 7. to the
 2106 General Revenue Fund. The corporation's transfer of such funds
 2107 shall cease upon the corporation's implementation of actuarially
 2108 sound rates as prescribed in subparagraph 1.

2109 ~~(x) It is the intent of the Legislature that the~~
 2110 ~~amendments to this subsection enacted in 2002 should, over time,~~
 2111 ~~reduce the probable maximum windstorm losses in the residual~~
 2112 ~~markets and should reduce the potential assessments to be levied~~
 2113 ~~on property insurers and policyholders statewide. In furtherance~~
 2114 ~~of this intent:~~

2115 ~~1. The board shall, on or before February 1 of each year,~~
 2116 ~~provide a report to the President of the Senate and the Speaker~~
 2117 ~~of the House of Representatives showing the reduction or~~
 2118 ~~increase in the 100-year probable maximum loss attributable to~~
 2119 ~~wind-only coverages and the quota share program under this~~
 2120 ~~subsection combined, as compared to the benchmark 100-year~~
 2121 ~~probable maximum loss of the Florida Windstorm Underwriting~~
 2122 ~~Association. For purposes of this paragraph, the benchmark 100-~~
 2123 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
 2124 ~~Association shall be the calculation dated February 2001 and~~

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2125 ~~based on November 30, 2000, exposures. In order to ensure~~
2126 ~~comparability of data, the board shall use the same methods for~~
2127 ~~calculating its probable maximum loss as were used to calculate~~
2128 ~~the benchmark probable maximum loss.~~

2129 ~~2. Beginning February 1, 2010, if the report under~~
2130 ~~subparagraph 1. for any year indicates that the 100-year~~
2131 ~~probable maximum loss attributable to wind-only coverages and~~
2132 ~~the quota share program combined does not reflect a reduction of~~
2133 ~~at least 25 percent from the benchmark, the board shall reduce~~
2134 ~~the boundaries of the high-risk area eligible for wind-only~~
2135 ~~coverages under this subsection in a manner calculated to reduce~~
2136 ~~such probable maximum loss to an amount at least 25 percent~~
2137 ~~below the benchmark.~~

2138 ~~3. Beginning February 1, 2015, if the report under~~
2139 ~~subparagraph 1. for any year indicates that the 100-year~~
2140 ~~probable maximum loss attributable to wind-only coverages and~~
2141 ~~the quota share program combined does not reflect a reduction of~~
2142 ~~at least 50 percent from the benchmark, the boundaries of the~~
2143 ~~high-risk area eligible for wind-only coverages under this~~
2144 ~~subsection shall be reduced by the elimination of any area that~~
2145 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
2146 ~~Waterway.~~

2147 Section 12. Subsection (2) of section 627.711, Florida
2148 Statutes, is amended, and subsection (3) is added to that
2149 section, to read:

2150 627.711 Notice of premium discounts for hurricane loss
2151 mitigation; uniform mitigation verification inspection form.--

2152 (2) (a) By July 1, 2007, the Financial Services Commission

2153 shall develop by rule a uniform mitigation verification
 2154 inspection form that shall be used by all insurers when
 2155 submitted by policyholders for the purpose of factoring
 2156 discounts for wind insurance. In developing the form, the
 2157 commission shall seek input from insurance, construction, and
 2158 building code representatives. Further, the commission shall
 2159 provide guidance as to the length of time the inspection results
 2160 are valid. An insurer shall accept as valid a uniform mitigation
 2161 verification form certified by the Department of Financial
 2162 Services or signed by:

2163 ~~(a) A hurricane mitigation inspector employed by an~~
 2164 ~~approved My Safe Florida Home wind certification entity;~~

2165 1.(b) A building code inspector certified under s.
 2166 468.607;

2167 2.(e) A general, building, or residential contractor
 2168 licensed under s. 489.111;

2169 3.(d) A professional engineer licensed under s. 471.015
 2170 who has passed the appropriate equivalency test of the Building
 2171 Code Training Program as required by s. 553.841; or

2172 4.(e) A professional architect licensed under s. 481.213.

2173 (b) An insurer may contract with inspection firms at the
 2174 insurer's expense to review mitigation verification forms and to
 2175 reinspect properties for which the insurer receives mitigation
 2176 verification forms to ensure that the forms are valid.

2177 (3) An individual or entity who knowingly provides or
 2178 utters a false or fraudulent mitigation verification form with
 2179 the intent to obtain or receive a discount on an insurance
 2180 premium to which the individual or entity is not entitled

2181 commits a misdemeanor of the first degree, punishable as
 2182 provided in s. 775.082 or s. 775.083.

2183 Section 13. Subsection (1) and paragraph (c) of subsection
 2184 (2) of section 627.712, Florida Statutes, are amended to read:

2185 627.712 Residential windstorm coverage required;
 2186 availability of exclusions for windstorm or contents.--

2187 (1) An insurer issuing a residential property insurance
 2188 policy must provide windstorm coverage. Except as provided in
 2189 paragraph (2)(c), this section does not apply with respect to
 2190 risks that are eligible for wind-only coverage from Citizens
 2191 Property Insurance Corporation under s. 627.351(6) and with
 2192 respect to risks that are not eligible for coverage from
 2193 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
 2194 or 5. A risk ineligible for Citizens coverage under s.
 2195 627.351(6)(a)3. or 5. is exempt from the requirements of this
 2196 section only if the risk is located within the boundaries of the
 2197 high-risk account of the corporation.

2198 (2) A property insurer must make available, at the option
 2199 of the policyholder, an exclusion of windstorm coverage.

2200 ~~(c) If the residential structure is eligible for wind-only~~
 2201 ~~coverage from Citizens Property Insurance Corporation,~~ An
 2202 insurer nonrenewing a policy and issuing a replacement policy,
 2203 or issuing a new policy, that does not provide wind coverage
 2204 shall provide a notice to the mortgageholder or lienholder
 2205 indicating the policyholder has elected coverage that does not
 2206 cover wind.

2207 Section 14. Section 631.65, Florida Statutes, is amended
 2208 to read:

2209 631.65 Prohibited advertisement or solicitation.--No
 2210 person shall make, publish, disseminate, circulate, or place
 2211 before the public, or cause, directly or indirectly, to be made,
 2212 published, disseminated, circulated, or placed before the
 2213 public, in a newspaper, magazine, or other publication, or in
 2214 the form of a notice, circular, pamphlet, letter, or poster, or
 2215 over any radio station or television station, or in any other
 2216 way, any advertisement, announcement, or statement which uses
 2217 the existence of the insurance guaranty association for the
 2218 purpose of sales, solicitation, or inducement to purchase any
 2219 form of insurance covered under this part. However, nothing in
 2220 this section may be construed to prevent a duly licensed
 2221 insurance agent from providing explanations concerning the
 2222 existence or application of the insurance guaranty association
 2223 to policyholders, prospective policyholders, or applicants for
 2224 coverage.

2225 Section 15. Upon receipt of funds transferred to the
 2226 General Revenue Fund pursuant to s. 627.351(6)(m)10., Florida
 2227 Statutes, the funds transferred are appropriated on a
 2228 nonrecurring basis from the General Revenue Fund to the
 2229 Insurance Regulatory Trust Fund in the Department of Financial
 2230 Services for purposes of the My Safe Florida Home Program
 2231 specified in s. 215.5586, Florida Statutes. The My Safe Florida
 2232 Home Program shall use the funds solely for the provision of
 2233 mitigation grants in accordance with s. 215.5586(2), Florida
 2234 Statutes, to policyholders of Citizens Property Insurance
 2235 Corporation who are otherwise eligible for grants from the My
 2236 Safe Florida Home Program. The department shall establish a

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2237 | separate account within the trust fund for accounting purposes.

2238 | Section 16. This act shall take effect upon becoming a

2239 | law.