

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 the
7 dates of an insurer's contract year for purposes of
8 calculating the insurer's retention; revising
9 reimbursement contract coverage payment provisions;
10 extending application of provisions relating to
11 reimbursement contracts; revising the dates on which the
12 State Board of Administration is required to publish a
13 statement of the estimated borrowing capacity of the
14 Florida Hurricane Catastrophe Fund; requiring a
15 reimbursement premium formula to provide cash build-up
16 factors for certain contract years; extending provisions
17 relating to temporary increase in coverage limit
18 operations for the fund; providing additional
19 reimbursement requirements for temporary increase in
20 coverage addenda for additional contract years; expanding
21 the powers and duties of the board; specifying required
22 increases in TICL reimbursement premiums for certain
23 contract years; specifying nonapplication of cash build-up
24 factors to TICL reimbursement premiums; deleting authority
25 for the State Board of Administration to increase the
26 claims-paying capacity of the fund; amending s. 215.5586,
27 F.S., relating to the My Safe Florida Home Program;
28 revising legislative intent; revising criteria for

29 hurricane mitigation inspections; revising criteria for
30 eligibility for a mitigation grant; expanding the list of
31 improvements for which grants may be used; deleting
32 provisions relating to no-interest loans; requiring that
33 contracts valued at or greater than a specified amount be
34 subject to review and approval by the Legislative Budget
35 Commission; requiring the Department of Financial Services
36 to implement a condominium mitigation loan program for
37 certain purposes; specifying program requirements;
38 specifying an administration requirement for the program;
39 requiring the department to adopt rules; amending s.
40 624.4622, F.S.; prohibiting withdrawal notice requirements
41 of longer than 30 days for members of a local government
42 self-insurance fund; requiring local government self-
43 insurance funds to submit an affidavit to specified
44 entities; specifying affidavit contents; amending s.
45 624.605, F.S.; revising the definition of the term
46 "casualty insurance" to include certain debt cancellation
47 products sold by certain business entities; amending s.
48 627.062, F.S.; extending application of file and use
49 filing requirements for certain property insurance
50 filings; prohibiting the Office of Insurance Regulation
51 from interfering with an insurer's right to solicit, sell,
52 promote, or otherwise acquire policyholders and implement
53 coverage; specifying limited application to certain rates;
54 specifying that certain rate filings are not subject to
55 office determination as excessive or unfairly
56 discriminatory; providing limitations; providing a

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

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

113 transferred funds to the Insurance Regulatory Trust Fund
 114 for certain purposes; requiring the My Safe Florida Home
 115 Program to use certain funds for certain mitigation
 116 grants; authorizing the department to establish a separate
 117 account in the trust fund for accounting purposes;
 118 providing an effective date.

119
 120 Be It Enacted by the Legislature of the State of Florida:

121
 122 Section 1. Subsection (20) is added to section 215.47,
 123 Florida Statutes, to read:

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

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

132 Section 2. Paragraph (e) of subsection (2), paragraphs (b)
 133 and (c) of subsection (4), paragraph (b) of subsection (5), and
 134 subsection (17) of section 215.555, Florida Statutes, are
 135 amended, and paragraph (f) is added to subsection (7) of that
 136 section, to read:

137 215.555 Florida Hurricane Catastrophe Fund.--

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

139 (e) "Retention" means the amount of losses below which an
 140 insurer is not entitled to reimbursement from the fund. An

141 insurer's retention shall be calculated as follows:

142 1. The board shall calculate and report to each insurer
143 the retention multiples for that year. For the contract year
144 beginning June 1, 2005, the retention multiple shall be equal to
145 \$4.5 billion divided by the total estimated reimbursement
146 premium for the contract year; for subsequent years, the
147 retention multiple shall be equal to \$4.5 billion, adjusted
148 based upon the reported exposure from the prior contract year to
149 reflect the percentage growth in exposure to the fund for
150 covered policies since 2004, divided by the total estimated
151 reimbursement premium for the contract year. Total reimbursement
152 premium for purposes of the calculation under this subparagraph
153 shall be estimated using the assumption that all insurers have
154 selected the 90-percent coverage level. In 2010, the contract
155 year begins June 1 and ends December 31. In 2011 and thereafter,
156 the contract year begins January 1 and ends December 31.

157 2. The retention multiple as determined under subparagraph
158 1. shall be adjusted to reflect the coverage level elected by
159 the insurer. For insurers electing the 90-percent coverage
160 level, the adjusted retention multiple is 100 percent of the
161 amount determined under subparagraph 1. For insurers electing
162 the 75-percent coverage level, the retention multiple is 120
163 percent of the amount determined under subparagraph 1. For
164 insurers electing the 45-percent coverage level, the adjusted
165 retention multiple is 200 percent of the amount determined under
166 subparagraph 1.

167 3. An insurer shall determine its provisional retention by
168 multiplying its provisional reimbursement premium by the

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169 applicable adjusted retention multiple and shall determine its
170 actual retention by multiplying its actual reimbursement premium
171 by the applicable adjusted retention multiple.

172 4. For insurers who experience multiple covered events
173 causing loss during the contract year, beginning June 1, 2005,
174 each insurer's full retention shall be applied to each of the
175 covered events causing the two largest losses for that insurer.
176 For each other covered event resulting in losses, the insurer's
177 retention shall be reduced to one-third of the full retention.
178 The reimbursement contract shall provide for the reimbursement
179 of losses for each covered event based on the full retention
180 with adjustments made to reflect the reduced retentions after
181 January 1 of the contract year provided the insurer reports its
182 losses as specified in the reimbursement contract.

183 (4) REIMBURSEMENT CONTRACTS.--

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

189 2. The insurer must elect one of the percentage coverage
190 levels specified in this paragraph and may, upon renewal of a
191 reimbursement contract, elect a lower percentage coverage level
192 if no revenue bonds issued under subsection (6) after a covered
193 event are outstanding, or elect a higher percentage coverage
194 level, regardless of whether or not revenue bonds are
195 outstanding. All members of an insurer group must elect the same
196 percentage coverage level. Any joint underwriting association,

197 risk apportionment plan, or other entity created under s.
 198 627.351 must elect the 90-percent coverage level.

199 3. The contract shall provide that reimbursement amounts
 200 shall not be reduced by reinsurance paid or payable to the
 201 insurer from other sources.

202 4. Notwithstanding any other provision contained in this
 203 section, the board shall make available to insurers that
 204 purchased coverage provided by this subparagraph in 2008 ~~2007~~,
 205 insurers qualifying as limited apportionment companies under s.
 206 627.351(6)(c), and insurers that have been approved to
 207 participate in the Insurance Capital Build-Up Incentive Program
 208 pursuant to s. 215.5595 a contract or contract addendum that
 209 provides an additional amount of reimbursement coverage of up to
 210 \$10 million. The premium to be charged for this additional
 211 reimbursement coverage shall be 50 percent of the additional
 212 reimbursement coverage provided, which shall include one prepaid
 213 reinstatement. The minimum retention level that an eligible
 214 participating insurer must retain associated with this
 215 additional coverage layer is 30 percent of the insurer's surplus
 216 as of December 31, 2008 ~~2007~~. This coverage shall be in addition
 217 to all other coverage that may be provided under this section.
 218 The coverage provided by the fund under this subparagraph shall
 219 be in addition to the claims-paying capacity as defined in
 220 subparagraph (c)1., but only with respect to those insurers that
 221 select the additional coverage option and meet the requirements
 222 of this subparagraph. The claims-paying capacity with respect to
 223 all other participating insurers and limited apportionment
 224 companies that do not select the additional coverage option

225 shall be limited to their reimbursement premium's proportionate
 226 share of the actual claims-paying capacity otherwise defined in
 227 subparagraph (c)1. and as provided for under the terms of the
 228 reimbursement contract. The optional coverage retention as
 229 specified shall be accessed before the mandatory coverage under
 230 the reimbursement contract, but once the limit of coverage
 231 selected under this option is exhausted, the insurer's retention
 232 under the mandatory coverage shall apply. This coverage shall
 233 apply and be paid concurrently with the mandatory coverage.
 234 ~~Coverage provided in the reimbursement contract shall not be~~
 235 ~~affected by the additional premiums paid by participating~~
 236 ~~insurers exercising the additional coverage option allowed in~~
 237 ~~this subparagraph.~~ This subparagraph expires on December ~~May~~ 31,
 238 2011 ~~2009~~.

239 (c)1. The contract shall also provide that the obligation
 240 of the board with respect to all contracts covering a particular
 241 contract year shall not exceed the actual claims-paying capacity
 242 of the fund up to a limit of \$15 billion for that contract year
 243 adjusted based upon the reported exposure from the prior
 244 contract year to reflect the percentage growth in exposure to
 245 the fund for covered policies since 2003, provided the dollar
 246 growth in the limit may not increase in any year by an amount
 247 greater than the dollar growth of the balance of the fund as of
 248 December 31, less any premiums or interest attributable to
 249 optional coverage, as defined by rule which occurred over the
 250 prior calendar year.

251 2. In May ~~before the start of the upcoming contract year~~
 252 and ~~in~~ October of ~~during~~ the contract year, the board shall

253 | publish in the Florida Administrative Weekly a statement of the
254 | fund's estimated borrowing capacity and the projected balance of
255 | the fund as of December 31. After the end of each calendar year,
256 | the board shall notify insurers of the estimated borrowing
257 | capacity and the balance of the fund as of December 31 to
258 | provide insurers with data necessary to assist them in
259 | determining their retention and projected payout from the fund
260 | for loss reimbursement purposes. In conjunction with the
261 | development of the premium formula, as provided for in
262 | subsection (5), the board shall publish factors or multiples
263 | that assist insurers in determining their retention and
264 | projected payout for the next contract year. For all regulatory
265 | and reinsurance purposes, an insurer may calculate its projected
266 | payout from the fund as its share of the total fund premium for
267 | the current contract year multiplied by the sum of the projected
268 | balance of the fund as of December 31 and the estimated
269 | borrowing capacity for that contract year as reported under this
270 | subparagraph.

271 | (5) REIMBURSEMENT PREMIUMS.--

272 | (b) The State Board of Administration shall select an
273 | independent consultant to develop a formula for determining the
274 | actuarially indicated premium to be paid to the fund. The
275 | formula shall specify, for each zip code or other limited
276 | geographical area, the amount of premium to be paid by an
277 | insurer for each \$1,000 of insured value under covered policies
278 | in that zip code or other area. In establishing premiums, the
279 | board shall consider the coverage elected under paragraph (4) (b)
280 | and any factors that tend to enhance the actuarial

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281 | sophistication of ratemaking for the fund, including
282 | deductibles, type of construction, type of coverage provided,
283 | relative concentration of risks, and other such factors deemed
284 | by the board to be appropriate. The formula must provide for a
285 | cash build-up factor. For the contract year 2009-2010, the
286 | factor is 5 percent; for the contract year beginning June 1,
287 | 2010, and ending December 31, 2010, the factor is 10 percent;
288 | for the 2011 contract year, the factor is 15 percent; for the
289 | 2012 contract year, the factor is 20 percent; and for the 2013
290 | contract year and thereafter, the factor is 25 percent. The
291 | formula may provide for a procedure to determine the premiums to
292 | be paid by new insurers that begin writing covered policies
293 | after the beginning of a contract year, taking into
294 | consideration when the insurer starts writing covered policies,
295 | the potential exposure of the insurer, the potential exposure of
296 | the fund, the administrative costs to the insurer and to the
297 | fund, and any other factors deemed appropriate by the board. The
298 | formula must be approved by unanimous vote of the board. The
299 | board may, at any time, revise the formula pursuant to the
300 | procedure provided in this paragraph.

301 | (7) ADDITIONAL POWERS AND DUTIES.--

302 | (f) The board may require insurers to notarize documents
303 | submitted to the board.

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

305 | (a) Findings and intent.--

306 | 1. The Legislature finds that:

307 | a. Because of temporary disruptions in the market for
308 | catastrophic reinsurance, many property insurers were unable to

309 procure sufficient amounts of reinsurance for the 2006 hurricane
310 season or were able to procure such reinsurance only by
311 incurring substantially higher costs than in prior years.

312 b. The reinsurance market problems were responsible, at
313 least in part, for substantial premium increases to many
314 consumers and increases in the number of policies issued by
315 Citizens Property Insurance Corporation.

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

318 2. It is the intent of the Legislature to create options
319 for insurers to purchase a temporary increased coverage limit
320 above the statutorily determined limit in subparagraph (4)(c)1.,
321 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and
322 2013 hurricane seasons, to address market disruptions and enable
323 insurers, at their option, to procure additional coverage from
324 the Florida Hurricane Catastrophe Fund.

325 (b) Applicability of other provisions of this
326 section.--All provisions of this section and the rules adopted
327 under this section apply to the coverage created by this
328 subsection unless specifically superseded by provisions in this
329 subsection.

330 (c) Optional coverage.--For the contract year commencing
331 June 1, 2007, and ending May 31, 2008, the contract year
332 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the
333 contract year commencing June 1, 2009, and ending May 31, 2010,
334 the contract year commencing June 1, 2010, and ending December
335 31, 2010, the contract year commencing January 1, 2011, and
336 ending December 31, 2011, the contract year commencing January

337 1, 2012, and ending December 31, 2012, and the contract year
338 commencing January 1, 2013, and ending December 31, 2013, the
339 board shall offer, for each of such years, the optional coverage
340 as provided in this subsection.

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

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

344 2. "FHCF reimbursement premium" means the premium paid by
345 an insurer for its coverage as a mandatory participant in the
346 FHCF, but does not include additional premiums for optional
347 coverages.

348 3. "Payout multiple" means the number or multiple created
349 by dividing the statutorily defined claims-paying capacity as
350 determined in subparagraph (4)(c)1. by the aggregate
351 reimbursement premiums paid by all insurers estimated or
352 projected as of calendar year-end.

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

354 5. "TICL options" means the temporary increase in coverage
355 options created under this subsection.

356 6. "TICL insurer" means an insurer that has opted to
357 obtain coverage under the TICL options addendum in addition to
358 the coverage provided to the insurer under its FHCF
359 reimbursement contract, but does not include Citizens Property
360 Insurance Corporation.

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

363 8. "TICL coverage multiple" means the coverage multiple
364 when multiplied by an insurer's reimbursement premium that

365 defines the temporary increase in coverage limit.

366 9. "TICL coverage" means the coverage for an insurer's
367 losses above the insurer's statutorily determined claims-paying
368 capacity based on the claims-paying limit in subparagraph
369 (4)(c)1., which an insurer selects as its temporary increase in
370 coverage from the fund under the TICL options selected. A TICL
371 insurer's increased coverage limit options shall be calculated
372 as follows:

373 a. The board shall calculate and report to each TICL
374 insurer the TICL coverage multiples based on 12 options for
375 increasing the insurer's FHCF coverage limit. Each TICL coverage
376 multiple shall be calculated by dividing \$1 billion, \$2 billion,
377 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
378 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by
379 the total estimated aggregate FHCF reimbursement premiums for
380 the 2007-2008 contract year and~~7~~ the 2008-2009 contract year~~7~~
381 ~~and the 2009-2010 contract year.~~

382 b. For the 2009-2010 contract year, the board shall
383 calculate and report to each TICL insurer the TICL coverage
384 multiples based on 10 options for increasing the insurer's FHCF
385 coverage limit. Each TICL coverage multiple shall be calculated
386 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
387 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10
388 billion by the total estimated aggregate FHCF reimbursement
389 premiums for the 2009-2010 contract year.

390 c. For the contract year beginning June 1, 2010, and
391 ending December 31, 2010, the board shall calculate and report
392 to each TICL insurer the TICL coverage multiples based on eight

393 options for increasing the insurer's FHCF coverage limit. Each
394 TICL coverage multiple shall be calculated by dividing \$1
395 billion, \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6
396 billion, \$7 billion, and \$8 billion by the total estimated
397 aggregate FHCF reimbursement premiums for the contract year.

398 d. For the 2011 contract year, the board shall calculate
399 and report to each TICL insurer the TICL coverage multiples
400 based on six options for increasing the insurer's FHCF coverage
401 limit. Each TICL coverage multiple shall be calculated by
402 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
403 billion, and \$6 billion by the total estimated aggregate FHCF
404 reimbursement premiums for the 2011 contract year.

405 e. For the 2012 contract year, the board shall calculate
406 and report to each TICL insurer the TICL coverage multiples
407 based on four options for increasing the insurer's FHCF coverage
408 limit. Each TICL coverage multiple shall be calculated by
409 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by
410 the total estimated aggregate FHCF reimbursement premiums for
411 the 2012 contract year.

412 f. For the 2013 contract year, the board shall calculate
413 and report to each TICL insurer the TICL coverage multiples
414 based on two options for increasing the insurer's FHCF coverage
415 limit. Each TICL coverage multiple shall be calculated by
416 dividing \$1 billion and \$2 billion by the total estimated
417 aggregate FHCF reimbursement premiums for the 2013 contract
418 year.

419 ~~g.b.~~ The TICL insurer's increased coverage shall be the
420 FHCF reimbursement premium multiplied by the TICL coverage

421 multiple. In order to determine an insurer's total limit of
 422 coverage, an insurer shall add its TICL coverage multiple to its
 423 payout multiple. The total shall represent a number that, when
 424 multiplied by an insurer's FHCF reimbursement premium for a
 425 given reimbursement contract year, defines an insurer's total
 426 limit of FHCF reimbursement coverage for that reimbursement
 427 contract year.

428 10. "TICL options addendum" means an addendum to the
 429 reimbursement contract reflecting the obligations of the fund
 430 and insurers selecting an option to increase an insurer's FHCF
 431 coverage limit.

432 (e) TICL options addendum.--

433 1. The TICL options addendum shall provide for
 434 reimbursement of TICL insurers for covered events occurring
 435 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,
 436 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,
 437 2010, between June 1, 2010, and December 31, 2010, between
 438 January 1, 2011, and December 31, 2011, between January 1, 2012,
 439 and December 31, 2012, or between January 1, 2013, and December
 440 31, 2013, in exchange for the TICL reimbursement premium paid
 441 into the fund under paragraph (f). Any insurer writing covered
 442 policies has the option of selecting an increased limit of
 443 coverage under the TICL options addendum and shall select such
 444 coverage at the time that it executes the FHCF reimbursement
 445 contract.

446 2.a. The TICL addendum for the contract year commencing
 447 June 1, 2007, and ending May 31, 2008, or the contract year
 448 commencing June 1, 2008, and ending May 31, 2009, shall contain

449 a promise by the board to reimburse the TICL insurer for 45
450 percent, 75 percent, or 90 percent of its losses from each
451 covered event in excess of the insurer's retention, plus 5
452 percent of the reimbursed losses to cover loss adjustment
453 expenses. The percentage shall be the same as the coverage level
454 selected by the insurer under paragraph (4) (b).

455 b. The TICL addendum for the contract year commencing June
456 1, 2009, and ending May 31, 2010, shall contain a promise by the
457 board to reimburse the TICL insurer for 45 percent or 75 percent
458 of its losses from each covered event in excess of the insurer's
459 retention, plus 5 percent of the reimbursed losses to cover loss
460 adjustment expenses.

461 c. The TICL addendum for the contract year commencing June
462 1, 2010, and ending December 31, 2010, shall contain a promise
463 by the board to reimburse the TICL insurer for 45 percent or 65
464 percent of its losses from each covered event in excess of the
465 insurer's retention, plus 5 percent of the reimbursed losses to
466 cover loss adjustment expenses.

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

473 e. The TICL addendum for the contract year commencing
474 January 1, 2012, and ending December 31, 2012, shall contain a
475 promise by the board to reimburse the TICL insurer for 45
476 percent of its losses from each covered event in excess of the

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

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

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

488 4. The priorities, schedule, and method of reimbursements
489 under the TICL addendum shall be the same as provided under
490 subsection (4).

491 (f) TICL reimbursement premiums.--Each TICL insurer shall
492 pay to the fund, in the manner and at the time provided in the
493 reimbursement contract for payment of reimbursement premiums, a
494 TICL reimbursement premium determined as specified in subsection
495 (5), except that a cash build-up factor does not apply to the
496 TICL reimbursement premiums. However, the TICL reimbursement
497 premium shall be increased in contract year 2009-2010 by a
498 factor of two, in the contract year beginning June 1, 2010, and
499 ending December 31, 2010, by a factor of three, in the 2011
500 contract year by a factor of four, in the 2012 contract year by
501 a factor of five, and in the 2013 contract year by a factor of
502 six.

503 (g) Effect on claims-paying capacity of the fund.--For the
504 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June

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505 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and
506 January 1, 2013, the program created by this subsection shall
507 increase the claims-paying capacity of the fund as provided in
508 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and
509 shall depend on the TICL coverage options selected and the
510 number of insurers that select the TICL optional coverage. The
511 additional capacity shall apply only to the additional coverage
512 provided under the TICL options and shall not otherwise affect
513 any insurer's reimbursement from the fund if the insurer chooses
514 not to select the temporary option to increase its limit of
515 coverage under the FHCF.

516 ~~(h) Increasing the claims-paying capacity of the~~
517 ~~fund. For the contract years commencing June 1, 2007, June 1,~~
518 ~~2008, and June 1, 2009, the board may increase the claims-paying~~
519 ~~capacity of the fund as provided in paragraph (g) by an amount~~
520 ~~not to exceed \$4 billion in four \$1 billion options and shall~~
521 ~~depend on the TICL coverage options selected and the number of~~
522 ~~insurers that select the TICL optional coverage. Each insurer's~~
523 ~~TICL premium shall be calculated based upon the additional limit~~
524 ~~of increased coverage that the insurer selects. Such limit is~~
525 ~~determined by multiplying the TICL multiple associated with one~~
526 ~~of the four options times the insurer's FHCF reimbursement~~
527 ~~premium. The reimbursement premium associated with the~~
528 ~~additional coverage provided in this paragraph shall be~~
529 ~~determined as specified in subsection (5).~~

530 Section 3. Section 215.5586, Florida Statutes, as amended
531 by section 1 of chapter 2009-10, Laws of Florida, is amended to
532 read:

533 215.5586 My Safe Florida Home Program.--There is
534 established within the Department of Financial Services the My
535 Safe Florida Home Program. The department shall provide fiscal
536 accountability, contract management, and strategic leadership
537 for the program, consistent with this section. This section does
538 not create an entitlement for property owners or obligate the
539 state in any way to fund the inspection or retrofitting of
540 residential property in this state. Implementation of this
541 program is subject to annual legislative appropriations. It is
542 the intent of the Legislature that the My Safe Florida Home
543 Program provide trained and certified inspectors to perform
544 inspections for owners of ~~for at least 400,000~~ site-built,
545 single-family, residential properties and ~~provide~~ grants to
546 eligible at least 35,000 applicants as funding allows ~~before~~
547 ~~June 30, 2009~~. The program shall develop and implement a
548 comprehensive and coordinated approach for hurricane damage
549 mitigation that may ~~shall~~ include the following:

550 (1) HURRICANE MITIGATION INSPECTIONS.--

551 (a) Certified inspectors to provide ~~free~~ home-retrofit
552 inspections of site-built, single-family, residential property
553 may ~~shall~~ be offered ~~throughout the state~~ to determine what
554 mitigation measures are needed, what insurance premium discounts
555 may be available, and what improvements to existing residential
556 properties are needed to reduce the property's vulnerability to
557 hurricane damage. The Department of Financial Services shall
558 contract with wind certification entities to provide ~~free~~
559 hurricane mitigation inspections. The inspections provided to
560 homeowners, at a minimum, must include:

561 1. A home inspection and report that summarizes the
562 results and identifies recommended improvements a homeowner may
563 take to mitigate hurricane damage.

564 2. A range of cost estimates regarding the recommended
565 mitigation improvements.

566 3. Insurer-specific information regarding premium
567 discounts correlated to the current mitigation features and the
568 recommended mitigation improvements identified by the
569 inspection.

570 4. A hurricane resistance rating scale specifying the
571 home's current as well as projected wind resistance
572 capabilities. As soon as practical, the rating scale must be the
573 uniform home grading scale adopted by the Financial Services
574 Commission pursuant to s. 215.55865.

575 (b) To qualify for selection by the department as a wind
576 certification entity to provide hurricane mitigation
577 inspections, the entity shall, at a minimum, meet the following
578 requirements:

579 1. Use hurricane mitigation inspectors who:

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

581 b. Are licensed as a general or residential contractor
582 under s. 489.111;

583 c. Are licensed as a professional engineer under s.
584 471.015 and who have passed the appropriate equivalency test of
585 the Building Code Training Program as required by s. 553.841;

586 d. Are licensed as a professional architect under s.
587 481.213; or

588 e. Have at least 2 years of experience in residential

589 construction or residential building inspection and have
590 received specialized training in hurricane mitigation
591 procedures. Such training may be provided by a class offered
592 online or in person.

593 2. Use hurricane mitigation inspectors who also:

594 a. Have undergone drug testing and level 2 background
595 checks pursuant to s. 435.04. The department may conduct
596 criminal record checks of inspectors used by wind certification
597 entities. Inspectors must submit a set of the fingerprints to
598 the department for state and national criminal history checks
599 and must pay the fingerprint processing fee set forth in s.
600 624.501. The fingerprints shall be sent by the department to the
601 Department of Law Enforcement and forwarded to the Federal
602 Bureau of Investigation for processing. The results shall be
603 returned to the department for screening. The fingerprints shall
604 be taken by a law enforcement agency, designated examination
605 center, or other department-approved entity; and

606 b. Have been certified, in a manner satisfactory to the
607 department, to conduct the inspections.

608 3. Provide a quality assurance program including a
609 reinspection component.

610 (c) The department shall implement a quality assurance
611 program that includes a statistically valid number of
612 reinspections.

613 (d) An application for an inspection must contain a signed
614 or electronically verified statement made under penalty of
615 perjury that the applicant has submitted only a single
616 application for that home.

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

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

625 (a) For a homeowner to be eligible for a grant, the
 626 following criteria for persons who have obtained a completed
 627 inspection after May 1, 2007, a residential property must be
 628 met:

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

631 2. The home must be a dwelling with an insured value of
 632 \$300,000 or less. Homeowners who are low-income persons, as
 633 defined in s. 420.0004(10), are exempt from this requirement.

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

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

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

642
 643 An application for a grant must contain a signed or
 644 electronically verified statement made under penalty of perjury

645 that the applicant has submitted only a single application and
646 must have attached documents demonstrating the applicant meets
647 the requirements of this paragraph.

648 (b) All grants must be matched on a dollar-for-dollar
649 basis up to ~~for~~ a total of \$10,000 for the actual cost of the
650 mitigation project with the state's contribution not to exceed
651 \$5,000.

652 (c) The program shall create a process in which
653 contractors agree to participate and homeowners select from a
654 list of participating contractors. All mitigation must be based
655 upon the securing of all required local permits and inspections
656 and must be performed by properly licensed contractors.
657 Mitigation projects are subject to random reinspection of up to
658 at least 5 percent of all projects. Hurricane mitigation
659 inspectors qualifying for the program may also participate as
660 mitigation contractors as long as the inspectors meet the
661 department's qualifications and certification requirements for
662 mitigation contractors.

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

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

672 1. Opening protection.

- 673 | 2. Exterior doors, including garage doors.
- 674 | 3. Brace gable ends.
- 675 | 4. Reinforcing roof-to-wall connections.
- 676 | 5. Improving the strength of roof-deck attachments.
- 677 | 6. Upgrading roof covering from code to code plus.
- 678 | 7. Secondary water barrier for roof.
- 679 |

680 | The department may require that improvements be made to all
 681 | openings, including exterior doors and garage doors, as a
 682 | condition of reimbursing a homeowner approved for a grant.

683 | (f) Grants may be used on a previously inspected existing
 684 | structure or on a rebuild. A rebuild is defined as a site-built,
 685 | single-family dwelling under construction to replace a home that
 686 | was destroyed or significantly damaged by a hurricane and deemed
 687 | unlivable by a regulatory authority. The homeowner must be a
 688 | low-income homeowner as defined in paragraph (g), must have had
 689 | a homestead exemption for that home prior to the hurricane, and
 690 | must be intending to rebuild the home as that homeowner's
 691 | homestead.

692 | (g) Low-income homeowners, as defined in s. 420.0004(10),
 693 | who otherwise meet the requirements of paragraphs (a), (c), (e),
 694 | and (f) are eligible for a grant of up to \$5,000 and are not
 695 | required to provide a matching amount to receive the grant.
 696 | Additionally, for low-income homeowners, grant funding may be
 697 | used for repair to existing structures leading to any of the
 698 | mitigation improvements provided in paragraph (e), limited to 20
 699 | percent of the grant value. The program may accept a
 700 | certification directly from a low-income homeowner that the

701 homeowner meets the requirements of s. 420.0004(10) if the
702 homeowner provides such certification in a signed or
703 electronically verified statement made under penalty of perjury.

704 (h) The department shall establish objective, reasonable
705 criteria for prioritizing grant applications, consistent with
706 the requirements of this section.

707 (i) The department shall develop a process that ensures
708 the most efficient means to collect and verify grant
709 applications to determine eligibility and may direct hurricane
710 mitigation inspectors to collect and verify grant application
711 information or use the Internet or other electronic means to
712 collect information and determine eligibility.

713 (3) EDUCATION AND CONSUMER AWARENESS.--The department may
714 undertake a statewide multimedia public outreach and advertising
715 campaign to inform consumers of the availability and benefits of
716 hurricane inspections and of the safety and financial benefits
717 of residential hurricane damage mitigation. The department may
718 seek out and use local, state, federal, and private funds to
719 support the campaign.

720 (4) ADVISORY COUNCIL.--There is created an advisory
721 council to provide advice and assistance to the department
722 regarding administration of the program. The advisory council
723 shall consist of:

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

727 (b) A representative of residential property insurers,
728 selected by the Financial Services Commission from a list of at

729 | least three persons recommended by the Florida Insurance
730 | Council.

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

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

737 | (e) Two members of the House of Representatives, selected
738 | by the Speaker of the House of Representatives.

739 | (f) Two members of the Senate, selected by the President
740 | of the Senate.

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

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

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

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

749 |
750 | Members appointed under paragraphs (a)-(d) shall serve at the
751 | pleasure of the Financial Services Commission. Members appointed
752 | under paragraphs (e) and (f) shall serve at the pleasure of the
753 | appointing officer. All other members shall serve as voting ex
754 | officio members. Members of the advisory council shall serve
755 | without compensation but may receive reimbursement as provided
756 | in s. 112.061 for per diem and travel expenses incurred in the

757 performance of their official duties.

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

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

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

772 ~~(8) NO-INTEREST LOANS.--The department shall implement a~~
773 ~~no-interest loan program by October 1, 2008, contingent upon the~~
774 ~~selection of a qualified vendor and execution of a contract~~
775 ~~acceptable to the department and the vendor. The department~~
776 ~~shall enter into partnerships with the private sector to provide~~
777 ~~loans to owners of site-built, single-family, residential~~
778 ~~property to pay for mitigation measures listed in subsection~~
779 ~~(2). A loan eligible for interest payments pursuant to this~~
780 ~~subsection may be for a term of up to 3 years and cover up to~~
781 ~~\$5,000 in mitigation measures. The department shall pay the~~
782 ~~creditor the market rate of interest using funds appropriated~~
783 ~~for the My Safe Florida Home Program. In no case shall the~~
784 ~~department pay more than the interest rate set by s. 687.03. To~~

785 ~~be eligible for a loan, a loan applicant must first obtain a~~
 786 ~~home inspection and report that specifies what improvements are~~
 787 ~~needed to reduce the property's vulnerability to windstorm~~
 788 ~~damage pursuant to this section and meet loan underwriting~~
 789 ~~requirements set by the lender. The department may adopt rules~~
 790 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~
 791 ~~subsection which may include eligibility criteria.~~

792 (8)~~(9)~~ PUBLIC OUTREACH FOR CONTRACTORS AND REAL ESTATE
 793 BROKERS AND SALES ASSOCIATES.--The program shall develop
 794 brochures for distribution to general contractors, roofing
 795 contractors, and real estate brokers and sales associates
 796 licensed under part I of chapter 475 explaining the benefits to
 797 homeowners of residential hurricane damage mitigation. The
 798 program shall encourage contractors to distribute the brochures
 799 to homeowners at the first meeting with a homeowner who is
 800 considering contracting for home or roof repairs or contracting
 801 for the construction of a new home. The program shall encourage
 802 real estate brokers and sales associates licensed under part I
 803 of chapter 475 to distribute the brochures to clients prior to
 804 the purchase of a home. The brochures may be made available
 805 electronically.

806 (9)~~(10)~~ CONTRACT MANAGEMENT.--The department may contract
 807 with third parties for grants management, inspection services,
 808 contractor services for low-income homeowners, information
 809 technology, educational outreach, and auditing services. Such
 810 contracts shall be considered direct costs of the program and
 811 shall not be subject to administrative cost limits, but
 812 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject

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813 to review and approval by the Legislative Budget Commission. The
814 department shall contract with providers that have a
815 demonstrated record of successful business operations in areas
816 directly related to the services to be provided and shall ensure
817 the highest accountability for use of state funds, consistent
818 with this section.

819 ~~(10)-(11)~~ INTENT.--It is the intent of the Legislature that
820 grants made to residential property owners under this section
821 shall be considered disaster-relief assistance within the
822 meaning of s. 139 of the Internal Revenue Code of 1986, as
823 amended.

824 ~~(11)-(12)~~ REPORTS.--The department shall make an annual
825 report on the activities of the program that shall account for
826 the use of state funds and indicate the number of inspections
827 requested, the number of inspections performed, the number of
828 grant applications received, and the number and value of grants
829 approved. The report shall be delivered to the President of the
830 Senate and the Speaker of the House of Representatives by
831 February 1 of each year.

832 (12) CONDOMINIUM MITIGATION LOAN PROGRAM.--

833 (a) The department may implement a condominium mitigation
834 loan program to assist condominiums in mitigating all units in
835 their structure against wind damage. The program shall have the
836 following minimum requirements:

837 1. The department shall contract with lenders to offer
838 hurricane mitigation loan subsidies equal to a competitive rate
839 of interest on a loan balance of up to \$5,000 per condominium
840 unit for 3 years. The interest subsidy may be paid in advance by

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841 the department to a lender participating in the program.

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

844 3. A participating condominium association must agree to
845 purchase and install approved mitigation measures for 100
846 percent of the units in the condominium structure that lack the
847 approved mitigation measures.

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

852 5. Condominiums of more than 200 units are not eligible
853 for the loan program.

854 6. The department may contract with third parties for
855 auditing and related services to ensure accountability and
856 program quality.

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

859 (c) The department shall adopt rules pursuant to ss.
860 120.536(1) and 120.54 to implement the loan program.

861 Section 4. Subsections (5) and (6) are added to section
862 624.4622, Florida Statutes, to read:

863 624.4622 Local government self-insurance funds.--

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

868 (6) (a) Each local government self-insurance fund shall

869 submit annually to the office, to the governing body of each
 870 member participant, and to the governing board of each new
 871 member before the inception of the policy an affidavit stating
 872 whether an officer or owner of or the manager or administrator
 873 of a local government self-insurance fund has ever:

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

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

878 3. Had adjudication of guilt withheld, had a sentence
 879 imposed or suspended, had a pronouncement of a sentence
 880 suspended, or been pardoned, fined, or placed on probation for
 881 any criminal offense other than a motor vehicle offense; or

882 4 Been, within the last 10 years, found liable in any
 883 civil action involving dishonesty or a breach of trust.

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

887 Section 5. Paragraph (r) of subsection (1) of section
 888 624.605, Florida Statutes, is amended to read:

889 624.605 "Casualty insurance" defined.--

890 (1) "Casualty insurance" includes:

891 (r) Insurance for debt cancellation products.--Insurance
 892 that a creditor may purchase against the risk of financial loss
 893 from the use of debt cancellation products with consumer loans
 894 or leases or retail installment contracts. Insurance for debt
 895 cancellation products is not liability insurance but shall be
 896 considered credit insurance only for the purposes of s.

897 631.52(4).

898 1. For purposes of this paragraph, the term "debt
 899 cancellation products" means loan, lease, or retail installment
 900 contract terms, or modifications to loan, lease, or retail
 901 installment contracts, under which a creditor agrees to cancel
 902 or suspend all or part of a customer's obligation to make
 903 payments upon the occurrence of specified events and includes,
 904 but is not limited to, debt cancellation contracts, debt
 905 suspension agreements, and guaranteed asset protection
 906 contracts. However, the term "debt cancellation products" does
 907 not include title insurance as defined in s. 624.608.

908 2. Debt cancellation products may be offered by financial
 909 institutions, as defined in s. 655.005(1)(h), insured depository
 910 institutions, as defined in 12 U.S.C. s. 1813(c), and
 911 subsidiaries of such institutions, as provided in the financial
 912 institutions codes, or by other business entities selling a
 913 product that may be goods, services, or real property and
 914 interests in real property, the sale of which product is
 915 regulated by an agency of the state and when the extension of
 916 credit is offered in connection with the purchase of such
 917 product. ~~as may be specifically authorized by law, and Such debt~~
 918 cancellation products shall not constitute insurance for
 919 purposes of the Florida Insurance Code.

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

923 627.062 Rate standards.--

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

925 (a) Insurers or rating organizations shall establish and
926 use rates, rating schedules, or rating manuals to allow the
927 insurer a reasonable rate of return on such classes of insurance
928 written in this state. A copy of rates, rating schedules, rating
929 manuals, premium credits or discount schedules, and surcharge
930 schedules, and changes thereto, shall be filed with the office
931 under one of the following procedures except as provided in
932 subparagraph 3.:

933 1. If the filing is made at least 90 days before the
934 proposed effective date and the filing is not implemented during
935 the office's review of the filing and any proceeding and
936 judicial review, then such filing shall be considered a "file
937 and use" filing. In such case, the office shall finalize its
938 review by issuance of a notice of intent to approve or a notice
939 of intent to disapprove within 90 days after receipt of the
940 filing. The notice of intent to approve and the notice of intent
941 to disapprove constitute agency action for purposes of the
942 Administrative Procedure Act. Requests for supporting
943 information, requests for mathematical or mechanical
944 corrections, or notification to the insurer by the office of its
945 preliminary findings shall not toll the 90-day period during any
946 such proceedings and subsequent judicial review. The rate shall
947 be deemed approved if the office does not issue a notice of
948 intent to approve or a notice of intent to disapprove within 90
949 days after receipt of the filing.

950 2. If the filing is not made in accordance with the
951 provisions of subparagraph 1., such filing shall be made as soon
952 as practicable, but no later than 30 days after the effective

953 date, and shall be considered a "use and file" filing. An
954 insurer making a "use and file" filing is potentially subject to
955 an order by the office to return to policyholders portions of
956 rates found to be excessive, as provided in paragraph (h).

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

964 (i) 1. Except as otherwise specifically provided in this
965 chapter, the office shall not prohibit any insurer, including
966 any residual market plan or joint underwriting association, from
967 paying acquisition costs based on the full amount of premium, as
968 defined in s. 627.403, applicable to any policy, or prohibit any
969 such insurer from including the full amount of acquisition costs
970 in a rate filing.

971 2. Unless specifically authorized by law, the office shall
972 not interfere, directly or indirectly, with an insurer's right
973 to solicit, sell, promote, or otherwise acquire policyholders
974 and implement coverage using its own lawful methodologies,
975 systems, agents, and approaches, including the calculation,
976 manner, or amount of agent commissions, if any. This
977 subparagraph applies only to rate filings made pursuant to this
978 section.

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

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

999 2. An insurer may not make filings under this paragraph
1000 with respect to any policy form, including endorsements issued
1001 with the form, if the overall premium changes resulting from
1002 such filings exceed the amounts specified in this paragraph in
1003 any 12-month period. An insurer may proceed under other
1004 provisions of this section or other provisions of the laws of
1005 this state if the insurer seeks to exceed the premium or rate
1006 limitations of this paragraph.

1007 3. This paragraph does not affect the authority of the
1008 office to disapprove a rate as inadequate or to disapprove a

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1009 filing for the unlawful use of unfairly discriminatory rating
1010 factors that are prohibited by the laws of this state. An
1011 insurer electing to implement a rate change under this paragraph
1012 shall submit a filing to the office at least 30 days prior to
1013 the effective date of the rate change. The office shall have 30
1014 days after the filing's submission to review the filing and
1015 determine if the rate is inadequate or uses unfairly
1016 discriminatory rating factors. Absent a finding by the office
1017 within such 30-day period that the rate is inadequate or that
1018 the insurer has used unfairly discriminatory rating factors, the
1019 filing is deemed approved. If the insurer is implementing an
1020 overall rate decrease and the office finds during the 30-day
1021 period that the filing will result in inadequate premiums or
1022 otherwise endanger the insurer's solvency, the office shall
1023 suspend the rate decrease. If the insurer is implementing an
1024 overall rate increase the results of which continue to produce
1025 an inadequate rate, such increase shall proceed pending
1026 additional action by the office to ensure the adequacy of the
1027 rate.

1028 4. This paragraph does not apply to rate filings for any
1029 insurance other than residential property insurance.

1030
1031 The provisions of this subsection shall not apply to workers'
1032 compensation and employer's liability insurance and to motor
1033 vehicle insurance.

1034 Section 7. Section 627.0621, Florida Statutes, as amended
1035 by section 82 of chapter 2009-21, Laws of Florida, is amended to
1036 read:

1037 627.0621 Transparency in rate regulation.--

1038 (1) DEFINITIONS.--As used in this section, the term:

1039 (a) "Rate filing" means any original or amended rate

1040 residential property insurance filing.

1041 (b) "Recommendation" means any proposed, preliminary, or

1042 final recommendation from an office actuary reviewing a rate

1043 filing with respect to the issue of approval or disapproval of

1044 the rate filing or with respect to rate indications that the

1045 office would consider acceptable.

1046 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING

1047 INFORMATION.--With respect to any rate filing made on or after

1048 July 1, 2008, the office shall provide the following information

1049 on a publicly accessible Internet website:

1050 (a) The overall rate change requested by the insurer.

1051 (b) All assumptions made by the office's actuaries.

1052 (c) A statement describing any assumptions or methods that

1053 deviate from the actuarial standards of practice of the Casualty

1054 Actuarial Society or the American Academy of Actuaries,

1055 including an explanation of the nature, rationale, and effect of

1056 the deviation.

1057 (d) All recommendations made by any office actuary who

1058 reviewed the rate filing.

1059 (e) Certification by the office's actuary that, based on

1060 the actuary's knowledge, his or her recommendations are

1061 consistent with accepted actuarial principles.

1062 (f) The overall rate change approved by the office.

1063 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT.--It is the~~

1064 ~~intent of the Legislature that the principles of the public~~

1065 ~~records and open meetings laws apply to the assertion of~~
 1066 ~~attorney-client privilege and work product confidentiality by~~
 1067 ~~the office in connection with a challenge to its actions on a~~
 1068 ~~rate filing. Therefore, in any administrative or judicial~~
 1069 ~~proceeding relating to a rate filing, attorney-client privilege~~
 1070 ~~and work product exemptions from disclosure do not apply to~~
 1071 ~~communications with office attorneys or records prepared by or~~
 1072 ~~at the direction of an office attorney, except when the~~
 1073 ~~conditions of paragraphs (a) and (b) have been met:~~

1074 ~~(a) The communication or record reflects a mental~~
 1075 ~~impression, conclusion, litigation strategy, or legal theory of~~
 1076 ~~the attorney or office that was prepared exclusively for civil~~
 1077 ~~or criminal litigation or adversarial administrative~~
 1078 ~~proceedings.~~

1079 ~~(b) The communication occurred or the record was prepared~~
 1080 ~~after the initiation of an action in a court of competent~~
 1081 ~~jurisdiction, after the issuance of a notice of intent to deny a~~
 1082 ~~rate filing, or after the filing of a request for a proceeding~~
 1083 ~~under ss. 120.569 and 120.57.~~

1084 Section 8. Subsection (4) is added to section 627.0628,
 1085 Florida Statutes, to read:

1086 627.0628 Florida Commission on Hurricane Loss Projection
 1087 Methodology; public records exemption; public meetings
 1088 exemption.--

1089 (4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE
 1090 DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO
 1091 WINDSTORM MITIGATION.--The commission shall hold public meetings
 1092 for the purpose of receiving testimony and data regarding the

1093 implementation of windstorm mitigation discounts, credits, other
 1094 rate differentials, and appropriate reductions in deductibles
 1095 pursuant to s. 627.0629. After reviewing the testimony and data
 1096 as well as any other information the commission deems
 1097 appropriate, the commission shall present a report by October 1,
 1098 2009, to the Governor, the Cabinet, the President of the Senate,
 1099 and the Speaker of the House of Representatives, including
 1100 recommendations on improving the process of assessing,
 1101 determining, and applying windstorm mitigation discounts,
 1102 credits, other rate differentials, and appropriate reductions in
 1103 deductibles pursuant to s. 627.0629.

1104 Section 9. Paragraph (b) of subsection (1) and subsection
 1105 (5) of section 627.0629, Florida Statutes, are amended to read:

1106 627.0629 Residential property insurance; rate filings.--
 1107 (1)

1108 (b) By February 1, 2011, the Office of Insurance
 1109 Regulation, in consultation with the Department of Financial
 1110 Services and the Department of Community Affairs, shall develop
 1111 and make publicly available a proposed method for insurers to
 1112 establish discounts, credits, or other rate differentials for
 1113 hurricane mitigation measures which directly correlate to the
 1114 numerical rating assigned to a structure pursuant to the uniform
 1115 home grading scale adopted by the Financial Services Commission
 1116 pursuant to s. 215.55865, including any proposed changes to the
 1117 uniform home grading scale. By October 1, 2011, the commission
 1118 shall adopt rules requiring insurers to make rate filings for
 1119 residential property insurance which revise insurers' discounts,
 1120 credits, or other rate differentials for hurricane mitigation

1121 | measures so that such rate differentials correlate directly to
 1122 | the uniform home grading scale. The rules may include such
 1123 | changes to the uniform home grading scale as the commission
 1124 | determines are necessary, and may specify the minimum required
 1125 | discounts, credits, or other rate differentials. Such rate
 1126 | differentials must be consistent with generally accepted
 1127 | actuarial principles and wind-loss mitigation studies. The rules
 1128 | shall allow a period of at least 2 years after the effective
 1129 | date of the revised mitigation discounts, credits, or other rate
 1130 | differentials for a property owner to obtain an inspection or
 1131 | otherwise qualify for the revised credit, during which time the
 1132 | insurer shall continue to apply the mitigation credit that was
 1133 | applied immediately prior to the effective date of the revised
 1134 | credit. Discounts, credits, and other rate differentials
 1135 | established for rate filings under this paragraph shall
 1136 | supersede, after adoption, the discounts, credits, and other
 1137 | rate differentials included in rate filings under paragraph (a).

1138 | (5) In order to provide an appropriate transition period,
 1139 | an insurer may, in its sole discretion, implement an approved
 1140 | rate filing for residential property insurance over a period of
 1141 | years. An insurer electing to phase in its rate filing must
 1142 | provide an informational notice to the office setting out its
 1143 | schedule for implementation of the phased-in rate filing. An
 1144 | insurer may include in its rate the actual cost of reinsurance
 1145 | without the addition of an expense or profit load for the
 1146 | insurer that duplicates coverage of the temporary increase in
 1147 | coverage limit (TICL) available from the Florida Hurricane
 1148 | Catastrophe Fund, even if the insurer does not purchase the TICL

1149 coverage, to the extent the total annual base rate increase does
 1150 not exceed 10 percent as a result of such inclusion.

1151 Section 10. Section 627.0655, Florida Statutes, is amended
 1152 to read:

1153 627.0655 Policyholder loss or expense-related premium
 1154 discounts.--An insurer or person authorized to engage in the
 1155 business of insurance in this state may include, in the premium
 1156 charged an insured for any policy, contract, or certificate of
 1157 insurance, a discount based on the fact that another policy,
 1158 contract, or certificate of any type has been purchased by the
 1159 insured from the same insurer or insurer group, or, for policies
 1160 issued or renewed before January 1, 2010, from the Citizens
 1161 Property Insurance Corporation created under s. 627.351(6) if
 1162 the same insurance agent is servicing both policies, or for
 1163 policies issued or renewed before January 1, 2010, from an
 1164 insurer that has removed the policy from the Citizens Property
 1165 Insurance Corporation if the same insurance agent is servicing
 1166 both policies.

1167 Section 11. Paragraphs (y) through (ee) of subsection (6)
 1168 of section 627.351, Florida Statutes, are redesignated as
 1169 paragraphs (x) through (dd), respectively, and paragraphs (a),
 1170 (b), (c), and (m) and present paragraph (x) of that subsection
 1171 are amended to read:

1172 627.351 Insurance risk apportionment plans.--

1173 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1174 (a)1. It is the public purpose of this subsection to
 1175 ensure the existence of an orderly market for property insurance
 1176 for Floridians and Florida businesses. The Legislature finds

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1177 | that private insurers are unwilling or unable to provide
1178 | affordable property insurance coverage in this state to the
1179 | extent sought and needed. The absence of affordable property
1180 | insurance threatens the public health, safety, and welfare and
1181 | likewise threatens the economic health of the state. The state
1182 | therefore has a compelling public interest and a public purpose
1183 | to assist in assuring that property in the state is insured and
1184 | that it is insured at affordable rates so as to facilitate the
1185 | remediation, reconstruction, and replacement of damaged or
1186 | destroyed property in order to reduce or avoid the negative
1187 | effects otherwise resulting to the public health, safety, and
1188 | welfare, to the economy of the state, and to the revenues of the
1189 | state and local governments which are needed to provide for the
1190 | public welfare. It is necessary, therefore, to provide
1191 | affordable property insurance to applicants who are in good
1192 | faith entitled to procure insurance through the voluntary market
1193 | but are unable to do so. The Legislature intends by this
1194 | subsection that affordable property insurance be provided and
1195 | that it continue to be provided, as long as necessary, through
1196 | Citizens Property Insurance Corporation, a government entity
1197 | that is an integral part of the state, and that is not a private
1198 | insurance company. To that end, Citizens Property Insurance
1199 | Corporation shall strive to increase the availability of
1200 | affordable property insurance in this state, while achieving
1201 | efficiencies and economies, and while providing service to
1202 | policyholders, applicants, and agents which is no less than the
1203 | quality generally provided in the voluntary market, for the
1204 | achievement of the foregoing public purposes. Because it is

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1205 essential for this government entity to have the maximum
1206 financial resources to pay claims following a catastrophic
1207 hurricane, it is the intent of the Legislature that Citizens
1208 Property Insurance Corporation continue to be an integral part
1209 of the state and that the income of the corporation be exempt
1210 from federal income taxation and that interest on the debt
1211 obligations issued by the corporation be exempt from federal
1212 income taxation.

1213 2. The Residential Property and Casualty Joint
1214 Underwriting Association originally created by this statute
1215 shall be known, as of July 1, 2002, as the Citizens Property
1216 Insurance Corporation. The corporation shall provide insurance
1217 for residential and commercial property, for applicants who are
1218 in good faith entitled, but are unable, to procure insurance
1219 through the voluntary market. The corporation shall operate
1220 pursuant to a plan of operation approved by order of the
1221 Financial Services Commission. The plan is subject to continuous
1222 review by the commission. The commission may, by order, withdraw
1223 approval of all or part of a plan if the commission determines
1224 that conditions have changed since approval was granted and that
1225 the purposes of the plan require changes in the plan. The
1226 corporation shall continue to operate pursuant to the plan of
1227 operation approved by the Office of Insurance Regulation until
1228 October 1, 2006. For the purposes of this subsection,
1229 residential coverage includes both personal lines residential
1230 coverage, which consists of the type of coverage provided by
1231 homeowner's, mobile home owner's, dwelling, tenant's,
1232 condominium unit owner's, and similar policies, and commercial

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1233 | lines residential coverage, which consists of the type of
1234 | coverage provided by condominium association, apartment
1235 | building, and similar policies.

1236 | 3. Effective January 1, 2009, a personal lines residential
1237 | structure that has a dwelling replacement cost of \$2 million or
1238 | more, or a single condominium unit that has a combined dwelling
1239 | and content replacement cost of \$2 million or more is not
1240 | eligible for coverage by the corporation. Such dwellings insured
1241 | by the corporation on December 31, 2008, may continue to be
1242 | covered by the corporation until the end of the policy term.
1243 | However, such dwellings that are insured by the corporation and
1244 | become ineligible for coverage due to the provisions of this
1245 | subparagraph may reapply and obtain coverage if the property
1246 | owner provides the corporation with a sworn affidavit from one
1247 | or more insurance agents, on a form provided by the corporation,
1248 | stating that the agents have made their best efforts to obtain
1249 | coverage and that the property has been rejected for coverage by
1250 | at least one authorized insurer and at least three surplus lines
1251 | insurers. If such conditions are met, the dwelling may be
1252 | insured by the corporation for up to 3 years, after which time
1253 | the dwelling is ineligible for coverage. The office shall
1254 | approve the method used by the corporation for valuing the
1255 | dwelling replacement cost for the purposes of this subparagraph.
1256 | If a policyholder is insured by the corporation prior to being
1257 | determined to be ineligible pursuant to this subparagraph and
1258 | such policyholder files a lawsuit challenging the determination,
1259 | the policyholder may remain insured by the corporation until the
1260 | conclusion of the litigation.

1261 4. It is the intent of the Legislature that policyholders,
 1262 applicants, and agents of the corporation receive service and
 1263 treatment of the highest possible level but never less than that
 1264 generally provided in the voluntary market. It also is intended
 1265 that the corporation be held to service standards no less than
 1266 those applied to insurers in the voluntary market by the office
 1267 with respect to responsiveness, timeliness, customer courtesy,
 1268 and overall dealings with policyholders, applicants, or agents
 1269 of the corporation.

1270 5. Effective January 1, 2009, a personal lines residential
 1271 structure that is located in the "wind-borne debris region," as
 1272 defined in s. 1609.2, International Building Code (2006), and
 1273 that has an insured value on the structure of \$750,000 or more
 1274 is not eligible for coverage by the corporation unless the
 1275 structure has opening protections as required under the Florida
 1276 Building Code for a newly constructed residential structure in
 1277 that area. A residential structure shall be deemed to comply
 1278 with the requirements of this subparagraph if it has shutters or
 1279 opening protections on all openings and if such opening
 1280 protections complied with the Florida Building Code at the time
 1281 they were installed. ~~Effective January 1, 2010, for personal~~
 1282 ~~lines residential property insured by the corporation that is~~
 1283 ~~located in the wind-borne debris region and has an insured value~~
 1284 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
 1285 ~~any such residential property must be provided by the seller a~~
 1286 ~~written disclosure that contains the structure's windstorm~~
 1287 ~~mitigation rating based on the uniform home grading scale~~
 1288 ~~adopted under s. 215.55865. Such rating shall be provided to the~~

1289 ~~purchaser at or before the time the purchaser executes a~~
 1290 ~~contract for sale and purchase.~~

1291 (b)1. All insurers authorized to write one or more subject
 1292 lines of business in this state are subject to assessment by the
 1293 corporation and, for the purposes of this subsection, are
 1294 referred to collectively as "assessable insurers." Insurers
 1295 writing one or more subject lines of business in this state
 1296 pursuant to part VIII of chapter 626 are not assessable
 1297 insurers, but insureds who procure one or more subject lines of
 1298 business in this state pursuant to part VIII of chapter 626 are
 1299 subject to assessment by the corporation and are referred to
 1300 collectively as "assessable insureds." An authorized insurer's
 1301 assessment liability shall begin on the first day of the
 1302 calendar year following the year in which the insurer was issued
 1303 a certificate of authority to transact insurance for subject
 1304 lines of business in this state and shall terminate 1 year after
 1305 the end of the first calendar year during which the insurer no
 1306 longer holds a certificate of authority to transact insurance
 1307 for subject lines of business in this state.

1308 2.a. All revenues, assets, liabilities, losses, and
 1309 expenses of the corporation shall be divided into three separate
 1310 accounts as follows:

1311 (I) A personal lines account for personal residential
 1312 policies issued by the corporation or issued by the Residential
 1313 Property and Casualty Joint Underwriting Association and renewed
 1314 by the corporation that provide comprehensive, multiperil
 1315 coverage on risks that are not located in areas eligible for
 1316 coverage in the Florida Windstorm Underwriting Association as

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1317 those areas were defined on January 1, 2002, and for such
1318 policies that do not provide coverage for the peril of wind on
1319 risks that are located in such areas;

1320 (II) A commercial lines account for commercial residential
1321 and commercial nonresidential policies issued by the corporation
1322 or issued by the Residential Property and Casualty Joint
1323 Underwriting Association and renewed by the corporation that
1324 provide coverage for basic property perils on risks that are not
1325 located in areas eligible for coverage in the Florida Windstorm
1326 Underwriting Association as those areas were defined on January
1327 1, 2002, and for such policies that do not provide coverage for
1328 the peril of wind on risks that are located in such areas; and

1329 (III) A high-risk account for personal residential
1330 policies and commercial residential and commercial
1331 nonresidential property policies issued by the corporation or
1332 transferred to the corporation that provide coverage for the
1333 peril of wind on risks that are located in areas eligible for
1334 coverage in the Florida Windstorm Underwriting Association as
1335 those areas were defined on January 1, 2002. The corporation may
1336 offer policies that provide multiperil coverage and the
1337 corporation shall continue to offer policies that provide
1338 coverage only for the peril of wind for risks located in areas
1339 eligible for coverage in the high-risk account. In issuing
1340 multiperil coverage, the corporation may use its approved policy
1341 forms and rates for the personal lines account. An applicant or
1342 insured who is eligible to purchase a multiperil policy from the
1343 corporation may purchase a multiperil policy from an authorized
1344 insurer without prejudice to the applicant's or insured's

1345 | eligibility to prospectively purchase a policy that provides
1346 | coverage only for the peril of wind from the corporation. An
1347 | applicant or insured who is eligible for a corporation policy
1348 | that provides coverage only for the peril of wind may elect to
1349 | purchase or retain such policy and also purchase or retain
1350 | coverage excluding wind from an authorized insurer without
1351 | prejudice to the applicant's or insured's eligibility to
1352 | prospectively purchase a policy that provides multiperil
1353 | coverage from the corporation. It is the goal of the Legislature
1354 | that there would be an overall average savings of 10 percent or
1355 | more for a policyholder who currently has a wind-only policy
1356 | with the corporation, and an ex-wind policy with a voluntary
1357 | insurer or the corporation, and who then obtains a multiperil
1358 | policy from the corporation. It is the intent of the Legislature
1359 | that the offer of multiperil coverage in the high-risk account
1360 | be made and implemented in a manner that does not adversely
1361 | affect the tax-exempt status of the corporation or
1362 | creditworthiness of or security for currently outstanding
1363 | financing obligations or credit facilities of the high-risk
1364 | account, the personal lines account, or the commercial lines
1365 | account. The high-risk account must also include quota share
1366 | primary insurance under subparagraph (c)2. The area eligible for
1367 | coverage under the high-risk account also includes the area
1368 | within Port Canaveral, which is bordered on the south by the
1369 | City of Cape Canaveral, bordered on the west by the Banana
1370 | River, and bordered on the north by Federal Government property.
1371 | b. The three separate accounts must be maintained as long
1372 | as financing obligations entered into by the Florida Windstorm

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1373 Underwriting Association or Residential Property and Casualty
1374 Joint Underwriting Association are outstanding, in accordance
1375 with the terms of the corresponding financing documents. When
1376 the financing obligations are no longer outstanding, in
1377 accordance with the terms of the corresponding financing
1378 documents, the corporation may use a single account for all
1379 revenues, assets, liabilities, losses, and expenses of the
1380 corporation. Consistent with the requirement of this
1381 subparagraph and prudent investment policies that minimize the
1382 cost of carrying debt, the board shall exercise its best efforts
1383 to retire existing debt or to obtain approval of necessary
1384 parties to amend the terms of existing debt, so as to structure
1385 the most efficient plan to consolidate the three separate
1386 accounts into a single account. By February 1, 2007, the board
1387 shall submit a report to the Financial Services Commission, the
1388 President of the Senate, and the Speaker of the House of
1389 Representatives which includes an analysis of consolidating the
1390 accounts, the actions the board has taken to minimize the cost
1391 of carrying debt, and its recommendations for executing the most
1392 efficient plan.

1393 c. Creditors of the Residential Property and Casualty
1394 Joint Underwriting Association and of the accounts specified in
1395 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
1396 and recourse to, the accounts referred to in sub-sub-
1397 subparagraphs a.(I) and (II) and shall have no claim against, or
1398 recourse to, the account referred to in sub-sub-subparagraph
1399 a.(III). Creditors of the Florida Windstorm Underwriting
1400 Association shall have a claim against, and recourse to, the

1401 account referred to in sub-sub-subparagraph a.(III) and shall
 1402 have no claim against, or recourse to, the accounts referred to
 1403 in sub-sub-subparagraphs a.(I) and (II).

1404 d. Revenues, assets, liabilities, losses, and expenses not
 1405 attributable to particular accounts shall be prorated among the
 1406 accounts.

1407 e. The Legislature finds that the revenues of the
 1408 corporation are revenues that are necessary to meet the
 1409 requirements set forth in documents authorizing the issuance of
 1410 bonds under this subsection.

1411 f. No part of the income of the corporation may inure to
 1412 the benefit of any private person.

1413 3. With respect to a deficit in an account:

1414 a. After accounting for the Citizens policyholder
 1415 surcharge imposed under sub-subparagraph i., when the remaining
 1416 projected deficit incurred in a particular calendar year is not
 1417 greater than 6 percent of the aggregate statewide direct written
 1418 premium for the subject lines of business for the prior calendar
 1419 year, the entire deficit shall be recovered through regular
 1420 assessments of assessable insurers under paragraph (p) and
 1421 assessable insureds.

1422 b. After accounting for the Citizens policyholder
 1423 surcharge imposed under sub-subparagraph i., when the remaining
 1424 projected deficit incurred in a particular calendar year exceeds
 1425 6 percent of the aggregate statewide direct written premium for
 1426 the subject lines of business for the prior calendar year, the
 1427 corporation shall levy regular assessments on assessable
 1428 insurers under paragraph (p) and on assessable insureds in an

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1429 amount equal to the greater of 6 percent of the deficit or 6
1430 percent of the aggregate statewide direct written premium for
1431 the subject lines of business for the prior calendar year. Any
1432 remaining deficit shall be recovered through emergency
1433 assessments under sub-subparagraph d.

1434 c. Each assessable insurer's share of the amount being
1435 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1436 be in the proportion that the assessable insurer's direct
1437 written premium for the subject lines of business for the year
1438 preceding the assessment bears to the aggregate statewide direct
1439 written premium for the subject lines of business for that year.
1440 The assessment percentage applicable to each assessable insured
1441 is the ratio of the amount being assessed under sub-subparagraph
1442 a. or sub-subparagraph b. to the aggregate statewide direct
1443 written premium for the subject lines of business for the prior
1444 year. Assessments levied by the corporation on assessable
1445 insurers under sub-subparagraphs a. and b. shall be paid as
1446 required by the corporation's plan of operation and paragraph
1447 (p). Assessments levied by the corporation on assessable
1448 insureds under sub-subparagraphs a. and b. shall be collected by
1449 the surplus lines agent at the time the surplus lines agent
1450 collects the surplus lines tax required by s. 626.932 and shall
1451 be paid to the Florida Surplus Lines Service Office at the time
1452 the surplus lines agent pays the surplus lines tax to the
1453 Florida Surplus Lines Service Office. Upon receipt of regular
1454 assessments from surplus lines agents, the Florida Surplus Lines
1455 Service Office shall transfer the assessments directly to the
1456 corporation as determined by the corporation.

1457 d. Upon a determination by the board of governors that a
1458 deficit in an account exceeds the amount that will be recovered
1459 through regular assessments under sub-subparagraph a. or sub-
1460 subparagraph b., plus the amount that is expected to be
1461 recovered through surcharges under sub-subparagraph i., as to
1462 the remaining projected deficit the board shall levy, after
1463 verification by the office, emergency assessments, for as many
1464 years as necessary to cover the deficits, to be collected by
1465 assessable insurers and the corporation and collected from
1466 assessable insureds upon issuance or renewal of policies for
1467 subject lines of business, excluding National Flood Insurance
1468 policies. The amount of the emergency assessment collected in a
1469 particular year shall be a uniform percentage of that year's
1470 direct written premium for subject lines of business and all
1471 accounts of the corporation, excluding National Flood Insurance
1472 Program policy premiums, as annually determined by the board and
1473 verified by the office. The office shall verify the arithmetic
1474 calculations involved in the board's determination within 30
1475 days after receipt of the information on which the determination
1476 was based. Notwithstanding any other provision of law, the
1477 corporation and each assessable insurer that writes subject
1478 lines of business shall collect emergency assessments from its
1479 policyholders without such obligation being affected by any
1480 credit, limitation, exemption, or deferment. Emergency
1481 assessments levied by the corporation on assessable insureds
1482 shall be collected by the surplus lines agent at the time the
1483 surplus lines agent collects the surplus lines tax required by
1484 s. 626.932 and shall be paid to the Florida Surplus Lines

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1485 Service Office at the time the surplus lines agent pays the
1486 surplus lines tax to the Florida Surplus Lines Service Office.
1487 The emergency assessments so collected shall be transferred
1488 directly to the corporation on a periodic basis as determined by
1489 the corporation and shall be held by the corporation solely in
1490 the applicable account. The aggregate amount of emergency
1491 assessments levied for an account under this sub-subparagraph in
1492 any calendar year may, at the discretion of the board of
1493 governors, be less than but may not exceed the greater of 10
1494 percent of the amount needed to cover the deficit, plus
1495 interest, fees, commissions, required reserves, and other costs
1496 associated with financing of the original deficit, or 10 percent
1497 of the aggregate statewide direct written premium for subject
1498 lines of business and for all accounts of the corporation for
1499 the prior year, plus interest, fees, commissions, required
1500 reserves, and other costs associated with financing the deficit.

1501 e. The corporation may pledge the proceeds of assessments,
1502 projected recoveries from the Florida Hurricane Catastrophe
1503 Fund, other insurance and reinsurance recoverables, policyholder
1504 surcharges and other surcharges, and other funds available to
1505 the corporation as the source of revenue for and to secure bonds
1506 issued under paragraph (p), bonds or other indebtedness issued
1507 under subparagraph (c)3., or lines of credit or other financing
1508 mechanisms issued or created under this subsection, or to retire
1509 any other debt incurred as a result of deficits or events giving
1510 rise to deficits, or in any other way that the board determines
1511 will efficiently recover such deficits. The purpose of the lines
1512 of credit or other financing mechanisms is to provide additional

1513 resources to assist the corporation in covering claims and
1514 expenses attributable to a catastrophe. As used in this
1515 subsection, the term "assessments" includes regular assessments
1516 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1517 (p)1. and emergency assessments under sub-subparagraph d.
1518 Emergency assessments collected under sub-subparagraph d. are
1519 not part of an insurer's rates, are not premium, and are not
1520 subject to premium tax, fees, or commissions; however, failure
1521 to pay the emergency assessment shall be treated as failure to
1522 pay premium. The emergency assessments under sub-subparagraph d.
1523 shall continue as long as any bonds issued or other indebtedness
1524 incurred with respect to a deficit for which the assessment was
1525 imposed remain outstanding, unless adequate provision has been
1526 made for the payment of such bonds or other indebtedness
1527 pursuant to the documents governing such bonds or other
1528 indebtedness.

1529 f. As used in this subsection for purposes of any deficit
1530 incurred on or after January 25, 2007, the term "subject lines
1531 of business" means insurance written by assessable insurers or
1532 procured by assessable insureds for all property and casualty
1533 lines of business in this state, but not including workers'
1534 compensation or medical malpractice. As used in the sub-
1535 subparagraph, the term "property and casualty lines of business"
1536 includes all lines of business identified on Form 2, Exhibit of
1537 Premiums and Losses, in the annual statement required of
1538 authorized insurers by s. 624.424 and any rule adopted under
1539 this section, except for those lines identified as accident and
1540 health insurance and except for policies written under the

1541 National Flood Insurance Program or the Federal Crop Insurance
1542 Program. For purposes of this sub-subparagraph, the term
1543 "workers' compensation" includes both workers' compensation
1544 insurance and excess workers' compensation insurance.

1545 g. The Florida Surplus Lines Service Office shall
1546 determine annually the aggregate statewide written premium in
1547 subject lines of business procured by assessable insureds and
1548 shall report that information to the corporation in a form and
1549 at a time the corporation specifies to ensure that the
1550 corporation can meet the requirements of this subsection and the
1551 corporation's financing obligations.

1552 h. The Florida Surplus Lines Service Office shall verify
1553 the proper application by surplus lines agents of assessment
1554 percentages for regular assessments and emergency assessments
1555 levied under this subparagraph on assessable insureds and shall
1556 assist the corporation in ensuring the accurate, timely
1557 collection and payment of assessments by surplus lines agents as
1558 required by the corporation.

1559 i. If a deficit is incurred in any account in 2008 or
1560 thereafter, the board of governors shall levy a Citizens
1561 policyholder surcharge against all policyholders of the
1562 corporation for a 12-month period, which shall be collected at
1563 the time of issuance or renewal of a policy, as a uniform
1564 percentage of the premium for the policy of up to 25 ~~15~~ percent
1565 of such premium, which funds shall be used to offset the
1566 deficit. Citizens policyholder surcharges under this sub-
1567 subparagraph are not considered premium and are not subject to
1568 commissions, fees, or premium taxes. However, failure to pay

1569 such surcharges shall be treated as failure to pay premium.

1570 j. If the amount of any assessments or surcharges
1571 collected from corporation policyholders, assessable insurers or
1572 their policyholders, or assessable insureds exceeds the amount
1573 of the deficits, such excess amounts shall be remitted to and
1574 retained by the corporation in a reserve to be used by the
1575 corporation, as determined by the board of governors and
1576 approved by the office, to pay claims or reduce any past,
1577 present, or future plan-year deficits or to reduce outstanding
1578 debt.

1579 (c) The plan of operation of the corporation:

1580 1. Must provide for adoption of residential property and
1581 casualty insurance policy forms and commercial residential and
1582 nonresidential property insurance forms, which forms must be
1583 approved by the office prior to use. The corporation shall adopt
1584 the following policy forms:

1585 a. Standard personal lines policy forms that are
1586 comprehensive multiperil policies providing full coverage of a
1587 residential property equivalent to the coverage provided in the
1588 private insurance market under an HO-3, HO-4, or HO-6 policy.

1589 b. Basic personal lines policy forms that are policies
1590 similar to an HO-8 policy or a dwelling fire policy that provide
1591 coverage meeting the requirements of the secondary mortgage
1592 market, but which coverage is more limited than the coverage
1593 under a standard policy.

1594 c. Commercial lines residential and nonresidential policy
1595 forms that are generally similar to the basic perils of full
1596 coverage obtainable for commercial residential structures and

1597 commercial nonresidential structures in the admitted voluntary
 1598 market.

1599 d. Personal lines and commercial lines residential
 1600 property insurance forms that cover the peril of wind only. The
 1601 forms are applicable only to residential properties located in
 1602 areas eligible for coverage under the high-risk account referred
 1603 to in sub-subparagraph (b)2.a.

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

1609 f. The corporation may adopt variations of the policy
 1610 forms listed in sub-subparagraphs a.-e. that contain more
 1611 restrictive coverage.

1612 2.a. Must provide that the corporation adopt a program in
 1613 which the corporation and authorized insurers enter into quota
 1614 share primary insurance agreements for hurricane coverage, as
 1615 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1616 property insurance forms for eligible risks which cover the
 1617 peril of wind only. As used in this subsection, the term:

1618 (I) "Quota share primary insurance" means an arrangement
 1619 in which the primary hurricane coverage of an eligible risk is
 1620 provided in specified percentages by the corporation and an
 1621 authorized insurer. The corporation and authorized insurer are
 1622 each solely responsible for a specified percentage of hurricane
 1623 coverage of an eligible risk as set forth in a quota share
 1624 primary insurance agreement between the corporation and an

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

1640 (II) "Eligible risks" means personal lines residential and
1641 commercial lines residential risks that meet the underwriting
1642 criteria of the corporation and are located in areas that were
1643 eligible for coverage by the Florida Windstorm Underwriting
1644 Association on January 1, 2002.

1645 b. The corporation may enter into quota share primary
1646 insurance agreements with authorized insurers at corporation
1647 coverage levels of 90 percent and 50 percent.

1648 c. If the corporation determines that additional coverage
1649 levels are necessary to maximize participation in quota share
1650 primary insurance agreements by authorized insurers, the
1651 corporation may establish additional coverage levels. However,
1652 the corporation's quota share primary insurance coverage level

1653 may not exceed 90 percent.

1654 d. Any quota share primary insurance agreement entered
1655 into between an authorized insurer and the corporation must
1656 provide for a uniform specified percentage of coverage of
1657 hurricane losses, by county or territory as set forth by the
1658 corporation board, for all eligible risks of the authorized
1659 insurer covered under the quota share primary insurance
1660 agreement.

1661 e. Any quota share primary insurance agreement entered
1662 into between an authorized insurer and the corporation is
1663 subject to review and approval by the office. However, such
1664 agreement shall be authorized only as to insurance contracts
1665 entered into between an authorized insurer and an insured who is
1666 already insured by the corporation for wind coverage.

1667 f. For all eligible risks covered under quota share
1668 primary insurance agreements, the exposure and coverage levels
1669 for both the corporation and authorized insurers shall be
1670 reported by the corporation to the Florida Hurricane Catastrophe
1671 Fund. For all policies of eligible risks covered under quota
1672 share primary insurance agreements, the corporation and the
1673 authorized insurer shall maintain complete and accurate records
1674 for the purpose of exposure and loss reimbursement audits as
1675 required by Florida Hurricane Catastrophe Fund rules. The
1676 corporation and the authorized insurer shall each maintain
1677 duplicate copies of policy declaration pages and supporting
1678 claims documents.

1679 g. The corporation board shall establish in its plan of
1680 operation standards for quota share agreements which ensure that

1681 | there is no discriminatory application among insurers as to the
 1682 | terms of quota share agreements, pricing of quota share
 1683 | agreements, incentive provisions if any, and consideration paid
 1684 | for servicing policies or adjusting claims.

1685 | h. The quota share primary insurance agreement between the
 1686 | corporation and an authorized insurer must set forth the
 1687 | specific terms under which coverage is provided, including, but
 1688 | not limited to, the sale and servicing of policies issued under
 1689 | the agreement by the insurance agent of the authorized insurer
 1690 | producing the business, the reporting of information concerning
 1691 | eligible risks, the payment of premium to the corporation, and
 1692 | arrangements for the adjustment and payment of hurricane claims
 1693 | incurred on eligible risks by the claims adjuster and personnel
 1694 | of the authorized insurer. Entering into a quota sharing
 1695 | insurance agreement between the corporation and an authorized
 1696 | insurer shall be voluntary and at the discretion of the
 1697 | authorized insurer.

1698 | 3. May provide that the corporation may employ or
 1699 | otherwise contract with individuals or other entities to provide
 1700 | administrative or professional services that may be appropriate
 1701 | to effectuate the plan. The corporation shall have the power to
 1702 | borrow funds, by issuing bonds or by incurring other
 1703 | indebtedness, and shall have other powers reasonably necessary
 1704 | to effectuate the requirements of this subsection, including,
 1705 | without limitation, the power to issue bonds and incur other
 1706 | indebtedness in order to refinance outstanding bonds or other
 1707 | indebtedness. The corporation may, but is not required to, seek
 1708 | judicial validation of its bonds or other indebtedness under

1709 chapter 75. The corporation may issue bonds or incur other
 1710 indebtedness, or have bonds issued on its behalf by a unit of
 1711 local government pursuant to subparagraph (p)2., in the absence
 1712 of a hurricane or other weather-related event, upon a
 1713 determination by the corporation, subject to approval by the
 1714 office, that such action would enable it to efficiently meet the
 1715 financial obligations of the corporation and that such
 1716 financings are reasonably necessary to effectuate the
 1717 requirements of this subsection. The corporation is authorized
 1718 to take all actions needed to facilitate tax-free status for any
 1719 such bonds or indebtedness, including formation of trusts or
 1720 other affiliated entities. The corporation shall have the
 1721 authority to pledge assessments, projected recoveries from the
 1722 Florida Hurricane Catastrophe Fund, other reinsurance
 1723 recoverables, market equalization and other surcharges, and
 1724 other funds available to the corporation as security for bonds
 1725 or other indebtedness. In recognition of s. 10, Art. I of the
 1726 State Constitution, prohibiting the impairment of obligations of
 1727 contracts, it is the intent of the Legislature that no action be
 1728 taken whose purpose is to impair any bond indenture or financing
 1729 agreement or any revenue source committed by contract to such
 1730 bond or other indebtedness.

1731 4.a. Must require that the corporation operate subject to
 1732 the supervision and approval of a board of governors consisting
 1733 of eight individuals who are residents of this state, from
 1734 different geographical areas of this state. The Governor, the
 1735 Chief Financial Officer, the President of the Senate, and the
 1736 Speaker of the House of Representatives shall each appoint two

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1737 members of the board. At least one of the two members appointed
1738 by each appointing officer must have demonstrated expertise in
1739 insurance. The Chief Financial Officer shall designate one of
1740 the appointees as chair. All board members serve at the pleasure
1741 of the appointing officer. All members of the board of governors
1742 are subject to removal at will by the officers who appointed
1743 them. Except as otherwise provided, all board members, including
1744 the chair, must be appointed to serve for 3-year terms beginning
1745 annually on a date designated by the plan. However, for the
1746 first term beginning on or after July 1, 2009, each appointing
1747 officer shall appoint one member of the board for a 2-year term
1748 and one member for a 3-year term. Any board vacancy shall be
1749 filled for the unexpired term by the appointing officer. The
1750 Chief Financial Officer shall appoint a technical advisory group
1751 to provide information and advice to the board of governors in
1752 connection with the board's duties under this subsection. The
1753 executive director and senior managers of the corporation shall
1754 be engaged by the board and serve at the pleasure of the board.
1755 Any executive director appointed on or after July 1, 2006, is
1756 subject to confirmation by the Senate. The executive director is
1757 responsible for employing other staff as the corporation may
1758 require, subject to review and concurrence by the board.

1759 b. The board shall create a Market Accountability Advisory
1760 Committee to assist the corporation in developing awareness of
1761 its rates and its customer and agent service levels in
1762 relationship to the voluntary market insurers writing similar
1763 coverage. The members of the advisory committee shall consist of
1764 the following 11 persons, one of whom must be elected chair by

1765 the members of the committee: four representatives, one
 1766 appointed by the Florida Association of Insurance Agents, one by
 1767 the Florida Association of Insurance and Financial Advisors, one
 1768 by the Professional Insurance Agents of Florida, and one by the
 1769 Latin American Association of Insurance Agencies; three
 1770 representatives appointed by the insurers with the three highest
 1771 voluntary market share of residential property insurance
 1772 business in the state; one representative from the Office of
 1773 Insurance Regulation; one consumer appointed by the board who is
 1774 insured by the corporation at the time of appointment to the
 1775 committee; one representative appointed by the Florida
 1776 Association of Realtors; and one representative appointed by the
 1777 Florida Bankers Association. All members must serve for 3-year
 1778 terms and may serve for consecutive terms. The committee shall
 1779 report to the corporation at each board meeting on insurance
 1780 market issues which may include rates and rate competition with
 1781 the voluntary market; service, including policy issuance, claims
 1782 processing, and general responsiveness to policyholders,
 1783 applicants, and agents; and matters relating to depopulation.

1784 5. Must provide a procedure for determining the
 1785 eligibility of a risk for coverage, as follows:

1786 a. Subject to the provisions of s. 627.3517, with respect
 1787 to personal lines residential risks, if the risk is offered
 1788 coverage from an authorized insurer at the insurer's approved
 1789 rate under either a standard policy including wind coverage or,
 1790 if consistent with the insurer's underwriting rules as filed
 1791 with the office, a basic policy including wind coverage, for a
 1792 new application to the corporation for coverage, the risk is not

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1793 eligible for any policy issued by the corporation unless the
1794 premium for coverage from the authorized insurer is more than 15
1795 percent greater than the premium for comparable coverage from
1796 the corporation. If the risk is not able to obtain any such
1797 offer, the risk is eligible for either a standard policy
1798 including wind coverage or a basic policy including wind
1799 coverage issued by the corporation; however, if the risk could
1800 not be insured under a standard policy including wind coverage
1801 regardless of market conditions, the risk shall be eligible for
1802 a basic policy including wind coverage unless rejected under
1803 subparagraph 8. However, with regard to a policyholder of the
1804 corporation or a policyholder removed from the corporation
1805 through an assumption agreement until the end of the assumption
1806 period, the policyholder remains eligible for coverage from the
1807 corporation regardless of any offer of coverage from an
1808 authorized insurer or surplus lines insurer. The corporation
1809 shall determine the type of policy to be provided on the basis
1810 of objective standards specified in the underwriting manual and
1811 based on generally accepted underwriting practices.

1812 (I) If the risk accepts an offer of coverage through the
1813 market assistance plan or an offer of coverage through a
1814 mechanism established by the corporation before a policy is
1815 issued to the risk by the corporation or during the first 30
1816 days of coverage by the corporation, and the producing agent who
1817 submitted the application to the plan or to the corporation is
1818 not currently appointed by the insurer, the insurer shall:

1819 (A) Pay to the producing agent of record of the policy,
1820 for the first year, an amount that is the greater of the

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1821 insurer's usual and customary commission for the type of policy
 1822 written or a fee equal to the usual and customary commission of
 1823 the corporation; or

1824 (B) Offer to allow the producing agent of record of the
 1825 policy to continue servicing the policy for a period of not less
 1826 than 1 year and offer to pay the agent the greater of the
 1827 insurer's or the corporation's usual and customary commission
 1828 for the type of policy written.

1829
 1830 If the producing agent is unwilling or unable to accept
 1831 appointment, the new insurer shall pay the agent in accordance
 1832 with sub-sub-sub-subparagraph (A).

1833 (II) When the corporation enters into a contractual
 1834 agreement for a take-out plan, the producing agent of record of
 1835 the corporation policy is entitled to retain any unearned
 1836 commission on the policy, and the insurer shall:

1837 (A) Pay to the producing agent of record of the
 1838 corporation policy, for the first year, an amount that is the
 1839 greater of the insurer's usual and customary commission for the
 1840 type of policy written or a fee equal to the usual and customary
 1841 commission of the corporation; or

1842 (B) Offer to allow the producing agent of record of the
 1843 corporation policy to continue servicing the policy for a period
 1844 of not less than 1 year and offer to pay the agent the greater
 1845 of the insurer's or the corporation's usual and customary
 1846 commission for the type of policy written.

1847
 1848 If the producing agent is unwilling or unable to accept

1849 appointment, the new insurer shall pay the agent in accordance
1850 with sub-sub-sub-subparagraph (A).

1851 b. With respect to commercial lines residential risks, for
1852 a new application to the corporation for coverage, if the risk
1853 is offered coverage under a policy including wind coverage from
1854 an authorized insurer at its approved rate, the risk is not
1855 eligible for any policy issued by the corporation unless the
1856 premium for coverage from the authorized insurer is more than 15
1857 percent greater than the premium for comparable coverage from
1858 the corporation. If the risk is not able to obtain any such
1859 offer, the risk is eligible for a policy including wind coverage
1860 issued by the corporation. However, with regard to a
1861 policyholder of the corporation or a policyholder removed from
1862 the corporation through an assumption agreement until the end of
1863 the assumption period, the policyholder remains eligible for
1864 coverage from the corporation regardless of any offer of
1865 coverage from an authorized insurer or surplus lines insurer.

1866 (I) If the risk accepts an offer of coverage through the
1867 market assistance plan or an offer of coverage through a
1868 mechanism established by the corporation before a policy is
1869 issued to the risk by the corporation or during the first 30
1870 days of coverage by the corporation, and the producing agent who
1871 submitted the application to the plan or the corporation is not
1872 currently appointed by the insurer, the insurer shall:

1873 (A) Pay to the producing agent of record of the policy,
1874 for the first year, an amount that is the greater of the
1875 insurer's usual and customary commission for the type of policy
1876 written or a fee equal to the usual and customary commission of

1877 the corporation; or

1878 (B) Offer to allow the producing agent of record of the
 1879 policy to continue servicing the policy for a period of not less
 1880 than 1 year and offer to pay the agent the greater of the
 1881 insurer's or the corporation's usual and customary commission
 1882 for the type of policy written.

1883
 1884 If the producing agent is unwilling or unable to accept
 1885 appointment, the new insurer shall pay the agent in accordance
 1886 with sub-sub-sub-subparagraph (A).

1887 (II) When the corporation enters into a contractual
 1888 agreement for a take-out plan, the producing agent of record of
 1889 the corporation policy is entitled to retain any unearned
 1890 commission on the policy, and the insurer shall:

1891 (A) Pay to the producing agent of record of the
 1892 corporation policy, for the first year, an amount that is the
 1893 greater of the insurer's usual and customary commission for the
 1894 type of policy written or a fee equal to the usual and customary
 1895 commission of the corporation; or

1896 (B) Offer to allow the producing agent of record of the
 1897 corporation policy to continue servicing the policy for a period
 1898 of not less than 1 year and offer to pay the agent the greater
 1899 of the insurer's or the corporation's usual and customary
 1900 commission for the type of policy written.

1901
 1902 If the producing agent is unwilling or unable to accept
 1903 appointment, the new insurer shall pay the agent in accordance
 1904 with sub-sub-sub-subparagraph (A).

1905 c. For purposes of determining comparable coverage under
 1906 sub-subparagraphs a. and b., the comparison shall be based on
 1907 those forms and coverages that are reasonably comparable. The
 1908 corporation may rely on a determination of comparable coverage
 1909 and premium made by the producing agent who submits the
 1910 application to the corporation, made in the agent's capacity as
 1911 the corporation's agent. A comparison may be made solely of the
 1912 premium with respect to the main building or structure only on
 1913 the following basis: the same coverage A or other building
 1914 limits; the same percentage hurricane deductible that applies on
 1915 an annual basis or that applies to each hurricane for commercial
 1916 residential property; the same percentage of ordinance and law
 1917 coverage, if the same limit is offered by both the corporation
 1918 and the authorized insurer; the same mitigation credits, to the
 1919 extent the same types of credits are offered both by the
 1920 corporation and the authorized insurer; the same method for loss
 1921 payment, such as replacement cost or actual cash value, if the
 1922 same method is offered both by the corporation and the
 1923 authorized insurer in accordance with underwriting rules; and
 1924 any other form or coverage that is reasonably comparable as
 1925 determined by the board. If an application is submitted to the
 1926 corporation for wind-only coverage in the high-risk account, the
 1927 premium for the corporation's wind-only policy plus the premium
 1928 for the ex-wind policy that is offered by an authorized insurer
 1929 to the applicant shall be compared to the premium for multiperil
 1930 coverage offered by an authorized insurer, subject to the
 1931 standards for comparison specified in this subparagraph. If the
 1932 corporation or the applicant requests from the authorized

1933 insurer a breakdown of the premium of the offer by types of
 1934 coverage so that a comparison may be made by the corporation or
 1935 its agent and the authorized insurer refuses or is unable to
 1936 provide such information, the corporation may treat the offer as
 1937 not being an offer of coverage from an authorized insurer at the
 1938 insurer's approved rate.

1939 6. Must include rules for classifications of risks and
 1940 rates therefor.

1941 7. Must provide that if premium and investment income for
 1942 an account attributable to a particular calendar year are in
 1943 excess of projected losses and expenses for the account
 1944 attributable to that year, such excess shall be held in surplus
 1945 in the account. Such surplus shall be available to defray
 1946 deficits in that account as to future years and shall be used
 1947 for that purpose prior to assessing assessable insurers and
 1948 assessable insureds as to any calendar year.

1949 8. Must provide objective criteria and procedures to be
 1950 uniformly applied for all applicants in determining whether an
 1951 individual risk is so hazardous as to be uninsurable. In making
 1952 this determination and in establishing the criteria and
 1953 procedures, the following shall be considered:

1954 a. Whether the likelihood of a loss for the individual
 1955 risk is substantially higher than for other risks of the same
 1956 class; and

1957 b. Whether the uncertainty associated with the individual
 1958 risk is such that an appropriate premium cannot be determined.

1959
 1960 The acceptance or rejection of a risk by the corporation shall

1961 | be construed as the private placement of insurance, and the
 1962 | provisions of chapter 120 shall not apply.

1963 | 9. Must provide that the corporation shall make its best
 1964 | efforts to procure catastrophe reinsurance at reasonable rates,
 1965 | to cover its projected 100-year probable maximum loss as
 1966 | determined by the board of governors.

1967 | 10. The policies issued by the corporation must provide
 1968 | that, if the corporation or the market assistance plan obtains
 1969 | an offer from an authorized insurer to cover the risk at its
 1970 | approved rates, the risk is no longer eligible for renewal
 1971 | through the corporation, except as otherwise provided in this
 1972 | subsection.

1973 | 11. Corporation policies and applications must include a
 1974 | notice that the corporation policy could, under this section, be
 1975 | replaced with a policy issued by an authorized insurer that does
 1976 | not provide coverage identical to the coverage provided by the
 1977 | corporation. The notice shall also specify that acceptance of
 1978 | corporation coverage creates a conclusive presumption that the
 1979 | applicant or policyholder is aware of this potential.

1980 | 12. May establish, subject to approval by the office,
 1981 | different eligibility requirements and operational procedures
 1982 | for any line or type of coverage for any specified county or
 1983 | area if the board determines that such changes to the
 1984 | eligibility requirements and operational procedures are
 1985 | justified due to the voluntary market being sufficiently stable
 1986 | and competitive in such area or for such line or type of
 1987 | coverage and that consumers who, in good faith, are unable to
 1988 | obtain insurance through the voluntary market through ordinary

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1989 | methods would continue to have access to coverage from the
1990 | corporation. When coverage is sought in connection with a real
1991 | property transfer, such requirements and procedures shall not
1992 | provide for an effective date of coverage later than the date of
1993 | the closing of the transfer as established by the transferor,
1994 | the transferee, and, if applicable, the lender.

1995 | 13. Must provide that, with respect to the high-risk
1996 | account, any assessable insurer with a surplus as to
1997 | policyholders of \$25 million or less writing 25 percent or more
1998 | of its total countrywide property insurance premiums in this
1999 | state may petition the office, within the first 90 days of each
2000 | calendar year, to qualify as a limited apportionment company. A
2001 | regular assessment levied by the corporation on a limited
2002 | apportionment company for a deficit incurred by the corporation
2003 | for the high-risk account in 2006 or thereafter may be paid to
2004 | the corporation on a monthly basis as the assessments are
2005 | collected by the limited apportionment company from its insureds
2006 | pursuant to s. 627.3512, but the regular assessment must be paid
2007 | in full within 12 months after being levied by the corporation.
2008 | A limited apportionment company shall collect from its
2009 | policyholders any emergency assessment imposed under sub-
2010 | subparagraph (b)3.d. The plan shall provide that, if the office
2011 | determines that any regular assessment will result in an
2012 | impairment of the surplus of a limited apportionment company,
2013 | the office may direct that all or part of such assessment be
2014 | deferred as provided in subparagraph (p)4. However, there shall
2015 | be no limitation or deferment of an emergency assessment to be
2016 | collected from policyholders under sub-subparagraph (b)3.d.

2017 14. Must provide that the corporation appoint as its
2018 licensed agents only those agents who also hold an appointment
2019 as defined in s. 626.015(3) with an insurer who at the time of
2020 the agent's initial appointment by the corporation is authorized
2021 to write and is actually writing personal lines residential
2022 property coverage, commercial residential property coverage, or
2023 commercial nonresidential property coverage within the state.

2024 15. Must provide, by July 1, 2007, a premium payment plan
2025 option to its policyholders which allows at a minimum for
2026 quarterly and semiannual payment of premiums. A monthly payment
2027 plan may, but is not required to, be offered.

2028 16. Must limit coverage on mobile homes or manufactured
2029 homes built prior to 1994 to actual cash value of the dwelling
2030 rather than replacement costs of the dwelling.

2031 17. May provide such limits of coverage as the board
2032 determines, consistent with the requirements of this subsection.

2033 18. May require commercial property to meet specified
2034 hurricane mitigation construction features as a condition of
2035 eligibility for coverage.

2036 (m)1. Rates for coverage provided by the corporation shall
2037 be actuarially sound and subject to the requirements of s.
2038 627.062, except as otherwise provided in this paragraph. The
2039 corporation shall file its recommended rates with the office at
2040 least annually. The corporation shall provide any additional
2041 information regarding the rates which the office requires. The
2042 office shall consider the recommendations of the board and issue
2043 a final order establishing the rates for the corporation within
2044 45 days after the recommended rates are filed. The corporation

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2045 may not pursue an administrative challenge or judicial review of
2046 the final order of the office.

2047 2. In addition to the rates otherwise determined pursuant
2048 to this paragraph, the corporation shall impose and collect an
2049 amount equal to the premium tax provided for in s. 624.509 to
2050 augment the financial resources of the corporation.

2051 3. After the public hurricane loss-projection model under
2052 s. 627.06281 has been found to be accurate and reliable by the
2053 Florida Commission on Hurricane Loss Projection Methodology,
2054 that model shall serve as the minimum benchmark for determining
2055 the windstorm portion of the corporation's rates. This
2056 subparagraph does not require or allow the corporation to adopt
2057 rates lower than the rates otherwise required or allowed by this
2058 paragraph.

2059 4. The rate filings for the corporation which were
2060 approved by the office and which took effect January 1, 2007,
2061 are rescinded, except for those rates that were lowered. As soon
2062 as possible, the corporation shall begin using the lower rates
2063 that were in effect on December 31, 2006, and shall provide
2064 refunds to policyholders who have paid higher rates as a result
2065 of that rate filing. The rates in effect on December 31, 2006,
2066 shall remain in effect for the 2007 and 2008 calendar years
2067 except for any rate change that results in a lower rate. The
2068 next rate change that may increase rates shall take effect
2069 pursuant to a new rate filing recommended by the corporation and
2070 established by the office, subject to the requirements of this
2071 paragraph.

2072 5. Beginning on July 15, 2009, and each year thereafter,

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2073 the corporation must make a recommended actuarially sound rate
2074 filing for each personal and commercial line of business it
2075 writes, to be effective no earlier than January 1, 2010.

2076 6. The Legislature finds that it is in the public interest
2077 to ensure that actuarially sound rates for coverage by the
2078 corporation be implemented incrementally to provide rate
2079 stability and predictability to its policyholders.

2080 7. Beginning on or after January 1, 2010, the corporation
2081 shall begin to implement actuarially sound rates for each
2082 commercial and personal line of business it writes, which may
2083 not exceed an average statewide increase of 10 percent or exceed
2084 20 percent for any single policy issued by the corporation,
2085 excluding coverage changes and surcharges.

2086 8. The corporation's incremental implementation of rates
2087 as prescribed in subparagraph 7. shall cease for any line of
2088 business written by the corporation after actuarially sound
2089 rates as prescribed in subparagraph 1. are achieved. Thereafter,
2090 the corporation shall annually make a recommended actuarially
2091 sound rate filing for each commercial and personal line of
2092 business it writes.

2093 9. In addition to the rate increase required pursuant to
2094 subparagraph 7., the corporation may increase its rates an
2095 amount sufficient to recoup additional reimbursement premium
2096 paid to the Florida Hurricane Catastrophe Fund due to the
2097 application of a cash build-up factor.

2098 10. Beginning April 1, 2010, and each quarter thereafter,
2099 the corporation shall transfer 10 percent of the funds received
2100 from the rate increase prescribed by subparagraph 7. to the

2101 General Revenue Fund. The corporation's transfer of such funds
 2102 shall cease upon the corporation's implementation of actuarially
 2103 sound rates as prescribed in subparagraph 1.

2104 ~~(x) It is the intent of the Legislature that the~~
 2105 ~~amendments to this subsection enacted in 2002 should, over time,~~
 2106 ~~reduce the probable maximum windstorm losses in the residual~~
 2107 ~~markets and should reduce the potential assessments to be levied~~
 2108 ~~on property insurers and policyholders statewide. In furtherance~~
 2109 ~~of this intent:~~

2110 ~~1. The board shall, on or before February 1 of each year,~~
 2111 ~~provide a report to the President of the Senate and the Speaker~~
 2112 ~~of the House of Representatives showing the reduction or~~
 2113 ~~increase in the 100-year probable maximum loss attributable to~~
 2114 ~~wind-only coverages and the quota share program under this~~
 2115 ~~subsection combined, as compared to the benchmark 100-year~~
 2116 ~~probable maximum loss of the Florida Windstorm Underwriting~~
 2117 ~~Association. For purposes of this paragraph, the benchmark 100-~~
 2118 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
 2119 ~~Association shall be the calculation dated February 2001 and~~
 2120 ~~based on November 30, 2000, exposures. In order to ensure~~
 2121 ~~comparability of data, the board shall use the same methods for~~
 2122 ~~calculating its probable maximum loss as were used to calculate~~
 2123 ~~the benchmark probable maximum loss.~~

2124 ~~2. Beginning February 1, 2010, if the report under~~
 2125 ~~subparagraph 1. for any year indicates that the 100-year~~
 2126 ~~probable maximum loss attributable to wind-only coverages and~~
 2127 ~~the quota share program combined does not reflect a reduction of~~
 2128 ~~at least 25 percent from the benchmark, the board shall reduce~~

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2129 ~~the boundaries of the high-risk area eligible for wind-only~~
2130 ~~coverages under this subsection in a manner calculated to reduce~~
2131 ~~such probable maximum loss to an amount at least 25 percent~~
2132 ~~below the benchmark.~~

2133 ~~3. Beginning February 1, 2015, if the report under~~
2134 ~~subparagraph 1. for any year indicates that the 100-year~~
2135 ~~probable maximum loss attributable to wind-only coverages and~~
2136 ~~the quota share program combined does not reflect a reduction of~~
2137 ~~at least 50 percent from the benchmark, the boundaries of the~~
2138 ~~high-risk area eligible for wind-only coverages under this~~
2139 ~~subsection shall be reduced by the elimination of any area that~~
2140 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
2141 ~~Waterway.~~

2142 Section 12. Subsection (2) of section 627.711, Florida
2143 Statutes, is amended, and subsection (3) is added to that
2144 section, to read:

2145 627.711 Notice of premium discounts for hurricane loss
2146 mitigation; uniform mitigation verification inspection form.--

2147 (2) (a) By July 1, 2007, the Financial Services Commission
2148 shall develop by rule a uniform mitigation verification
2149 inspection form that shall be used by all insurers when
2150 submitted by policyholders for the purpose of factoring
2151 discounts for wind insurance. In developing the form, the
2152 commission shall seek input from insurance, construction, and
2153 building code representatives. Further, the commission shall
2154 provide guidance as to the length of time the inspection results
2155 are valid. An insurer shall accept as valid a uniform mitigation
2156 verification form certified by the Department of Financial

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2157 Services or signed by:

2158 ~~(a) A hurricane mitigation inspector employed by an~~
 2159 ~~approved My Safe Florida Home wind certification entity;~~

2160 1.(b) A building code inspector certified under s.
 2161 468.607;

2162 2.(e) A general, building, or residential contractor
 2163 licensed under s. 489.111;

2164 3.(d) A professional engineer licensed under s. 471.015
 2165 who has passed the appropriate equivalency test of the Building
 2166 Code Training Program as required by s. 553.841; or

2167 4.(e) A professional architect licensed under s. 481.213.

2168 (b) An insurer may contract with inspection firms at the
 2169 insurer's expense to review mitigation verification forms and to
 2170 reinspect properties for which the insurer receives mitigation
 2171 verification forms to ensure that the forms are valid.

2172 (3) An individual or entity who knowingly provides or
 2173 utters a false or fraudulent mitigation verification form with
 2174 the intent to obtain or receive a discount on an insurance
 2175 premium to which the individual or entity is not entitled
 2176 commits a misdemeanor of the first degree, punishable as
 2177 provided in s. 775.082 or s. 775.083.

2178 Section 13. Subsection (1) and paragraph (c) of subsection
 2179 (2) of section 627.712, Florida Statutes, are amended to read:

2180 627.712 Residential windstorm coverage required;
 2181 availability of exclusions for windstorm or contents.--

2182 (1) An insurer issuing a residential property insurance
 2183 policy must provide windstorm coverage. Except as provided in
 2184 paragraph (2) (c), this section does not apply with respect to

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2185 risks that are eligible for wind-only coverage from Citizens
 2186 Property Insurance Corporation under s. 627.351(6) and with
 2187 respect to risks that are not eligible for coverage from
 2188 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
 2189 or 5. A risk ineligible for Citizens coverage under s.
 2190 627.351(6)(a)3. or 5. is exempt from the requirements of this
 2191 section only if the risk is located within the boundaries of the
 2192 high-risk account of the corporation.

2193 (2) A property insurer must make available, at the option
 2194 of the policyholder, an exclusion of windstorm coverage.

2195 (c) ~~If the residential structure is eligible for wind-only~~
 2196 ~~coverage from Citizens Property Insurance Corporation,~~ An
 2197 insurer nonrenewing a policy and issuing a replacement policy,
 2198 or issuing a new policy, that does not provide wind coverage
 2199 shall provide a notice to the mortgageholder or lienholder
 2200 indicating the policyholder has elected coverage that does not
 2201 cover wind.

2202 Section 14. Section 631.65, Florida Statutes, is amended
 2203 to read:

2204 631.65 Prohibited advertisement or solicitation.--No
 2205 person shall make, publish, disseminate, circulate, or place
 2206 before the public, or cause, directly or indirectly, to be made,
 2207 published, disseminated, circulated, or placed before the
 2208 public, in a newspaper, magazine, or other publication, or in
 2209 the form of a notice, circular, pamphlet, letter, or poster, or
 2210 over any radio station or television station, or in any other
 2211 way, any advertisement, announcement, or statement which uses
 2212 the existence of the insurance guaranty association for the

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2213 purpose of sales, solicitation, or inducement to purchase any
2214 form of insurance covered under this part. However, nothing in
2215 this section may be construed to prevent a duly licensed
2216 insurance agent from providing explanations concerning the
2217 existence or application of the insurance guaranty association
2218 to policyholders, prospective policyholders, or applicants for
2219 coverage.

2220 Section 15. Upon receipt of funds transferred to the
2221 General Revenue Fund pursuant to s. 627.351(6)(m)10., Florida
2222 Statutes, the funds transferred are appropriated on a
2223 nonrecurring basis from the General Revenue Fund to the
2224 Insurance Regulatory Trust Fund in the Department of Financial
2225 Services for purposes of the My Safe Florida Home Program
2226 specified in s. 215.5586, Florida Statutes. The My Safe Florida
2227 Home Program shall use the funds solely for the provision of
2228 mitigation grants in accordance with s. 215.5586(2), Florida
2229 Statutes, to policyholders of Citizens Property Insurance
2230 Corporation who are otherwise eligible for grants from the My
2231 Safe Florida Home Program. The department shall establish a
2232 separate account within the trust fund for accounting purposes.

2233 Section 16. This act shall take effect upon becoming a
2234 law.