

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 the board to  
15          publish a statement of the estimated claims-paying  
16          capacity of the Florida Hurricane Catastrophe Fund;  
17          requiring a reimbursement premium formula to provide cash  
18          build-up factors for certain contract years; extending  
19          provisions relating to temporary increase in coverage  
20          limit operations for the fund; providing additional  
21          reimbursement requirements for temporary increase in  
22          coverage addenda for additional contract years; expanding  
23          the powers and duties of the board; specifying required  
24          increases in TICL reimbursement premiums for certain  
25          contract years; specifying nonapplication of cash build-up  
26          factors to TICL reimbursement premiums; deleting authority  
27          for the State Board of Administration to increase the  
28          claims-paying capacity of the fund; amending s. 215.5586,

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

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

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

113 covering wind; amending s. 631.65, F.S.; providing  
 114 construction relating to certain prohibited advertisements  
 115 or solicitations; requiring the My Safe Florida Home  
 116 Program to use certain funds for certain mitigation  
 117 grants; authorizing the department to establish a separate  
 118 account in the trust fund for accounting purposes;  
 119 providing an effective date.

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

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

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

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

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

138 215.555 Florida Hurricane Catastrophe Fund.--  
 139 (2) DEFINITIONS.--As used in this section:  
 140 (e) "Retention" means the amount of losses below which an

141 insurer is not entitled to reimbursement from the fund. An  
142 insurer's retention shall be calculated as follows:

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

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

168 3. An insurer shall determine its provisional retention by

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

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

184 (4) REIMBURSEMENT CONTRACTS.--

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

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

197 percentage coverage level. Any joint underwriting association,  
198 risk apportionment plan, or other entity created under s.  
199 627.351 must elect the 90-percent coverage level.

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

203 4. Notwithstanding any other provision contained in this  
204 section, the board shall make available to insurers that  
205 purchased coverage provided by this subparagraph in 2008 ~~2007~~,  
206 insurers qualifying as limited apportionment companies under s.  
207 627.351(6)(c), and insurers that have been approved to  
208 participate in the Insurance Capital Build-Up Incentive Program  
209 pursuant to s. 215.5595 a contract or contract addendum that  
210 provides an additional amount of reimbursement coverage of up to  
211 \$10 million. The premium to be charged for this additional  
212 reimbursement coverage shall be 50 percent of the additional  
213 reimbursement coverage provided, which shall include one prepaid  
214 reinstatement. The minimum retention level that an eligible  
215 participating insurer must retain associated with this  
216 additional coverage layer is 30 percent of the insurer's surplus  
217 as of December 31, 2008, for the 2009-2010 contract year; as of  
218 December 31, 2009, for the contract year beginning June 1, 2010,  
219 and ending December 31, 2010; and as of December 31, 2010, for  
220 the 2011 contract year ~~2007~~. This coverage shall be in addition  
221 to all other coverage that may be provided under this section.  
222 The coverage provided by the fund under this subparagraph shall  
223 be in addition to the claims-paying capacity as defined in  
224 subparagraph (c)1., but only with respect to those insurers that



225 | select the additional coverage option and meet the requirements  
 226 | of this subparagraph. The claims-paying capacity with respect to  
 227 | all other participating insurers and limited apportionment  
 228 | companies that do not select the additional coverage option  
 229 | shall be limited to their reimbursement premium's proportionate  
 230 | share of the actual claims-paying capacity otherwise defined in  
 231 | subparagraph (c)1. and as provided for under the terms of the  
 232 | reimbursement contract. The optional coverage retention as  
 233 | specified shall be accessed before the mandatory coverage under  
 234 | the reimbursement contract, but once the limit of coverage  
 235 | selected under this option is exhausted, the insurer's retention  
 236 | under the mandatory coverage shall apply. This coverage shall  
 237 | apply and be paid concurrently with the mandatory coverage.  
 238 | ~~Coverage provided in the reimbursement contract shall not be~~  
 239 | ~~affected by the additional premiums paid by participating~~  
 240 | ~~insurers exercising the additional coverage option allowed in~~  
 241 | ~~this subparagraph. This subparagraph expires on December May 31,~~  
 242 | 2011 ~~2009~~.

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

253 optional coverage, as defined by rule which occurred over the  
 254 prior calendar year.

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

276 (5) REIMBURSEMENT PREMIUMS.--

277 (b) The State Board of Administration shall select an  
 278 independent consultant to develop a formula for determining the  
 279 actuarially indicated premium to be paid to the fund. The  
 280 formula shall specify, for each zip code or other limited

281 geographical area, the amount of premium to be paid by an  
282 insurer for each \$1,000 of insured value under covered policies  
283 in that zip code or other area. In establishing premiums, the  
284 board shall consider the coverage elected under paragraph (4)(b)  
285 and any factors that tend to enhance the actuarial  
286 sophistication of ratemaking for the fund, including  
287 deductibles, type of construction, type of coverage provided,  
288 relative concentration of risks, and other such factors deemed  
289 by the board to be appropriate. The formula must provide for a  
290 cash build-up factor. For the contract year 2009-2010, the  
291 factor is 5 percent; for the contract year beginning June 1,  
292 2010, and ending December 31, 2010, the factor is 10 percent;  
293 for the 2011 contract year, the factor is 15 percent; for the  
294 2012 contract year, the factor is 20 percent; and for the 2013  
295 contract year and thereafter, the factor is 25 percent. The  
296 formula may provide for a procedure to determine the premiums to  
297 be paid by new insurers that begin writing covered policies  
298 after the beginning of a contract year, taking into  
299 consideration when the insurer starts writing covered policies,  
300 the potential exposure of the insurer, the potential exposure of  
301 the fund, the administrative costs to the insurer and to the  
302 fund, and any other factors deemed appropriate by the board. The  
303 formula must be approved by unanimous vote of the board. The  
304 board may, at any time, revise the formula pursuant to the  
305 procedure provided in this paragraph.

306 (7) ADDITIONAL POWERS AND DUTIES.--

307 (f) The board may require insurers to notarize documents  
308 submitted to the board.

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

310 (a) Findings and intent.--

311 1. The Legislature finds that:

312 a. Because of temporary disruptions in the market for  
313 catastrophic reinsurance, many property insurers were unable to  
314 procure sufficient amounts of reinsurance for the 2006 hurricane  
315 season or were able to procure such reinsurance only by  
316 incurring substantially higher costs than in prior years.

317 b. The reinsurance market problems were responsible, at  
318 least in part, for substantial premium increases to many  
319 consumers and increases in the number of policies issued by  
320 Citizens Property Insurance Corporation.

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

323 2. It is the intent of the Legislature to create options  
324 for insurers to purchase a temporary increased coverage limit  
325 above the statutorily determined limit in subparagraph (4)(c)1.,  
326 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and  
327 2013 hurricane seasons, to address market disruptions and enable  
328 insurers, at their option, to procure additional coverage from  
329 the Florida Hurricane Catastrophe Fund.

330 (b) Applicability of other provisions of this  
331 section.--All provisions of this section and the rules adopted  
332 under this section apply to the coverage created by this  
333 subsection unless specifically superseded by provisions in this  
334 subsection.

335 (c) Optional coverage.--For the contract year commencing  
336 June 1, 2007, and ending May 31, 2008, the contract year

337 | commencing June 1, 2008, and ending May 31, 2009, ~~and the~~  
 338 | contract year commencing June 1, 2009, and ending May 31, 2010,  
 339 | the contract year commencing June 1, 2010, and ending December  
 340 | 31, 2010, the contract year commencing January 1, 2011, and  
 341 | ending December 31, 2011, the contract year commencing January  
 342 | 1, 2012, and ending December 31, 2012, and the contract year  
 343 | commencing January 1, 2013, and ending December 31, 2013, the  
 344 | board shall offer, for each of such years, the optional coverage  
 345 | as provided in this subsection.

346 | (d) Additional definitions.--As used in this subsection,  
 347 | the term:

348 | 1. "FHCF" means Florida Hurricane Catastrophe Fund.

349 | 2. "FHCF reimbursement premium" means the premium paid by  
 350 | an insurer for its coverage as a mandatory participant in the  
 351 | FHCF, but does not include additional premiums for optional  
 352 | coverages.

353 | 3. "Payout multiple" means the number or multiple created  
 354 | by dividing the statutorily defined claims-paying capacity as  
 355 | determined in subparagraph (4)(c)1. by the aggregate  
 356 | reimbursement premiums paid by all insurers estimated or  
 357 | projected as of calendar year-end.

358 | 4. "TICL" means the temporary increase in coverage limit.

359 | 5. "TICL options" means the temporary increase in coverage  
 360 | options created under this subsection.

361 | 6. "TICL insurer" means an insurer that has opted to  
 362 | obtain coverage under the TICL options addendum in addition to  
 363 | the coverage provided to the insurer under its FHCF  
 364 | reimbursement contract, but does not include Citizens Property

365 Insurance Corporation.

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

368 8. "TICL coverage multiple" means the coverage multiple  
369 when multiplied by an insurer's reimbursement premium that  
370 defines the temporary increase in coverage limit.

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

378 a. The board shall calculate and report to each TICL  
379 insurer the TICL coverage multiples based on 12 options for  
380 increasing the insurer's FHCF coverage limit. Each TICL coverage  
381 multiple shall be calculated by dividing \$1 billion, \$2 billion,  
382 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8  
383 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by  
384 the total estimated aggregate FHCF reimbursement premiums for  
385 the 2007-2008 contract year and ~~the 2008-2009 contract year~~  
386 ~~and the 2009-2010 contract year.~~

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

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

395 c. For the contract year beginning June 1, 2010, and  
396 ending December 31, 2010, the board shall calculate and report  
397 to each TICL insurer the TICL coverage multiples based on eight  
398 options for increasing the insurer's FHCF coverage limit. Each  
399 TICL coverage multiple shall be calculated by dividing \$1  
400 billion, \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6  
401 billion, \$7 billion, and \$8 billion by the total estimated  
402 aggregate FHCF reimbursement premiums for the contract year.

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

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

417 f. For the 2013 contract year, the board shall calculate  
418 and report to each TICL insurer the TICL coverage multiples  
419 based on two options for increasing the insurer's FHCF coverage  
420 limit. Each TICL coverage multiple shall be calculated by

421 dividing \$1 billion and \$2 billion by the total estimated  
 422 aggregate FHCF reimbursement premiums for the 2013 contract  
 423 year.

424 ~~g.b.~~ The TICL insurer's increased coverage shall be the  
 425 FHCF reimbursement premium multiplied by the TICL coverage  
 426 multiple. In order to determine an insurer's total limit of  
 427 coverage, an insurer shall add its TICL coverage multiple to its  
 428 payout multiple. The total shall represent a number that, when  
 429 multiplied by an insurer's FHCF reimbursement premium for a  
 430 given reimbursement contract year, defines an insurer's total  
 431 limit of FHCF reimbursement coverage for that reimbursement  
 432 contract year.

433 10. "TICL options addendum" means an addendum to the  
 434 reimbursement contract reflecting the obligations of the fund  
 435 and insurers selecting an option to increase an insurer's FHCF  
 436 coverage limit.

437 (e) TICL options addendum.--

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



449 coverage at the time that it executes the FHCF reimbursement  
450 contract.

451 2.a. The TICL addendum for the contract year commencing  
452 June 1, 2007, and ending May 31, 2008, or the contract year  
453 commencing June 1, 2008, and ending May 31, 2009, shall contain  
454 a promise by the board to reimburse the TICL insurer for 45  
455 percent, 75 percent, or 90 percent of its losses from each  
456 covered event in excess of the insurer's retention, plus 5  
457 percent of the reimbursed losses to cover loss adjustment  
458 expenses. The percentage shall be the same as the coverage level  
459 selected by the insurer under paragraph (4)(b).

460 b. The TICL addendum for the contract year commencing June  
461 1, 2009, and ending May 31, 2010, shall contain a promise by the  
462 board to reimburse the TICL insurer for 45 percent or 75 percent  
463 of its losses from each covered event in excess of the insurer's  
464 retention, plus 5 percent of the reimbursed losses to cover loss  
465 adjustment expenses.

466 c. The TICL addendum for the contract year commencing June  
467 1, 2010, and ending December 31, 2010, shall contain a promise  
468 by the board to reimburse the TICL insurer for 45 percent or 65  
469 percent of its losses from each covered event in excess of the  
470 insurer's retention, plus 5 percent of the reimbursed losses to  
471 cover loss adjustment expenses.

472 d. The TICL addendum for the contract year commencing  
473 January 1, 2011, and ending December 31, 2011, shall contain a  
474 promise by the board to reimburse the TICL insurer for 45  
475 percent or 55 percent of its losses from each covered event in  
476 excess of the insurer's retention, plus 5 percent of the

477 reimbursed losses to cover loss adjustment expenses.

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

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

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

493 4. The priorities, schedule, and method of reimbursements  
494 under the TICL addendum shall be the same as provided under  
495 subsection (4).

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

505 contract year by a factor of four, in the 2012 contract year by  
 506 a factor of five, and in the 2013 contract year by a factor of  
 507 six.

508 (g) Effect on claims-paying capacity of the fund.--For the  
 509 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June  
 510 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and  
 511 January 1, 2013, the program created by this subsection shall  
 512 increase the claims-paying capacity of the fund as provided in  
 513 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and  
 514 shall depend on the TICL coverage options selected and the  
 515 number of insurers that select the TICL optional coverage. The  
 516 additional capacity shall apply only to the additional coverage  
 517 provided under the TICL options and shall not otherwise affect  
 518 any insurer's reimbursement from the fund if the insurer chooses  
 519 not to select the temporary option to increase its limit of  
 520 coverage under the FHCF.

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

533 ~~additional coverage provided in this paragraph shall be~~  
534 ~~determined as specified in subsection (5).~~

535 Section 3. Section 215.5586, Florida Statutes, as amended  
536 by section 1 of chapter 2009-10, Laws of Florida, is amended to  
537 read:

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

555 (1) HURRICANE MITIGATION INSPECTIONS.--

556 (a) Certified inspectors to provide ~~free~~ home-retrofit  
557 inspections of site-built, single-family, residential property  
558 may shall be offered ~~throughout the state~~ to determine what  
559 mitigation measures are needed, what insurance premium discounts  
560 may be available, and what improvements to existing residential

561 properties are needed to reduce the property's vulnerability to  
562 hurricane damage. The Department of Financial Services shall  
563 contract with wind certification entities to provide ~~free~~  
564 hurricane mitigation inspections. The inspections provided to  
565 homeowners, at a minimum, must include:

566 1. A home inspection and report that summarizes the  
567 results and identifies recommended improvements a homeowner may  
568 take to mitigate hurricane damage.

569 2. A range of cost estimates regarding the recommended  
570 mitigation improvements.

571 3. Insurer-specific information regarding premium  
572 discounts correlated to the current mitigation features and the  
573 recommended mitigation improvements identified by the  
574 inspection.

575 4. A hurricane resistance rating scale specifying the  
576 home's current as well as projected wind resistance  
577 capabilities. As soon as practical, the rating scale must be the  
578 uniform home grading scale adopted by the Financial Services  
579 Commission pursuant to s. 215.55865.

580 (b) To qualify for selection by the department as a wind  
581 certification entity to provide hurricane mitigation  
582 inspections, the entity shall, at a minimum, meet the following  
583 requirements:

584 1. Use hurricane mitigation inspectors who:

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

586 b. Are licensed as a general or residential contractor  
587 under s. 489.111;

588 c. Are licensed as a professional engineer under s.

589 471.015 and who have passed the appropriate equivalency test of  
590 the Building Code Training Program as required by s. 553.841;

591 d. Are licensed as a professional architect under s.  
592 481.213; or

593 e. Have at least 2 years of experience in residential  
594 construction or residential building inspection and have  
595 received specialized training in hurricane mitigation  
596 procedures. Such training may be provided by a class offered  
597 online or in person.

598 2. Use hurricane mitigation inspectors who also:

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

611 b. Have been certified, in a manner satisfactory to the  
612 department, to conduct the inspections.

613 3. Provide a quality assurance program including a  
614 reinspection component.

615 (c) The department shall implement a quality assurance  
616 program that includes a statistically valid number of

617 reinspections.

618 (d) An application for an inspection must contain a signed  
 619 or electronically verified statement made under penalty of  
 620 perjury that the applicant has submitted only a single  
 621 application for that home.

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

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

630 (a) For a homeowner to be eligible for a grant, the  
 631 following criteria for persons who have obtained a completed  
 632 inspection after May 1, 2007, a residential property must be  
 633 met:

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

636 2. The home must be a dwelling with an insured value of  
 637 \$300,000 or less. Homeowners who are low-income persons, as  
 638 defined in s. 420.0004(10), are exempt from this requirement.

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

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

644 5. ~~Be a home for which~~ The building permit application for

645 initial construction of the home must have been ~~was~~ made before  
646 March 1, 2002.

647  
648 An application for a grant must contain a signed or  
649 electronically verified statement made under penalty of perjury  
650 that the applicant has submitted only a single application and  
651 must have attached documents demonstrating the applicant meets  
652 the requirements of this paragraph.

653 (b) All grants must be matched on a dollar-for-dollar  
654 basis up to ~~for~~ a total of \$10,000 for the actual cost of the  
655 mitigation project with the state's contribution not to exceed  
656 \$5,000.

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

668 (d) Matching fund grants shall also be made available to  
669 local governments and nonprofit entities for projects that will  
670 reduce hurricane damage to single-family, site-built, owner-  
671 occupied, residential property. The department shall liberally  
672 construe those requirements in favor of availing the state of



673 the opportunity to leverage funding for the My Safe Florida Home  
 674 Program with other sources of funding.

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

- 677 1. Opening protection.
- 678 2. Exterior doors, including garage doors.
- 679 3. Brace gable ends.
- 680 4. Reinforcing roof-to-wall connections.
- 681 5. Improving the strength of roof-deck attachments.
- 682 6. Upgrading roof covering from code to code plus.
- 683 7. Secondary water barrier for roof.

684  
 685 The department may require that improvements be made to all  
 686 openings, including exterior doors and garage doors, as a  
 687 condition of reimbursing a homeowner approved for a grant.

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

697 (g) Low-income homeowners, as defined in s. 420.0004(10),  
 698 who otherwise meet the requirements of paragraphs (a), (c), (e),  
 699 and (f) are eligible for a grant of up to \$5,000 and are not  
 700 required to provide a matching amount to receive the grant.

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701 Additionally, for low-income homeowners, grant funding may be  
702 used for repair to existing structures leading to any of the  
703 mitigation improvements provided in paragraph (e), limited to 20  
704 percent of the grant value. The program may accept a  
705 certification directly from a low-income homeowner that the  
706 homeowner meets the requirements of s. 420.0004(10) if the  
707 homeowner provides such certification in a signed or  
708 electronically verified statement made under penalty of perjury.

709 (h) The department shall establish objective, reasonable  
710 criteria for prioritizing grant applications, consistent with  
711 the requirements of this section.

712 (i) The department shall develop a process that ensures  
713 the most efficient means to collect and verify grant  
714 applications to determine eligibility and may direct hurricane  
715 mitigation inspectors to collect and verify grant application  
716 information or use the Internet or other electronic means to  
717 collect information and determine eligibility.

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

725 (4) ADVISORY COUNCIL.--There is created an advisory  
726 council to provide advice and assistance to the department  
727 regarding administration of the program. The advisory council  
728 shall consist of:

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

732 (b) A representative of residential property insurers,  
 733 selected by the Financial Services Commission from a list of at  
 734 least three persons recommended by the Florida Insurance  
 735 Council.

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

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

742 (e) Two members of the House of Representatives, selected  
 743 by the Speaker of the House of Representatives.

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

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

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

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

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

754  
 755 Members appointed under paragraphs (a)-(d) shall serve at the  
 756 pleasure of the Financial Services Commission. Members appointed

757 | under paragraphs (e) and (f) shall serve at the pleasure of the  
758 | appointing officer. All other members shall serve as voting ex  
759 | officio members. Members of the advisory council shall serve  
760 | without compensation but may receive reimbursement as provided  
761 | in s. 112.061 for per diem and travel expenses incurred in the  
762 | performance of their official duties.

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

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

773 | (7) HURRICANE MITIGATION INSPECTOR LIST.--The department  
774 | shall develop and maintain as a public record a current list of  
775 | hurricane mitigation inspectors authorized to conduct hurricane  
776 | mitigation inspections pursuant to this section.

777 | ~~(8) NO-INTEREST LOANS.--The department shall implement a~~  
778 | ~~no-interest loan program by October 1, 2008, contingent upon the~~  
779 | ~~selection of a qualified vendor and execution of a contract~~  
780 | ~~acceptable to the department and the vendor. The department~~  
781 | ~~shall enter into partnerships with the private sector to provide~~  
782 | ~~loans to owners of site-built, single-family, residential~~  
783 | ~~property to pay for mitigation measures listed in subsection~~  
784 | ~~(2). A loan eligible for interest payments pursuant to this~~

785 ~~subsection may be for a term of up to 3 years and cover up to~~  
 786 ~~\$5,000 in mitigation measures. The department shall pay the~~  
 787 ~~creditor the market rate of interest using funds appropriated~~  
 788 ~~for the My Safe Florida Home Program. In no case shall the~~  
 789 ~~department pay more than the interest rate set by s. 687.03. To~~  
 790 ~~be eligible for a loan, a loan applicant must first obtain a~~  
 791 ~~home inspection and report that specifies what improvements are~~  
 792 ~~needed to reduce the property's vulnerability to windstorm~~  
 793 ~~damage pursuant to this section and meet loan underwriting~~  
 794 ~~requirements set by the lender. The department may adopt rules~~  
 795 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~  
 796 ~~subsection which may include eligibility criteria.~~

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

811 (9)~~(10)~~ CONTRACT MANAGEMENT.--The department may contract  
 812 with third parties for grants management, inspection services,

813 contractor services for low-income homeowners, information  
 814 technology, educational outreach, and auditing services. Such  
 815 contracts shall be considered direct costs of the program and  
 816 shall not be subject to administrative cost limits, but  
 817 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject  
 818 to review and approval by the Legislative Budget Commission. The  
 819 department shall contract with providers that have a  
 820 demonstrated record of successful business operations in areas  
 821 directly related to the services to be provided and shall ensure  
 822 the highest accountability for use of state funds, consistent  
 823 with this section.

824 ~~(10)-(11)~~ INTENT.--It is the intent of the Legislature that  
 825 grants made to residential property owners under this section  
 826 shall be considered disaster-relief assistance within the  
 827 meaning of s. 139 of the Internal Revenue Code of 1986, as  
 828 amended.

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

837 (12) CONDOMINIUM WEATHERIZATION AND MITIGATION LOAN  
 838 PROGRAM.--

839 (a) Subject to a specific appropriation by the Legislature  
 840 from funds received pursuant to the American Recovery and

841 Reinvestment Act of 2009, Pub. L. No. 111-5, specifically for  
842 the purpose of condominium weatherization, the department shall  
843 implement a condominium weatherization and mitigation loan  
844 program to assist condominium unit owners in weatherizing their  
845 condominium units and mitigating all such units against wind  
846 damage. The program shall have the following minimum  
847 requirements:

848 1. The department shall contract with lenders to offer  
849 weatherization and hurricane mitigation loan subsidies equal to  
850 a competitive rate of interest on a loan balance of up to \$5,000  
851 per condominium unit for 3 years. The interest subsidy may be  
852 paid in advance by the department to a lender participating in  
853 the program.

854 2. The loans must be used to purchase or install  
855 weatherization measures and hurricane mitigation measures  
856 identified in paragraph (2) (e) that comply with the requirements  
857 of part A, Title IV of the Energy Conservation and Production  
858 Act, 42 U.S.C. ss. 6861 et seq., as amended by the American  
859 Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as  
860 determined by the department.

861 3. A participating condominium association must agree to  
862 purchase and install weatherization and mitigation measures for  
863 each unit in the condominium that lacks the weatherization and  
864 mitigation measures.

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

868 5. Condominiums of more than 200 units are not eligible

869 for the loan program.

870 6. The department may contract with third parties for  
 871 auditing and related services to ensure accountability and  
 872 program quality.

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

875 (c) The department shall adopt rules pursuant to ss.  
 876 120.536(1) and 120.54 to implement the loan program.

877 Section 4. Subsections (5) and (6) are added to section  
 878 624.4622, Florida Statutes, to read:

879 624.4622 Local government self-insurance funds.--

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

884 (6) (a) Each local government self-insurance fund shall  
 885 submit annually to the office, to the governing body of each  
 886 member participant, and to the governing board of each new  
 887 member before the inception of the policy an affidavit stating  
 888 whether an officer or owner of or the manager or administrator  
 889 of a local government self-insurance fund has ever:

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

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

894 3. Had adjudication of guilt withheld, had a sentence  
 895 imposed or suspended, had a pronouncement of a sentence  
 896 suspended, or been pardoned, fined, or placed on probation for



897 any criminal offense other than a motor vehicle offense; or  
 898 4 Been, within the last 10 years, found liable in any  
 899 civil action involving dishonesty or a breach of trust.

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

903 Section 5. Paragraph (r) of subsection (1) of section  
 904 624.605, Florida Statutes, is amended to read:

905 624.605 "Casualty insurance" defined.--

906 (1) "Casualty insurance" includes:

907 (r) Insurance for debt cancellation products.--Insurance  
 908 that a creditor may purchase against the risk of financial loss  
 909 from the use of debt cancellation products with consumer loans  
 910 or leases or retail installment contracts. Insurance for debt  
 911 cancellation products is not liability insurance but shall be  
 912 considered credit insurance only for the purposes of s.

913 631.52(4).

914 1. For purposes of this paragraph, the term "debt  
 915 cancellation products" means loan, lease, or retail installment  
 916 contract terms, or modifications to loan, lease, or retail  
 917 installment contracts, under which a creditor agrees to cancel  
 918 or suspend all or part of a customer's obligation to make  
 919 payments upon the occurrence of specified events and includes,  
 920 but is not limited to, debt cancellation contracts, debt  
 921 suspension agreements, and guaranteed asset protection  
 922 contracts. However, the term "debt cancellation products" does  
 923 not include title insurance as defined in s. 624.608.

924 2. Debt cancellation products may be offered by financial

925 institutions, as defined in s. 655.005(1)(h), insured depository  
 926 institutions, as defined in 12 U.S.C. s. 1813(c), and  
 927 subsidiaries of such institutions, as provided in the financial  
 928 institutions codes, or by other business entities selling a  
 929 product that may be goods, services, or real property and  
 930 interests in real property, the sale of which product is  
 931 regulated by an agency of the state and when the extension of  
 932 credit is offered in connection with the purchase of such  
 933 product. ~~as may be specifically authorized by law, and Such debt~~  
 934 ~~cancellation~~ products shall not constitute insurance for  
 935 purposes of the Florida Insurance Code.

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

939 627.062 Rate standards.--

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

941 (a) Insurers or rating organizations shall establish and  
 942 use rates, rating schedules, or rating manuals to allow the  
 943 insurer a reasonable rate of return on such classes of insurance  
 944 written in this state. A copy of rates, rating schedules, rating  
 945 manuals, premium credits or discount schedules, and surcharge  
 946 schedules, and changes thereto, shall be filed with the office  
 947 under one of the following procedures except as provided in  
 948 subparagraph 3.:

949 1. If the filing is made at least 90 days before the  
 950 proposed effective date and the filing is not implemented during  
 951 the office's review of the filing and any proceeding and  
 952 judicial review, then such filing shall be considered a "file

953 and use" filing. In such case, the office shall finalize its  
954 review by issuance of a notice of intent to approve or a notice  
955 of intent to disapprove within 90 days after receipt of the  
956 filing. The notice of intent to approve and the notice of intent  
957 to disapprove constitute agency action for purposes of the  
958 Administrative Procedure Act. Requests for supporting  
959 information, requests for mathematical or mechanical  
960 corrections, or notification to the insurer by the office of its  
961 preliminary findings shall not toll the 90-day period during any  
962 such proceedings and subsequent judicial review. The rate shall  
963 be deemed approved if the office does not issue a notice of  
964 intent to approve or a notice of intent to disapprove within 90  
965 days after receipt of the filing.

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

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

980           (i) 1. Except as otherwise specifically provided in this  
981 chapter, the office shall not prohibit any insurer, including  
982 any residual market plan or joint underwriting association, from  
983 paying acquisition costs based on the full amount of premium, as  
984 defined in s. 627.403, applicable to any policy, or prohibit any  
985 such insurer from including the full amount of acquisition costs  
986 in a rate filing.

987           2. Unless specifically authorized by law, the office shall  
988 not interfere, directly or indirectly, with an insurer's right  
989 to solicit, sell, promote, or otherwise acquire policyholders  
990 and implement coverage using its own lawful methodologies,  
991 systems, agents, and approaches, including the calculation,  
992 manner, or amount of agent commissions, if any. This  
993 subparagraph applies only to rate filings made pursuant to this  
994 section.

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

997           1. With respect to any residential property insurance  
998 subject to regulation under this section, a rate filing,  
999 including, but not limited to, any rate changes, rating factors,  
1000 territories, classifications, discounts, and credits, with  
1001 respect to any policy form, including endorsements issued with  
1002 the form, that results in an overall average statewide premium  
1003 increase or decrease of no more than 10 percent above or below  
1004 the premium that would result from the insurer's rates then in  
1005 effect shall not be subject to a determination by the office  
1006 that the rate is excessive or unfairly discriminatory, except as  
1007 provided in subparagraph 3. or any other provision of law,

1008 provided all changes specified in the filing do not result in an  
 1009 overall premium increase of more than 15 percent for any one  
 1010 territory for reasons related solely to the rate change. As used  
 1011 in this subparagraph, the term "insurer's rates then in effect"  
 1012 includes only rates that have been lawfully in effect under this  
 1013 section or rates that have been determined to be lawful through  
 1014 administrative proceedings or judicial proceedings.

1015 2. An insurer may not make filings under this paragraph  
 1016 with respect to any policy form, including endorsements issued  
 1017 with the form, if the overall premium changes resulting from  
 1018 such filings exceed the amounts specified in this paragraph in  
 1019 any 12-month period. An insurer may proceed under other  
 1020 provisions of this section or other provisions of the laws of  
 1021 this state if the insurer seeks to exceed the premium or rate  
 1022 limitations of this paragraph.

1023 3. This paragraph does not affect the authority of the  
 1024 office to disapprove a rate as inadequate or to disapprove a  
 1025 filing for the unlawful use of unfairly discriminatory rating  
 1026 factors that are prohibited by the laws of this state. An  
 1027 insurer electing to implement a rate change under this paragraph  
 1028 shall submit a filing to the office at least 30 days prior to  
 1029 the effective date of the rate change. The office shall have 30  
 1030 days after the filing's submission to review the filing and  
 1031 determine if the rate is inadequate or uses unfairly  
 1032 discriminatory rating factors. Absent a finding by the office  
 1033 within such 30-day period that the rate is inadequate or that  
 1034 the insurer has used unfairly discriminatory rating factors, the  
 1035 filing is deemed approved. If the insurer is implementing an

1036 overall rate decrease and the office finds during the 30-day  
 1037 period that the filing will result in inadequate premiums or  
 1038 otherwise endanger the insurer's solvency, the office shall  
 1039 suspend the rate decrease. If the insurer is implementing an  
 1040 overall rate increase the results of which continue to produce  
 1041 an inadequate rate, such increase shall proceed pending  
 1042 additional action by the office to ensure the adequacy of the  
 1043 rate.

1044 4. This paragraph does not apply to rate filings for any  
 1045 insurance other than residential property insurance.

1046  
 1047 The provisions of this subsection shall not apply to workers'  
 1048 compensation and employer's liability insurance and to motor  
 1049 vehicle insurance.

1050 Section 7. Section 627.0621, Florida Statutes, as amended  
 1051 by section 82 of chapter 2009-21, Laws of Florida, is amended to  
 1052 read:

1053 627.0621 Transparency in rate regulation.--

1054 (1) DEFINITIONS.--As used in this section, the term:

1055 (a) "Rate filing" means any original or amended rate  
 1056 residential property insurance filing.

1057 (b) "Recommendation" means any proposed, preliminary, or  
 1058 final recommendation from an office actuary reviewing a rate  
 1059 filing with respect to the issue of approval or disapproval of  
 1060 the rate filing or with respect to rate indications that the  
 1061 office would consider acceptable.

1062 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING

1063 INFORMATION.--With respect to any rate filing made on or after

1064 July 1, 2008, the office shall provide the following information  
 1065 on a publicly accessible Internet website:

1066 (a) The overall rate change requested by the insurer.

1067 (b) All assumptions made by the office's actuaries.

1068 (c) A statement describing any assumptions or methods that  
 1069 deviate from the actuarial standards of practice of the Casualty  
 1070 Actuarial Society or the American Academy of Actuaries,  
 1071 including an explanation of the nature, rationale, and effect of  
 1072 the deviation.

1073 (d) All recommendations made by any office actuary who  
 1074 reviewed the rate filing.

1075 (e) Certification by the office's actuary that, based on  
 1076 the actuary's knowledge, his or her recommendations are  
 1077 consistent with accepted actuarial principles.

1078 (f) The overall rate change approved by the office.

1079 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT.--It is the~~  
 1080 ~~intent of the Legislature that the principles of the public~~  
 1081 ~~records and open meetings laws apply to the assertion of~~  
 1082 ~~attorney-client privilege and work product confidentiality by~~  
 1083 ~~the office in connection with a challenge to its actions on a~~  
 1084 ~~rate filing. Therefore, in any administrative or judicial~~  
 1085 ~~proceeding relating to a rate filing, attorney-client privilege~~  
 1086 ~~and work product exemptions from disclosure do not apply to~~  
 1087 ~~communications with office attorneys or records prepared by or~~  
 1088 ~~at the direction of an office attorney, except when the~~  
 1089 ~~conditions of paragraphs (a) and (b) have been met:~~

1090 ~~(a) The communication or record reflects a mental~~  
 1091 ~~impression, conclusion, litigation strategy, or legal theory of~~

1092 ~~the attorney or office that was prepared exclusively for civil~~  
 1093 ~~or criminal litigation or adversarial administrative~~  
 1094 ~~proceedings.~~

1095 ~~(b) The communication occurred or the record was prepared~~  
 1096 ~~after the initiation of an action in a court of competent~~  
 1097 ~~jurisdiction, after the issuance of a notice of intent to deny a~~  
 1098 ~~rate filing, or after the filing of a request for a proceeding~~  
 1099 ~~under ss. 120.569 and 120.57.~~

1100 Section 8. Subsection (4) is added to section 627.0628,  
 1101 Florida Statutes, to read:

1102 627.0628 Florida Commission on Hurricane Loss Projection  
 1103 Methodology; public records exemption; public meetings  
 1104 exemption.--

1105 (4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE  
 1106 DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO  
 1107 WINDSTORM MITIGATION.--The commission shall hold public meetings  
 1108 for the purpose of receiving testimony and data regarding the  
 1109 implementation of windstorm mitigation discounts, credits, other  
 1110 rate differentials, and appropriate reductions in deductibles  
 1111 pursuant to s. 627.0629. After reviewing the testimony and data  
 1112 as well as any other information the commission deems  
 1113 appropriate, the commission shall present a report by October 1,  
 1114 2009, to the Governor, the Cabinet, the President of the Senate,  
 1115 and the Speaker of the House of Representatives, including  
 1116 recommendations on improving the process of assessing,  
 1117 determining, and applying windstorm mitigation discounts,  
 1118 credits, other rate differentials, and appropriate reductions in  
 1119 deductibles pursuant to s. 627.0629.



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1120 Section 9. Paragraph (b) of subsection (1) and subsection  
1121 (5) of section 627.0629, Florida Statutes, are amended to read:  
1122 627.0629 Residential property insurance; rate filings.--  
1123 (1)  
1124 (b) By February 1, 2011, the Office of Insurance  
1125 Regulation, in consultation with the Department of Financial  
1126 Services and the Department of Community Affairs, shall develop  
1127 and make publicly available a proposed method for insurers to  
1128 establish discounts, credits, or other rate differentials for  
1129 hurricane mitigation measures which directly correlate to the  
1130 numerical rating assigned to a structure pursuant to the uniform  
1131 home grading scale adopted by the Financial Services Commission  
1132 pursuant to s. 215.55865, including any proposed changes to the  
1133 uniform home grading scale. By October 1, 2011, the commission  
1134 shall adopt rules requiring insurers to make rate filings for  
1135 residential property insurance which revise insurers' discounts,  
1136 credits, or other rate differentials for hurricane mitigation  
1137 measures so that such rate differentials correlate directly to  
1138 the uniform home grading scale. The rules may include such  
1139 changes to the uniform home grading scale as the commission  
1140 determines are necessary, and may specify the minimum required  
1141 discounts, credits, or other rate differentials. Such rate  
1142 differentials must be consistent with generally accepted  
1143 actuarial principles and wind-loss mitigation studies. The rules  
1144 shall allow a period of at least 2 years after the effective  
1145 date of the revised mitigation discounts, credits, or other rate  
1146 differentials for a property owner to obtain an inspection or  
1147 otherwise qualify for the revised credit, during which time the

1148 insurer shall continue to apply the mitigation credit that was  
 1149 applied immediately prior to the effective date of the revised  
 1150 credit. Discounts, credits, and other rate differentials  
 1151 established for rate filings under this paragraph shall  
 1152 supersede, after adoption, the discounts, credits, and other  
 1153 rate differentials included in rate filings under paragraph (a).

1154 (5) In order to provide an appropriate transition period,  
 1155 an insurer may, in its sole discretion, implement an approved  
 1156 rate filing for residential property insurance over a period of  
 1157 years. An insurer electing to phase in its rate filing must  
 1158 provide an informational notice to the office setting out its  
 1159 schedule for implementation of the phased-in rate filing. An  
 1160 insurer may include in its rate the actual cost of reinsurance  
 1161 without the addition of an expense or profit load for the  
 1162 insurer that duplicates coverage of the temporary increase in  
 1163 coverage limit (TICL) available from the Florida Hurricane  
 1164 Catastrophe Fund, even if the insurer does not purchase the TICL  
 1165 coverage, to the extent the total annual base rate increase does  
 1166 not exceed 10 percent as a result of such inclusion.

1167 Section 10. Section 627.0655, Florida Statutes, is amended  
 1168 to read:

1169 627.0655 Policyholder loss or expense-related premium  
 1170 discounts.--An insurer or person authorized to engage in the  
 1171 business of insurance in this state may include, in the premium  
 1172 charged an insured for any policy, contract, or certificate of  
 1173 insurance, a discount based on the fact that another policy,  
 1174 contract, or certificate of any type has been purchased by the  
 1175 insured from the same insurer or insurer group, or, for policies

1176 issued or renewed before January 1, 2010, from the Citizens  
1177 Property Insurance Corporation created under s. 627.351(6) if  
1178 the same insurance agent is servicing both policies, or for  
1179 policies issued or renewed before January 1, 2010, from an  
1180 insurer that has removed the policy from the Citizens Property  
1181 Insurance Corporation if the same insurance agent is servicing  
1182 both policies.

1183 Section 11. Paragraphs (y) through (ee) of subsection (6)  
1184 of section 627.351, Florida Statutes, are redesignated as  
1185 paragraphs (x) through (dd), respectively, and paragraphs (a),  
1186 (b), (c), and (m) and present paragraph (x) of that subsection  
1187 are amended to read:

1188 627.351 Insurance risk apportionment plans.--

1189 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1190 (a)1. It is the public purpose of this subsection to  
1191 ensure the existence of an orderly market for property insurance  
1192 for Floridians and Florida businesses. The Legislature finds  
1193 that private insurers are unwilling or unable to provide  
1194 affordable property insurance coverage in this state to the  
1195 extent sought and needed. The absence of affordable property  
1196 insurance threatens the public health, safety, and welfare and  
1197 likewise threatens the economic health of the state. The state  
1198 therefore has a compelling public interest and a public purpose  
1199 to assist in assuring that property in the state is insured and  
1200 that it is insured at affordable rates so as to facilitate the  
1201 remediation, reconstruction, and replacement of damaged or  
1202 destroyed property in order to reduce or avoid the negative  
1203 effects otherwise resulting to the public health, safety, and

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1204 welfare, to the economy of the state, and to the revenues of the  
1205 state and local governments which are needed to provide for the  
1206 public welfare. It is necessary, therefore, to provide  
1207 affordable property insurance to applicants who are in good  
1208 faith entitled to procure insurance through the voluntary market  
1209 but are unable to do so. The Legislature intends by this  
1210 subsection that affordable property insurance be provided and  
1211 that it continue to be provided, as long as necessary, through  
1212 Citizens Property Insurance Corporation, a government entity  
1213 that is an integral part of the state, and that is not a private  
1214 insurance company. To that end, Citizens Property Insurance  
1215 Corporation shall strive to increase the availability of  
1216 affordable property insurance in this state, while achieving  
1217 efficiencies and economies, and while providing service to  
1218 policyholders, applicants, and agents which is no less than the  
1219 quality generally provided in the voluntary market, for the  
1220 achievement of the foregoing public purposes. Because it is  
1221 essential for this government entity to have the maximum  
1222 financial resources to pay claims following a catastrophic  
1223 hurricane, it is the intent of the Legislature that Citizens  
1224 Property Insurance Corporation continue to be an integral part  
1225 of the state and that the income of the corporation be exempt  
1226 from federal income taxation and that interest on the debt  
1227 obligations issued by the corporation be exempt from federal  
1228 income taxation.

1229         2. The Residential Property and Casualty Joint  
1230 Underwriting Association originally created by this statute  
1231 shall be known, as of July 1, 2002, as the Citizens Property

1232 Insurance Corporation. The corporation shall provide insurance  
1233 for residential and commercial property, for applicants who are  
1234 in good faith entitled, but are unable, to procure insurance  
1235 through the voluntary market. The corporation shall operate  
1236 pursuant to a plan of operation approved by order of the  
1237 Financial Services Commission. The plan is subject to continuous  
1238 review by the commission. The commission may, by order, withdraw  
1239 approval of all or part of a plan if the commission determines  
1240 that conditions have changed since approval was granted and that  
1241 the purposes of the plan require changes in the plan. The  
1242 corporation shall continue to operate pursuant to the plan of  
1243 operation approved by the Office of Insurance Regulation until  
1244 October 1, 2006. For the purposes of this subsection,  
1245 residential coverage includes both personal lines residential  
1246 coverage, which consists of the type of coverage provided by  
1247 homeowner's, mobile home owner's, dwelling, tenant's,  
1248 condominium unit owner's, and similar policies, and commercial  
1249 lines residential coverage, which consists of the type of  
1250 coverage provided by condominium association, apartment  
1251 building, and similar policies.

1252 3. Effective January 1, 2009, a personal lines residential  
1253 structure that has a dwelling replacement cost of \$2 million or  
1254 more, or a single condominium unit that has a combined dwelling  
1255 and content replacement cost of \$2 million or more is not  
1256 eligible for coverage by the corporation. Such dwellings insured  
1257 by the corporation on December 31, 2008, may continue to be  
1258 covered by the corporation until the end of the policy term.  
1259 However, such dwellings that are insured by the corporation and

1260 become ineligible for coverage due to the provisions of this  
1261 subparagraph may reapply and obtain coverage if the property  
1262 owner provides the corporation with a sworn affidavit from one  
1263 or more insurance agents, on a form provided by the corporation,  
1264 stating that the agents have made their best efforts to obtain  
1265 coverage and that the property has been rejected for coverage by  
1266 at least one authorized insurer and at least three surplus lines  
1267 insurers. If such conditions are met, the dwelling may be  
1268 insured by the corporation for up to 3 years, after which time  
1269 the dwelling is ineligible for coverage. The office shall  
1270 approve the method used by the corporation for valuing the  
1271 dwelling replacement cost for the purposes of this subparagraph.  
1272 If a policyholder is insured by the corporation prior to being  
1273 determined to be ineligible pursuant to this subparagraph and  
1274 such policyholder files a lawsuit challenging the determination,  
1275 the policyholder may remain insured by the corporation until the  
1276 conclusion of the litigation.

1277 4. It is the intent of the Legislature that policyholders,  
1278 applicants, and agents of the corporation receive service and  
1279 treatment of the highest possible level but never less than that  
1280 generally provided in the voluntary market. It also is intended  
1281 that the corporation be held to service standards no less than  
1282 those applied to insurers in the voluntary market by the office  
1283 with respect to responsiveness, timeliness, customer courtesy,  
1284 and overall dealings with policyholders, applicants, or agents  
1285 of the corporation.

1286 5. Effective January 1, 2009, a personal lines residential  
1287 structure that is located in the "wind-borne debris region," as

1288 defined in s. 1609.2, International Building Code (2006), and  
 1289 that has an insured value on the structure of \$750,000 or more  
 1290 is not eligible for coverage by the corporation unless the  
 1291 structure has opening protections as required under the Florida  
 1292 Building Code for a newly constructed residential structure in  
 1293 that area. A residential structure shall be deemed to comply  
 1294 with the requirements of this subparagraph if it has shutters or  
 1295 opening protections on all openings and if such opening  
 1296 protections complied with the Florida Building Code at the time  
 1297 they were installed. ~~Effective January 1, 2010, for personal~~  
 1298 ~~lines residential property insured by the corporation that is~~  
 1299 ~~located in the wind borne debris region and has an insured value~~  
 1300 ~~on the structure of \$500,000 or more, a prospective purchaser of~~  
 1301 ~~any such residential property must be provided by the seller a~~  
 1302 ~~written disclosure that contains the structure's windstorm~~  
 1303 ~~mitigation rating based on the uniform home grading scale~~  
 1304 ~~adopted under s. 215.55865. Such rating shall be provided to the~~  
 1305 ~~purchaser at or before the time the purchaser executes a~~  
 1306 ~~contract for sale and purchase.~~

1307 (b)1. All insurers authorized to write one or more subject  
 1308 lines of business in this state are subject to assessment by the  
 1309 corporation and, for the purposes of this subsection, are  
 1310 referred to collectively as "assessable insurers." Insurers  
 1311 writing one or more subject lines of business in this state  
 1312 pursuant to part VIII of chapter 626 are not assessable  
 1313 insurers, but insureds who procure one or more subject lines of  
 1314 business in this state pursuant to part VIII of chapter 626 are  
 1315 subject to assessment by the corporation and are referred to

1316 collectively as "assessable insureds." An authorized insurer's  
 1317 assessment liability shall begin on the first day of the  
 1318 calendar year following the year in which the insurer was issued  
 1319 a certificate of authority to transact insurance for subject  
 1320 lines of business in this state and shall terminate 1 year after  
 1321 the end of the first calendar year during which the insurer no  
 1322 longer holds a certificate of authority to transact insurance  
 1323 for subject lines of business in this state.

1324 2.a. All revenues, assets, liabilities, losses, and  
 1325 expenses of the corporation shall be divided into three separate  
 1326 accounts as follows:

1327 (I) A personal lines account for personal residential  
 1328 policies issued by the corporation or issued by the Residential  
 1329 Property and Casualty Joint Underwriting Association and renewed  
 1330 by the corporation that provide comprehensive, multiperil  
 1331 coverage on risks that are not located in areas eligible for  
 1332 coverage in the Florida Windstorm Underwriting Association as  
 1333 those areas were defined on January 1, 2002, and for such  
 1334 policies that do not provide coverage for the peril of wind on  
 1335 risks that are located in such areas;

1336 (II) A commercial lines account for commercial residential  
 1337 and commercial nonresidential policies issued by the corporation  
 1338 or issued by the Residential Property and Casualty Joint  
 1339 Underwriting Association and renewed by the corporation that  
 1340 provide coverage for basic property perils on risks that are not  
 1341 located in areas eligible for coverage in the Florida Windstorm  
 1342 Underwriting Association as those areas were defined on January  
 1343 1, 2002, and for such policies that do not provide coverage for



1344 the peril of wind on risks that are located in such areas; and  
 1345 (III) A high-risk account for personal residential  
 1346 policies and commercial residential and commercial  
 1347 nonresidential property policies issued by the corporation or  
 1348 transferred to the corporation that provide coverage for the  
 1349 peril of wind on risks that are located in areas eligible for  
 1350 coverage in the Florida Windstorm Underwriting Association as  
 1351 those areas were defined on January 1, 2002. The corporation may  
 1352 offer policies that provide multiperil coverage and the  
 1353 corporation shall continue to offer policies that provide  
 1354 coverage only for the peril of wind for risks located in areas  
 1355 eligible for coverage in the high-risk account. In issuing  
 1356 multiperil coverage, the corporation may use its approved policy  
 1357 forms and rates for the personal lines account. An applicant or  
 1358 insured who is eligible to purchase a multiperil policy from the  
 1359 corporation may purchase a multiperil policy from an authorized  
 1360 insurer without prejudice to the applicant's or insured's  
 1361 eligibility to prospectively purchase a policy that provides  
 1362 coverage only for the peril of wind from the corporation. An  
 1363 applicant or insured who is eligible for a corporation policy  
 1364 that provides coverage only for the peril of wind may elect to  
 1365 purchase or retain such policy and also purchase or retain  
 1366 coverage excluding wind from an authorized insurer without  
 1367 prejudice to the applicant's or insured's eligibility to  
 1368 prospectively purchase a policy that provides multiperil  
 1369 coverage from the corporation. It is the goal of the Legislature  
 1370 that there would be an overall average savings of 10 percent or  
 1371 more for a policyholder who currently has a wind-only policy

1372 with the corporation, and an ex-wind policy with a voluntary  
 1373 insurer or the corporation, and who then obtains a multiperil  
 1374 policy from the corporation. It is the intent of the Legislature  
 1375 that the offer of multiperil coverage in the high-risk account  
 1376 be made and implemented in a manner that does not adversely  
 1377 affect the tax-exempt status of the corporation or  
 1378 creditworthiness of or security for currently outstanding  
 1379 financing obligations or credit facilities of the high-risk  
 1380 account, the personal lines account, or the commercial lines  
 1381 account. The high-risk account must also include quota share  
 1382 primary insurance under subparagraph (c)2. The area eligible for  
 1383 coverage under the high-risk account also includes the area  
 1384 within Port Canaveral, which is bordered on the south by the  
 1385 City of Cape Canaveral, bordered on the west by the Banana  
 1386 River, and bordered on the north by Federal Government property.

1387       b. The three separate accounts must be maintained as long  
 1388 as financing obligations entered into by the Florida Windstorm  
 1389 Underwriting Association or Residential Property and Casualty  
 1390 Joint Underwriting Association are outstanding, in accordance  
 1391 with the terms of the corresponding financing documents. When  
 1392 the financing obligations are no longer outstanding, in  
 1393 accordance with the terms of the corresponding financing  
 1394 documents, the corporation may use a single account for all  
 1395 revenues, assets, liabilities, losses, and expenses of the  
 1396 corporation. Consistent with the requirement of this  
 1397 subparagraph and prudent investment policies that minimize the  
 1398 cost of carrying debt, the board shall exercise its best efforts  
 1399 to retire existing debt or to obtain approval of necessary

1400 parties to amend the terms of existing debt, so as to structure  
1401 the most efficient plan to consolidate the three separate  
1402 accounts into a single account. By February 1, 2007, the board  
1403 shall submit a report to the Financial Services Commission, the  
1404 President of the Senate, and the Speaker of the House of  
1405 Representatives which includes an analysis of consolidating the  
1406 accounts, the actions the board has taken to minimize the cost  
1407 of carrying debt, and its recommendations for executing the most  
1408 efficient plan.

1409 c. Creditors of the Residential Property and Casualty  
1410 Joint Underwriting Association and of the accounts specified in  
1411 sub-sub-subparagraphs a.(I) and (II) may have a claim against,  
1412 and recourse to, the accounts referred to in sub-sub-  
1413 subparagraphs a.(I) and (II) and shall have no claim against, or  
1414 recourse to, the account referred to in sub-sub-subparagraph  
1415 a.(III). Creditors of the Florida Windstorm Underwriting  
1416 Association shall have a claim against, and recourse to, the  
1417 account referred to in sub-sub-subparagraph a.(III) and shall  
1418 have no claim against, or recourse to, the accounts referred to  
1419 in sub-sub-subparagraphs a.(I) and (II).

1420 d. Revenues, assets, liabilities, losses, and expenses not  
1421 attributable to particular accounts shall be prorated among the  
1422 accounts.

1423 e. The Legislature finds that the revenues of the  
1424 corporation are revenues that are necessary to meet the  
1425 requirements set forth in documents authorizing the issuance of  
1426 bonds under this subsection.

1427 f. No part of the income of the corporation may inure to

1428 the benefit of any private person.

1429 3. With respect to a deficit in an account:

1430 a. After accounting for the Citizens policyholder  
1431 surcharge imposed under sub-subparagraph i., when the remaining  
1432 projected deficit incurred in a particular calendar year is not  
1433 greater than 6 percent of the aggregate statewide direct written  
1434 premium for the subject lines of business for the prior calendar  
1435 year, the entire deficit shall be recovered through regular  
1436 assessments of assessable insurers under paragraph (p) and  
1437 assessable insureds.

1438 b. After accounting for the Citizens policyholder  
1439 surcharge imposed under sub-subparagraph i., when the remaining  
1440 projected deficit incurred in a particular calendar year exceeds  
1441 6 percent of the aggregate statewide direct written premium for  
1442 the subject lines of business for the prior calendar year, the  
1443 corporation shall levy regular assessments on assessable  
1444 insurers under paragraph (p) and on assessable insureds in an  
1445 amount equal to the greater of 6 percent of the deficit or 6  
1446 percent of the aggregate statewide direct written premium for  
1447 the subject lines of business for the prior calendar year. Any  
1448 remaining deficit shall be recovered through emergency  
1449 assessments under sub-subparagraph d.

1450 c. Each assessable insurer's share of the amount being  
1451 assessed under sub-subparagraph a. or sub-subparagraph b. shall  
1452 be in the proportion that the assessable insurer's direct  
1453 written premium for the subject lines of business for the year  
1454 preceding the assessment bears to the aggregate statewide direct  
1455 written premium for the subject lines of business for that year.

1456 The assessment percentage applicable to each assessable insured  
1457 is the ratio of the amount being assessed under sub-subparagraph  
1458 a. or sub-subparagraph b. to the aggregate statewide direct  
1459 written premium for the subject lines of business for the prior  
1460 year. Assessments levied by the corporation on assessable  
1461 insurers under sub-subparagraphs a. and b. shall be paid as  
1462 required by the corporation's plan of operation and paragraph  
1463 (p). Assessments levied by the corporation on assessable  
1464 insureds under sub-subparagraphs a. and b. shall be collected by  
1465 the surplus lines agent at the time the surplus lines agent  
1466 collects the surplus lines tax required by s. 626.932 and shall  
1467 be paid to the Florida Surplus Lines Service Office at the time  
1468 the surplus lines agent pays the surplus lines tax to the  
1469 Florida Surplus Lines Service Office. Upon receipt of regular  
1470 assessments from surplus lines agents, the Florida Surplus Lines  
1471 Service Office shall transfer the assessments directly to the  
1472 corporation as determined by the corporation.

1473 d. Upon a determination by the board of governors that a  
1474 deficit in an account exceeds the amount that will be recovered  
1475 through regular assessments under sub-subparagraph a. or sub-  
1476 subparagraph b., plus the amount that is expected to be  
1477 recovered through surcharges under sub-subparagraph i., as to  
1478 the remaining projected deficit the board shall levy, after  
1479 verification by the office, emergency assessments, for as many  
1480 years as necessary to cover the deficits, to be collected by  
1481 assessable insurers and the corporation and collected from  
1482 assessable insureds upon issuance or renewal of policies for  
1483 subject lines of business, excluding National Flood Insurance

1484 policies. The amount of the emergency assessment collected in a  
1485 particular year shall be a uniform percentage of that year's  
1486 direct written premium for subject lines of business and all  
1487 accounts of the corporation, excluding National Flood Insurance  
1488 Program policy premiums, as annually determined by the board and  
1489 verified by the office. The office shall verify the arithmetic  
1490 calculations involved in the board's determination within 30  
1491 days after receipt of the information on which the determination  
1492 was based. Notwithstanding any other provision of law, the  
1493 corporation and each assessable insurer that writes subject  
1494 lines of business shall collect emergency assessments from its  
1495 policyholders without such obligation being affected by any  
1496 credit, limitation, exemption, or deferment. Emergency  
1497 assessments levied by the corporation on assessable insureds  
1498 shall be collected by the surplus lines agent at the time the  
1499 surplus lines agent collects the surplus lines tax required by  
1500 s. 626.932 and shall be paid to the Florida Surplus Lines  
1501 Service Office at the time the surplus lines agent pays the  
1502 surplus lines tax to the Florida Surplus Lines Service Office.  
1503 The emergency assessments so collected shall be transferred  
1504 directly to the corporation on a periodic basis as determined by  
1505 the corporation and shall be held by the corporation solely in  
1506 the applicable account. The aggregate amount of emergency  
1507 assessments levied for an account under this sub-subparagraph in  
1508 any calendar year may, at the discretion of the board of  
1509 governors, be less than but may not exceed the greater of 10  
1510 percent of the amount needed to cover the deficit, plus  
1511 interest, fees, commissions, required reserves, and other costs

1512 associated with financing of the original deficit, or 10 percent  
1513 of the aggregate statewide direct written premium for subject  
1514 lines of business and for all accounts of the corporation for  
1515 the prior year, plus interest, fees, commissions, required  
1516 reserves, and other costs associated with financing the deficit.

1517 e. The corporation may pledge the proceeds of assessments,  
1518 projected recoveries from the Florida Hurricane Catastrophe  
1519 Fund, other insurance and reinsurance recoverables, policyholder  
1520 surcharges and other surcharges, and other funds available to  
1521 the corporation as the source of revenue for and to secure bonds  
1522 issued under paragraph (p), bonds or other indebtedness issued  
1523 under subparagraph (c)3., or lines of credit or other financing  
1524 mechanisms issued or created under this subsection, or to retire  
1525 any other debt incurred as a result of deficits or events giving  
1526 rise to deficits, or in any other way that the board determines  
1527 will efficiently recover such deficits. The purpose of the lines  
1528 of credit or other financing mechanisms is to provide additional  
1529 resources to assist the corporation in covering claims and  
1530 expenses attributable to a catastrophe. As used in this  
1531 subsection, the term "assessments" includes regular assessments  
1532 under sub-subparagraph a., sub-subparagraph b., or subparagraph  
1533 (p)1. and emergency assessments under sub-subparagraph d.  
1534 Emergency assessments collected under sub-subparagraph d. are  
1535 not part of an insurer's rates, are not premium, and are not  
1536 subject to premium tax, fees, or commissions; however, failure  
1537 to pay the emergency assessment shall be treated as failure to  
1538 pay premium. The emergency assessments under sub-subparagraph d.  
1539 shall continue as long as any bonds issued or other indebtedness

1540 incurred with respect to a deficit for which the assessment was  
1541 imposed remain outstanding, unless adequate provision has been  
1542 made for the payment of such bonds or other indebtedness  
1543 pursuant to the documents governing such bonds or other  
1544 indebtedness.

1545 f. As used in this subsection for purposes of any deficit  
1546 incurred on or after January 25, 2007, the term "subject lines  
1547 of business" means insurance written by assessable insurers or  
1548 procured by assessable insureds for all property and casualty  
1549 lines of business in this state, but not including workers'  
1550 compensation or medical malpractice. As used in the sub-  
1551 subparagraph, the term "property and casualty lines of business"  
1552 includes all lines of business identified on Form 2, Exhibit of  
1553 Premiums and Losses, in the annual statement required of  
1554 authorized insurers by s. 624.424 and any rule adopted under  
1555 this section, except for those lines identified as accident and  
1556 health insurance and except for policies written under the  
1557 National Flood Insurance Program or the Federal Crop Insurance  
1558 Program. For purposes of this sub-subparagraph, the term  
1559 "workers' compensation" includes both workers' compensation  
1560 insurance and excess workers' compensation insurance.

1561 g. The Florida Surplus Lines Service Office shall  
1562 determine annually the aggregate statewide written premium in  
1563 subject lines of business procured by assessable insureds and  
1564 shall report that information to the corporation in a form and  
1565 at a time the corporation specifies to ensure that the  
1566 corporation can meet the requirements of this subsection and the  
1567 corporation's financing obligations.



1568           h. The Florida Surplus Lines Service Office shall verify  
1569 the proper application by surplus lines agents of assessment  
1570 percentages for regular assessments and emergency assessments  
1571 levied under this subparagraph on assessable insureds and shall  
1572 assist the corporation in ensuring the accurate, timely  
1573 collection and payment of assessments by surplus lines agents as  
1574 required by the corporation.

1575           i. If a deficit is incurred in any account in 2008 or  
1576 thereafter, the board of governors shall levy a Citizens  
1577 policyholder surcharge against all policyholders of the  
1578 corporation for a 12-month period, which shall be collected at  
1579 the time of issuance or renewal of a policy, as a uniform  
1580 percentage of the premium for the policy of up to 25 ~~15~~ percent  
1581 of such premium, which funds shall be used to offset the  
1582 deficit. Citizens policyholder surcharges under this sub-  
1583 subparagraph are not considered premium and are not subject to  
1584 commissions, fees, or premium taxes. However, failure to pay  
1585 such surcharges shall be treated as failure to pay premium.

1586           j. If the amount of any assessments or surcharges  
1587 collected from corporation policyholders, assessable insurers or  
1588 their policyholders, or assessable insureds exceeds the amount  
1589 of the deficits, such excess amounts shall be remitted to and  
1590 retained by the corporation in a reserve to be used by the  
1591 corporation, as determined by the board of governors and  
1592 approved by the office, to pay claims or reduce any past,  
1593 present, or future plan-year deficits or to reduce outstanding  
1594 debt.

1595           (c) The plan of operation of the corporation:

1596           1. Must provide for adoption of residential property and  
1597 casualty insurance policy forms and commercial residential and  
1598 nonresidential property insurance forms, which forms must be  
1599 approved by the office prior to use. The corporation shall adopt  
1600 the following policy forms:

1601           a. Standard personal lines policy forms that are  
1602 comprehensive multiperil policies providing full coverage of a  
1603 residential property equivalent to the coverage provided in the  
1604 private insurance market under an HO-3, HO-4, or HO-6 policy.

1605           b. Basic personal lines policy forms that are policies  
1606 similar to an HO-8 policy or a dwelling fire policy that provide  
1607 coverage meeting the requirements of the secondary mortgage  
1608 market, but which coverage is more limited than the coverage  
1609 under a standard policy.

1610           c. Commercial lines residential and nonresidential policy  
1611 forms that are generally similar to the basic perils of full  
1612 coverage obtainable for commercial residential structures and  
1613 commercial nonresidential structures in the admitted voluntary  
1614 market.

1615           d. Personal lines and commercial lines residential  
1616 property insurance forms that cover the peril of wind only. The  
1617 forms are applicable only to residential properties located in  
1618 areas eligible for coverage under the high-risk account referred  
1619 to in sub-subparagraph (b)2.a.

1620           e. Commercial lines nonresidential property insurance  
1621 forms that cover the peril of wind only. The forms are  
1622 applicable only to nonresidential properties located in areas  
1623 eligible for coverage under the high-risk account referred to in

1624 sub-subparagraph (b)2.a.

1625 f. The corporation may adopt variations of the policy  
 1626 forms listed in sub-subparagraphs a.-e. that contain more  
 1627 restrictive coverage.

1628 2.a. Must provide that the corporation adopt a program in  
 1629 which the corporation and authorized insurers enter into quota  
 1630 share primary insurance agreements for hurricane coverage, as  
 1631 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
 1632 property insurance forms for eligible risks which cover the  
 1633 peril of wind only. As used in this subsection, the term:

1634 (I) "Quota share primary insurance" means an arrangement  
 1635 in which the primary hurricane coverage of an eligible risk is  
 1636 provided in specified percentages by the corporation and an  
 1637 authorized insurer. The corporation and authorized insurer are  
 1638 each solely responsible for a specified percentage of hurricane  
 1639 coverage of an eligible risk as set forth in a quota share  
 1640 primary insurance agreement between the corporation and an  
 1641 authorized insurer and the insurance contract. The  
 1642 responsibility of the corporation or authorized insurer to pay  
 1643 its specified percentage of hurricane losses of an eligible  
 1644 risk, as set forth in the quota share primary insurance  
 1645 agreement, may not be altered by the inability of the other  
 1646 party to the agreement to pay its specified percentage of  
 1647 hurricane losses. Eligible risks that are provided hurricane  
 1648 coverage through a quota share primary insurance arrangement  
 1649 must be provided policy forms that set forth the obligations of  
 1650 the corporation and authorized insurer under the arrangement,  
 1651 clearly specify the percentages of quota share primary insurance

1652 provided by the corporation and authorized insurer, and  
1653 conspicuously and clearly state that neither the authorized  
1654 insurer nor the corporation may be held responsible beyond its  
1655 specified percentage of coverage of hurricane losses.

1656 (II) "Eligible risks" means personal lines residential and  
1657 commercial lines residential risks that meet the underwriting  
1658 criteria of the corporation and are located in areas that were  
1659 eligible for coverage by the Florida Windstorm Underwriting  
1660 Association on January 1, 2002.

1661 b. The corporation may enter into quota share primary  
1662 insurance agreements with authorized insurers at corporation  
1663 coverage levels of 90 percent and 50 percent.

1664 c. If the corporation determines that additional coverage  
1665 levels are necessary to maximize participation in quota share  
1666 primary insurance agreements by authorized insurers, the  
1667 corporation may establish additional coverage levels. However,  
1668 the corporation's quota share primary insurance coverage level  
1669 may not exceed 90 percent.

1670 d. Any quota share primary insurance agreement entered  
1671 into between an authorized insurer and the corporation must  
1672 provide for a uniform specified percentage of coverage of  
1673 hurricane losses, by county or territory as set forth by the  
1674 corporation board, for all eligible risks of the authorized  
1675 insurer covered under the quota share primary insurance  
1676 agreement.

1677 e. Any quota share primary insurance agreement entered  
1678 into between an authorized insurer and the corporation is  
1679 subject to review and approval by the office. However, such

1680 agreement shall be authorized only as to insurance contracts  
1681 entered into between an authorized insurer and an insured who is  
1682 already insured by the corporation for wind coverage.

1683 f. For all eligible risks covered under quota share  
1684 primary insurance agreements, the exposure and coverage levels  
1685 for both the corporation and authorized insurers shall be  
1686 reported by the corporation to the Florida Hurricane Catastrophe  
1687 Fund. For all policies of eligible risks covered under quota  
1688 share primary insurance agreements, the corporation and the  
1689 authorized insurer shall maintain complete and accurate records  
1690 for the purpose of exposure and loss reimbursement audits as  
1691 required by Florida Hurricane Catastrophe Fund rules. The  
1692 corporation and the authorized insurer shall each maintain  
1693 duplicate copies of policy declaration pages and supporting  
1694 claims documents.

1695 g. The corporation board shall establish in its plan of  
1696 operation standards for quota share agreements which ensure that  
1697 there is no discriminatory application among insurers as to the  
1698 terms of quota share agreements, pricing of quota share  
1699 agreements, incentive provisions if any, and consideration paid  
1700 for servicing policies or adjusting claims.

1701 h. The quota share primary insurance agreement between the  
1702 corporation and an authorized insurer must set forth the  
1703 specific terms under which coverage is provided, including, but  
1704 not limited to, the sale and servicing of policies issued under  
1705 the agreement by the insurance agent of the authorized insurer  
1706 producing the business, the reporting of information concerning  
1707 eligible risks, the payment of premium to the corporation, and

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1708 arrangements for the adjustment and payment of hurricane claims  
1709 incurred on eligible risks by the claims adjuster and personnel  
1710 of the authorized insurer. Entering into a quota sharing  
1711 insurance agreement between the corporation and an authorized  
1712 insurer shall be voluntary and at the discretion of the  
1713 authorized insurer.

1714 3. May provide that the corporation may employ or  
1715 otherwise contract with individuals or other entities to provide  
1716 administrative or professional services that may be appropriate  
1717 to effectuate the plan. The corporation shall have the power to  
1718 borrow funds, by issuing bonds or by incurring other  
1719 indebtedness, and shall have other powers reasonably necessary  
1720 to effectuate the requirements of this subsection, including,  
1721 without limitation, the power to issue bonds and incur other  
1722 indebtedness in order to refinance outstanding bonds or other  
1723 indebtedness. The corporation may, but is not required to, seek  
1724 judicial validation of its bonds or other indebtedness under  
1725 chapter 75. The corporation may issue bonds or incur other  
1726 indebtedness, or have bonds issued on its behalf by a unit of  
1727 local government pursuant to subparagraph (p)2., in the absence  
1728 of a hurricane or other weather-related event, upon a  
1729 determination by the corporation, subject to approval by the  
1730 office, that such action would enable it to efficiently meet the  
1731 financial obligations of the corporation and that such  
1732 financings are reasonably necessary to effectuate the  
1733 requirements of this subsection. The corporation is authorized  
1734 to take all actions needed to facilitate tax-free status for any  
1735 such bonds or indebtedness, including formation of trusts or

1736 other affiliated entities. The corporation shall have the  
1737 authority to pledge assessments, projected recoveries from the  
1738 Florida Hurricane Catastrophe Fund, other reinsurance  
1739 recoverables, market equalization and other surcharges, and  
1740 other funds available to the corporation as security for bonds  
1741 or other indebtedness. In recognition of s. 10, Art. I of the  
1742 State Constitution, prohibiting the impairment of obligations of  
1743 contracts, it is the intent of the Legislature that no action be  
1744 taken whose purpose is to impair any bond indenture or financing  
1745 agreement or any revenue source committed by contract to such  
1746 bond or other indebtedness.

1747 4.a. Must require that the corporation operate subject to  
1748 the supervision and approval of a board of governors consisting  
1749 of eight individuals who are residents of this state, from  
1750 different geographical areas of this state. The Governor, the  
1751 Chief Financial Officer, the President of the Senate, and the  
1752 Speaker of the House of Representatives shall each appoint two  
1753 members of the board. At least one of the two members appointed  
1754 by each appointing officer must have demonstrated expertise in  
1755 insurance. The Chief Financial Officer shall designate one of  
1756 the appointees as chair. All board members serve at the pleasure  
1757 of the appointing officer. All members of the board of governors  
1758 are subject to removal at will by the officers who appointed  
1759 them. Except as otherwise provided, all board members, including  
1760 the chair, must be appointed to serve for 3-year terms beginning  
1761 annually on a date designated by the plan. However, for the  
1762 first term beginning on or after July 1, 2009, each appointing  
1763 officer shall appoint one member of the board for a 2-year term

1764 and one member for a 3-year term. Any board vacancy shall be  
1765 filled for the unexpired term by the appointing officer. The  
1766 Chief Financial Officer shall appoint a technical advisory group  
1767 to provide information and advice to the board of governors in  
1768 connection with the board's duties under this subsection. The  
1769 executive director and senior managers of the corporation shall  
1770 be engaged by the board and serve at the pleasure of the board.  
1771 Any executive director appointed on or after July 1, 2006, is  
1772 subject to confirmation by the Senate. The executive director is  
1773 responsible for employing other staff as the corporation may  
1774 require, subject to review and concurrence by the board.

1775       b. The board shall create a Market Accountability Advisory  
1776 Committee to assist the corporation in developing awareness of  
1777 its rates and its customer and agent service levels in  
1778 relationship to the voluntary market insurers writing similar  
1779 coverage. The members of the advisory committee shall consist of  
1780 the following 11 persons, one of whom must be elected chair by  
1781 the members of the committee: four representatives, one  
1782 appointed by the Florida Association of Insurance Agents, one by  
1783 the Florida Association of Insurance and Financial Advisors, one  
1784 by the Professional Insurance Agents of Florida, and one by the  
1785 Latin American Association of Insurance Agencies; three  
1786 representatives appointed by the insurers with the three highest  
1787 voluntary market share of residential property insurance  
1788 business in the state; one representative from the Office of  
1789 Insurance Regulation; one consumer appointed by the board who is  
1790 insured by the corporation at the time of appointment to the  
1791 committee; one representative appointed by the Florida



1792 Association of Realtors; and one representative appointed by the  
 1793 Florida Bankers Association. All members must serve for 3-year  
 1794 terms and may serve for consecutive terms. The committee shall  
 1795 report to the corporation at each board meeting on insurance  
 1796 market issues which may include rates and rate competition with  
 1797 the voluntary market; service, including policy issuance, claims  
 1798 processing, and general responsiveness to policyholders,  
 1799 applicants, and agents; and matters relating to depopulation.

1800 5. Must provide a procedure for determining the  
 1801 eligibility of a risk for coverage, as follows:

1802 a. Subject to the provisions of s. 627.3517, with respect  
 1803 to personal lines residential risks, if the risk is offered  
 1804 coverage from an authorized insurer at the insurer's approved  
 1805 rate under either a standard policy including wind coverage or,  
 1806 if consistent with the insurer's underwriting rules as filed  
 1807 with the office, a basic policy including wind coverage, for a  
 1808 new application to the corporation for coverage, the risk is not  
 1809 eligible for any policy issued by the corporation unless the  
 1810 premium for coverage from the authorized insurer is more than 15  
 1811 percent greater than the premium for comparable coverage from  
 1812 the corporation. If the risk is not able to obtain any such  
 1813 offer, the risk is eligible for either a standard policy  
 1814 including wind coverage or a basic policy including wind  
 1815 coverage issued by the corporation; however, if the risk could  
 1816 not be insured under a standard policy including wind coverage  
 1817 regardless of market conditions, the risk shall be eligible for  
 1818 a basic policy including wind coverage unless rejected under  
 1819 subparagraph 8. However, with regard to a policyholder of the

1820 corporation or a policyholder removed from the corporation  
 1821 through an assumption agreement until the end of the assumption  
 1822 period, the policyholder remains eligible for coverage from the  
 1823 corporation regardless of any offer of coverage from an  
 1824 authorized insurer or surplus lines insurer. The corporation  
 1825 shall determine the type of policy to be provided on the basis  
 1826 of objective standards specified in the underwriting manual and  
 1827 based on generally accepted underwriting practices.

1828 (I) If the risk accepts an offer of coverage through the  
 1829 market assistance plan or an offer of coverage through a  
 1830 mechanism established by the corporation before a policy is  
 1831 issued to the risk by the corporation or during the first 30  
 1832 days of coverage by the corporation, and the producing agent who  
 1833 submitted the application to the plan or to the corporation is  
 1834 not currently appointed by the insurer, the insurer shall:

1835 (A) Pay to the producing agent of record of the policy,  
 1836 for the first year, an amount that is the greater of the  
 1837 insurer's usual and customary commission for the type of policy  
 1838 written or a fee equal to the usual and customary commission of  
 1839 the corporation; or

1840 (B) Offer to allow the producing agent of record of the  
 1841 policy to continue servicing the policy for a period of not less  
 1842 than 1 year and offer to pay the agent the greater of the  
 1843 insurer's or the corporation's usual and customary commission  
 1844 for the type of policy written.

1845  
 1846 If the producing agent is unwilling or unable to accept  
 1847 appointment, the new insurer shall pay the agent in accordance

1848 with sub-sub-sub-subparagraph (A).

1849 (II) When the corporation enters into a contractual  
 1850 agreement for a take-out plan, the producing agent of record of  
 1851 the corporation policy is entitled to retain any unearned  
 1852 commission on the policy, and the insurer shall:

1853 (A) Pay to the producing agent of record of the  
 1854 corporation policy, for the first year, an amount that is the  
 1855 greater of the insurer's usual and customary commission for the  
 1856 type of policy written or a fee equal to the usual and customary  
 1857 commission of the corporation; or

1858 (B) Offer to allow the producing agent of record of the  
 1859 corporation policy to continue servicing the policy for a period  
 1860 of not less than 1 year and offer to pay the agent the greater  
 1861 of the insurer's or the corporation's usual and customary  
 1862 commission for the type of policy written.

1863  
 1864 If the producing agent is unwilling or unable to accept  
 1865 appointment, the new insurer shall pay the agent in accordance  
 1866 with sub-sub-sub-subparagraph (A).

1867 b. With respect to commercial lines residential risks, for  
 1868 a new application to the corporation for coverage, if the risk  
 1869 is offered coverage under a policy including wind coverage from  
 1870 an authorized insurer at its approved rate, the risk is not  
 1871 eligible for any policy issued by the corporation unless the  
 1872 premium for coverage from the authorized insurer is more than 15  
 1873 percent greater than the premium for comparable coverage from  
 1874 the corporation. If the risk is not able to obtain any such  
 1875 offer, the risk is eligible for a policy including wind coverage

1876 | issued by the corporation. However, with regard to a  
 1877 | policyholder of the corporation or a policyholder removed from  
 1878 | the corporation through an assumption agreement until the end of  
 1879 | the assumption period, the policyholder remains eligible for  
 1880 | coverage from the corporation regardless of any offer of  
 1881 | coverage from an authorized insurer or surplus lines insurer.

1882 |       (I) If the risk accepts an offer of coverage through the  
 1883 | market assistance plan or an offer of coverage through a  
 1884 | mechanism established by the corporation before a policy is  
 1885 | issued to the risk by the corporation or during the first 30  
 1886 | days of coverage by the corporation, and the producing agent who  
 1887 | submitted the application to the plan or the corporation is not  
 1888 | currently appointed by the insurer, the insurer shall:

1889 |       (A) Pay to the producing agent of record of the policy,  
 1890 | for the first year, an amount that is the greater of the  
 1891 | insurer's usual and customary commission for the type of policy  
 1892 | written or a fee equal to the usual and customary commission of  
 1893 | the corporation; or

1894 |       (B) Offer to allow the producing agent of record of the  
 1895 | policy to continue servicing the policy for a period of not less  
 1896 | than 1 year and offer to pay the agent the greater of the  
 1897 | insurer's or the corporation's usual and customary commission  
 1898 | for the type of policy written.

1899 |  
 1900 | If the producing agent is unwilling or unable to accept  
 1901 | appointment, the new insurer shall pay the agent in accordance  
 1902 | with sub-sub-sub-subparagraph (A).

1903 |       (II) When the corporation enters into a contractual

1904 agreement for a take-out plan, the producing agent of record of  
 1905 the corporation policy is entitled to retain any unearned  
 1906 commission on the policy, and the insurer shall:

1907 (A) Pay to the producing agent of record of the  
 1908 corporation policy, for the first year, an amount that is the  
 1909 greater of the insurer's usual and customary commission for the  
 1910 type of policy written or a fee equal to the usual and customary  
 1911 commission of the corporation; or

1912 (B) Offer to allow the producing agent of record of the  
 1913 corporation policy to continue servicing the policy for a period  
 1914 of not less than 1 year and offer to pay the agent the greater  
 1915 of the insurer's or the corporation's usual and customary  
 1916 commission for the type of policy written.

1917  
 1918 If the producing agent is unwilling or unable to accept  
 1919 appointment, the new insurer shall pay the agent in accordance  
 1920 with sub-sub-sub-subparagraph (A).

1921 c. For purposes of determining comparable coverage under  
 1922 sub-subparagraphs a. and b., the comparison shall be based on  
 1923 those forms and coverages that are reasonably comparable. The  
 1924 corporation may rely on a determination of comparable coverage  
 1925 and premium made by the producing agent who submits the  
 1926 application to the corporation, made in the agent's capacity as  
 1927 the corporation's agent. A comparison may be made solely of the  
 1928 premium with respect to the main building or structure only on  
 1929 the following basis: the same coverage A or other building  
 1930 limits; the same percentage hurricane deductible that applies on  
 1931 an annual basis or that applies to each hurricane for commercial

1932 residential property; the same percentage of ordinance and law  
 1933 coverage, if the same limit is offered by both the corporation  
 1934 and the authorized insurer; the same mitigation credits, to the  
 1935 extent the same types of credits are offered both by the  
 1936 corporation and the authorized insurer; the same method for loss  
 1937 payment, such as replacement cost or actual cash value, if the  
 1938 same method is offered both by the corporation and the  
 1939 authorized insurer in accordance with underwriting rules; and  
 1940 any other form or coverage that is reasonably comparable as  
 1941 determined by the board. If an application is submitted to the  
 1942 corporation for wind-only coverage in the high-risk account, the  
 1943 premium for the corporation's wind-only policy plus the premium  
 1944 for the ex-wind policy that is offered by an authorized insurer  
 1945 to the applicant shall be compared to the premium for multiperil  
 1946 coverage offered by an authorized insurer, subject to the  
 1947 standards for comparison specified in this subparagraph. If the  
 1948 corporation or the applicant requests from the authorized  
 1949 insurer a breakdown of the premium of the offer by types of  
 1950 coverage so that a comparison may be made by the corporation or  
 1951 its agent and the authorized insurer refuses or is unable to  
 1952 provide such information, the corporation may treat the offer as  
 1953 not being an offer of coverage from an authorized insurer at the  
 1954 insurer's approved rate.

1955         6. Must include rules for classifications of risks and  
 1956 rates therefor.

1957         7. Must provide that if premium and investment income for  
 1958 an account attributable to a particular calendar year are in  
 1959 excess of projected losses and expenses for the account

1960 | attributable to that year, such excess shall be held in surplus  
 1961 | in the account. Such surplus shall be available to defray  
 1962 | deficits in that account as to future years and shall be used  
 1963 | for that purpose prior to assessing assessable insurers and  
 1964 | assessable insureds as to any calendar year.

1965 |       8. Must provide objective criteria and procedures to be  
 1966 | uniformly applied for all applicants in determining whether an  
 1967 | individual risk is so hazardous as to be uninsurable. In making  
 1968 | this determination and in establishing the criteria and  
 1969 | procedures, the following shall be considered:

1970 |       a. Whether the likelihood of a loss for the individual  
 1971 | risk is substantially higher than for other risks of the same  
 1972 | class; and

1973 |       b. Whether the uncertainty associated with the individual  
 1974 | risk is such that an appropriate premium cannot be determined.

1975 |  
 1976 | The acceptance or rejection of a risk by the corporation shall  
 1977 | be construed as the private placement of insurance, and the  
 1978 | provisions of chapter 120 shall not apply.

1979 |       9. Must provide that the corporation shall make its best  
 1980 | efforts to procure catastrophe reinsurance at reasonable rates,  
 1981 | to cover its projected 100-year probable maximum loss as  
 1982 | determined by the board of governors.

1983 |       10. The policies issued by the corporation must provide  
 1984 | that, if the corporation or the market assistance plan obtains  
 1985 | an offer from an authorized insurer to cover the risk at its  
 1986 | approved rates, the risk is no longer eligible for renewal  
 1987 | through the corporation, except as otherwise provided in this

1988 subsection.

1989           11. Corporation policies and applications must include a  
 1990 notice that the corporation policy could, under this section, be  
 1991 replaced with a policy issued by an authorized insurer that does  
 1992 not provide coverage identical to the coverage provided by the  
 1993 corporation. The notice shall also specify that acceptance of  
 1994 corporation coverage creates a conclusive presumption that the  
 1995 applicant or policyholder is aware of this potential.

1996           12. May establish, subject to approval by the office,  
 1997 different eligibility requirements and operational procedures  
 1998 for any line or type of coverage for any specified county or  
 1999 area if the board determines that such changes to the  
 2000 eligibility requirements and operational procedures are  
 2001 justified due to the voluntary market being sufficiently stable  
 2002 and competitive in such area or for such line or type of  
 2003 coverage and that consumers who, in good faith, are unable to  
 2004 obtain insurance through the voluntary market through ordinary  
 2005 methods would continue to have access to coverage from the  
 2006 corporation. When coverage is sought in connection with a real  
 2007 property transfer, such requirements and procedures shall not  
 2008 provide for an effective date of coverage later than the date of  
 2009 the closing of the transfer as established by the transferor,  
 2010 the transferee, and, if applicable, the lender.

2011           13. Must provide that, with respect to the high-risk  
 2012 account, any assessable insurer with a surplus as to  
 2013 policyholders of \$25 million or less writing 25 percent or more  
 2014 of its total countrywide property insurance premiums in this  
 2015 state may petition the office, within the first 90 days of each



2016 | calendar year, to qualify as a limited apportionment company. A  
 2017 | regular assessment levied by the corporation on a limited  
 2018 | apportionment company for a deficit incurred by the corporation  
 2019 | for the high-risk account in 2006 or thereafter may be paid to  
 2020 | the corporation on a monthly basis as the assessments are  
 2021 | collected by the limited apportionment company from its insureds  
 2022 | pursuant to s. 627.3512, but the regular assessment must be paid  
 2023 | in full within 12 months after being levied by the corporation.  
 2024 | A limited apportionment company shall collect from its  
 2025 | policyholders any emergency assessment imposed under sub-  
 2026 | subparagraph (b)3.d. The plan shall provide that, if the office  
 2027 | determines that any regular assessment will result in an  
 2028 | impairment of the surplus of a limited apportionment company,  
 2029 | the office may direct that all or part of such assessment be  
 2030 | deferred as provided in subparagraph (p)4. However, there shall  
 2031 | be no limitation or deferment of an emergency assessment to be  
 2032 | collected from policyholders under sub-subparagraph (b)3.d.

2033 |       14. Must provide that the corporation appoint as its  
 2034 | licensed agents only those agents who also hold an appointment  
 2035 | as defined in s. 626.015(3) with an insurer who at the time of  
 2036 | the agent's initial appointment by the corporation is authorized  
 2037 | to write and is actually writing personal lines residential  
 2038 | property coverage, commercial residential property coverage, or  
 2039 | commercial nonresidential property coverage within the state.

2040 |       15. Must provide, by July 1, 2007, a premium payment plan  
 2041 | option to its policyholders which allows at a minimum for  
 2042 | quarterly and semiannual payment of premiums. A monthly payment  
 2043 | plan may, but is not required to, be offered.

2044           16. Must limit coverage on mobile homes or manufactured  
 2045 homes built prior to 1994 to actual cash value of the dwelling  
 2046 rather than replacement costs of the dwelling.

2047           17. May provide such limits of coverage as the board  
 2048 determines, consistent with the requirements of this subsection.

2049           18. May require commercial property to meet specified  
 2050 hurricane mitigation construction features as a condition of  
 2051 eligibility for coverage.

2052           (m)1. Rates for coverage provided by the corporation shall  
 2053 be actuarially sound and subject to the requirements of s.  
 2054 627.062, except as otherwise provided in this paragraph. The  
 2055 corporation shall file its recommended rates with the office at  
 2056 least annually. The corporation shall provide any additional  
 2057 information regarding the rates which the office requires. The  
 2058 office shall consider the recommendations of the board and issue  
 2059 a final order establishing the rates for the corporation within  
 2060 45 days after the recommended rates are filed. The corporation  
 2061 may not pursue an administrative challenge or judicial review of  
 2062 the final order of the office.

2063           2. In addition to the rates otherwise determined pursuant  
 2064 to this paragraph, the corporation shall impose and collect an  
 2065 amount equal to the premium tax provided for in s. 624.509 to  
 2066 augment the financial resources of the corporation.

2067           3. After the public hurricane loss-projection model under  
 2068 s. 627.06281 has been found to be accurate and reliable by the  
 2069 Florida Commission on Hurricane Loss Projection Methodology,  
 2070 that model shall serve as the minimum benchmark for determining  
 2071 the windstorm portion of the corporation's rates. This

2072 subparagraph does not require or allow the corporation to adopt  
2073 rates lower than the rates otherwise required or allowed by this  
2074 paragraph.

2075 4. The rate filings for the corporation which were  
2076 approved by the office and which took effect January 1, 2007,  
2077 are rescinded, except for those rates that were lowered. As soon  
2078 as possible, the corporation shall begin using the lower rates  
2079 that were in effect on December 31, 2006, and shall provide  
2080 refunds to policyholders who have paid higher rates as a result  
2081 of that rate filing. The rates in effect on December 31, 2006,  
2082 shall remain in effect for the 2007 and 2008 calendar years  
2083 except for any rate change that results in a lower rate. The  
2084 next rate change that may increase rates shall take effect  
2085 pursuant to a new rate filing recommended by the corporation and  
2086 established by the office, subject to the requirements of this  
2087 paragraph.

2088 5. Beginning on July 15, 2009, and each year thereafter,  
2089 the corporation must make a recommended actuarially sound rate  
2090 filing for each personal and commercial line of business it  
2091 writes, to be effective no earlier than January 1, 2010.

2092 6. The Legislature finds that it is in the public interest  
2093 to ensure that actuarially sound rates for coverage by the  
2094 corporation be implemented incrementally to provide rate  
2095 stability and predictability to its policyholders.

2096 7. Beginning on or after January 1, 2010, the corporation  
2097 shall begin to implement actuarially sound rates for each  
2098 commercial and personal line of business it writes, which may  
2099 not exceed an average statewide increase of 10 percent or exceed

2100 20 percent for any single policy issued by the corporation,  
 2101 excluding coverage changes and surcharges.

2102 8. The corporation's incremental implementation of rates  
 2103 as prescribed in subparagraph 7. shall cease for any line of  
 2104 business written by the corporation after actuarially sound  
 2105 rates as prescribed in subparagraph 1. are achieved. Thereafter,  
 2106 the corporation shall annually make a recommended actuarially  
 2107 sound rate filing for each commercial and personal line of  
 2108 business it writes.

2109 9. In addition to the rate increase required pursuant to  
 2110 subparagraph 7., the corporation may increase its rates an  
 2111 amount sufficient to recoup additional reimbursement premium  
 2112 paid to the Florida Hurricane Catastrophe Fund due to the  
 2113 application of a cash build-up factor.

2114 10. Beginning April 1, 2010, and each quarter thereafter,  
 2115 the corporation shall transfer 10 percent of the funds received  
 2116 from the rate increase prescribed by subparagraph 7. to the  
 2117 Insurance Regulatory Trust Fund in the Department of Financial  
 2118 Services. The corporation's transfer of such funds shall cease  
 2119 upon the corporation's implementation of actuarially sound rates  
 2120 as prescribed in subparagraph 1.

2121 ~~(x) It is the intent of the Legislature that the~~  
 2122 ~~amendments to this subsection enacted in 2002 should, over time,~~  
 2123 ~~reduce the probable maximum windstorm losses in the residual~~  
 2124 ~~markets and should reduce the potential assessments to be levied~~  
 2125 ~~on property insurers and policyholders statewide. In furtherance~~  
 2126 ~~of this intent:~~

2127 ~~1. The board shall, on or before February 1 of each year,~~

2128 ~~provide a report to the President of the Senate and the Speaker~~  
2129 ~~of the House of Representatives showing the reduction or~~  
2130 ~~increase in the 100-year probable maximum loss attributable to~~  
2131 ~~wind-only coverages and the quota share program under this~~  
2132 ~~subsection combined, as compared to the benchmark 100-year~~  
2133 ~~probable maximum loss of the Florida Windstorm Underwriting~~  
2134 ~~Association. For purposes of this paragraph, the benchmark 100-~~  
2135 ~~year probable maximum loss of the Florida Windstorm Underwriting~~  
2136 ~~Association shall be the calculation dated February 2001 and~~  
2137 ~~based on November 30, 2000, exposures. In order to ensure~~  
2138 ~~comparability of data, the board shall use the same methods for~~  
2139 ~~calculating its probable maximum loss as were used to calculate~~  
2140 ~~the benchmark probable maximum loss.~~

2141 ~~2. Beginning February 1, 2010, if the report under~~  
2142 ~~subparagraph 1. for any year indicates that the 100-year~~  
2143 ~~probable maximum loss attributable to wind-only coverages and~~  
2144 ~~the quota share program combined does not reflect a reduction of~~  
2145 ~~at least 25 percent from the benchmark, the board shall reduce~~  
2146 ~~the boundaries of the high-risk area eligible for wind-only~~  
2147 ~~coverages under this subsection in a manner calculated to reduce~~  
2148 ~~such probable maximum loss to an amount at least 25 percent~~  
2149 ~~below the benchmark.~~

2150 ~~3. Beginning February 1, 2015, if the report under~~  
2151 ~~subparagraph 1. for any year indicates that the 100-year~~  
2152 ~~probable maximum loss attributable to wind-only coverages and~~  
2153 ~~the quota share program combined does not reflect a reduction of~~  
2154 ~~at least 50 percent from the benchmark, the boundaries of the~~  
2155 ~~high-risk area eligible for wind-only coverages under this~~

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2156 ~~subsection shall be reduced by the elimination of any area that~~  
2157 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~  
2158 ~~Waterway.~~

2159 Section 12. Subsection (2) of section 627.711, Florida  
2160 Statutes, is amended, and subsection (3) is added to that  
2161 section, to read:

2162 627.711 Notice of premium discounts for hurricane loss  
2163 mitigation; uniform mitigation verification inspection form.--

2164 (2) (a) By July 1, 2007, the Financial Services Commission  
2165 shall develop by rule a uniform mitigation verification  
2166 inspection form that shall be used by all insurers when  
2167 submitted by policyholders for the purpose of factoring  
2168 discounts for wind insurance. In developing the form, the  
2169 commission shall seek input from insurance, construction, and  
2170 building code representatives. Further, the commission shall  
2171 provide guidance as to the length of time the inspection results  
2172 are valid. An insurer shall accept as valid a uniform mitigation  
2173 verification form certified by the Department of Financial  
2174 Services or signed by:

2175 ~~(a) A hurricane mitigation inspector employed by an~~  
2176 ~~approved My Safe Florida Home wind certification entity;~~

2177 1.(b) A building code inspector certified under s.  
2178 468.607;

2179 2.(e) A general, building, or residential contractor  
2180 licensed under s. 489.111;

2181 3.(d) A professional engineer licensed under s. 471.015  
2182 who has passed the appropriate equivalency test of the Building  
2183 Code Training Program as required by s. 553.841; or

2184 4.(e) A professional architect licensed under s. 481.213.

2185 (b) An insurer may contract with inspection firms at the  
 2186 insurer's expense to review mitigation verification forms and to  
 2187 reinspect properties for which the insurer receives mitigation  
 2188 verification forms to ensure that the forms are valid.

2189 (3) An individual or entity who knowingly provides or  
 2190 utters a false or fraudulent mitigation verification form with  
 2191 the intent to obtain or receive a discount on an insurance  
 2192 premium to which the individual or entity is not entitled  
 2193 commits a misdemeanor of the first degree, punishable as  
 2194 provided in s. 775.082 or s. 775.083.

2195 Section 13. Subsection (1) and paragraph (c) of subsection  
 2196 (2) of section 627.712, Florida Statutes, are amended to read:

2197 627.712 Residential windstorm coverage required;  
 2198 availability of exclusions for windstorm or contents.--

2199 (1) An insurer issuing a residential property insurance  
 2200 policy must provide windstorm coverage. Except as provided in  
 2201 paragraph (2)(c), this section does not apply with respect to  
 2202 risks that are eligible for wind-only coverage from Citizens  
 2203 Property Insurance Corporation under s. 627.351(6) and with  
 2204 respect to risks that are not eligible for coverage from  
 2205 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.  
 2206 or 5. A risk ineligible for Citizens coverage under s.  
 2207 627.351(6)(a)3. or 5. is exempt from the requirements of this  
 2208 section only if the risk is located within the boundaries of the  
 2209 high-risk account of the corporation.

2210 (2) A property insurer must make available, at the option  
 2211 of the policyholder, an exclusion of windstorm coverage.

2212           (c) ~~If the residential structure is eligible for wind-only~~  
 2213 ~~coverage from Citizens Property Insurance Corporation, An~~  
 2214 insurer nonrenewing a policy and issuing a replacement policy,  
 2215 or issuing a new policy, that does not provide wind coverage  
 2216 shall provide a notice to the mortgageholder or lienholder  
 2217 indicating the policyholder has elected coverage that does not  
 2218 cover wind.

2219           Section 14. Section 631.65, Florida Statutes, is amended  
 2220 to read:

2221           631.65 Prohibited advertisement or solicitation.--No  
 2222 person shall make, publish, disseminate, circulate, or place  
 2223 before the public, or cause, directly or indirectly, to be made,  
 2224 published, disseminated, circulated, or placed before the  
 2225 public, in a newspaper, magazine, or other publication, or in  
 2226 the form of a notice, circular, pamphlet, letter, or poster, or  
 2227 over any radio station or television station, or in any other  
 2228 way, any advertisement, announcement, or statement which uses  
 2229 the existence of the insurance guaranty association for the  
 2230 purpose of sales, solicitation, or inducement to purchase any  
 2231 form of insurance covered under this part. However, nothing in  
 2232 this section may be construed to prevent a duly licensed  
 2233 insurance agent from providing explanations concerning the  
 2234 existence or application of the insurance guaranty association  
 2235 to policyholders, prospective policyholders, or applicants for  
 2236 coverage.

2237           Section 15. The My Safe Florida Home Program specified in  
 2238 s. 215.5586, Florida Statutes, shall use the funds transferred  
 2239 to the Insurance Regulatory Trust Fund pursuant to s.



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2240 627.351(6)(m)10., Florida Statutes, solely for the provision of  
2241 mitigation grants in accordance with s. 215.5586(2), Florida  
2242 Statutes, to policyholders of Citizens Property Insurance  
2243 Corporation who are otherwise eligible for grants from the My  
2244 Safe Florida Home Program. The department shall establish a  
2245 separate account within the trust fund for accounting purposes.

2246 Section 16. This act shall take effect upon becoming a  
2247 law.