

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 or leased by certain business entities;  
50 amending s.626.753, F.S.; prohibiting certain uses of  
51 commissions derived from the sale of crop hail or  
52 multiple-peril crop insurance which are shared between  
53 certain agents and certain production credit associations  
54 or federal land bank associations; providing penalties;  
55 providing that patronage dividends and other payments to  
56 members of production credit associations or federal land

57 | bank associations are unlawful rebates under certain  
58 | circumstances; providing penalties for an agent who shares  
59 | commissions with a production credit association or  
60 | federal land bank association under certain circumstances;  
61 | amending s. 626.9541, F.S.; specifying that certain  
62 | patronage dividends and other payments are unfair methods  
63 | of competition and unfair or deceptive acts; providing  
64 | penalties; amending s. 627.062, F.S.; extending  
65 | application of file and use filing requirements for  
66 | certain property insurance filings; prohibiting the Office  
67 | of Insurance Regulation from interfering with an insurer's  
68 | right to solicit, sell, promote, or otherwise acquire  
69 | policyholders and implement coverage; specifying limited  
70 | application to certain rates; specifying that certain rate  
71 | filings are not subject to office determination as  
72 | excessive or unfairly discriminatory; providing  
73 | limitations; providing a definition; prohibiting certain  
74 | rate filings under certain circumstances; preserving the  
75 | office's authority to disapprove certain rate filings  
76 | under certain circumstances; providing procedures for  
77 | insurers submitting certain rate filings; specifying  
78 | nonapplication to certain types of insurance; amending s.  
79 | 627.0621, F.S.; deleting a limitation on the application  
80 | of the attorney-client privilege and work product doctrine  
81 | in challenges to actions by the office relating to rate  
82 | filings; amending s. 627.0628, F.S.; requiring the Florida  
83 | Commission on Hurricane Loss Projection Methodology to  
84 | hold public meetings for purposes of implementing certain

85 | windstorm mitigation discounts, credits, other rate  
86 | differentials, and deductible reductions; requiring a  
87 | report to the Governor, Cabinet, and Legislature; amending  
88 | s. 627.0629, F.S.; requiring certain hurricane mitigation  
89 | measure discounts, credits, and rate differentials to  
90 | supersede certain other discounts, credits, and rate  
91 | differentials; authorizing residential property insurers  
92 | to include reinsurance costs without certain TICL  
93 | adjustments; amending s. 627.0655, F.S.; discontinuing  
94 | authorization for a premium discount for a policyholder  
95 | having multiple policies from Citizens Property Insurance  
96 | Corporation or a policy that has been removed from the  
97 | corporation by another insurer; amending s. 627.351, F.S.;;  
98 | deleting application of certain personal lines residential  
99 | property insurance requirements for wind-borne debris  
100 | regions insured by the corporation; revising the basis of  
101 | a surcharge to offset an account deficit; providing for  
102 | members of the board of governors of the corporation to  
103 | serve staggered terms; providing exceptions to actuarially  
104 | sound rate requirements for the corporation; providing  
105 | legislative findings; requiring the corporation to  
106 | implement certain actuarially sound rates for certain  
107 | lines of business; providing limitations; providing for  
108 | cessation of certain rate increases upon implementation of  
109 | actuarially sound rates; requiring the corporation to  
110 | transfer certain funds from the rate increase to the  
111 | Insurance Regulatory Trust Fund in the Department of  
112 | Financial Services for a certain time; deleting certain

113 wind-only coverage maximum loss reporting requirements;  
114 amending s. 627.711, F.S.; revising eligible entities  
115 authorized to certify uniform mitigation inspection forms;  
116 authorizing insurers to contract with inspection firms to  
117 review certain verification forms and reinspect properties  
118 for certain purposes; providing for such contracts to be  
119 at the insurer's expense; providing a criminal penalty for  
120 knowingly submitting a false or fraudulent mitigation form  
121 with the intent to receive an undeserved discount;  
122 amending s. 627.712, F.S.; providing an additional  
123 exception to residential property insurance windstorm  
124 coverage requirements for certain risks; expanding a  
125 requirement that insurers notify mortgageholders or  
126 lienholders of policyholder elections for coverage not  
127 covering wind; amending s. 631.65, F.S.; providing  
128 construction relating to certain prohibited advertisements  
129 or solicitations; requiring the My Safe Florida Home  
130 Program to use certain funds for certain mitigation  
131 grants; authorizing the department to establish a separate  
132 account in the trust fund for accounting purposes;  
133 amending s. 626.854, F.S.; prohibiting public adjusters  
134 from compensating, or agreeing to compensate, any person  
135 for referrals of business; providing an exception;  
136 amending s. 626.865, F.S.; revising qualifications for  
137 public adjuster's license; deleting requirement that  
138 applicant for public adjuster's license pass a written  
139 examination; amending s. 626.8651, F.S.; revising  
140 qualifications for public adjuster apprentice license;

141 requiring that applicant for public adjuster apprentice  
 142 license pass a written examination, complete certain  
 143 training, and receive a specified designation; limiting  
 144 the number of public adjuster apprentices that may  
 145 appointed by a public adjusting firm or supervised by a  
 146 supervising public adjuster; amending s. 627.7011, F.S.;  
 147 specifying that provisions regulating homeowners' policies  
 148 do not prohibit insurers from repairing damaged property;  
 149 providing an effective date.

150

151 Be It Enacted by the Legislature of the State of Florida:

152

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

155 215.47 Investments; authorized securities; loan of  
 156 securities.--Subject to the limitations and conditions of the  
 157 State Constitution or of the trust agreement relating to a trust  
 158 fund, moneys available for investments under ss. 215.44-215.53  
 159 may be invested as follows:

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

163 Section 2. Paragraph (e) of subsection (2), paragraphs (b)  
 164 and (c) of subsection (4), paragraph (b) of subsection (5), and  
 165 subsection (17) of section 215.555, Florida Statutes, are  
 166 amended, and paragraph (f) is added to subsection (7) of that  
 167 section, to read:

168 215.555 Florida Hurricane Catastrophe Fund.--

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

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

173 1. The board shall calculate and report to each insurer  
 174 the retention multiples for that year. For the contract year  
 175 beginning June 1, 2005, the retention multiple shall be equal to  
 176 \$4.5 billion divided by the total estimated reimbursement  
 177 premium for the contract year; for subsequent years, the  
 178 retention multiple shall be equal to \$4.5 billion, adjusted  
 179 based upon the reported exposure from the prior contract year to  
 180 reflect the percentage growth in exposure to the fund for  
 181 covered policies since 2004, divided by the total estimated  
 182 reimbursement premium for the contract year. Total reimbursement  
 183 premium for purposes of the calculation under this subparagraph  
 184 shall be estimated using the assumption that all insurers have  
 185 selected the 90-percent coverage level. In 2010, the contract  
 186 year begins June 1 and ends December 31. In 2011 and thereafter,  
 187 the contract year begins January 1 and ends December 31.

188 2. The retention multiple as determined under subparagraph  
 189 1. shall be adjusted to reflect the coverage level elected by  
 190 the insurer. For insurers electing the 90-percent coverage  
 191 level, the adjusted retention multiple is 100 percent of the  
 192 amount determined under subparagraph 1. For insurers electing  
 193 the 75-percent coverage level, the retention multiple is 120  
 194 percent of the amount determined under subparagraph 1. For  
 195 insurers electing the 45-percent coverage level, the adjusted  
 196 retention multiple is 200 percent of the amount determined under

197 subparagraph 1.

198 3. An insurer shall determine its provisional retention by  
 199 multiplying its provisional reimbursement premium by the  
 200 applicable adjusted retention multiple and shall determine its  
 201 actual retention by multiplying its actual reimbursement premium  
 202 by the applicable adjusted retention multiple.

203 4. For insurers who experience multiple covered events  
 204 causing loss during the contract year, beginning June 1, 2005,  
 205 each insurer's full retention shall be applied to each of the  
 206 covered events causing the two largest losses for that insurer.  
 207 For each other covered event resulting in losses, the insurer's  
 208 retention shall be reduced to one-third of the full retention.  
 209 The reimbursement contract shall provide for the reimbursement  
 210 of losses for each covered event based on the full retention  
 211 with adjustments made to reflect the reduced retentions after  
 212 January 1 of the contract year provided the insurer reports its  
 213 losses as specified in the reimbursement contract.

214 (4) REIMBURSEMENT CONTRACTS.--

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

220 2. The insurer must elect one of the percentage coverage  
 221 levels specified in this paragraph and may, upon renewal of a  
 222 reimbursement contract, elect a lower percentage coverage level  
 223 if no revenue bonds issued under subsection (6) after a covered  
 224 event are outstanding, or elect a higher percentage coverage



225 level, regardless of whether or not revenue bonds are  
 226 outstanding. All members of an insurer group must elect the same  
 227 percentage coverage level. Any joint underwriting association,  
 228 risk apportionment plan, or other entity created under s.  
 229 627.351 must elect the 90-percent coverage level.

230 3. The contract shall provide that reimbursement amounts  
 231 shall not be reduced by reinsurance paid or payable to the  
 232 insurer from other sources.

233 4. Notwithstanding any other provision contained in this  
 234 section, the board shall make available to insurers that  
 235 purchased coverage provided by this subparagraph in 2008 ~~2007~~,  
 236 insurers qualifying as limited apportionment companies under s.  
 237 627.351(6)(c), and insurers that have been approved to  
 238 participate in the Insurance Capital Build-Up Incentive Program  
 239 pursuant to s. 215.5595 a contract or contract addendum that  
 240 provides an additional amount of reimbursement coverage of up to  
 241 \$10 million. The premium to be charged for this additional  
 242 reimbursement coverage shall be 50 percent of the additional  
 243 reimbursement coverage provided, which shall include one prepaid  
 244 reinstatement. The minimum retention level that an eligible  
 245 participating insurer must retain associated with this  
 246 additional coverage layer is 30 percent of the insurer's surplus  
 247 as of December 31, 2008, for the 2009-2010 contract year; as of  
 248 December 31, 2009, for the contract year beginning June 1, 2010,  
 249 and ending December 31, 2010; and as of December 31, 2010, for  
 250 the 2011 contract year ~~2007~~. This coverage shall be in addition  
 251 to all other coverage that may be provided under this section.  
 252 The coverage provided by the fund under this subparagraph shall

253 be in addition to the claims-paying capacity as defined in  
254 subparagraph (c)1., but only with respect to those insurers that  
255 select the additional coverage option and meet the requirements  
256 of this subparagraph. The claims-paying capacity with respect to  
257 all other participating insurers and limited apportionment  
258 companies that do not select the additional coverage option  
259 shall be limited to their reimbursement premium's proportionate  
260 share of the actual claims-paying capacity otherwise defined in  
261 subparagraph (c)1. and as provided for under the terms of the  
262 reimbursement contract. The optional coverage retention as  
263 specified shall be accessed before the mandatory coverage under  
264 the reimbursement contract, but once the limit of coverage  
265 selected under this option is exhausted, the insurer's retention  
266 under the mandatory coverage shall apply. This coverage shall  
267 apply and be paid concurrently with the mandatory coverage.  
268 ~~Coverage provided in the reimbursement contract shall not be~~  
269 ~~affected by the additional premiums paid by participating~~  
270 ~~insurers exercising the additional coverage option allowed in~~  
271 ~~this subparagraph.~~ This subparagraph expires on December ~~May~~ 31,  
272 2011 ~~2009~~.

273 (c)1. The contract shall also provide that the obligation  
274 of the board with respect to all contracts covering a particular  
275 contract year shall not exceed the actual claims-paying capacity  
276 of the fund up to a limit of \$15 billion for that contract year  
277 adjusted based upon the reported exposure from the prior  
278 contract year to reflect the percentage growth in exposure to  
279 the fund for covered policies since 2003, provided the dollar  
280 growth in the limit may not increase in any year by an amount

281 greater than the dollar growth of the balance of the fund as of  
282 December 31, less any premiums or interest attributable to  
283 optional coverage, as defined by rule which occurred over the  
284 prior calendar year.

285 2. In May ~~before the start of the upcoming contract year~~  
286 and ~~in~~ October ~~of~~ during the contract year, the board shall  
287 publish in the Florida Administrative Weekly a statement of the  
288 fund's estimated borrowing capacity, the fund's estimated  
289 claims-paying capacity, and the projected balance of the fund as  
290 of December 31. After the end of each calendar year, the board  
291 shall notify insurers of the estimated borrowing capacity, the  
292 estimated claims-paying capacity, and the balance of the fund as  
293 of December 31 to provide insurers with data necessary to assist  
294 them in determining their retention and projected payout from  
295 the fund for loss reimbursement purposes. In conjunction with  
296 the development of the premium formula, as provided for in  
297 subsection (5), the board shall publish factors or multiples  
298 that assist insurers in determining their retention and  
299 projected payout for the next contract year. For all regulatory  
300 and reinsurance purposes, an insurer may calculate its projected  
301 payout from the fund as its share of the total fund premium for  
302 the current contract year multiplied by the sum of the projected  
303 balance of the fund as of December 31 and the estimated  
304 borrowing capacity for that contract year as reported under this  
305 subparagraph.

306 (5) REIMBURSEMENT PREMIUMS.--

307 (b) The State Board of Administration shall select an  
308 independent consultant to develop a formula for determining the

309 | actuarially indicated premium to be paid to the fund. The  
310 | formula shall specify, for each zip code or other limited  
311 | geographical area, the amount of premium to be paid by an  
312 | insurer for each \$1,000 of insured value under covered policies  
313 | in that zip code or other area. In establishing premiums, the  
314 | board shall consider the coverage elected under paragraph (4) (b)  
315 | and any factors that tend to enhance the actuarial  
316 | sophistication of ratemaking for the fund, including  
317 | deductibles, type of construction, type of coverage provided,  
318 | relative concentration of risks, and other such factors deemed  
319 | by the board to be appropriate. The formula must provide for a  
320 | cash build-up factor. For the contract year 2009-2010, the  
321 | factor is 5 percent; for the contract year beginning June 1,  
322 | 2010, and ending December 31, 2010, the factor is 10 percent;  
323 | for the 2011 contract year, the factor is 15 percent; for the  
324 | 2012 contract year, the factor is 20 percent; and for the 2013  
325 | contract year and thereafter, the factor is 25 percent. The  
326 | formula may provide for a procedure to determine the premiums to  
327 | be paid by new insurers that begin writing covered policies  
328 | after the beginning of a contract year, taking into  
329 | consideration when the insurer starts writing covered policies,  
330 | the potential exposure of the insurer, the potential exposure of  
331 | the fund, the administrative costs to the insurer and to the  
332 | fund, and any other factors deemed appropriate by the board. The  
333 | formula must be approved by unanimous vote of the board. The  
334 | board may, at any time, revise the formula pursuant to the  
335 | procedure provided in this paragraph.

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

337           (f) The board may require insurers to notarize documents  
 338 submitted to the board.

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

340           (a) Findings and intent.--

341           1. The Legislature finds that:

342           a. Because of temporary disruptions in the market for  
 343 catastrophic reinsurance, many property insurers were unable to  
 344 procure sufficient amounts of reinsurance for the 2006 hurricane  
 345 season or were able to procure such reinsurance only by  
 346 incurring substantially higher costs than in prior years.

347           b. The reinsurance market problems were responsible, at  
 348 least in part, for substantial premium increases to many  
 349 consumers and increases in the number of policies issued by  
 350 Citizens Property Insurance Corporation.

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

353           2. It is the intent of the Legislature to create options  
 354 for insurers to purchase a temporary increased coverage limit  
 355 above the statutorily determined limit in subparagraph (4)(c)1.,  
 356 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and  
 357 2013 hurricane seasons, to address market disruptions and enable  
 358 insurers, at their option, to procure additional coverage from  
 359 the Florida Hurricane Catastrophe Fund.

360           (b) Applicability of other provisions of this  
 361 section.--All provisions of this section and the rules adopted  
 362 under this section apply to the coverage created by this  
 363 subsection unless specifically superseded by provisions in this  
 364 subsection.

365 (c) Optional coverage.--For the contract year commencing  
 366 June 1, 2007, and ending May 31, 2008, the contract year  
 367 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the  
 368 contract year commencing June 1, 2009, and ending May 31, 2010,  
 369 the contract year commencing June 1, 2010, and ending December  
 370 31, 2010, the contract year commencing January 1, 2011, and  
 371 ending December 31, 2011, the contract year commencing January  
 372 1, 2012, and ending December 31, 2012, and the contract year  
 373 commencing January 1, 2013, and ending December 31, 2013, the  
 374 board shall offer, for each of such years, the optional coverage  
 375 as provided in this subsection.

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

378 1. "FHCF" means Florida Hurricane Catastrophe Fund.  
 379 2. "FHCF reimbursement premium" means the premium paid by  
 380 an insurer for its coverage as a mandatory participant in the  
 381 FHCF, but does not include additional premiums for optional  
 382 coverages.

383 3. "Payout multiple" means the number or multiple created  
 384 by dividing the statutorily defined claims-paying capacity as  
 385 determined in subparagraph (4)(c)1. by the aggregate  
 386 reimbursement premiums paid by all insurers estimated or  
 387 projected as of calendar year-end.

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

389 5. "TICL options" means the temporary increase in coverage  
 390 options created under this subsection.

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

393 the coverage provided to the insurer under its FHCF  
 394 reimbursement contract, but does not include Citizens Property  
 395 Insurance Corporation.

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

398 8. "TICL coverage multiple" means the coverage multiple  
 399 when multiplied by an insurer's reimbursement premium that  
 400 defines the temporary increase in coverage limit.

401 9. "TICL coverage" means the coverage for an insurer's  
 402 losses above the insurer's statutorily determined claims-paying  
 403 capacity based on the claims-paying limit in subparagraph  
 404 (4)(c)1., which an insurer selects as its temporary increase in  
 405 coverage from the fund under the TICL options selected. A TICL  
 406 insurer's increased coverage limit options shall be calculated  
 407 as follows:

408 a. The board shall calculate and report to each TICL  
 409 insurer the TICL coverage multiples based on 12 options for  
 410 increasing the insurer's FHCF coverage limit. Each TICL coverage  
 411 multiple shall be calculated by dividing \$1 billion, \$2 billion,  
 412 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8  
 413 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by  
 414 the total estimated aggregate FHCF reimbursement premiums for  
 415 the 2007-2008 contract year and<sup>7</sup> the 2008-2009 contract year,  
 416 ~~and the 2009-2010 contract year.~~

417 b. For the 2009-2010 contract year, the board shall  
 418 calculate and report to each TICL insurer the TICL coverage  
 419 multiples based on 10 options for increasing the insurer's FHCF  
 420 coverage limit. Each TICL coverage multiple shall be calculated

421 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5  
422 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10  
423 billion by the total estimated aggregate FHCF reimbursement  
424 premiums for the 2009-2010 contract year.

425 c. For the contract year beginning June 1, 2010, and  
426 ending December 31, 2010, the board shall calculate and report  
427 to each TICL insurer the TICL coverage multiples based on eight  
428 options for increasing the insurer's FHCF coverage limit. Each  
429 TICL coverage multiple shall be calculated by dividing \$1  
430 billion, \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6  
431 billion, \$7 billion, and \$8 billion by the total estimated  
432 aggregate FHCF reimbursement premiums for the contract year.

433 d. For the 2011 contract year, the board shall calculate  
434 and report to each TICL insurer the TICL coverage multiples  
435 based on six options for increasing the insurer's FHCF coverage  
436 limit. Each TICL coverage multiple shall be calculated by  
437 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5  
438 billion, and \$6 billion by the total estimated aggregate FHCF  
439 reimbursement premiums for the 2011 contract year.

440 e. For the 2012 contract year, the board shall calculate  
441 and report to each TICL insurer the TICL coverage multiples  
442 based on four options for increasing the insurer's FHCF coverage  
443 limit. Each TICL coverage multiple shall be calculated by  
444 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by  
445 the total estimated aggregate FHCF reimbursement premiums for  
446 the 2012 contract year.

447 f. For the 2013 contract year, the board shall calculate  
448 and report to each TICL insurer the TICL coverage multiples



449 based on two options for increasing the insurer's FHCF coverage  
450 limit. Each TICL coverage multiple shall be calculated by  
451 dividing \$1 billion and \$2 billion by the total estimated  
452 aggregate FHCF reimbursement premiums for the 2013 contract  
453 year.

454 ~~g.b.~~ The TICL insurer's increased coverage shall be the  
455 FHCF reimbursement premium multiplied by the TICL coverage  
456 multiple. In order to determine an insurer's total limit of  
457 coverage, an insurer shall add its TICL coverage multiple to its  
458 payout multiple. The total shall represent a number that, when  
459 multiplied by an insurer's FHCF reimbursement premium for a  
460 given reimbursement contract year, defines an insurer's total  
461 limit of FHCF reimbursement coverage for that reimbursement  
462 contract year.

463 10. "TICL options addendum" means an addendum to the  
464 reimbursement contract reflecting the obligations of the fund  
465 and insurers selecting an option to increase an insurer's FHCF  
466 coverage limit.

467 (e) TICL options addendum.--

468 1. The TICL options addendum shall provide for  
469 reimbursement of TICL insurers for covered events occurring  
470 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,  
471 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,  
472 2010, between June 1, 2010, and December 31, 2010, between  
473 January 1, 2011, and December 31, 2011, between January 1, 2012,  
474 and December 31, 2012, or between January 1, 2013, and December  
475 31, 2013, in exchange for the TICL reimbursement premium paid  
476 into the fund under paragraph (f). Any insurer writing covered

477 policies has the option of selecting an increased limit of  
478 coverage under the TICL options addendum and shall select such  
479 coverage at the time that it executes the FHCF reimbursement  
480 contract.

481 2.a. The TICL addendum for the contract year commencing  
482 June 1, 2007, and ending May 31, 2008, or the contract year  
483 commencing June 1, 2008, and ending May 31, 2009, shall contain  
484 a promise by the board to reimburse the TICL insurer for 45  
485 percent, 75 percent, or 90 percent of its losses from each  
486 covered event in excess of the insurer's retention, plus 5  
487 percent of the reimbursed losses to cover loss adjustment  
488 expenses. The percentage shall be the same as the coverage level  
489 selected by the insurer under paragraph (4) (b).

490 b. The TICL addendum for the contract year commencing June  
491 1, 2009, and ending May 31, 2010, shall contain a promise by the  
492 board to reimburse the TICL insurer for 45 percent or 75 percent  
493 of its losses from each covered event in excess of the insurer's  
494 retention, plus 5 percent of the reimbursed losses to cover loss  
495 adjustment expenses.

496 c. The TICL addendum for the contract year commencing June  
497 1, 2010, and ending December 31, 2010, shall contain a promise  
498 by the board to reimburse the TICL insurer for 45 percent or 65  
499 percent of its losses from each covered event in excess of the  
500 insurer's retention, plus 5 percent of the reimbursed losses to  
501 cover loss adjustment expenses.

502 d. The TICL addendum for the contract year commencing  
503 January 1, 2011, and ending December 31, 2011, shall contain a  
504 promise by the board to reimburse the TICL insurer for 45

505 percent or 55 percent of its losses from each covered event in  
506 excess of the insurer's retention, plus 5 percent of the  
507 reimbursed losses to cover loss adjustment expenses.

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

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

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

523 4. The priorities, schedule, and method of reimbursements  
524 under the TICL addendum shall be the same as provided under  
525 subsection (4).

526 (f) TICL reimbursement premiums.--Each TICL insurer shall  
527 pay to the fund, in the manner and at the time provided in the  
528 reimbursement contract for payment of reimbursement premiums, a  
529 TICL reimbursement premium determined as specified in subsection  
530 (5), except that a cash build-up factor does not apply to the  
531 TICL reimbursement premiums. However, the TICL reimbursement  
532 premium shall be increased in contract year 2009-2010 by a

533 factor of two, in the contract year beginning June 1, 2010, and  
534 ending December 31, 2010, by a factor of three, in the 2011  
535 contract year by a factor of four, in the 2012 contract year by  
536 a factor of five, and in the 2013 contract year by a factor of  
537 six.

538 (g) Effect on claims-paying capacity of the fund.--For the  
539 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June  
540 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and  
541 January 1, 2013, the program created by this subsection shall  
542 increase the claims-paying capacity of the fund as provided in  
543 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and  
544 shall depend on the TICL coverage options selected and the  
545 number of insurers that select the TICL optional coverage. The  
546 additional capacity shall apply only to the additional coverage  
547 provided under the TICL options and shall not otherwise affect  
548 any insurer's reimbursement from the fund if the insurer chooses  
549 not to select the temporary option to increase its limit of  
550 coverage under the FHCF.

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

561 ~~of the four options times the insurer's FHCF reimbursement~~  
562 ~~premium. The reimbursement premium associated with the~~  
563 ~~additional coverage provided in this paragraph shall be~~  
564 ~~determined as specified in subsection (5).~~

565 Section 3. Section 215.5586, Florida Statutes, as amended  
566 by section 1 of chapter 2009-10, Laws of Florida, is amended to  
567 read:

568 215.5586 My Safe Florida Home Program.--There is  
569 established within the Department of Financial Services the My  
570 Safe Florida Home Program. The department shall provide fiscal  
571 accountability, contract management, and strategic leadership  
572 for the program, consistent with this section. This section does  
573 not create an entitlement for property owners or obligate the  
574 state in any way to fund the inspection or retrofitting of  
575 residential property in this state. Implementation of this  
576 program is subject to annual legislative appropriations. It is  
577 the intent of the Legislature that the My Safe Florida Home  
578 Program provide trained and certified inspectors to perform  
579 inspections for owners of ~~for at least 400,000~~ site-built,  
580 single-family, residential properties and ~~provide~~ grants to  
581 eligible at least 35,000 applicants as funding allows ~~before~~  
582 ~~June 30, 2009~~. The program shall develop and implement a  
583 comprehensive and coordinated approach for hurricane damage  
584 mitigation that may ~~shall~~ include the following:

585 (1) HURRICANE MITIGATION INSPECTIONS.--

586 (a) Certified inspectors to provide ~~free~~ home-retrofit  
587 inspections of site-built, single-family, residential property  
588 may ~~shall~~ be offered ~~throughout the state~~ to determine what

589 mitigation measures are needed, what insurance premium discounts  
590 may be available, and what improvements to existing residential  
591 properties are needed to reduce the property's vulnerability to  
592 hurricane damage. The Department of Financial Services shall  
593 contract with wind certification entities to provide ~~free~~  
594 hurricane mitigation inspections. The inspections provided to  
595 homeowners, at a minimum, must include:

596 1. A home inspection and report that summarizes the  
597 results and identifies recommended improvements a homeowner may  
598 take to mitigate hurricane damage.

599 2. A range of cost estimates regarding the recommended  
600 mitigation improvements.

601 3. Insurer-specific information regarding premium  
602 discounts correlated to the current mitigation features and the  
603 recommended mitigation improvements identified by the  
604 inspection.

605 4. A hurricane resistance rating scale specifying the  
606 home's current as well as projected wind resistance  
607 capabilities. As soon as practical, the rating scale must be the  
608 uniform home grading scale adopted by the Financial Services  
609 Commission pursuant to s. 215.55865.

610 (b) To qualify for selection by the department as a wind  
611 certification entity to provide hurricane mitigation  
612 inspections, the entity shall, at a minimum, meet the following  
613 requirements:

- 614 1. Use hurricane mitigation inspectors who:  
615 a. Are certified as a building inspector under s. 468.607;  
616 b. Are licensed as a general or residential contractor

617 | under s. 489.111;  
 618 |       c. Are licensed as a professional engineer under s.  
 619 | 471.015 and who have passed the appropriate equivalency test of  
 620 | the Building Code Training Program as required by s. 553.841;  
 621 |       d. Are licensed as a professional architect under s.  
 622 | 481.213; or  
 623 |       e. Have at least 2 years of experience in residential  
 624 | construction or residential building inspection and have  
 625 | received specialized training in hurricane mitigation  
 626 | procedures. Such training may be provided by a class offered  
 627 | online or in person.  
 628 |       2. Use hurricane mitigation inspectors who also:  
 629 |       a. Have undergone drug testing and level 2 background  
 630 | checks pursuant to s. 435.04. The department may conduct  
 631 | criminal record checks of inspectors used by wind certification  
 632 | entities. Inspectors must submit a set of the fingerprints to  
 633 | the department for state and national criminal history checks  
 634 | and must pay the fingerprint processing fee set forth in s.  
 635 | 624.501. The fingerprints shall be sent by the department to the  
 636 | Department of Law Enforcement and forwarded to the Federal  
 637 | Bureau of Investigation for processing. The results shall be  
 638 | returned to the department for screening. The fingerprints shall  
 639 | be taken by a law enforcement agency, designated examination  
 640 | center, or other department-approved entity; and  
 641 |       b. Have been certified, in a manner satisfactory to the  
 642 | department, to conduct the inspections.  
 643 |       3. Provide a quality assurance program including a  
 644 | reinspection component.

645 (c) The department shall implement a quality assurance  
646 program that includes a statistically valid number of  
647 reinspections.

648 (d) An application for an inspection must contain a signed  
649 or electronically verified statement made under penalty of  
650 perjury that the applicant has submitted only a single  
651 application for that home.

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

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

660 (a) For a homeowner to be eligible for a grant, the  
661 following criteria for persons who have obtained a completed  
662 inspection after May 1, 2007, a residential property must be  
663 met:

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

666 2. The home must be a dwelling with an insured value of  
667 \$300,000 or less. Homeowners who are low-income persons, as  
668 defined in s. 420.0004(10), are exempt from this requirement.

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

671 4. The home must be located in the "wind-borne debris  
672 region" as that term is defined in s. 1609.2, International



673 Building Code (2006), or as subsequently amended.

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

677  
678 An application for a grant must contain a signed or  
679 electronically verified statement made under penalty of perjury  
680 that the applicant has submitted only a single application and  
681 must have attached documents demonstrating the applicant meets  
682 the requirements of this paragraph.

683 (b) All grants must be matched on a dollar-for-dollar  
684 basis up to ~~for~~ a total of \$10,000 for the actual cost of the  
685 mitigation project with the state's contribution not to exceed  
686 \$5,000.

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

698 (d) Matching fund grants shall also be made available to  
699 local governments and nonprofit entities for projects that will  
700 reduce hurricane damage to single-family, site-built, owner-

701 occupied, residential property. The department shall liberally  
 702 construe those requirements in favor of availing the state of  
 703 the opportunity to leverage funding for the My Safe Florida Home  
 704 Program with other sources of funding.

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

- 707 1. Opening protection.
- 708 2. Exterior doors, including garage doors.
- 709 3. Brace gable ends.
- 710 4. Reinforcing roof-to-wall connections.
- 711 5. Improving the strength of roof-deck attachments.
- 712 6. Upgrading roof covering from code to code plus.
- 713 7. Secondary water barrier for roof.

714  
 715 The department may require that improvements be made to all  
 716 openings, including exterior doors and garage doors, as a  
 717 condition of reimbursing a homeowner approved for a grant.

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

727 (g) Low-income homeowners, as defined in s. 420.0004(10),  
 728 who otherwise meet the requirements of paragraphs (a), (c), (e),

729 and (f) are eligible for a grant of up to \$5,000 and are not  
 730 required to provide a matching amount to receive the grant.  
 731 Additionally, for low-income homeowners, grant funding may be  
 732 used for repair to existing structures leading to any of the  
 733 mitigation improvements provided in paragraph (e), limited to 20  
 734 percent of the grant value. The program may accept a  
 735 certification directly from a low-income homeowner that the  
 736 homeowner meets the requirements of s. 420.0004(10) if the  
 737 homeowner provides such certification in a signed or  
 738 electronically verified statement made under penalty of perjury.

739 (h) The department shall establish objective, reasonable  
 740 criteria for prioritizing grant applications, consistent with  
 741 the requirements of this section.

742 (i) The department shall develop a process that ensures  
 743 the most efficient means to collect and verify grant  
 744 applications to determine eligibility and may direct hurricane  
 745 mitigation inspectors to collect and verify grant application  
 746 information or use the Internet or other electronic means to  
 747 collect information and determine eligibility.

748 (3) EDUCATION AND CONSUMER AWARENESS.--The department may  
 749 undertake a statewide multimedia public outreach and advertising  
 750 campaign to inform consumers of the availability and benefits of  
 751 hurricane inspections and of the safety and financial benefits  
 752 of residential hurricane damage mitigation. The department may  
 753 seek out and use local, state, federal, and private funds to  
 754 support the campaign.

755 (4) ADVISORY COUNCIL.--There is created an advisory  
 756 council to provide advice and assistance to the department

757 regarding administration of the program. The advisory council  
758 shall consist of:

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

762 (b) A representative of residential property insurers,  
763 selected by the Financial Services Commission from a list of at  
764 least three persons recommended by the Florida Insurance  
765 Council.

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

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

772 (e) Two members of the House of Representatives, selected  
773 by the Speaker of the House of Representatives.

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

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

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

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

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

784

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

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

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

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

807 ~~(8) NO-INTEREST LOANS.--The department shall implement a~~  
 808 ~~no-interest loan program by October 1, 2008, contingent upon the~~  
 809 ~~selection of a qualified vendor and execution of a contract~~  
 810 ~~acceptable to the department and the vendor. The department~~  
 811 ~~shall enter into partnerships with the private sector to provide~~  
 812 ~~loans to owners of site-built, single-family, residential~~

813 ~~property to pay for mitigation measures listed in subsection~~  
 814 ~~(2). A loan eligible for interest payments pursuant to this~~  
 815 ~~subsection may be for a term of up to 3 years and cover up to~~  
 816 ~~\$5,000 in mitigation measures. The department shall pay the~~  
 817 ~~creditor the market rate of interest using funds appropriated~~  
 818 ~~for the My Safe Florida Home Program. In no case shall the~~  
 819 ~~department pay more than the interest rate set by s. 687.03. To~~  
 820 ~~be eligible for a loan, a loan applicant must first obtain a~~  
 821 ~~home inspection and report that specifies what improvements are~~  
 822 ~~needed to reduce the property's vulnerability to windstorm~~  
 823 ~~damage pursuant to this section and meet loan underwriting~~  
 824 ~~requirements set by the lender. The department may adopt rules~~  
 825 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~  
 826 ~~subsection which may include eligibility criteria.~~

827 (8)~~(9)~~ PUBLIC OUTREACH FOR CONTRACTORS AND REAL ESTATE  
 828 BROKERS AND SALES ASSOCIATES.--The program shall develop  
 829 brochures for distribution to general contractors, roofing  
 830 contractors, and real estate brokers and sales associates  
 831 licensed under part I of chapter 475 explaining the benefits to  
 832 homeowners of residential hurricane damage mitigation. The  
 833 program shall encourage contractors to distribute the brochures  
 834 to homeowners at the first meeting with a homeowner who is  
 835 considering contracting for home or roof repairs or contracting  
 836 for the construction of a new home. The program shall encourage  
 837 real estate brokers and sales associates licensed under part I  
 838 of chapter 475 to distribute the brochures to clients prior to  
 839 the purchase of a home. The brochures may be made available  
 840 electronically.

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

854        (10)~~(11)~~ INTENT.--It is the intent of the Legislature that  
855 grants made to residential property owners under this section  
856 shall be considered disaster-relief assistance within the  
857 meaning of s. 139 of the Internal Revenue Code of 1986, as  
858 amended.

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

867        (12) CONDOMINIUM WEATHERIZATION AND MITIGATION LOAN  
868 PROGRAM.--

869        (a) Subject to a specific appropriation by the Legislature  
870 from funds received pursuant to the American Recovery and  
871 Reinvestment Act of 2009, Pub. L. No. 111-5, specifically for  
872 the purpose of condominium weatherization, the department shall  
873 implement a condominium weatherization and mitigation loan  
874 program to assist condominium unit owners in weatherizing their  
875 condominium units and mitigating all such units against wind  
876 damage. The program shall have the following minimum  
877 requirements:

878        1. The department shall contract with lenders to offer  
879 weatherization and hurricane mitigation loan subsidies equal to  
880 a competitive rate of interest on a loan balance of up to \$5,000  
881 per condominium unit for 3 years. The interest subsidy may be  
882 paid in advance by the department to a lender participating in  
883 the program.

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

891        3. A participating condominium association must agree to  
892 purchase and install weatherization and mitigation measures for  
893 each unit in the condominium that lacks the weatherization and  
894 mitigation measures.

895        4. To be eligible, a condominium must have been permitted  
896 for construction on or before March 1, 2002, be located in the



897 wind-borne debris region.

898 5. Condominiums of more than 200 units are not eligible  
 899 for the loan program.

900 6. The department may contract with third parties for  
 901 auditing and related services to ensure accountability and  
 902 program quality.

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

905 (c) The department shall adopt rules pursuant to ss.  
 906 120.536(1) and 120.54 to implement the loan program.

907 Section 4. Subsections (5) and (6) are added to section  
 908 624.4622, Florida Statutes, to read:

909 624.4622 Local government self-insurance funds.--

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

914 (6) (a) Each local government self-insurance fund shall  
 915 submit annually to the office, to the governing body of each  
 916 member participant, and to the governing board of each new  
 917 member before the inception of the policy an affidavit stating  
 918 whether an officer or owner of or the manager or administrator  
 919 of a local government self-insurance fund has ever:

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

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

924 3. Had adjudication of guilt withheld, had a sentence

925 imposed or suspended, had a pronouncement of a sentence  
 926 suspended, or been pardoned, fined, or placed on probation for  
 927 any criminal offense other than a motor vehicle offense; or  
 928 4 Been, within the last 10 years, found liable in any  
 929 civil action involving dishonesty or a breach of trust.

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

933 Section 5. Paragraph (r) of subsection (1) of section  
 934 624.605, Florida Statutes, is amended to read:

935 624.605 "Casualty insurance" defined.--

936 (1) "Casualty insurance" includes:

937 (r) Insurance for debt cancellation products.--Insurance  
 938 that a creditor may purchase against the risk of financial loss  
 939 from the use of debt cancellation products with consumer loans  
 940 or leases or retail installment contracts. Insurance for debt  
 941 cancellation products is not liability insurance but shall be  
 942 considered credit insurance only for the purposes of s.  
 943 631.52(4).

944 1. For purposes of this paragraph, the term "debt  
 945 cancellation products" means loan, lease, or retail installment  
 946 contract terms, or modifications to loan, lease, or retail  
 947 installment contracts, under which a creditor agrees to cancel  
 948 or suspend all or part of a customer's obligation to make  
 949 payments upon the occurrence of specified events and includes,  
 950 but is not limited to, debt cancellation contracts, debt  
 951 suspension agreements, and guaranteed asset protection  
 952 contracts. However, the term "debt cancellation products" does

953 not include title insurance as defined in s. 624.608.

954 2. Debt cancellation products may be offered by financial  
 955 institutions, as defined in s. 655.005(1)(h), insured depository  
 956 institutions, as defined in 12 U.S.C. s. 1813(c), and  
 957 subsidiaries of such institutions, as provided in the financial  
 958 institutions codes, or by other business entities selling or  
 959 leasing a product that may be goods, services, or real property  
 960 and interests in real property, the sale or lease of which  
 961 product is regulated by an agency of the state and when the  
 962 extension of credit is offered in connection with the purchase  
 963 or lease of such product. ~~as may be specifically authorized by~~  
 964 ~~law, and~~ Such debt cancellation products shall not constitute  
 965 insurance for purposes of the Florida Insurance Code.

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

968 626.753 Sharing commissions; penalty.--

969 (3) (a) A general lines agent may share commissions derived  
 970 from the sale of crop hail or multiple-peril crop insurance with  
 971 a production credit association organized under 12 U.S.C. ss.  
 972 2071-2077 ~~12 U.S.C.A. ss. 2071-2077~~ or a federal land bank  
 973 association organized under 12 U.S.C. ss. 2091-2098 ~~U.S.C.A. ss.~~  
 974 ~~2091-2098~~ if the association has specifically approved the  
 975 insurance activity by its employees. The amount of commission to  
 976 be shared shall be determined by the general lines agent and the  
 977 company paying the commission.

978 (b) This subsection does not allow such shared commissions  
 979 to be used, directly or indirectly, for the purpose of providing  
 980 any patronage dividend or other payment, discount, or credit to

981 a member of a production credit association or federal land bank  
 982 association if the dividend, payment, discount, or credit is  
 983 directly or indirectly calculated on the basis of the premium  
 984 charged to that member for crop hail or multiple-peril crop  
 985 insurance.

986 (c) Any patronage dividend or other payment, discount, or  
 987 credit provided to a member of a production credit association  
 988 or federal land bank association, which dividend, payment,  
 989 discount, or credit is directly or indirectly calculated on the  
 990 basis of the premium charged to that member for crop hail or  
 991 multiple-peril crop insurance, is an unlawful rebate that  
 992 violates ss. 626.572 and 626.9541(1) (h).

993 (d) An agent violates this section if he or she knowingly  
 994 engages in commission sharing with a production credit  
 995 association or federal land bank association that provides  
 996 patronage dividends or other payments, discounts, or credits  
 997 which are unlawful rebates under paragraph (c).

998 Section 7. Paragraph (h) of subsection (1) of section  
 999 626.9541, Florida Statutes, is amended to read:

1000 626.9541 Unfair methods of competition and unfair or  
 1001 deceptive acts or practices defined.--

1002 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
 1003 ACTS.--The following are defined as unfair methods of  
 1004 competition and unfair or deceptive acts or practices:

1005 (h) Unlawful rebates.--

1006 1. Except as otherwise expressly provided by law, or in an  
 1007 applicable filing with the office, knowingly:

1008 a. Permitting, or offering to make, or making, any

1009 contract or agreement as to such contract other than as plainly  
1010 expressed in the insurance contract issued thereon;

1011 b. Paying, allowing, or giving, or offering to pay, allow,  
1012 or give, directly or indirectly, as inducement to such insurance  
1013 contract, any unlawful rebate of premiums payable on the  
1014 contract, any special favor or advantage in the dividends or  
1015 other benefits thereon, or any valuable consideration or  
1016 inducement whatever not specified in the contract;

1017 c. Giving, selling, or purchasing, or offering to give,  
1018 sell, or purchase, as inducement to such insurance contract or  
1019 in connection therewith, any stocks, bonds, or other securities  
1020 of any insurance company or other corporation, association, or  
1021 partnership, or any dividends or profits accrued thereon, or  
1022 anything of value whatsoever not specified in the insurance  
1023 contract.

1024 2. Nothing in paragraph (g) or subparagraph 1. of this  
1025 paragraph shall be construed as including within the definition  
1026 of discrimination or unlawful rebates:

1027 a. In the case of any contract of life insurance or life  
1028 annuity, paying bonuses to all policyholders or otherwise  
1029 abating their premiums in whole or in part out of surplus  
1030 accumulated from nonparticipating insurance; provided that any  
1031 such bonuses or abatement of premiums is fair and equitable to  
1032 all policyholders and for the best interests of the company and  
1033 its policyholders.

1034 b. In the case of life insurance policies issued on the  
1035 industrial debit plan, making allowance to policyholders who  
1036 have continuously for a specified period made premium payments

1037 directly to an office of the insurer in an amount which fairly  
 1038 represents the saving in collection expenses.

1039 c. Readjustment of the rate of premium for a group  
 1040 insurance policy based on the loss or expense thereunder, at the  
 1041 end of the first or any subsequent policy year of insurance  
 1042 thereunder, which may be made retroactive only for such policy  
 1043 year.

1044 d. Issuance of life insurance policies or annuity  
 1045 contracts at rates less than the usual rates of premiums for  
 1046 such policies or contracts, as group insurance or employee  
 1047 insurance as defined in this code.

1048 e. Issuing life or disability insurance policies on a  
 1049 salary savings, bank draft, preauthorized check, payroll  
 1050 deduction, or other similar plan at a reduced rate reasonably  
 1051 related to the savings made by the use of such plan.

1052 3.a. No title insurer, or any member, employee, attorney,  
 1053 agent, or agency thereof, shall pay, allow, or give, or offer to  
 1054 pay, allow, or give, directly or indirectly, as inducement to  
 1055 title insurance, or after such insurance has been effected, any  
 1056 rebate or abatement of the premium or any other charge or fee,  
 1057 or provide any special favor or advantage, or any monetary  
 1058 consideration or inducement whatever.

1059 b. Nothing in this subparagraph shall be construed as  
 1060 prohibiting the payment of fees to attorneys at law duly  
 1061 licensed to practice law in the courts of this state, for  
 1062 professional services, or as prohibiting the payment of earned  
 1063 portions of the premium to duly appointed agents or agencies who  
 1064 actually perform services for the title insurer. Nothing in this

1065 subparagraph shall be construed as prohibiting a rebate or  
 1066 abatement of an attorney's fee charged for professional  
 1067 services, or that portion of the premium that is not required to  
 1068 be retained by the insurer pursuant to s. 627.782(1), or any  
 1069 other agent charge or fee to the person responsible for paying  
 1070 the premium, charge, or fee.

1071 c. No insured named in a policy, or any other person  
 1072 directly or indirectly connected with the transaction involving  
 1073 the issuance of such policy, including, but not limited to, any  
 1074 mortgage broker, real estate broker, builder, or attorney, any  
 1075 employee, agent, agency, or representative thereof, or any other  
 1076 person whatsoever, shall knowingly receive or accept, directly  
 1077 or indirectly, any rebate or abatement of any portion of the  
 1078 title insurance premium or of any other charge or fee or any  
 1079 monetary consideration or inducement whatsoever, except as set  
 1080 forth in sub-subparagraph b.; provided, in no event shall any  
 1081 portion of the attorney's fee, any portion of the premium that  
 1082 is not required to be retained by the insurer pursuant to s.  
 1083 627.782(1), any agent charge or fee, or any other monetary  
 1084 consideration or inducement be paid directly or indirectly for  
 1085 the referral of title insurance business.

1086 4. Providing a patronage dividend or other payment,  
 1087 discount, or credit to a member of a production credit  
 1088 association organized under 12 U.S.C. ss. 2071-2077 or a federal  
 1089 land bank association organized under 12 U.S.C. ss. 2091-2098 is  
 1090 an unlawful rebate if the dividend or other payment, discount,  
 1091 or credit is directly or indirectly calculated on the basis of  
 1092 the premium charged to that member for crop hail or multiple-

1093 | peril crop insurance.

1094 |       Section 8. Paragraphs (a) and (i) of subsection (2) of  
 1095 | section 627.062, Florida Statutes, are amended, and paragraph  
 1096 | (k) is added to that subsection, to read:

1097 |       627.062 Rate standards.--

1098 |       (2) As to all such classes of insurance:

1099 |       (a) Insurers or rating organizations shall establish and  
 1100 | use rates, rating schedules, or rating manuals to allow the  
 1101 | insurer a reasonable rate of return on such classes of insurance  
 1102 | written in this state. A copy of rates, rating schedules, rating  
 1103 | manuals, premium credits or discount schedules, and surcharge  
 1104 | schedules, and changes thereto, shall be filed with the office  
 1105 | under one of the following procedures except as provided in  
 1106 | subparagraph 3.:

1107 |       1. If the filing is made at least 90 days before the  
 1108 | proposed effective date and the filing is not implemented during  
 1109 | the office's review of the filing and any proceeding and  
 1110 | judicial review, then such filing shall be considered a "file  
 1111 | and use" filing. In such case, the office shall finalize its  
 1112 | review by issuance of a notice of intent to approve or a notice  
 1113 | of intent to disapprove within 90 days after receipt of the  
 1114 | filing. The notice of intent to approve and the notice of intent  
 1115 | to disapprove constitute agency action for purposes of the  
 1116 | Administrative Procedure Act. Requests for supporting  
 1117 | information, requests for mathematical or mechanical  
 1118 | corrections, or notification to the insurer by the office of its  
 1119 | preliminary findings shall not toll the 90-day period during any  
 1120 | such proceedings and subsequent judicial review. The rate shall



1121 | be deemed approved if the office does not issue a notice of  
 1122 | intent to approve or a notice of intent to disapprove within 90  
 1123 | days after receipt of the filing.

1124 |         2. If the filing is not made in accordance with the  
 1125 | provisions of subparagraph 1., such filing shall be made as soon  
 1126 | as practicable, but no later than 30 days after the effective  
 1127 | date, and shall be considered a "use and file" filing. An  
 1128 | insurer making a "use and file" filing is potentially subject to  
 1129 | an order by the office to return to policyholders portions of  
 1130 | rates found to be excessive, as provided in paragraph (h).

1131 |         3. For all property insurance filings made or submitted  
 1132 | after January 25, 2007, but before December 31, 2010 ~~2009~~, an  
 1133 | insurer seeking a rate that is greater than the rate most  
 1134 | recently approved by the office shall make a "file and use"  
 1135 | filing. For purposes of this subparagraph, motor vehicle  
 1136 | collision and comprehensive coverages are not considered to be  
 1137 | property coverages.

1138 |         (i)1. Except as otherwise specifically provided in this  
 1139 | chapter, the office shall not prohibit any insurer, including  
 1140 | any residual market plan or joint underwriting association, from  
 1141 | paying acquisition costs based on the full amount of premium, as  
 1142 | defined in s. 627.403, applicable to any policy, or prohibit any  
 1143 | such insurer from including the full amount of acquisition costs  
 1144 | in a rate filing.

1145 |         2. Unless specifically authorized by law, the office shall  
 1146 | not interfere, directly or indirectly, with an insurer's right  
 1147 | to solicit, sell, promote, or otherwise acquire policyholders  
 1148 | and implement coverage using its own lawful methodologies,

1149 systems, agents, and approaches, including the calculation,  
1150 manner, or amount of agent commissions, if any. This  
1151 subparagraph applies only to rate filings made pursuant to this  
1152 section.

1153 (k) Effective January 1, 2010, notwithstanding any other  
1154 provision of this section:

1155 1. With respect to any residential property insurance  
1156 subject to regulation under this section, a rate filing,  
1157 including, but not limited to, any rate changes, rating factors,  
1158 territories, classifications, discounts, and credits, with  
1159 respect to any policy form, including endorsements issued with  
1160 the form, that results in an overall average statewide premium  
1161 increase or decrease of no more than 10 percent above or below  
1162 the premium that would result from the insurer's rates then in  
1163 effect shall not be subject to a determination by the office  
1164 that the rate is excessive or unfairly discriminatory, except as  
1165 provided in subparagraph 3. or any other provision of law,  
1166 provided all changes specified in the filing do not result in an  
1167 overall premium increase of more than 15 percent for any one  
1168 territory for reasons related solely to the rate change. As used  
1169 in this subparagraph, the term "insurer's rates then in effect"  
1170 includes only rates that have been lawfully in effect under this  
1171 section or rates that have been determined to be lawful through  
1172 administrative proceedings or judicial proceedings.

1173 2. An insurer may not make filings under this paragraph  
1174 with respect to any policy form, including endorsements issued  
1175 with the form, if the overall premium changes resulting from  
1176 such filings exceed the amounts specified in this paragraph in

1177 any 12-month period. An insurer may proceed under other  
1178 provisions of this section or other provisions of the laws of  
1179 this state if the insurer seeks to exceed the premium or rate  
1180 limitations of this paragraph.

1181 3. This paragraph does not affect the authority of the  
1182 office to disapprove a rate as inadequate or to disapprove a  
1183 filing for the unlawful use of unfairly discriminatory rating  
1184 factors that are prohibited by the laws of this state. An  
1185 insurer electing to implement a rate change under this paragraph  
1186 shall submit a filing to the office at least 30 days prior to  
1187 the effective date of the rate change. The office shall have 30  
1188 days after the filing's submission to review the filing and  
1189 determine if the rate is inadequate or uses unfairly  
1190 discriminatory rating factors. Absent a finding by the office  
1191 within such 30-day period that the rate is inadequate or that  
1192 the insurer has used unfairly discriminatory rating factors, the  
1193 filing is deemed approved. If the insurer is implementing an  
1194 overall rate decrease and the office finds during the 30-day  
1195 period that the filing will result in inadequate premiums or  
1196 otherwise endanger the insurer's solvency, the office shall  
1197 suspend the rate decrease. If the insurer is implementing an  
1198 overall rate increase the results of which continue to produce  
1199 an inadequate rate, such increase shall proceed pending  
1200 additional action by the office to ensure the adequacy of the  
1201 rate.

1202 4. This paragraph does not apply to rate filings for any  
1203 insurance other than residential property insurance.

1204

1205 The provisions of this subsection shall not apply to workers'  
 1206 compensation and employer's liability insurance and to motor  
 1207 vehicle insurance.

1208 Section 9. Section 627.0621, Florida Statutes, as amended  
 1209 by section 82 of chapter 2009-21, Laws of Florida, is amended to  
 1210 read:

1211 627.0621 Transparency in rate regulation.--

1212 (1) DEFINITIONS.--As used in this section, the term:

1213 (a) "Rate filing" means any original or amended rate  
 1214 residential property insurance filing.

1215 (b) "Recommendation" means any proposed, preliminary, or  
 1216 final recommendation from an office actuary reviewing a rate  
 1217 filing with respect to the issue of approval or disapproval of  
 1218 the rate filing or with respect to rate indications that the  
 1219 office would consider acceptable.

1220 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING  
 1221 INFORMATION.--With respect to any rate filing made on or after  
 1222 July 1, 2008, the office shall provide the following information  
 1223 on a publicly accessible Internet website:

1224 (a) The overall rate change requested by the insurer.

1225 (b) All assumptions made by the office's actuaries.

1226 (c) A statement describing any assumptions or methods that  
 1227 deviate from the actuarial standards of practice of the Casualty  
 1228 Actuarial Society or the American Academy of Actuaries,  
 1229 including an explanation of the nature, rationale, and effect of  
 1230 the deviation.

1231 (d) All recommendations made by any office actuary who  
 1232 reviewed the rate filing.

1233 (e) Certification by the office's actuary that, based on  
 1234 the actuary's knowledge, his or her recommendations are  
 1235 consistent with accepted actuarial principles.

1236 (f) The overall rate change approved by the office.

1237 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT. It is the~~  
 1238 ~~intent of the Legislature that the principles of the public~~  
 1239 ~~records and open meetings laws apply to the assertion of~~  
 1240 ~~attorney-client privilege and work product confidentiality by~~  
 1241 ~~the office in connection with a challenge to its actions on a~~  
 1242 ~~rate filing. Therefore, in any administrative or judicial~~  
 1243 ~~proceeding relating to a rate filing, attorney-client privilege~~  
 1244 ~~and work product exemptions from disclosure do not apply to~~  
 1245 ~~communications with office attorneys or records prepared by or~~  
 1246 ~~at the direction of an office attorney, except when the~~  
 1247 ~~conditions of paragraphs (a) and (b) have been met:~~

1248 ~~(a) The communication or record reflects a mental~~  
 1249 ~~impression, conclusion, litigation strategy, or legal theory of~~  
 1250 ~~the attorney or office that was prepared exclusively for civil~~  
 1251 ~~or criminal litigation or adversarial administrative~~  
 1252 ~~proceedings.~~

1253 ~~(b) The communication occurred or the record was prepared~~  
 1254 ~~after the initiation of an action in a court of competent~~  
 1255 ~~jurisdiction, after the issuance of a notice of intent to deny a~~  
 1256 ~~rate filing, or after the filing of a request for a proceeding~~  
 1257 ~~under ss. 120.569 and 120.57.~~

1258 Section 10. Subsection (4) is added to section 627.0628,  
 1259 Florida Statutes, to read:

1260 627.0628 Florida Commission on Hurricane Loss Projection

1261 Methodology; public records exemption; public meetings  
 1262 exemption.--  
 1263 (4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE  
 1264 DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO  
 1265 WINDSTORM MITIGATION.--The commission shall hold public meetings  
 1266 for the purpose of receiving testimony and data regarding the  
 1267 implementation of windstorm mitigation discounts, credits, other  
 1268 rate differentials, and appropriate reductions in deductibles  
 1269 pursuant to s. 627.0629. After reviewing the testimony and data  
 1270 as well as any other information the commission deems  
 1271 appropriate, the commission shall present a report by October 1,  
 1272 2009, to the Governor, the Cabinet, the President of the Senate,  
 1273 and the Speaker of the House of Representatives, including  
 1274 recommendations on improving the process of assessing,  
 1275 determining, and applying windstorm mitigation discounts,  
 1276 credits, other rate differentials, and appropriate reductions in  
 1277 deductibles pursuant to s. 627.0629.

1278 Section 11. Paragraph (b) of subsection (1) and subsection  
 1279 (5) of section 627.0629, Florida Statutes, are amended to read:  
 1280 627.0629 Residential property insurance; rate filings.--

1281 (1)

1282 (b) By February 1, 2011, the Office of Insurance  
 1283 Regulation, in consultation with the Department of Financial  
 1284 Services and the Department of Community Affairs, shall develop  
 1285 and make publicly available a proposed method for insurers to  
 1286 establish discounts, credits, or other rate differentials for  
 1287 hurricane mitigation measures which directly correlate to the  
 1288 numerical rating assigned to a structure pursuant to the uniform

1289 home grading scale adopted by the Financial Services Commission  
1290 pursuant to s. 215.55865, including any proposed changes to the  
1291 uniform home grading scale. By October 1, 2011, the commission  
1292 shall adopt rules requiring insurers to make rate filings for  
1293 residential property insurance which revise insurers' discounts,  
1294 credits, or other rate differentials for hurricane mitigation  
1295 measures so that such rate differentials correlate directly to  
1296 the uniform home grading scale. The rules may include such  
1297 changes to the uniform home grading scale as the commission  
1298 determines are necessary, and may specify the minimum required  
1299 discounts, credits, or other rate differentials. Such rate  
1300 differentials must be consistent with generally accepted  
1301 actuarial principles and wind-loss mitigation studies. The rules  
1302 shall allow a period of at least 2 years after the effective  
1303 date of the revised mitigation discounts, credits, or other rate  
1304 differentials for a property owner to obtain an inspection or  
1305 otherwise qualify for the revised credit, during which time the  
1306 insurer shall continue to apply the mitigation credit that was  
1307 applied immediately prior to the effective date of the revised  
1308 credit. Discounts, credits, and other rate differentials  
1309 established for rate filings under this paragraph shall  
1310 supersede, after adoption, the discounts, credits, and other  
1311 rate differentials included in rate filings under paragraph (a).

1312 (5) In order to provide an appropriate transition period,  
1313 an insurer may, in its sole discretion, implement an approved  
1314 rate filing for residential property insurance over a period of  
1315 years. An insurer electing to phase in its rate filing must  
1316 provide an informational notice to the office setting out its

1317 | schedule for implementation of the phased-in rate filing. An  
 1318 | insurer may include in its rate the actual cost of reinsurance  
 1319 | without the addition of an expense or profit load for the  
 1320 | insurer that duplicates coverage of the temporary increase in  
 1321 | coverage limit (TICL) available from the Florida Hurricane  
 1322 | Catastrophe Fund, even if the insurer does not purchase the TICL  
 1323 | coverage, to the extent the total annual base rate increase does  
 1324 | not exceed 10 percent as a result of such inclusion.

1325 |         Section 12. Section 627.0655, Florida Statutes, is amended  
 1326 | to read:

1327 |             627.0655 Policyholder loss or expense-related premium  
 1328 | discounts.--An insurer or person authorized to engage in the  
 1329 | business of insurance in this state may include, in the premium  
 1330 | charged an insured for any policy, contract, or certificate of  
 1331 | insurance, a discount based on the fact that another policy,  
 1332 | contract, or certificate of any type has been purchased by the  
 1333 | insured from the same insurer or insurer group, or, for policies  
 1334 | issued or renewed before January 1, 2010, from the Citizens  
 1335 | Property Insurance Corporation created under s. 627.351(6) if  
 1336 | the same insurance agent is servicing both policies, or for  
 1337 | policies issued or renewed before January 1, 2010, from an  
 1338 | insurer that has removed the policy from the Citizens Property  
 1339 | Insurance Corporation if the same insurance agent is servicing  
 1340 | both policies.

1341 |         Section 13. Paragraphs (y) through (ee) of subsection (6)  
 1342 | of section 627.351, Florida Statutes, are redesignated as  
 1343 | paragraphs (x) through (dd), respectively, and paragraphs (a),  
 1344 | (b), (c), and (m) and present paragraph (x) of that subsection



1345 are amended to read:  
 1346       627.351 Insurance risk apportionment plans.--  
 1347       (6) CITIZENS PROPERTY INSURANCE CORPORATION.--  
 1348       (a)1. It is the public purpose of this subsection to  
 1349 ensure the existence of an orderly market for property insurance  
 1350 for Floridians and Florida businesses. The Legislature finds  
 1351 that private insurers are unwilling or unable to provide  
 1352 affordable property insurance coverage in this state to the  
 1353 extent sought and needed. The absence of affordable property  
 1354 insurance threatens the public health, safety, and welfare and  
 1355 likewise threatens the economic health of the state. The state  
 1356 therefore has a compelling public interest and a public purpose  
 1357 to assist in assuring that property in the state is insured and  
 1358 that it is insured at affordable rates so as to facilitate the  
 1359 remediation, reconstruction, and replacement of damaged or  
 1360 destroyed property in order to reduce or avoid the negative  
 1361 effects otherwise resulting to the public health, safety, and  
 1362 welfare, to the economy of the state, and to the revenues of the  
 1363 state and local governments which are needed to provide for the  
 1364 public welfare. It is necessary, therefore, to provide  
 1365 affordable property insurance to applicants who are in good  
 1366 faith entitled to procure insurance through the voluntary market  
 1367 but are unable to do so. The Legislature intends by this  
 1368 subsection that affordable property insurance be provided and  
 1369 that it continue to be provided, as long as necessary, through  
 1370 Citizens Property Insurance Corporation, a government entity  
 1371 that is an integral part of the state, and that is not a private  
 1372 insurance company. To that end, Citizens Property Insurance

1373 Corporation shall strive to increase the availability of  
1374 affordable property insurance in this state, while achieving  
1375 efficiencies and economies, and while providing service to  
1376 policyholders, applicants, and agents which is no less than the  
1377 quality generally provided in the voluntary market, for the  
1378 achievement of the foregoing public purposes. Because it is  
1379 essential for this government entity to have the maximum  
1380 financial resources to pay claims following a catastrophic  
1381 hurricane, it is the intent of the Legislature that Citizens  
1382 Property Insurance Corporation continue to be an integral part  
1383 of the state and that the income of the corporation be exempt  
1384 from federal income taxation and that interest on the debt  
1385 obligations issued by the corporation be exempt from federal  
1386 income taxation.

1387       2. The Residential Property and Casualty Joint  
1388 Underwriting Association originally created by this statute  
1389 shall be known, as of July 1, 2002, as the Citizens Property  
1390 Insurance Corporation. The corporation shall provide insurance  
1391 for residential and commercial property, for applicants who are  
1392 in good faith entitled, but are unable, to procure insurance  
1393 through the voluntary market. The corporation shall operate  
1394 pursuant to a plan of operation approved by order of the  
1395 Financial Services Commission. The plan is subject to continuous  
1396 review by the commission. The commission may, by order, withdraw  
1397 approval of all or part of a plan if the commission determines  
1398 that conditions have changed since approval was granted and that  
1399 the purposes of the plan require changes in the plan. The  
1400 corporation shall continue to operate pursuant to the plan of

1401 operation approved by the Office of Insurance Regulation until  
1402 October 1, 2006. For the purposes of this subsection,  
1403 residential coverage includes both personal lines residential  
1404 coverage, which consists of the type of coverage provided by  
1405 homeowner's, mobile home owner's, dwelling, tenant's,  
1406 condominium unit owner's, and similar policies, and commercial  
1407 lines residential coverage, which consists of the type of  
1408 coverage provided by condominium association, apartment  
1409 building, and similar policies.

1410 3. Effective January 1, 2009, a personal lines residential  
1411 structure that has a dwelling replacement cost of \$2 million or  
1412 more, or a single condominium unit that has a combined dwelling  
1413 and content replacement cost of \$2 million or more is not  
1414 eligible for coverage by the corporation. Such dwellings insured  
1415 by the corporation on December 31, 2008, may continue to be  
1416 covered by the corporation until the end of the policy term.  
1417 However, such dwellings that are insured by the corporation and  
1418 become ineligible for coverage due to the provisions of this  
1419 subparagraph may reapply and obtain coverage if the property  
1420 owner provides the corporation with a sworn affidavit from one  
1421 or more insurance agents, on a form provided by the corporation,  
1422 stating that the agents have made their best efforts to obtain  
1423 coverage and that the property has been rejected for coverage by  
1424 at least one authorized insurer and at least three surplus lines  
1425 insurers. If such conditions are met, the dwelling may be  
1426 insured by the corporation for up to 3 years, after which time  
1427 the dwelling is ineligible for coverage. The office shall  
1428 approve the method used by the corporation for valuing the

1429 dwelling replacement cost for the purposes of this subparagraph.  
 1430 If a policyholder is insured by the corporation prior to being  
 1431 determined to be ineligible pursuant to this subparagraph and  
 1432 such policyholder files a lawsuit challenging the determination,  
 1433 the policyholder may remain insured by the corporation until the  
 1434 conclusion of the litigation.

1435 4. It is the intent of the Legislature that policyholders,  
 1436 applicants, and agents of the corporation receive service and  
 1437 treatment of the highest possible level but never less than that  
 1438 generally provided in the voluntary market. It also is intended  
 1439 that the corporation be held to service standards no less than  
 1440 those applied to insurers in the voluntary market by the office  
 1441 with respect to responsiveness, timeliness, customer courtesy,  
 1442 and overall dealings with policyholders, applicants, or agents  
 1443 of the corporation.

1444 5. Effective January 1, 2009, a personal lines residential  
 1445 structure that is located in the "wind-borne debris region," as  
 1446 defined in s. 1609.2, International Building Code (2006), and  
 1447 that has an insured value on the structure of \$750,000 or more  
 1448 is not eligible for coverage by the corporation unless the  
 1449 structure has opening protections as required under the Florida  
 1450 Building Code for a newly constructed residential structure in  
 1451 that area. A residential structure shall be deemed to comply  
 1452 with the requirements of this subparagraph if it has shutters or  
 1453 opening protections on all openings and if such opening  
 1454 protections complied with the Florida Building Code at the time  
 1455 they were installed. ~~Effective January 1, 2010, for personal~~  
 1456 ~~lines residential property insured by the corporation that is~~

1457 ~~located in the wind borne debris region and has an insured value~~  
 1458 ~~on the structure of \$500,000 or more, a prospective purchaser of~~  
 1459 ~~any such residential property must be provided by the seller a~~  
 1460 ~~written disclosure that contains the structure's windstorm~~  
 1461 ~~mitigation rating based on the uniform home grading scale~~  
 1462 ~~adopted under s. 215.55865. Such rating shall be provided to the~~  
 1463 ~~purchaser at or before the time the purchaser executes a~~  
 1464 ~~contract for sale and purchase.~~

1465 (b)1. All insurers authorized to write one or more subject  
 1466 lines of business in this state are subject to assessment by the  
 1467 corporation and, for the purposes of this subsection, are  
 1468 referred to collectively as "assessable insurers." Insurers  
 1469 writing one or more subject lines of business in this state  
 1470 pursuant to part VIII of chapter 626 are not assessable  
 1471 insurers, but insureds who procure one or more subject lines of  
 1472 business in this state pursuant to part VIII of chapter 626 are  
 1473 subject to assessment by the corporation and are referred to  
 1474 collectively as "assessable insureds." An authorized insurer's  
 1475 assessment liability shall begin on the first day of the  
 1476 calendar year following the year in which the insurer was issued  
 1477 a certificate of authority to transact insurance for subject  
 1478 lines of business in this state and shall terminate 1 year after  
 1479 the end of the first calendar year during which the insurer no  
 1480 longer holds a certificate of authority to transact insurance  
 1481 for subject lines of business in this state.

1482 2.a. All revenues, assets, liabilities, losses, and  
 1483 expenses of the corporation shall be divided into three separate  
 1484 accounts as follows:

1485 (I) A personal lines account for personal residential  
1486 policies issued by the corporation or issued by the Residential  
1487 Property and Casualty Joint Underwriting Association and renewed  
1488 by the corporation that provide comprehensive, multiperil  
1489 coverage on risks that are not located in areas eligible for  
1490 coverage in the Florida Windstorm Underwriting Association as  
1491 those areas were defined on January 1, 2002, and for such  
1492 policies that do not provide coverage for the peril of wind on  
1493 risks that are located in such areas;

1494 (II) A commercial lines account for commercial residential  
1495 and commercial nonresidential policies issued by the corporation  
1496 or issued by the Residential Property and Casualty Joint  
1497 Underwriting Association and renewed by the corporation that  
1498 provide coverage for basic property perils on risks that are not  
1499 located in areas eligible for coverage in the Florida Windstorm  
1500 Underwriting Association as those areas were defined on January  
1501 1, 2002, and for such policies that do not provide coverage for  
1502 the peril of wind on risks that are located in such areas; and

1503 (III) A high-risk account for personal residential  
1504 policies and commercial residential and commercial  
1505 nonresidential property policies issued by the corporation or  
1506 transferred to the corporation that provide coverage for the  
1507 peril of wind on risks that are located in areas eligible for  
1508 coverage in the Florida Windstorm Underwriting Association as  
1509 those areas were defined on January 1, 2002. The corporation may  
1510 offer policies that provide multiperil coverage and the  
1511 corporation shall continue to offer policies that provide  
1512 coverage only for the peril of wind for risks located in areas

1513 eligible for coverage in the high-risk account. In issuing  
1514 multiperil coverage, the corporation may use its approved policy  
1515 forms and rates for the personal lines account. An applicant or  
1516 insured who is eligible to purchase a multiperil policy from the  
1517 corporation may purchase a multiperil policy from an authorized  
1518 insurer without prejudice to the applicant's or insured's  
1519 eligibility to prospectively purchase a policy that provides  
1520 coverage only for the peril of wind from the corporation. An  
1521 applicant or insured who is eligible for a corporation policy  
1522 that provides coverage only for the peril of wind may elect to  
1523 purchase or retain such policy and also purchase or retain  
1524 coverage excluding wind from an authorized insurer without  
1525 prejudice to the applicant's or insured's eligibility to  
1526 prospectively purchase a policy that provides multiperil  
1527 coverage from the corporation. It is the goal of the Legislature  
1528 that there would be an overall average savings of 10 percent or  
1529 more for a policyholder who currently has a wind-only policy  
1530 with the corporation, and an ex-wind policy with a voluntary  
1531 insurer or the corporation, and who then obtains a multiperil  
1532 policy from the corporation. It is the intent of the Legislature  
1533 that the offer of multiperil coverage in the high-risk account  
1534 be made and implemented in a manner that does not adversely  
1535 affect the tax-exempt status of the corporation or  
1536 creditworthiness of or security for currently outstanding  
1537 financing obligations or credit facilities of the high-risk  
1538 account, the personal lines account, or the commercial lines  
1539 account. The high-risk account must also include quota share  
1540 primary insurance under subparagraph (c)2. The area eligible for

1541 coverage under the high-risk account also includes the area  
1542 within Port Canaveral, which is bordered on the south by the  
1543 City of Cape Canaveral, bordered on the west by the Banana  
1544 River, and bordered on the north by Federal Government property.

1545       b. The three separate accounts must be maintained as long  
1546 as financing obligations entered into by the Florida Windstorm  
1547 Underwriting Association or Residential Property and Casualty  
1548 Joint Underwriting Association are outstanding, in accordance  
1549 with the terms of the corresponding financing documents. When  
1550 the financing obligations are no longer outstanding, in  
1551 accordance with the terms of the corresponding financing  
1552 documents, the corporation may use a single account for all  
1553 revenues, assets, liabilities, losses, and expenses of the  
1554 corporation. Consistent with the requirement of this  
1555 subparagraph and prudent investment policies that minimize the  
1556 cost of carrying debt, the board shall exercise its best efforts  
1557 to retire existing debt or to obtain approval of necessary  
1558 parties to amend the terms of existing debt, so as to structure  
1559 the most efficient plan to consolidate the three separate  
1560 accounts into a single account. By February 1, 2007, the board  
1561 shall submit a report to the Financial Services Commission, the  
1562 President of the Senate, and the Speaker of the House of  
1563 Representatives which includes an analysis of consolidating the  
1564 accounts, the actions the board has taken to minimize the cost  
1565 of carrying debt, and its recommendations for executing the most  
1566 efficient plan.

1567       c. Creditors of the Residential Property and Casualty  
1568 Joint Underwriting Association and of the accounts specified in



1569 sub-sub-subparagraphs a.(I) and (II) may have a claim against,  
 1570 and recourse to, the accounts referred to in sub-sub-  
 1571 subparagraphs a.(I) and (II) and shall have no claim against, or  
 1572 recourse to, the account referred to in sub-sub-subparagraph  
 1573 a.(III). Creditors of the Florida Windstorm Underwriting  
 1574 Association shall have a claim against, and recourse to, the  
 1575 account referred to in sub-sub-subparagraph a.(III) and shall  
 1576 have no claim against, or recourse to, the accounts referred to  
 1577 in sub-sub-subparagraphs a.(I) and (II).

1578 d. Revenues, assets, liabilities, losses, and expenses not  
 1579 attributable to particular accounts shall be prorated among the  
 1580 accounts.

1581 e. The Legislature finds that the revenues of the  
 1582 corporation are revenues that are necessary to meet the  
 1583 requirements set forth in documents authorizing the issuance of  
 1584 bonds under this subsection.

1585 f. No part of the income of the corporation may inure to  
 1586 the benefit of any private person.

1587 3. With respect to a deficit in an account:

1588 a. After accounting for the Citizens policyholder  
 1589 surcharge imposed under sub-subparagraph i., when the remaining  
 1590 projected deficit incurred in a particular calendar year is not  
 1591 greater than 6 percent of the aggregate statewide direct written  
 1592 premium for the subject lines of business for the prior calendar  
 1593 year, the entire deficit shall be recovered through regular  
 1594 assessments of assessable insurers under paragraph (p) and  
 1595 assessable insureds.

1596 b. After accounting for the Citizens policyholder

1597 surcharge imposed under sub-subparagraph i., when the remaining  
1598 projected deficit incurred in a particular calendar year exceeds  
1599 6 percent of the aggregate statewide direct written premium for  
1600 the subject lines of business for the prior calendar year, the  
1601 corporation shall levy regular assessments on assessable  
1602 insurers under paragraph (p) and on assessable insureds in an  
1603 amount equal to the greater of 6 percent of the deficit or 6  
1604 percent of the aggregate statewide direct written premium for  
1605 the subject lines of business for the prior calendar year. Any  
1606 remaining deficit shall be recovered through emergency  
1607 assessments under sub-subparagraph d.

1608 c. Each assessable insurer's share of the amount being  
1609 assessed under sub-subparagraph a. or sub-subparagraph b. shall  
1610 be in the proportion that the assessable insurer's direct  
1611 written premium for the subject lines of business for the year  
1612 preceding the assessment bears to the aggregate statewide direct  
1613 written premium for the subject lines of business for that year.  
1614 The assessment percentage applicable to each assessable insured  
1615 is the ratio of the amount being assessed under sub-subparagraph  
1616 a. or sub-subparagraph b. to the aggregate statewide direct  
1617 written premium for the subject lines of business for the prior  
1618 year. Assessments levied by the corporation on assessable  
1619 insurers under sub-subparagraphs a. and b. shall be paid as  
1620 required by the corporation's plan of operation and paragraph  
1621 (p). Assessments levied by the corporation on assessable  
1622 insureds under sub-subparagraphs a. and b. shall be collected by  
1623 the surplus lines agent at the time the surplus lines agent  
1624 collects the surplus lines tax required by s. 626.932 and shall

1625 be paid to the Florida Surplus Lines Service Office at the time  
1626 the surplus lines agent pays the surplus lines tax to the  
1627 Florida Surplus Lines Service Office. Upon receipt of regular  
1628 assessments from surplus lines agents, the Florida Surplus Lines  
1629 Service Office shall transfer the assessments directly to the  
1630 corporation as determined by the corporation.

1631 d. Upon a determination by the board of governors that a  
1632 deficit in an account exceeds the amount that will be recovered  
1633 through regular assessments under sub-subparagraph a. or sub-  
1634 subparagraph b., plus the amount that is expected to be  
1635 recovered through surcharges under sub-subparagraph i., as to  
1636 the remaining projected deficit the board shall levy, after  
1637 verification by the office, emergency assessments, for as many  
1638 years as necessary to cover the deficits, to be collected by  
1639 assessable insurers and the corporation and collected from  
1640 assessable insureds upon issuance or renewal of policies for  
1641 subject lines of business, excluding National Flood Insurance  
1642 policies. The amount of the emergency assessment collected in a  
1643 particular year shall be a uniform percentage of that year's  
1644 direct written premium for subject lines of business and all  
1645 accounts of the corporation, excluding National Flood Insurance  
1646 Program policy premiums, as annually determined by the board and  
1647 verified by the office. The office shall verify the arithmetic  
1648 calculations involved in the board's determination within 30  
1649 days after receipt of the information on which the determination  
1650 was based. Notwithstanding any other provision of law, the  
1651 corporation and each assessable insurer that writes subject  
1652 lines of business shall collect emergency assessments from its

1653 | policyholders without such obligation being affected by any  
1654 | credit, limitation, exemption, or deferment. Emergency  
1655 | assessments levied by the corporation on assessable insureds  
1656 | shall be collected by the surplus lines agent at the time the  
1657 | surplus lines agent collects the surplus lines tax required by  
1658 | s. 626.932 and shall be paid to the Florida Surplus Lines  
1659 | Service Office at the time the surplus lines agent pays the  
1660 | surplus lines tax to the Florida Surplus Lines Service Office.  
1661 | The emergency assessments so collected shall be transferred  
1662 | directly to the corporation on a periodic basis as determined by  
1663 | the corporation and shall be held by the corporation solely in  
1664 | the applicable account. The aggregate amount of emergency  
1665 | assessments levied for an account under this sub-subparagraph in  
1666 | any calendar year may, at the discretion of the board of  
1667 | governors, be less than but may not exceed the greater of 10  
1668 | percent of the amount needed to cover the deficit, plus  
1669 | interest, fees, commissions, required reserves, and other costs  
1670 | associated with financing of the original deficit, or 10 percent  
1671 | of the aggregate statewide direct written premium for subject  
1672 | lines of business and for all accounts of the corporation for  
1673 | the prior year, plus interest, fees, commissions, required  
1674 | reserves, and other costs associated with financing the deficit.

1675 |       e. The corporation may pledge the proceeds of assessments,  
1676 | projected recoveries from the Florida Hurricane Catastrophe  
1677 | Fund, other insurance and reinsurance recoverables, policyholder  
1678 | surcharges and other surcharges, and other funds available to  
1679 | the corporation as the source of revenue for and to secure bonds  
1680 | issued under paragraph (p), bonds or other indebtedness issued

1681 under subparagraph (c)3., or lines of credit or other financing  
1682 mechanisms issued or created under this subsection, or to retire  
1683 any other debt incurred as a result of deficits or events giving  
1684 rise to deficits, or in any other way that the board determines  
1685 will efficiently recover such deficits. The purpose of the lines  
1686 of credit or other financing mechanisms is to provide additional  
1687 resources to assist the corporation in covering claims and  
1688 expenses attributable to a catastrophe. As used in this  
1689 subsection, the term "assessments" includes regular assessments  
1690 under sub-subparagraph a., sub-subparagraph b., or subparagraph  
1691 (p)1. and emergency assessments under sub-subparagraph d.  
1692 Emergency assessments collected under sub-subparagraph d. are  
1693 not part of an insurer's rates, are not premium, and are not  
1694 subject to premium tax, fees, or commissions; however, failure  
1695 to pay the emergency assessment shall be treated as failure to  
1696 pay premium. The emergency assessments under sub-subparagraph d.  
1697 shall continue as long as any bonds issued or other indebtedness  
1698 incurred with respect to a deficit for which the assessment was  
1699 imposed remain outstanding, unless adequate provision has been  
1700 made for the payment of such bonds or other indebtedness  
1701 pursuant to the documents governing such bonds or other  
1702 indebtedness.

1703 f. As used in this subsection for purposes of any deficit  
1704 incurred on or after January 25, 2007, the term "subject lines  
1705 of business" means insurance written by assessable insurers or  
1706 procured by assessable insureds for all property and casualty  
1707 lines of business in this state, but not including workers'  
1708 compensation or medical malpractice. As used in the sub-

1709 subparagraph, the term "property and casualty lines of business"  
1710 includes all lines of business identified on Form 2, Exhibit of  
1711 Premiums and Losses, in the annual statement required of  
1712 authorized insurers by s. 624.424 and any rule adopted under  
1713 this section, except for those lines identified as accident and  
1714 health insurance and except for policies written under the  
1715 National Flood Insurance Program or the Federal Crop Insurance  
1716 Program. For purposes of this sub-subparagraph, the term  
1717 "workers' compensation" includes both workers' compensation  
1718 insurance and excess workers' compensation insurance.

1719 g. The Florida Surplus Lines Service Office shall  
1720 determine annually the aggregate statewide written premium in  
1721 subject lines of business procured by assessable insureds and  
1722 shall report that information to the corporation in a form and  
1723 at a time the corporation specifies to ensure that the  
1724 corporation can meet the requirements of this subsection and the  
1725 corporation's financing obligations.

1726 h. The Florida Surplus Lines Service Office shall verify  
1727 the proper application by surplus lines agents of assessment  
1728 percentages for regular assessments and emergency assessments  
1729 levied under this subparagraph on assessable insureds and shall  
1730 assist the corporation in ensuring the accurate, timely  
1731 collection and payment of assessments by surplus lines agents as  
1732 required by the corporation.

1733 i. If a deficit is incurred in any account in 2008 or  
1734 thereafter, the board of governors shall levy a Citizens  
1735 policyholder surcharge against all policyholders of the  
1736 corporation for a 12-month period, which shall be collected at

1737 the time of issuance or renewal of a policy, as a uniform  
1738 percentage of the premium for the policy of up to 25 ~~15~~ percent  
1739 of such premium, which funds shall be used to offset the  
1740 deficit. Citizens policyholder surcharges under this sub-  
1741 subparagraph are not considered premium and are not subject to  
1742 commissions, fees, or premium taxes. However, failure to pay  
1743 such surcharges shall be treated as failure to pay premium.

1744 j. If the amount of any assessments or surcharges  
1745 collected from corporation policyholders, assessable insurers or  
1746 their policyholders, or assessable insureds exceeds the amount  
1747 of the deficits, such excess amounts shall be remitted to and  
1748 retained by the corporation in a reserve to be used by the  
1749 corporation, as determined by the board of governors and  
1750 approved by the office, to pay claims or reduce any past,  
1751 present, or future plan-year deficits or to reduce outstanding  
1752 debt.

1753 (c) The plan of operation of the corporation:

1754 1. Must provide for adoption of residential property and  
1755 casualty insurance policy forms and commercial residential and  
1756 nonresidential property insurance forms, which forms must be  
1757 approved by the office prior to use. The corporation shall adopt  
1758 the following policy forms:

1759 a. Standard personal lines policy forms that are  
1760 comprehensive multiperil policies providing full coverage of a  
1761 residential property equivalent to the coverage provided in the  
1762 private insurance market under an HO-3, HO-4, or HO-6 policy.

1763 b. Basic personal lines policy forms that are policies  
1764 similar to an HO-8 policy or a dwelling fire policy that provide

1765 coverage meeting the requirements of the secondary mortgage  
 1766 market, but which coverage is more limited than the coverage  
 1767 under a standard policy.

1768 c. Commercial lines residential and nonresidential policy  
 1769 forms that are generally similar to the basic perils of full  
 1770 coverage obtainable for commercial residential structures and  
 1771 commercial nonresidential structures in the admitted voluntary  
 1772 market.

1773 d. Personal lines and commercial lines residential  
 1774 property insurance forms that cover the peril of wind only. The  
 1775 forms are applicable only to residential properties located in  
 1776 areas eligible for coverage under the high-risk account referred  
 1777 to in sub-subparagraph (b)2.a.

1778 e. Commercial lines nonresidential property insurance  
 1779 forms that cover the peril of wind only. The forms are  
 1780 applicable only to nonresidential properties located in areas  
 1781 eligible for coverage under the high-risk account referred to in  
 1782 sub-subparagraph (b)2.a.

1783 f. The corporation may adopt variations of the policy  
 1784 forms listed in sub-subparagraphs a.-e. that contain more  
 1785 restrictive coverage.

1786 2.a. Must provide that the corporation adopt a program in  
 1787 which the corporation and authorized insurers enter into quota  
 1788 share primary insurance agreements for hurricane coverage, as  
 1789 defined in s. 627.4025(2) (a), for eligible risks, and adopt  
 1790 property insurance forms for eligible risks which cover the  
 1791 peril of wind only. As used in this subsection, the term:

1792 (I) "Quota share primary insurance" means an arrangement



1793 | in which the primary hurricane coverage of an eligible risk is  
1794 | provided in specified percentages by the corporation and an  
1795 | authorized insurer. The corporation and authorized insurer are  
1796 | each solely responsible for a specified percentage of hurricane  
1797 | coverage of an eligible risk as set forth in a quota share  
1798 | primary insurance agreement between the corporation and an  
1799 | authorized insurer and the insurance contract. The  
1800 | responsibility of the corporation or authorized insurer to pay  
1801 | its specified percentage of hurricane losses of an eligible  
1802 | risk, as set forth in the quota share primary insurance  
1803 | agreement, may not be altered by the inability of the other  
1804 | party to the agreement to pay its specified percentage of  
1805 | hurricane losses. Eligible risks that are provided hurricane  
1806 | coverage through a quota share primary insurance arrangement  
1807 | must be provided policy forms that set forth the obligations of  
1808 | the corporation and authorized insurer under the arrangement,  
1809 | clearly specify the percentages of quota share primary insurance  
1810 | provided by the corporation and authorized insurer, and  
1811 | conspicuously and clearly state that neither the authorized  
1812 | insurer nor the corporation may be held responsible beyond its  
1813 | specified percentage of coverage of hurricane losses.

1814 | (II) "Eligible risks" means personal lines residential and  
1815 | commercial lines residential risks that meet the underwriting  
1816 | criteria of the corporation and are located in areas that were  
1817 | eligible for coverage by the Florida Windstorm Underwriting  
1818 | Association on January 1, 2002.

1819 | b. The corporation may enter into quota share primary  
1820 | insurance agreements with authorized insurers at corporation

1821 coverage levels of 90 percent and 50 percent.

1822 c. If the corporation determines that additional coverage  
1823 levels are necessary to maximize participation in quota share  
1824 primary insurance agreements by authorized insurers, the  
1825 corporation may establish additional coverage levels. However,  
1826 the corporation's quota share primary insurance coverage level  
1827 may not exceed 90 percent.

1828 d. Any quota share primary insurance agreement entered  
1829 into between an authorized insurer and the corporation must  
1830 provide for a uniform specified percentage of coverage of  
1831 hurricane losses, by county or territory as set forth by the  
1832 corporation board, for all eligible risks of the authorized  
1833 insurer covered under the quota share primary insurance  
1834 agreement.

1835 e. Any quota share primary insurance agreement entered  
1836 into between an authorized insurer and the corporation is  
1837 subject to review and approval by the office. However, such  
1838 agreement shall be authorized only as to insurance contracts  
1839 entered into between an authorized insurer and an insured who is  
1840 already insured by the corporation for wind coverage.

1841 f. For all eligible risks covered under quota share  
1842 primary insurance agreements, the exposure and coverage levels  
1843 for both the corporation and authorized insurers shall be  
1844 reported by the corporation to the Florida Hurricane Catastrophe  
1845 Fund. For all policies of eligible risks covered under quota  
1846 share primary insurance agreements, the corporation and the  
1847 authorized insurer shall maintain complete and accurate records  
1848 for the purpose of exposure and loss reimbursement audits as

1849 required by Florida Hurricane Catastrophe Fund rules. The  
 1850 corporation and the authorized insurer shall each maintain  
 1851 duplicate copies of policy declaration pages and supporting  
 1852 claims documents.

1853 g. The corporation board shall establish in its plan of  
 1854 operation standards for quota share agreements which ensure that  
 1855 there is no discriminatory application among insurers as to the  
 1856 terms of quota share agreements, pricing of quota share  
 1857 agreements, incentive provisions if any, and consideration paid  
 1858 for servicing policies or adjusting claims.

1859 h. The quota share primary insurance agreement between the  
 1860 corporation and an authorized insurer must set forth the  
 1861 specific terms under which coverage is provided, including, but  
 1862 not limited to, the sale and servicing of policies issued under  
 1863 the agreement by the insurance agent of the authorized insurer  
 1864 producing the business, the reporting of information concerning  
 1865 eligible risks, the payment of premium to the corporation, and  
 1866 arrangements for the adjustment and payment of hurricane claims  
 1867 incurred on eligible risks by the claims adjuster and personnel  
 1868 of the authorized insurer. Entering into a quota sharing  
 1869 insurance agreement between the corporation and an authorized  
 1870 insurer shall be voluntary and at the discretion of the  
 1871 authorized insurer.

1872 3. May provide that the corporation may employ or  
 1873 otherwise contract with individuals or other entities to provide  
 1874 administrative or professional services that may be appropriate  
 1875 to effectuate the plan. The corporation shall have the power to  
 1876 borrow funds, by issuing bonds or by incurring other

1877 indebtedness, and shall have other powers reasonably necessary  
 1878 to effectuate the requirements of this subsection, including,  
 1879 without limitation, the power to issue bonds and incur other  
 1880 indebtedness in order to refinance outstanding bonds or other  
 1881 indebtedness. The corporation may, but is not required to, seek  
 1882 judicial validation of its bonds or other indebtedness under  
 1883 chapter 75. The corporation may issue bonds or incur other  
 1884 indebtedness, or have bonds issued on its behalf by a unit of  
 1885 local government pursuant to subparagraph (p)2., in the absence  
 1886 of a hurricane or other weather-related event, upon a  
 1887 determination by the corporation, subject to approval by the  
 1888 office, that such action would enable it to efficiently meet the  
 1889 financial obligations of the corporation and that such  
 1890 financings are reasonably necessary to effectuate the  
 1891 requirements of this subsection. The corporation is authorized  
 1892 to take all actions needed to facilitate tax-free status for any  
 1893 such bonds or indebtedness, including formation of trusts or  
 1894 other affiliated entities. The corporation shall have the  
 1895 authority to pledge assessments, projected recoveries from the  
 1896 Florida Hurricane Catastrophe Fund, other reinsurance  
 1897 recoverables, market equalization and other surcharges, and  
 1898 other funds available to the corporation as security for bonds  
 1899 or other indebtedness. In recognition of s. 10, Art. I of the  
 1900 State Constitution, prohibiting the impairment of obligations of  
 1901 contracts, it is the intent of the Legislature that no action be  
 1902 taken whose purpose is to impair any bond indenture or financing  
 1903 agreement or any revenue source committed by contract to such  
 1904 bond or other indebtedness.

1905           4.a. Must require that the corporation operate subject to  
1906 the supervision and approval of a board of governors consisting  
1907 of eight individuals who are residents of this state, from  
1908 different geographical areas of this state. The Governor, the  
1909 Chief Financial Officer, the President of the Senate, and the  
1910 Speaker of the House of Representatives shall each appoint two  
1911 members of the board. At least one of the two members appointed  
1912 by each appointing officer must have demonstrated expertise in  
1913 insurance. The Chief Financial Officer shall designate one of  
1914 the appointees as chair. All board members serve at the pleasure  
1915 of the appointing officer. All members of the board of governors  
1916 are subject to removal at will by the officers who appointed  
1917 them. Except as otherwise provided, all board members, including  
1918 the chair, must be appointed to serve for 3-year terms beginning  
1919 annually on a date designated by the plan. However, for the  
1920 first term beginning on or after July 1, 2009, each appointing  
1921 officer shall appoint one member of the board for a 2-year term  
1922 and one member for a 3-year term. Any board vacancy shall be  
1923 filled for the unexpired term by the appointing officer. The  
1924 Chief Financial Officer shall appoint a technical advisory group  
1925 to provide information and advice to the board of governors in  
1926 connection with the board's duties under this subsection. The  
1927 executive director and senior managers of the corporation shall  
1928 be engaged by the board and serve at the pleasure of the board.  
1929 Any executive director appointed on or after July 1, 2006, is  
1930 subject to confirmation by the Senate. The executive director is  
1931 responsible for employing other staff as the corporation may  
1932 require, subject to review and concurrence by the board.

1933           b. The board shall create a Market Accountability Advisory  
 1934 Committee to assist the corporation in developing awareness of  
 1935 its rates and its customer and agent service levels in  
 1936 relationship to the voluntary market insurers writing similar  
 1937 coverage. The members of the advisory committee shall consist of  
 1938 the following 11 persons, one of whom must be elected chair by  
 1939 the members of the committee: four representatives, one  
 1940 appointed by the Florida Association of Insurance Agents, one by  
 1941 the Florida Association of Insurance and Financial Advisors, one  
 1942 by the Professional Insurance Agents of Florida, and one by the  
 1943 Latin American Association of Insurance Agencies; three  
 1944 representatives appointed by the insurers with the three highest  
 1945 voluntary market share of residential property insurance  
 1946 business in the state; one representative from the Office of  
 1947 Insurance Regulation; one consumer appointed by the board who is  
 1948 insured by the corporation at the time of appointment to the  
 1949 committee; one representative appointed by the Florida  
 1950 Association of Realtors; and one representative appointed by the  
 1951 Florida Bankers Association. All members must serve for 3-year  
 1952 terms and may serve for consecutive terms. The committee shall  
 1953 report to the corporation at each board meeting on insurance  
 1954 market issues which may include rates and rate competition with  
 1955 the voluntary market; service, including policy issuance, claims  
 1956 processing, and general responsiveness to policyholders,  
 1957 applicants, and agents; and matters relating to depopulation.

1958           5. Must provide a procedure for determining the  
 1959 eligibility of a risk for coverage, as follows:

1960           a. Subject to the provisions of s. 627.3517, with respect

1961 to personal lines residential risks, if the risk is offered  
1962 coverage from an authorized insurer at the insurer's approved  
1963 rate under either a standard policy including wind coverage or,  
1964 if consistent with the insurer's underwriting rules as filed  
1965 with the office, a basic policy including wind coverage, for a  
1966 new application to the corporation for coverage, the risk is not  
1967 eligible for any policy issued by the corporation unless the  
1968 premium for coverage from the authorized insurer is more than 15  
1969 percent greater than the premium for comparable coverage from  
1970 the corporation. If the risk is not able to obtain any such  
1971 offer, the risk is eligible for either a standard policy  
1972 including wind coverage or a basic policy including wind  
1973 coverage issued by the corporation; however, if the risk could  
1974 not be insured under a standard policy including wind coverage  
1975 regardless of market conditions, the risk shall be eligible for  
1976 a basic policy including wind coverage unless rejected under  
1977 subparagraph 8. However, with regard to a policyholder of the  
1978 corporation or a policyholder removed from the corporation  
1979 through an assumption agreement until the end of the assumption  
1980 period, the policyholder remains eligible for coverage from the  
1981 corporation regardless of any offer of coverage from an  
1982 authorized insurer or surplus lines insurer. The corporation  
1983 shall determine the type of policy to be provided on the basis  
1984 of objective standards specified in the underwriting manual and  
1985 based on generally accepted underwriting practices.

1986 (I) If the risk accepts an offer of coverage through the  
1987 market assistance plan or an offer of coverage through a  
1988 mechanism established by the corporation before a policy is

1989 | issued to the risk by the corporation or during the first 30  
 1990 | days of coverage by the corporation, and the producing agent who  
 1991 | submitted the application to the plan or to the corporation is  
 1992 | not currently appointed by the insurer, the insurer shall:

1993 |       (A) Pay to the producing agent of record of the policy,  
 1994 | for the first year, an amount that is the greater of the  
 1995 | insurer's usual and customary commission for the type of policy  
 1996 | written or a fee equal to the usual and customary commission of  
 1997 | the corporation; or

1998 |       (B) Offer to allow the producing agent of record of the  
 1999 | policy to continue servicing the policy for a period of not less  
 2000 | than 1 year and offer to pay the agent the greater of the  
 2001 | insurer's or the corporation's usual and customary commission  
 2002 | for the type of policy written.

2003 |  
 2004 | If the producing agent is unwilling or unable to accept  
 2005 | appointment, the new insurer shall pay the agent in accordance  
 2006 | with sub-sub-sub-subparagraph (A).

2007 |       (II) When the corporation enters into a contractual  
 2008 | agreement for a take-out plan, the producing agent of record of  
 2009 | the corporation policy is entitled to retain any unearned  
 2010 | commission on the policy, and the insurer shall:

2011 |       (A) Pay to the producing agent of record of the  
 2012 | corporation policy, for the first year, an amount that is the  
 2013 | greater of the insurer's usual and customary commission for the  
 2014 | type of policy written or a fee equal to the usual and customary  
 2015 | commission of the corporation; or

2016 |       (B) Offer to allow the producing agent of record of the



2017 corporation policy to continue servicing the policy for a period  
2018 of not less than 1 year and offer to pay the agent the greater  
2019 of the insurer's or the corporation's usual and customary  
2020 commission for the type of policy written.

2021  
2022 If the producing agent is unwilling or unable to accept  
2023 appointment, the new insurer shall pay the agent in accordance  
2024 with sub-sub-sub-subparagraph (A).

2025 b. With respect to commercial lines residential risks, for  
2026 a new application to the corporation for coverage, if the risk  
2027 is offered coverage under a policy including wind coverage from  
2028 an authorized insurer at its approved rate, the risk is not  
2029 eligible for any policy issued by the corporation unless the  
2030 premium for coverage from the authorized insurer is more than 15  
2031 percent greater than the premium for comparable coverage from  
2032 the corporation. If the risk is not able to obtain any such  
2033 offer, the risk is eligible for a policy including wind coverage  
2034 issued by the corporation. However, with regard to a  
2035 policyholder of the corporation or a policyholder removed from  
2036 the corporation through an assumption agreement until the end of  
2037 the assumption period, the policyholder remains eligible for  
2038 coverage from the corporation regardless of any offer of  
2039 coverage from an authorized insurer or surplus lines insurer.

2040 (I) If the risk accepts an offer of coverage through the  
2041 market assistance plan or an offer of coverage through a  
2042 mechanism established by the corporation before a policy is  
2043 issued to the risk by the corporation or during the first 30  
2044 days of coverage by the corporation, and the producing agent who

2045 submitted the application to the plan or the corporation is not  
 2046 currently appointed by the insurer, the insurer shall:

2047 (A) Pay to the producing agent of record of the policy,  
 2048 for the first year, an amount that is the greater of the  
 2049 insurer's usual and customary commission for the type of policy  
 2050 written or a fee equal to the usual and customary commission of  
 2051 the corporation; or

2052 (B) Offer to allow the producing agent of record of the  
 2053 policy to continue servicing the policy for a period of not less  
 2054 than 1 year and offer to pay the agent the greater of the  
 2055 insurer's or the corporation's usual and customary commission  
 2056 for the type of policy written.

2057  
 2058 If the producing agent is unwilling or unable to accept  
 2059 appointment, the new insurer shall pay the agent in accordance  
 2060 with sub-sub-sub-subparagraph (A).

2061 (II) When the corporation enters into a contractual  
 2062 agreement for a take-out plan, the producing agent of record of  
 2063 the corporation policy is entitled to retain any unearned  
 2064 commission on the policy, and the insurer shall:

2065 (A) Pay to the producing agent of record of the  
 2066 corporation policy, for the first year, an amount that is the  
 2067 greater of the insurer's usual and customary commission for the  
 2068 type of policy written or a fee equal to the usual and customary  
 2069 commission of the corporation; or

2070 (B) Offer to allow the producing agent of record of the  
 2071 corporation policy to continue servicing the policy for a period  
 2072 of not less than 1 year and offer to pay the agent the greater

2073 of the insurer's or the corporation's usual and customary  
 2074 commission for the type of policy written.

2075  
 2076 If the producing agent is unwilling or unable to accept  
 2077 appointment, the new insurer shall pay the agent in accordance  
 2078 with sub-sub-sub-subparagraph (A).

2079 c. For purposes of determining comparable coverage under  
 2080 sub-subparagraphs a. and b., the comparison shall be based on  
 2081 those forms and coverages that are reasonably comparable. The  
 2082 corporation may rely on a determination of comparable coverage  
 2083 and premium made by the producing agent who submits the  
 2084 application to the corporation, made in the agent's capacity as  
 2085 the corporation's agent. A comparison may be made solely of the  
 2086 premium with respect to the main building or structure only on  
 2087 the following basis: the same coverage A or other building  
 2088 limits; the same percentage hurricane deductible that applies on  
 2089 an annual basis or that applies to each hurricane for commercial  
 2090 residential property; the same percentage of ordinance and law  
 2091 coverage, if the same limit is offered by both the corporation  
 2092 and the authorized insurer; the same mitigation credits, to the  
 2093 extent the same types of credits are offered both by the  
 2094 corporation and the authorized insurer; the same method for loss  
 2095 payment, such as replacement cost or actual cash value, if the  
 2096 same method is offered both by the corporation and the  
 2097 authorized insurer in accordance with underwriting rules; and  
 2098 any other form or coverage that is reasonably comparable as  
 2099 determined by the board. If an application is submitted to the  
 2100 corporation for wind-only coverage in the high-risk account, the

2101 premium for the corporation's wind-only policy plus the premium  
2102 for the ex-wind policy that is offered by an authorized insurer  
2103 to the applicant shall be compared to the premium for multiperil  
2104 coverage offered by an authorized insurer, subject to the  
2105 standards for comparison specified in this subparagraph. If the  
2106 corporation or the applicant requests from the authorized  
2107 insurer a breakdown of the premium of the offer by types of  
2108 coverage so that a comparison may be made by the corporation or  
2109 its agent and the authorized insurer refuses or is unable to  
2110 provide such information, the corporation may treat the offer as  
2111 not being an offer of coverage from an authorized insurer at the  
2112 insurer's approved rate.

2113 6. Must include rules for classifications of risks and  
2114 rates therefor.

2115 7. Must provide that if premium and investment income for  
2116 an account attributable to a particular calendar year are in  
2117 excess of projected losses and expenses for the account  
2118 attributable to that year, such excess shall be held in surplus  
2119 in the account. Such surplus shall be available to defray  
2120 deficits in that account as to future years and shall be used  
2121 for that purpose prior to assessing assessable insurers and  
2122 assessable insureds as to any calendar year.

2123 8. Must provide objective criteria and procedures to be  
2124 uniformly applied for all applicants in determining whether an  
2125 individual risk is so hazardous as to be uninsurable. In making  
2126 this determination and in establishing the criteria and  
2127 procedures, the following shall be considered:

2128 a. Whether the likelihood of a loss for the individual

2129 risk is substantially higher than for other risks of the same  
 2130 class; and

2131 b. Whether the uncertainty associated with the individual  
 2132 risk is such that an appropriate premium cannot be determined.

2133  
 2134 The acceptance or rejection of a risk by the corporation shall  
 2135 be construed as the private placement of insurance, and the  
 2136 provisions of chapter 120 shall not apply.

2137 9. Must provide that the corporation shall make its best  
 2138 efforts to procure catastrophe reinsurance at reasonable rates,  
 2139 to cover its projected 100-year probable maximum loss as  
 2140 determined by the board of governors.

2141 10. The policies issued by the corporation must provide  
 2142 that, if the corporation or the market assistance plan obtains  
 2143 an offer from an authorized insurer to cover the risk at its  
 2144 approved rates, the risk is no longer eligible for renewal  
 2145 through the corporation, except as otherwise provided in this  
 2146 subsection.

2147 11. Corporation policies and applications must include a  
 2148 notice that the corporation policy could, under this section, be  
 2149 replaced with a policy issued by an authorized insurer that does  
 2150 not provide coverage identical to the coverage provided by the  
 2151 corporation. The notice shall also specify that acceptance of  
 2152 corporation coverage creates a conclusive presumption that the  
 2153 applicant or policyholder is aware of this potential.

2154 12. May establish, subject to approval by the office,  
 2155 different eligibility requirements and operational procedures  
 2156 for any line or type of coverage for any specified county or

2157 | area if the board determines that such changes to the  
2158 | eligibility requirements and operational procedures are  
2159 | justified due to the voluntary market being sufficiently stable  
2160 | and competitive in such area or for such line or type of  
2161 | coverage and that consumers who, in good faith, are unable to  
2162 | obtain insurance through the voluntary market through ordinary  
2163 | methods would continue to have access to coverage from the  
2164 | corporation. When coverage is sought in connection with a real  
2165 | property transfer, such requirements and procedures shall not  
2166 | provide for an effective date of coverage later than the date of  
2167 | the closing of the transfer as established by the transferor,  
2168 | the transferee, and, if applicable, the lender.

2169 |       13. Must provide that, with respect to the high-risk  
2170 | account, any assessable insurer with a surplus as to  
2171 | policyholders of \$25 million or less writing 25 percent or more  
2172 | of its total countrywide property insurance premiums in this  
2173 | state may petition the office, within the first 90 days of each  
2174 | calendar year, to qualify as a limited apportionment company. A  
2175 | regular assessment levied by the corporation on a limited  
2176 | apportionment company for a deficit incurred by the corporation  
2177 | for the high-risk account in 2006 or thereafter may be paid to  
2178 | the corporation on a monthly basis as the assessments are  
2179 | collected by the limited apportionment company from its insureds  
2180 | pursuant to s. 627.3512, but the regular assessment must be paid  
2181 | in full within 12 months after being levied by the corporation.  
2182 | A limited apportionment company shall collect from its  
2183 | policyholders any emergency assessment imposed under sub-  
2184 | subparagraph (b)3.d. The plan shall provide that, if the office

2185 determines that any regular assessment will result in an  
2186 impairment of the surplus of a limited apportionment company,  
2187 the office may direct that all or part of such assessment be  
2188 deferred as provided in subparagraph (p)4. However, there shall  
2189 be no limitation or deferment of an emergency assessment to be  
2190 collected from policyholders under sub-subparagraph (b)3.d.

2191 14. Must provide that the corporation appoint as its  
2192 licensed agents only those agents who also hold an appointment  
2193 as defined in s. 626.015(3) with an insurer who at the time of  
2194 the agent's initial appointment by the corporation is authorized  
2195 to write and is actually writing personal lines residential  
2196 property coverage, commercial residential property coverage, or  
2197 commercial nonresidential property coverage within the state.

2198 15. Must provide, by July 1, 2007, a premium payment plan  
2199 option to its policyholders which allows at a minimum for  
2200 quarterly and semiannual payment of premiums. A monthly payment  
2201 plan may, but is not required to, be offered.

2202 16. Must limit coverage on mobile homes or manufactured  
2203 homes built prior to 1994 to actual cash value of the dwelling  
2204 rather than replacement costs of the dwelling.

2205 17. May provide such limits of coverage as the board  
2206 determines, consistent with the requirements of this subsection.

2207 18. May require commercial property to meet specified  
2208 hurricane mitigation construction features as a condition of  
2209 eligibility for coverage.

2210 (m)1. Rates for coverage provided by the corporation shall  
2211 be actuarially sound and subject to the requirements of s.  
2212 627.062, except as otherwise provided in this paragraph. The

2213 corporation shall file its recommended rates with the office at  
2214 least annually. The corporation shall provide any additional  
2215 information regarding the rates which the office requires. The  
2216 office shall consider the recommendations of the board and issue  
2217 a final order establishing the rates for the corporation within  
2218 45 days after the recommended rates are filed. The corporation  
2219 may not pursue an administrative challenge or judicial review of  
2220 the final order of the office.

2221 2. In addition to the rates otherwise determined pursuant  
2222 to this paragraph, the corporation shall impose and collect an  
2223 amount equal to the premium tax provided for in s. 624.509 to  
2224 augment the financial resources of the corporation.

2225 3. After the public hurricane loss-projection model under  
2226 s. 627.06281 has been found to be accurate and reliable by the  
2227 Florida Commission on Hurricane Loss Projection Methodology,  
2228 that model shall serve as the minimum benchmark for determining  
2229 the windstorm portion of the corporation's rates. This  
2230 subparagraph does not require or allow the corporation to adopt  
2231 rates lower than the rates otherwise required or allowed by this  
2232 paragraph.

2233 4. The rate filings for the corporation which were  
2234 approved by the office and which took effect January 1, 2007,  
2235 are rescinded, except for those rates that were lowered. As soon  
2236 as possible, the corporation shall begin using the lower rates  
2237 that were in effect on December 31, 2006, and shall provide  
2238 refunds to policyholders who have paid higher rates as a result  
2239 of that rate filing. The rates in effect on December 31, 2006,  
2240 shall remain in effect for the 2007 and 2008 calendar years



2241 except for any rate change that results in a lower rate. The  
2242 next rate change that may increase rates shall take effect  
2243 pursuant to a new rate filing recommended by the corporation and  
2244 established by the office, subject to the requirements of this  
2245 paragraph.

2246 5. Beginning on July 15, 2009, and each year thereafter,  
2247 the corporation must make a recommended actuarially sound rate  
2248 filing for each personal and commercial line of business it  
2249 writes, to be effective no earlier than January 1, 2010.

2250 6. The Legislature finds that it is in the public interest  
2251 to ensure that actuarially sound rates for coverage by the  
2252 corporation be implemented incrementally to provide rate  
2253 stability and predictability to its policyholders.

2254 7. Beginning on or after January 1, 2010, the corporation  
2255 shall begin to implement actuarially sound rates for each  
2256 commercial and personal line of business it writes, which may  
2257 not exceed an average statewide increase of 10 percent or exceed  
2258 20 percent for any single policy issued by the corporation,  
2259 excluding coverage changes and surcharges.

2260 8. The corporation's incremental implementation of rates  
2261 as prescribed in subparagraph 7. shall cease for any line of  
2262 business written by the corporation after actuarially sound  
2263 rates as prescribed in subparagraph 1. are achieved. Thereafter,  
2264 the corporation shall annually make a recommended actuarially  
2265 sound rate filing for each commercial and personal line of  
2266 business it writes.

2267 9. In addition to the rate increase required pursuant to  
2268 subparagraph 7., the corporation may increase its rates an

2269 amount sufficient to recoup additional reimbursement premium  
 2270 paid to the Florida Hurricane Catastrophe Fund due to the  
 2271 application of a cash build-up factor.

2272 10. Beginning April 1, 2010, and each quarter thereafter,  
 2273 the corporation shall transfer 10 percent of the funds received  
 2274 from the rate increase prescribed by subparagraph 7. to the  
 2275 Insurance Regulatory Trust Fund in the Department of Financial  
 2276 Services. The corporation's transfer of such funds shall cease  
 2277 upon the corporation's implementation of actuarially sound rates  
 2278 as prescribed in subparagraph 1.

2279 ~~(x) It is the intent of the Legislature that the~~  
 2280 ~~amendments to this subsection enacted in 2002 should, over time,~~  
 2281 ~~reduce the probable maximum windstorm losses in the residual~~  
 2282 ~~markets and should reduce the potential assessments to be levied~~  
 2283 ~~on property insurers and policyholders statewide. In furtherance~~  
 2284 ~~of this intent:~~

2285 ~~1. The board shall, on or before February 1 of each year,~~  
 2286 ~~provide a report to the President of the Senate and the Speaker~~  
 2287 ~~of the House of Representatives showing the reduction or~~  
 2288 ~~increase in the 100-year probable maximum loss attributable to~~  
 2289 ~~wind-only coverages and the quota share program under this~~  
 2290 ~~subsection combined, as compared to the benchmark 100-year~~  
 2291 ~~probable maximum loss of the Florida Windstorm Underwriting~~  
 2292 ~~Association. For purposes of this paragraph, the benchmark 100-~~  
 2293 ~~year probable maximum loss of the Florida Windstorm Underwriting~~  
 2294 ~~Association shall be the calculation dated February 2001 and~~  
 2295 ~~based on November 30, 2000, exposures. In order to ensure~~  
 2296 ~~comparability of data, the board shall use the same methods for~~

2297 ~~ealeulating its probable maximum loss as were used to calculate~~  
 2298 ~~the benchmark probable maximum loss.~~

2299 ~~2. Beginning February 1, 2010, if the report under~~  
 2300 ~~subparagraph 1. for any year indicates that the 100-year~~  
 2301 ~~probable maximum loss attributable to wind-only coverages and~~  
 2302 ~~the quota share program combined does not reflect a reduction of~~  
 2303 ~~at least 25 percent from the benchmark, the board shall reduce~~  
 2304 ~~the boundaries of the high-risk area eligible for wind-only~~  
 2305 ~~coverages under this subsection in a manner calculated to reduce~~  
 2306 ~~such probable maximum loss to an amount at least 25 percent~~  
 2307 ~~below the benchmark.~~

2308 ~~3. Beginning February 1, 2015, if the report under~~  
 2309 ~~subparagraph 1. for any year indicates that the 100-year~~  
 2310 ~~probable maximum loss attributable to wind-only coverages and~~  
 2311 ~~the quota share program combined does not reflect a reduction of~~  
 2312 ~~at least 50 percent from the benchmark, the boundaries of the~~  
 2313 ~~high-risk area eligible for wind-only coverages under this~~  
 2314 ~~subsection shall be reduced by the elimination of any area that~~  
 2315 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~  
 2316 ~~Waterway.~~

2317 Section 14. Subsection (2) of section 627.711, Florida  
 2318 Statutes, is amended, and subsection (3) is added to that  
 2319 section, to read:

2320 627.711 Notice of premium discounts for hurricane loss  
 2321 mitigation; uniform mitigation verification inspection form.--

2322 (2) (a) By July 1, 2007, the Financial Services Commission  
 2323 shall develop by rule a uniform mitigation verification  
 2324 inspection form that shall be used by all insurers when

2325 submitted by policyholders for the purpose of factoring  
 2326 discounts for wind insurance. In developing the form, the  
 2327 commission shall seek input from insurance, construction, and  
 2328 building code representatives. Further, the commission shall  
 2329 provide guidance as to the length of time the inspection results  
 2330 are valid. An insurer shall accept as valid a uniform mitigation  
 2331 verification form certified by the Department of Financial  
 2332 Services or signed by:

2333 ~~(a) A hurricane mitigation inspector employed by an~~  
 2334 ~~approved My Safe Florida Home wind certification entity;~~

2335 1.(b) A building code inspector certified under s.  
 2336 468.607;

2337 2.(e) A general, building, or residential contractor  
 2338 licensed under s. 489.111;

2339 3.(d) A professional engineer licensed under s. 471.015  
 2340 who has passed the appropriate equivalency test of the Building  
 2341 Code Training Program as required by s. 553.841; or

2342 4.(e) A professional architect licensed under s. 481.213.

2343 (b) An insurer may contract with inspection firms at the  
 2344 insurer's expense to review mitigation verification forms and to  
 2345 reinspect properties for which the insurer receives mitigation  
 2346 verification forms to ensure that the forms are valid.

2347 (3) An individual or entity who knowingly provides or  
 2348 utters a false or fraudulent mitigation verification form with  
 2349 the intent to obtain or receive a discount on an insurance  
 2350 premium to which the individual or entity is not entitled  
 2351 commits a misdemeanor of the first degree, punishable as  
 2352 provided in s. 775.082 or s. 775.083.

2353 Section 15. Subsection (1) and paragraph (c) of subsection  
 2354 (2) of section 627.712, Florida Statutes, are amended to read:

2355 627.712 Residential windstorm coverage required;  
 2356 availability of exclusions for windstorm or contents.--

2357 (1) An insurer issuing a residential property insurance  
 2358 policy must provide windstorm coverage. Except as provided in  
 2359 paragraph (2)(c), this section does not apply with respect to  
 2360 risks that are eligible for wind-only coverage from Citizens  
 2361 Property Insurance Corporation under s. 627.351(6) and with  
 2362 respect to risks that are not eligible for coverage from  
 2363 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.  
 2364 or 5. A risk ineligible for Citizens coverage under s.  
 2365 627.351(6)(a)3. or 5. is exempt from the requirements of this  
 2366 section only if the risk is located within the boundaries of the  
 2367 high-risk account of the corporation.

2368 (2) A property insurer must make available, at the option  
 2369 of the policyholder, an exclusion of windstorm coverage.

2370 (c) ~~If the residential structure is eligible for wind-only~~  
 2371 ~~coverage from Citizens Property Insurance Corporation,~~ An  
 2372 insurer nonrenewing a policy and issuing a replacement policy,  
 2373 or issuing a new policy, that does not provide wind coverage  
 2374 shall provide a notice to the mortgageholder or lienholder  
 2375 indicating the policyholder has elected coverage that does not  
 2376 cover wind.

2377 Section 16. Section 631.65, Florida Statutes, is amended  
 2378 to read:

2379 631.65 Prohibited advertisement or solicitation.--No  
 2380 person shall make, publish, disseminate, circulate, or place

2381 before the public, or cause, directly or indirectly, to be made,  
2382 published, disseminated, circulated, or placed before the  
2383 public, in a newspaper, magazine, or other publication, or in  
2384 the form of a notice, circular, pamphlet, letter, or poster, or  
2385 over any radio station or television station, or in any other  
2386 way, any advertisement, announcement, or statement which uses  
2387 the existence of the insurance guaranty association for the  
2388 purpose of sales, solicitation, or inducement to purchase any  
2389 form of insurance covered under this part. However, nothing in  
2390 this section may be construed to prevent a duly licensed  
2391 insurance agent from providing explanations concerning the  
2392 existence or application of the insurance guaranty association  
2393 to policyholders, prospective policyholders, or applicants for  
2394 coverage.

2395 Section 17. The My Safe Florida Home Program specified in  
2396 s. 215.5586, Florida Statutes, shall use the funds transferred  
2397 to the Insurance Regulatory Trust Fund pursuant to s.  
2398 627.351(6)(m)10., Florida Statutes, solely for the provision of  
2399 mitigation grants in accordance with s. 215.5586(2), Florida  
2400 Statutes, to policyholders of Citizens Property Insurance  
2401 Corporation who are otherwise eligible for grants from the My  
2402 Safe Florida Home Program. The department shall establish a  
2403 separate account within the trust fund for accounting purposes.

2404 Section 18. Section 626.854, Florida Statutes, is amended  
2405 to read:

2406 626.854 "Public adjuster" defined; prohibitions.--The  
2407 Legislature finds that it is necessary for the protection of the  
2408 public to regulate public insurance adjusters and to prevent the

2409 | unauthorized practice of law.

2410 |       (1) A "public adjuster" is any person, except a duly  
 2411 | licensed attorney at law as hereinafter in s. 626.860 provided,  
 2412 | who, for money, commission, or any other thing of value,  
 2413 | prepares, completes, or files an insurance claim form for an  
 2414 | insured or third-party claimant or who, for money, commission,  
 2415 | or any other thing of value, acts or aids in any manner on  
 2416 | behalf of an insured or third-party claimant in negotiating for  
 2417 | or effecting the settlement of a claim or claims for loss or  
 2418 | damage covered by an insurance contract or who advertises for  
 2419 | employment as an adjuster of such claims, and also includes any  
 2420 | person who, for money, commission, or any other thing of value,  
 2421 | solicits, investigates, or adjusts such claims on behalf of any  
 2422 | such public adjuster.

2423 |       (2) This definition does not apply to:

2424 |       (a) A licensed health care provider or employee thereof  
 2425 | who prepares or files a health insurance claim form on behalf of  
 2426 | a patient.

2427 |       (b) A person who files a health claim on behalf of another  
 2428 | and does so without compensation.

2429 |       (3) A public adjuster may not give legal advice. A public  
 2430 | adjuster may not act on behalf of or aid any person in  
 2431 | negotiating or settling a claim relating to bodily injury,  
 2432 | death, or noneconomic damages.

2433 |       (4) For purposes of this section, the term "insured"  
 2434 | includes only the policyholder and any beneficiaries named or  
 2435 | similarly identified in the policy.

2436 |       (5) A public adjuster may not directly or indirectly

2437 through any other person or entity solicit an insured or  
2438 claimant by any means except on Monday through Saturday of each  
2439 week and only between the hours of 8 a.m. and 8 p.m. on those  
2440 days.

2441 (6) A public adjuster may not directly or indirectly  
2442 through any other person or entity initiate contact or engage in  
2443 face-to-face or telephonic solicitation or enter into a contract  
2444 with any insured or claimant under an insurance policy until at  
2445 least 48 hours after the occurrence of an event that may be the  
2446 subject of a claim under the insurance policy unless contact is  
2447 initiated by the insured or claimant.

2448 (7) An insured or claimant may cancel a public adjuster's  
2449 contract to adjust a claim without penalty or obligation within  
2450 3 business days after the date on which the contract is executed  
2451 or within 3 business days after the date on which the insured or  
2452 claimant has notified the insurer of the claim, by phone or in  
2453 writing, whichever is later. The public adjuster's contract  
2454 shall disclose to the insured or claimant his or her right to  
2455 cancel the contract and advise the insured or claimant that  
2456 notice of cancellation must be submitted in writing and sent by  
2457 certified mail, return receipt requested, or other form of  
2458 mailing which provides proof thereof, to the public adjuster at  
2459 the address specified in the contract; provided, during any  
2460 state of emergency as declared by the Governor and for a period  
2461 of 1 year after the date of loss, the insured or claimant shall  
2462 have 5 business days after the date on which the contract is  
2463 executed to cancel a public adjuster's contract.

2464 (8) It is an unfair and deceptive insurance trade practice



2465 pursuant to s. 626.9541 for a public adjuster or any other  
2466 person to circulate or disseminate any advertisement,  
2467 announcement, or statement containing any assertion,  
2468 representation, or statement with respect to the business of  
2469 insurance which is untrue, deceptive, or misleading.

2470 (9) A public adjuster, a public adjuster apprentice, or  
2471 any person or entity acting on behalf of a public adjuster or  
2472 public adjuster apprentice may not give or offer to give a  
2473 monetary loan or advance to a client or prospective client.

2474 (10) A public adjuster, public adjuster apprentice, or any  
2475 individual or entity acting on behalf of a public adjuster or  
2476 public adjuster apprentice may not give or offer to give,  
2477 directly or indirectly, any article of merchandise having a  
2478 value in excess of \$25 to any individual for the purpose of  
2479 advertising or as an inducement to entering into a contract with  
2480 a public adjuster.

2481 (11) (a) If a public adjuster enters into a contract with  
2482 an insured or claimant to reopen a claim or to file a  
2483 supplemental claim that seeks additional payments for a claim  
2484 that has been previously paid in part or in full or settled by  
2485 the insurer, the public adjuster may not charge, agree to, or  
2486 accept any compensation, payment, commission, fee, or other  
2487 thing of value based on a previous settlement or previous claim  
2488 payments by the insurer for the same cause of loss. The charge,  
2489 compensation, payment, commission, fee, or other thing of value  
2490 may be based only on the claim payments or settlement obtained  
2491 through the work of the public adjuster after entering into the  
2492 contract with the insured or claimant. The contracts described

2493 in this paragraph are not subject to the limitations in  
 2494 paragraph (b).

2495 (b) A public adjuster may not charge, agree to, or accept  
 2496 any compensation, payment, commission, fee, or other thing of  
 2497 value in excess of:

2498 1. Ten percent of the amount of insurance claim payments  
 2499 by the insurer for claims based on events that are the subject  
 2500 of a declaration of a state of emergency by the Governor. This  
 2501 provision applies to claims made during the period of 1 year  
 2502 after the declaration of emergency.

2503 2. Twenty percent of the amount of all other insurance  
 2504 claim payments.

2505 (12) Each public adjuster shall provide to the claimant or  
 2506 insured a written estimate of the loss to assist in the  
 2507 submission of a proof of loss or any other claim for payment of  
 2508 insurance proceeds. The public adjuster shall retain such  
 2509 written estimate for at least 5 years and shall make such  
 2510 estimate available to the claimant or insured and the department  
 2511 upon request.

2512 (13) A public adjuster, public adjuster apprentice, or any  
 2513 person acting on behalf of a public adjuster or apprentice may  
 2514 not accept referrals of business from any person with whom the  
 2515 public adjuster conducts business if there is any form or manner  
 2516 of agreement to compensate the person, whether directly or  
 2517 indirectly, for referring business to the public adjuster. A  
 2518 public adjuster may not compensate any person, except for  
 2519 another public adjuster, whether directly or indirectly, for the  
 2520 principal purpose of referring business to the public adjuster.

2521  
 2522 The provisions of subsections (5)-(13) ~~(5)-(12)~~ apply only to  
 2523 residential property insurance policies and condominium  
 2524 association policies as defined in s. 718.111(11).

2525 Section 19. Paragraph (e) of subsection (1) of section  
 2526 626.865, Florida Statutes, is amended to read:

2527 626.865 Public adjuster's qualifications, bond.--

2528 (1) The department shall issue a license to an applicant  
 2529 for a public adjuster's license upon determining that the  
 2530 applicant has paid the applicable fees specified in s. 624.501  
 2531 and possesses the following qualifications:

2532 ~~(e) Has passed the required written examination.~~

2533 Section 20. Section 626.8651, Florida Statutes, is amended  
 2534 to read:

2535 626.8651 Public adjuster apprentice license;  
 2536 qualifications.--

2537 (1) The department shall issue a license as a public  
 2538 adjuster apprentice to an applicant who is:

2539 (a) A natural person at least 18 years of age.

2540 (b) A United States citizen or legal alien who possesses  
 2541 work authorization from the United States Bureau of Citizenship  
 2542 and Immigration Services and is a resident of this state.

2543 (c) Trustworthy and has such business reputation as would  
 2544 reasonably ensure that the applicant will conduct business as a  
 2545 public adjuster apprentice fairly and in good faith and without  
 2546 detriment to the public.

2547 (2) All applicable license fees, as prescribed in s.  
 2548 624.501, must be paid in full before issuance of the license.

2549           (3) The applicant must have passed the required written  
 2550 examination before issuance of the license.

2551           (4) At the time of application for license as a public  
 2552 adjuster apprentice, each applicant must have completed the  
 2553 training and received the Accredited Claims Adjuster designation  
 2554 which provides experience, training, and instruction concerning  
 2555 the adjusting of damages and losses under insurance contracts,  
 2556 other than life and annuity contracts, provides education on the  
 2557 terms and effects of the provisions of those types of insurance  
 2558 contracts, and provides knowledge of the laws of this state  
 2559 relating to such contracts as to enable and qualify him or her  
 2560 to engage in the business of a public adjuster apprentice fairly  
 2561 and without injury to the public or any member of the public  
 2562 with whom the applicant may conduct business as a public  
 2563 adjuster apprentice.

2564           (5)~~(3)~~ At the time of application for license as a public  
 2565 adjuster apprentice, the applicant shall file with the  
 2566 department a bond executed and issued by a surety insurer  
 2567 authorized to transact such business in this state in the amount  
 2568 of \$50,000, conditioned upon the faithful performance of his or  
 2569 her duties as a public adjuster apprentice under the license for  
 2570 which the applicant has applied, and thereafter maintain the  
 2571 bond unimpaired throughout the existence of the license and for  
 2572 at least 1 year after termination of the license. The bond shall  
 2573 be in favor of the department and shall specifically authorize  
 2574 recovery by the department of the damages sustained in case the  
 2575 licensee commits fraud or unfair practices in connection with  
 2576 his or her business as a public adjuster apprentice. The

2577 aggregate liability of the surety for all such damages may not  
2578 exceed the amount of the bond, and the bond may not be  
2579 terminated by the issuing insurer unless written notice of at  
2580 least 30 days is given to the licensee and filed with the  
2581 department.

2582 ~~(6)-(4)~~ A public adjuster apprentice shall complete at a  
2583 minimum 100 hours of employment per month for 12 months of  
2584 employment under the supervision of a licensed and appointed  
2585 all-lines public adjuster in order to qualify for licensure as a  
2586 public adjuster. The department may adopt rules that establish  
2587 standards for such employment requirements.

2588 ~~(7)-(5)~~ An appointing public adjusting firm shall maintain  
2589 no more than 12 public adjuster apprentices simultaneously;  
2590 however, a supervising public adjuster shall be responsible for  
2591 no more than 3 public adjuster apprentices simultaneously and  
2592 accountable for the acts of all a public adjuster apprentices  
2593 that ~~apprentice which~~ are related to transacting business as a  
2594 public adjuster apprentice.

2595 ~~(8)-(6)~~ An apprentice license is effective for 18 months  
2596 unless the license expires due to lack of maintaining an  
2597 appointment; is surrendered by the licensee; is terminated,  
2598 suspended, or revoked by the department; or is canceled by the  
2599 department upon issuance of a public adjuster license. The  
2600 department may not issue a public adjuster apprentice license to  
2601 any individual who has held such a license in this state within  
2602 2 years after expiration, surrender, termination, revocation, or  
2603 cancellation of the license.

2604 ~~(9)-(7)~~ After completing the requirements for employment as

2605 a public adjuster apprentice, the licensee may file an  
 2606 application for a public adjuster license. The applicant and  
 2607 supervising public adjuster or public adjusting firm must each  
 2608 file a sworn affidavit, on a form prescribed by the department,  
 2609 verifying that the employment of the public adjuster apprentice  
 2610 meets the requirements of this section.

2611 (10)~~(8)~~ In no event shall a public adjuster apprentice  
 2612 licensed under this section perform any of the functions for  
 2613 which a public adjuster's license is required after expiration  
 2614 of the public adjuster apprentice license without having  
 2615 obtained a public adjuster license.

2616 (11)~~(9)~~ A public adjuster apprentice has the same  
 2617 authority as the licensed public adjuster or public adjusting  
 2618 firm that employs the apprentice except that an apprentice may  
 2619 not execute contracts for the services of a public adjuster or  
 2620 public adjusting firm and may not solicit contracts for the  
 2621 services except under the direct supervision and guidance of the  
 2622 supervisory public adjuster. An individual may not be, act as,  
 2623 or hold himself or herself out to be a public adjuster  
 2624 apprentice unless the individual is licensed and holds a current  
 2625 appointment by a licensed public all-lines adjuster or a public  
 2626 adjusting firm that employs a licensed all-lines public  
 2627 adjuster.

2628 Section 21. Subsection (7) is added to section 627.7011,  
 2629 Florida Statutes, to read:

2630 627.7011 Homeowners' policies; offer of replacement cost  
 2631 coverage and law and ordinance coverage.--

2632 (7) This section does not prohibit an insurer from

2633 | exercising its right to repair damaged property in compliance  
2634 | with its policy and s. 627.702(7).

2635 |         Section 22. This act shall take effect upon becoming a  
2636 | law.