

## ENROLLED

CS/CS/CS/HB 1495, Engrossed 3

2009 Legislature

1                   A bill to be entitled  
2           An act relating to property insurance; amending s.  
3           215.555, F.S.; revising the dates of an insurer's contract  
4           year for purposes of calculating the insurer's retention;  
5           requiring the State Board of Administration to offer an  
6           additional amount of reimbursement coverage to certain  
7           insurers that purchased coverage during a certain calendar  
8           year; requiring an insurer that purchases certain coverage  
9           to retain an amount equal to a percentage of the insurer's  
10          surplus on a certain date; providing that an insurer's  
11          retention will apply along with a mandatory coverage after  
12          an optional coverage is exhausted; revising an expiration  
13          date on the requirement for the State Board of  
14          Administration to offer certain optional coverage to  
15          insurers; requiring the State Board of Administration to  
16          publish a statement of the estimated claims-paying  
17          capacity of the Hurricane Catastrophe Fund; authorizing  
18          the State Board of Administration to reimburse insurers  
19          based on a formula related to the claims-paying capacity  
20          of the Hurricane Catastrophe Fund; requiring the formula  
21          to determine an actuarially indicated premium to include  
22          specified cash build-up factors; authorizing the State  
23          Board of Administration to require insurers to notarize  
24          documents submitted to the board; authorizing insurers to  
25          purchase temporary increased coverage limit for certain  
26          future hurricane seasons; providing that a cash build-up  
27          factor does not apply to temporary increased coverage  
28          limit premiums; providing dates on which the claims-paying

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29 capacity of the fund will increase; deleting authority for  
30 the State Board of Administration to increase the claims-  
31 paying capacity of the Hurricane Catastrophe Fund;  
32 amending s. 215.5586, F.S.; revising legislative intent;  
33 revising criteria for hurricane mitigation inspections;  
34 revising criteria for eligibility for a mitigation grant;  
35 expanding the list of improvements for which grants may be  
36 used; correcting a reference to the Florida Division of  
37 Emergency Management; deleting provisions relating to no-  
38 interest loans; requiring that contracts valued at or  
39 greater than a specified amount be subject to review and  
40 approval of the Legislative Budget Commission; amending s.  
41 626.854, F.S.; prohibiting a public adjuster from  
42 accepting referrals for compensation from a person with  
43 whom the public adjuster conducts business; prohibiting a  
44 public adjuster from compensating a person other than a  
45 public adjuster for referrals; amending s. 627.7011, F.S.;  
46 providing that an insurer may repair damaged property in  
47 compliance with its policy; amending s. 626.865, F.S.;  
48 deleting a requirement that an applicant for a license as  
49 a public adjuster pass a written examination as a  
50 prerequisite to licensure; amending s. 626.8651, F.S.;  
51 requiring an applicant for a public adjuster apprentice  
52 license to pass a written exam and receive an Accredited  
53 Claims Adjuster designation and related training before  
54 licensure; limiting the number of public adjuster  
55 apprentices that may be maintained by a single public  
56 adjusting firm or supervised by a public adjuster;

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57 | amending s. 627.062, F.S.; extending the period for which  
58 | an insurer seeking a residential property insurance rate  
59 | that is greater than the rate most recently approved by  
60 | the Office of Insurance Regulation must make a "file and  
61 | use" filing; authorizing insurers to make separate filings  
62 | for certain rate adjustments and costs; specifying  
63 | limitations; providing procedural requirements; requiring  
64 | the office to review the filing within a specified time  
65 | for certain purposes; amending s. 627.0621, F.S.;  
66 | requiring that the Office of Insurance Regulation provide  
67 | certain information regarding any residential property  
68 | rate filing on a publicly accessible Internet website;  
69 | requiring that the office provide a means on its website  
70 | for certain persons to submit e-mail regarding any rate  
71 | filing; requiring that such e-mail be accessible by the  
72 | actuary assigned to review the subject rate filing;  
73 | deleting a limitation on the application of the attorney-  
74 | client privilege and work product doctrine in challenges  
75 | to actions by the Office of Insurance Regulation relating  
76 | to rate filings; amending s. 627.0629, F.S.; requiring  
77 | certain hurricane mitigation measure discounts, credits,  
78 | and rate differentials to supersede certain other  
79 | discounts, credits, and rate differentials; authorizing an  
80 | insurer to include in its rates the actual cost of certain  
81 | reinsurance; amending s. 627.351, F.S.; deleting a  
82 | provision requiring a seller of certain residential  
83 | property to disclose the structure's windstorm mitigation  
84 | rating to the prospective purchaser of the property;

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85 providing for members of the board of governors of  
86 Citizens Property Insurance Corporation to serve staggered  
87 terms; requiring Citizen's Property Insurance Corporation  
88 to implement rate increases until the implementation of  
89 actuarially sound rates; revising the date after which the  
90 State Board of Administration is required to reduce the  
91 boundaries of high-risk areas eligible for wind-only  
92 coverages under certain circumstances; amending s.  
93 627.3512, F.S.; providing legislative findings; providing  
94 for the recoupment of residual market assessments paid by  
95 insurers or insurer groups; limiting the amount of a  
96 recoupment factor; authorizing an insurer to apply  
97 recalculated recoupment factors to policies issued or  
98 renewed during specified periods under certain  
99 circumstances; requiring that insurers or insurer groups  
100 file a statement setting forth certain information;  
101 providing for the application of recoupment factors to  
102 certain policies upon issuance or renewal; requiring that  
103 insurers or insurer groups file a supplemental statement  
104 under certain circumstances; requiring that such entities  
105 file a final accounting report documenting certain  
106 information within a specified period after the completion  
107 of the recoupment process; requiring that such report  
108 provide certain information; amending s. 627.711, F.S.;  
109 requiring that an insurer accept as valid a uniform  
110 mitigation verification form certified by the Department  
111 of Financial Services or signed by certain individuals or  
112 entities; providing a criminal penalty for knowingly

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113 submitting a false or fraudulent mitigation form with the  
 114 intent to receive an undeserved discount; amending s.  
 115 627.712, F.S.; revising the properties for which an  
 116 insurer must make policies available which exclude  
 117 windstorm coverage; amending s. 631.65, F.S.; providing  
 118 that an insurance agent is not prohibited from explaining  
 119 the existence or function of the insurance guaranty  
 120 association; requiring the Office of Program Policy  
 121 Analysis and Government Accountability to submit a report  
 122 to the Legislature, Commissioner of Insurance, Chief  
 123 Financial Officer, and Governor reviewing laws governing  
 124 public adjuster; specifying review requirements; amending  
 125 s. 627.0628, F.S.; requiring the Florida Commission on  
 126 Hurricane Loss Projection Methodology to hold public  
 127 meetings for purposes of implementing certain windstorm  
 128 mitigation discounts, credits, other rate differentials,  
 129 and deductible reductions; requiring a report to the  
 130 Governor, Cabinet, and Legislature; amending s. 624.46226,  
 131 F.S.; authorizing reinsurance companies to issue coverage  
 132 directly to certain public housing authorities under  
 133 certain circumstances; specifying that a public housing  
 134 authority is considered an insurer under certain  
 135 circumstances; requiring that certain reinsurance  
 136 contracts issued to public housing authorities receive the  
 137 same tax treatment as contracts issued to insurance  
 138 companies; providing construction; providing an effective  
 139 date.

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

142  
 143 Section 1. Paragraph (e) of subsection (2), subsection  
 144 (4), paragraph (b) of subsection (5), and subsections (7) and  
 145 (17) of section 215.555, Florida Statutes, are amended to read:

146 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

167 2. The retention multiple as determined under subparagraph  
 168 1. shall be adjusted to reflect the coverage level elected by

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169 the insurer. For insurers electing the 90-percent coverage  
170 level, the adjusted retention multiple is 100 percent of the  
171 amount determined under subparagraph 1. For insurers electing  
172 the 75-percent coverage level, the retention multiple is 120  
173 percent of the amount determined under subparagraph 1. For  
174 insurers electing the 45-percent coverage level, the adjusted  
175 retention multiple is 200 percent of the amount determined under  
176 subparagraph 1.

177 3. An insurer shall determine its provisional retention by  
178 multiplying its provisional reimbursement premium by the  
179 applicable adjusted retention multiple and shall determine its  
180 actual retention by multiplying its actual reimbursement premium  
181 by the applicable adjusted retention multiple.

182 4. For insurers who experience multiple covered events  
183 causing loss during the contract year, beginning June 1, 2005,  
184 each insurer's full retention shall be applied to each of the  
185 covered events causing the two largest losses for that insurer.  
186 For each other covered event resulting in losses, the insurer's  
187 retention shall be reduced to one-third of the full retention.  
188 The reimbursement contract shall provide for the reimbursement  
189 of losses for each covered event based on the full retention  
190 with adjustments made to reflect the reduced retentions on or  
191 after January 1 of the contract year provided the insurer  
192 reports its losses as specified in the reimbursement contract.

193 (4) REIMBURSEMENT CONTRACTS.--

194 (a) The board shall enter into a contract with each  
195 insurer writing covered policies in this state to provide to the  
196 insurer the reimbursement described in paragraphs (b) and (d),

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197 in exchange for the reimbursement premium paid into the fund  
 198 under subsection (5). As a condition of doing business in this  
 199 state, each such insurer shall enter into such a contract.

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

205 2. The insurer must elect one of the percentage coverage  
 206 levels specified in this paragraph and may, upon renewal of a  
 207 reimbursement contract, elect a lower percentage coverage level  
 208 if no revenue bonds issued under subsection (6) after a covered  
 209 event are outstanding, or elect a higher percentage coverage  
 210 level, regardless of whether or not revenue bonds are  
 211 outstanding. All members of an insurer group must elect the same  
 212 percentage coverage level. Any joint underwriting association,  
 213 risk apportionment plan, or other entity created under s.  
 214 627.351 must elect the 90-percent coverage level.

215 3. The contract shall provide that reimbursement amounts  
 216 shall not be reduced by reinsurance paid or payable to the  
 217 insurer from other sources.

218 4. Notwithstanding any other provision contained in this  
 219 section, the board shall make available to insurers that  
 220 purchased coverage provided by this subparagraph in 2008 ~~2007~~,  
 221 insurers qualifying as limited apportionment companies under s.  
 222 627.351(6)(c), and insurers that have been approved to  
 223 participate in the Insurance Capital Build-Up Incentive Program  
 224 pursuant to s. 215.5595 a contract or contract addendum that



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225 provides an additional amount of reimbursement coverage of up to  
226 \$10 million. The premium to be charged for this additional  
227 reimbursement coverage shall be 50 percent of the additional  
228 reimbursement coverage provided, which shall include one prepaid  
229 reinstatement. The minimum retention level that an eligible  
230 participating insurer must retain associated with this  
231 additional coverage layer is 30 percent of the insurer's surplus  
232 as of December 31, 2008, for the 2009-2010 contract year; as of  
233 December 31, 2009, for the contract year beginning June 1, 2010,  
234 and ending December 31, 2010; and as of December 31, 2010, for  
235 the 2011 contract year ~~December 31, 2007~~. This coverage shall be  
236 in addition to all other coverage that may be provided under  
237 this section. The coverage provided by the fund under this  
238 subparagraph shall be in addition to the claims-paying capacity  
239 as defined in subparagraph (c)1., but only with respect to those  
240 insurers that select the additional coverage option and meet the  
241 requirements of this subparagraph. The claims-paying capacity  
242 with respect to all other participating insurers and limited  
243 apportionment companies that do not select the additional  
244 coverage option shall be limited to their reimbursement  
245 premium's proportionate share of the actual claims-paying  
246 capacity otherwise defined in subparagraph (c)1. and as provided  
247 for under the terms of the reimbursement contract. The optional  
248 coverage retention as specified shall be accessed before the  
249 mandatory coverage under the reimbursement contract, but once  
250 the limit of coverage selected under this option is exhausted,  
251 the insurer's retention under the mandatory coverage will apply.  
252 This coverage will apply and be paid concurrently with mandatory

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253 ~~coverage. Coverage provided in the reimbursement contract shall~~  
 254 ~~not be affected by the additional premiums paid by participating~~  
 255 ~~insurers exercising the additional coverage option allowed in~~  
 256 ~~this subparagraph. This subparagraph expires on December 31,~~  
 257 ~~2011 May 31, 2009.~~

258 (c)1. The contract shall also provide that the obligation  
 259 of the board with respect to all contracts covering a particular  
 260 contract year shall not exceed the actual claims-paying capacity  
 261 of the fund up to a limit of \$15 billion for that contract year  
 262 adjusted based upon the reported exposure from the prior  
 263 contract year to reflect the percentage growth in exposure to  
 264 the fund for covered policies since 2003, provided the dollar  
 265 growth in the limit may not increase in any year by an amount  
 266 greater than the dollar growth of the balance of the fund as of  
 267 December 31, less any premiums or interest attributable to  
 268 optional coverage, as defined by rule which occurred over the  
 269 prior calendar year.

270 2. In May ~~before the start of the upcoming contract year~~  
 271 ~~and in~~ October ~~of~~ during the contract year, the board shall  
 272 publish in the Florida Administrative Weekly a statement of the  
 273 fund's estimated borrowing capacity, the fund's estimated  
 274 claims-paying capacity, and the projected balance of the fund as  
 275 of December 31. After the end of each calendar year, the board  
 276 shall notify insurers of the estimated borrowing capacity,   
 277 estimated claims-paying capacity, and the balance of the fund as  
 278 of December 31 to provide insurers with data necessary to assist  
 279 them in determining their retention and projected payout from  
 280 the fund for loss reimbursement purposes. In conjunction with

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281 the development of the premium formula, as provided for in  
282 subsection (5), the board shall publish factors or multiples  
283 that assist insurers in determining their retention and  
284 projected payout for the next contract year. For all regulatory  
285 and reinsurance purposes, an insurer may calculate its projected  
286 payout from the fund as its share of the total fund premium for  
287 the current contract year multiplied by the sum of the projected  
288 balance of the fund as of December 31 and the estimated  
289 borrowing capacity for that contract year as reported under this  
290 subparagraph.

291 (d)1. For purposes of determining potential liability and  
292 to aid in the sound administration of the fund, the contract  
293 shall require each insurer to report such insurer's losses from  
294 each covered event on an interim basis, as directed by the  
295 board. The contract shall require the insurer to report to the  
296 board no later than December 31 of each year, and quarterly  
297 thereafter, its reimbursable losses from covered events for the  
298 year. The contract shall require the board to determine and pay,  
299 as soon as practicable after receiving these reports of  
300 reimbursable losses, the initial amount of reimbursement due and  
301 adjustments to this amount based on later loss information. The  
302 adjustments to reimbursement amounts shall require the board to  
303 pay, or the insurer to return, amounts reflecting the most  
304 recent calculation of losses.

305 2. In determining reimbursements pursuant to this  
306 subsection, the contract shall provide that the board shall pay  
307 to each insurer such insurer's projected payout, which is the  
308 amount of reimbursement it is owed, up to an amount equal to the

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309 insurer's share of the actual premium paid for that contract  
 310 year, multiplied by the actual claims-paying capacity available  
 311 for that contract year.

312 3. The board may reimburse insurers for amounts up to the  
 313 published factors or multiples for determining each  
 314 participating insurer's retention and projected payout derived  
 315 as a result of the development of the premium formula in those  
 316 situations in which the total reimbursement of losses to such  
 317 insurers would not exceed the estimated claims-paying capacity  
 318 of the fund. Otherwise, such factors or multiples shall be  
 319 reduced uniformly among all insurers to reflect the estimated  
 320 claims-paying capacity.

321 (e)1. Except as provided in subparagraphs 2. and 3., the  
 322 contract shall provide that if an insurer demonstrates to the  
 323 board that it is likely to qualify for reimbursement under the  
 324 contract, and demonstrates to the board that the immediate  
 325 receipt of moneys from the board is likely to prevent the  
 326 insurer from becoming insolvent, the board shall advance the  
 327 insurer, at market interest rates, the amounts necessary to  
 328 maintain the solvency of the insurer, up to 50 percent of the  
 329 board's estimate of the reimbursement due the insurer. The  
 330 insurer's reimbursement shall be reduced by an amount equal to  
 331 the amount of the advance and interest thereon.

332 2. With respect only to an entity created under s.  
 333 627.351, the contract shall also provide that the board may,  
 334 upon application by such entity, advance to such entity, at  
 335 market interest rates, up to 90 percent of the lesser of:

336 a. The board's estimate of the amount of reimbursement due

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337 | to such entity; or  
 338 |       b. The entity's share of the actual reimbursement premium  
 339 | paid for that contract year, multiplied by the currently  
 340 | available liquid assets of the fund. In order for the entity to  
 341 | qualify for an advance under this subparagraph, the entity must  
 342 | demonstrate to the board that the advance is essential to allow  
 343 | the entity to pay claims for a covered event and the board must  
 344 | determine that the fund's assets are sufficient and are  
 345 | sufficiently liquid to allow the board to make an advance to the  
 346 | entity and still fulfill the board's reimbursement obligations  
 347 | to other insurers. The entity's final reimbursement for any  
 348 | contract year in which an advance has been made under this  
 349 | subparagraph must be reduced by an amount equal to the amount of  
 350 | the advance and any interest on such advance. In order to  
 351 | determine what amounts, if any, are due the entity, the board  
 352 | may require the entity to report its exposure and its losses at  
 353 | any time to determine retention levels and reimbursements  
 354 | payable.

355 |       3. The contract shall also provide specifically and solely  
 356 | with respect to any limited apportionment company under s.  
 357 | 627.351(2)(b)3. that the board may, upon application by such  
 358 | company, advance to such company the amount of the estimated  
 359 | reimbursement payable to such company as calculated pursuant to  
 360 | paragraph (d), at market interest rates, if the board determines  
 361 | that the fund's assets are sufficient and are sufficiently  
 362 | liquid to permit the board to make an advance to such company  
 363 | and at the same time fulfill its reimbursement obligations to  
 364 | the insurers that are participants in the fund. Such company's

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365 final reimbursement for any contract year in which an advance  
366 pursuant to this subparagraph has been made shall be reduced by  
367 an amount equal to the amount of the advance and interest  
368 thereon. In order to determine what amounts, if any, are due to  
369 such company, the board may require such company to report its  
370 exposure and its losses at such times as may be required to  
371 determine retention levels and loss reimbursements payable.

372 (f) In order to ensure that insurers have properly  
373 reported the insured values on which the reimbursement premium  
374 is based and to ensure that insurers have properly reported the  
375 losses for which reimbursements have been made, the board shall  
376 inspect, examine, and verify the records of each insurer's  
377 covered policies at such times as the board deems appropriate  
378 and according to standards established by rule for the specific  
379 purpose of validating the accuracy of exposures and losses  
380 required to be reported under the terms and conditions of the  
381 reimbursement contract. The costs of the examinations shall be  
382 borne by the board. However, in order to remove any incentive  
383 for an insurer to delay preparations for an examination, the  
384 board shall be reimbursed by the insurer for any examination  
385 expenses incurred in addition to the usual and customary costs  
386 of the examination, which additional expenses were incurred as a  
387 result of an insurer's failure, despite proper notice, to be  
388 prepared for the examination or as a result of an insurer's  
389 failure to provide requested information while the examination  
390 is in progress. If the board finds any insurer's records or  
391 other necessary information to be inadequate or inadequately  
392 posted, recorded, or maintained, the board may employ experts to

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393 reconstruct, rewrite, record, post, or maintain such records or  
 394 information, at the expense of the insurer being examined, if  
 395 such insurer has failed to maintain, complete, or correct such  
 396 records or deficiencies after the board has given the insurer  
 397 notice and a reasonable opportunity to do so. Any information  
 398 contained in an examination report, which information is  
 399 described in s. 215.557, is confidential and exempt from the  
 400 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 401 Constitution, as provided in s. 215.557. Nothing in this  
 402 paragraph expands the exemption in s. 215.557.

403 (g) The contract shall provide that in the event of the  
 404 insolvency of an insurer, the fund shall pay directly to the  
 405 Florida Insurance Guaranty Association for the benefit of  
 406 Florida policyholders of the insurer the net amount of all  
 407 reimbursement moneys owed to the insurer. As used in this  
 408 paragraph, the term "net amount of all reimbursement moneys"  
 409 means that amount which remains after reimbursement for:

410 1. Preliminary or duplicate payments owed to private  
 411 reinsurers or other inuring reinsurance payments to private  
 412 reinsurers that satisfy statutory or contractual obligations of  
 413 the insolvent insurer attributable to covered events to such  
 414 reinsurers; or

415 2. Funds owed to a bank or other financial institution to  
 416 cover obligations of the insolvent insurer under a credit  
 417 agreement that assists the insolvent insurer in paying claims  
 418 attributable to covered events.

419  
 420 The private reinsurers, banks, or other financial institutions

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421 shall be reimbursed or otherwise paid prior to payment to the  
422 Florida Insurance Guaranty Association, notwithstanding any law  
423 to the contrary. The guaranty association shall pay all claims  
424 up to the maximum amount permitted by chapter 631; thereafter,  
425 any remaining moneys shall be paid pro rata to claims not fully  
426 satisfied. This paragraph does not apply to a joint underwriting  
427 association, risk apportionment plan, or other entity created  
428 under s. 627.351.

429 (5) REIMBURSEMENT PREMIUMS.--

430 (b) The State Board of Administration shall select an  
431 independent consultant to develop a formula for determining the  
432 actuarially indicated premium to be paid to the fund. The  
433 formula shall specify, for each zip code or other limited  
434 geographical area, the amount of premium to be paid by an  
435 insurer for each \$1,000 of insured value under covered policies  
436 in that zip code or other area. In establishing premiums, the  
437 board shall consider the coverage elected under paragraph (4) (b)  
438 and any factors that tend to enhance the actuarial  
439 sophistication of ratemaking for the fund, including  
440 deductibles, type of construction, type of coverage provided,  
441 relative concentration of risks, and other such factors deemed  
442 by the board to be appropriate. The formula must provide for a  
443 cash build-up factor. For the 2009-2010 contract year, the  
444 factor is 5 percent. For the contract year beginning June 1,  
445 2010, and ending December 31, 2010, the factor is 10 percent.  
446 For the 2011 contract year, the factor is 15 percent. For the  
447 2012 contract year, the factor is 20 percent. For the 2013  
448 contract year and thereafter, the factor is 25 percent. The



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449 formula may provide for a procedure to determine the premiums to  
450 be paid by new insurers that begin writing covered policies  
451 after the beginning of a contract year, taking into  
452 consideration when the insurer starts writing covered policies,  
453 the potential exposure of the insurer, the potential exposure of  
454 the fund, the administrative costs to the insurer and to the  
455 fund, and any other factors deemed appropriate by the board. The  
456 formula must be approved by unanimous vote of the board. The  
457 board may, at any time, revise the formula pursuant to the  
458 procedure provided in this paragraph.

459 (7) ADDITIONAL POWERS AND DUTIES.--

460 (a) The board may procure reinsurance from reinsurers  
461 acceptable to the Office of Insurance Regulation for the purpose  
462 of maximizing the capacity of the fund and may enter into  
463 capital market transactions, including, but not limited to,  
464 industry loss warranties, catastrophe bonds, side-car  
465 arrangements, or financial contracts permissible for the board's  
466 usage under s. 215.47(10) and (11), consistent with prudent  
467 management of the fund.

468 (b) In addition to borrowing under subsection (6), the  
469 board may also borrow from, or enter into other financing  
470 arrangements with, any market sources at prevailing interest  
471 rates.

472 (c) Each fiscal year, the Legislature shall appropriate  
473 from the investment income of the Florida Hurricane Catastrophe  
474 Fund an amount no less than \$10 million and no more than 35  
475 percent of the investment income based upon the most recent  
476 fiscal year-end audited financial statements for the purpose of

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477 providing funding for local governments, state agencies, public  
478 and private educational institutions, and nonprofit  
479 organizations to support programs intended to improve hurricane  
480 preparedness, reduce potential losses in the event of a  
481 hurricane, provide research into means to reduce such losses,  
482 educate or inform the public as to means to reduce hurricane  
483 losses, assist the public in determining the appropriateness of  
484 particular upgrades to structures or in the financing of such  
485 upgrades, or protect local infrastructure from potential damage  
486 from a hurricane. Moneys shall first be available for  
487 appropriation under this paragraph in fiscal year 1997-1998.  
488 Moneys in excess of the \$10 million specified in this paragraph  
489 shall not be available for appropriation under this paragraph if  
490 the State Board of Administration finds that an appropriation of  
491 investment income from the fund would jeopardize the actuarial  
492 soundness of the fund.

493 (d) The board may allow insurers to comply with reporting  
494 requirements and reporting format requirements by using  
495 alternative methods of reporting if the proper administration of  
496 the fund is not thereby impaired and if the alternative methods  
497 produce data which is consistent with the purposes of this  
498 section.

499 (e) In order to assure the equitable operation of the  
500 fund, the board may impose a reasonable fee on an insurer to  
501 recover costs involved in reprocessing inaccurate, incomplete,  
502 or untimely exposure data submitted by the insurer.

503 (f) The board may require insurers to notarize documents  
504 submitted to the board.

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

506 (a) Findings and intent.--

507 1. The Legislature finds that:

508 a. Because of temporary disruptions in the market for

509 catastrophic reinsurance, many property insurers were unable to

510 procure sufficient amounts of reinsurance for the 2006 hurricane

511 season or were able to procure such reinsurance only by

512 incurring substantially higher costs than in prior years.

513 b. The reinsurance market problems were responsible, at

514 least in part, for substantial premium increases to many

515 consumers and increases in the number of policies issued by

516 Citizens Property Insurance Corporation.

517 c. It is likely that the reinsurance market disruptions

518 will not significantly abate prior to the 2007 hurricane season.

519 2. It is the intent of the Legislature to create options

520 for insurers to purchase a temporary increased coverage limit

521 above the statutorily determined limit in subparagraph (4)(c)1.,

522 applicable for the 2007, 2008, ~~and 2009~~, 2010, 2011, 2012, and

523 2013 hurricane seasons, to address market disruptions and enable

524 insurers, at their option, to procure additional coverage from

525 the Florida Hurricane Catastrophe Fund.

526 (b) Applicability of other provisions of this

527 section.--All provisions of this section and the rules adopted

528 under this section apply to the coverage created by this

529 subsection unless specifically superseded by provisions in this

530 subsection.

531 (c) Optional coverage.--For the contract year commencing

532 June 1, 2007, and ending May 31, 2008, the contract year

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533 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the  
 534 contract year commencing June 1, 2009, and ending May 31, 2010,  
 535 the contract year commencing June 1, 2010, and ending December  
 536 31, 2010, the contract year commencing January 1, 2011, and  
 537 ending December 31, 2011, the contract year commencing January  
 538 1, 2012, and ending December 31, 2012, and the contract year  
 539 commencing January 1, 2013, and ending December 31, 2013, the  
 540 board shall offer, for each of such years, the optional coverage  
 541 as provided in this subsection.

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

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

545 2. "FHCF reimbursement premium" means the premium paid by  
 546 an insurer for its coverage as a mandatory participant in the  
 547 FHCF, but does not include additional premiums for optional  
 548 coverages.

549 3. "Payout multiple" means the number or multiple created  
 550 by dividing the statutorily defined claims-paying capacity as  
 551 determined in subparagraph (4)(c)1. by the aggregate  
 552 reimbursement premiums paid by all insurers estimated or  
 553 projected as of calendar year-end.

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

555 5. "TICL options" means the temporary increase in coverage  
 556 options created under this subsection.

557 6. "TICL insurer" means an insurer that has opted to  
 558 obtain coverage under the TICL options addendum in addition to  
 559 the coverage provided to the insurer under its FHCF  
 560 reimbursement contract.

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

563 8. "TICL coverage multiple" means the coverage multiple  
 564 when multiplied by an insurer's reimbursement premium that  
 565 defines the temporary increase in coverage limit.

566 9. "TICL coverage" means the coverage for an insurer's  
 567 losses above the insurer's statutorily determined claims-paying  
 568 capacity based on the claims-paying limit in subparagraph  
 569 (4)(c)1., which an insurer selects as its temporary increase in  
 570 coverage from the fund under the TICL options selected. A TICL  
 571 insurer's increased coverage limit options shall be calculated  
 572 as follows:

573 a. The board shall calculate and report to each TICL  
 574 insurer the TICL coverage multiples based on 12 options for  
 575 increasing the insurer's FHCF coverage limit. Each TICL coverage  
 576 multiple shall be calculated by dividing \$1 billion, \$2 billion,  
 577 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8  
 578 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by  
 579 the total estimated aggregate FHCF reimbursement premiums for  
 580 the 2007-2008 contract year, and the 2008-2009 contract year,  
 581 ~~and the 2009-2010 contract year.~~

582 b. For the 2009-2010 contract year, the board shall  
 583 calculate and report to each TICL insurer the TICL coverage  
 584 multiples based on 10 options for increasing the insurer's FHCF  
 585 coverage limit. Each TICL coverage multiple shall be calculated  
 586 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5  
 587 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10  
 588 billion by the total estimated aggregate FHCF reimbursement

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589 premiums for the 2009-2010 contract year.

590 c. For the contract year beginning June 1, 2010, and  
 591 ending December 31, 2010, the board shall calculate and report  
 592 to each TICL insurer the TICL coverage multiples based on eight  
 593 options for increasing the insurer's FHCF coverage limit. Each  
 594 TICL coverage multiple shall be calculated by dividing \$1  
 595 billion, \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6  
 596 billion, \$7 billion, and \$8 billion by the total estimated  
 597 aggregate FHCF reimbursement premiums for the contract year.

598 d. For the 2011 contract year, the board shall calculate  
 599 and report to each TICL insurer the TICL coverage multiples  
 600 based on six options for increasing the insurer's FHCF coverage  
 601 limit. Each TICL coverage multiple shall be calculated by  
 602 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5  
 603 billion, and \$6 billion by the total estimated aggregate FHCF  
 604 reimbursement premiums for the 2011 contract year.

605 e. For the 2012 contract year, the board shall calculate  
 606 and report to each TICL insurer the TICL coverage multiples  
 607 based on four options for increasing the insurer's FHCF coverage  
 608 limit. Each TICL coverage multiple shall be calculated by  
 609 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by  
 610 the total estimated aggregate FHCF reimbursement premiums for  
 611 the 2012 contract year.

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

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617 aggregate FHCF reimbursement premiums for the 2013 contract  
 618 year.

619 ~~g.b.~~ The TICL insurer's increased coverage shall be the  
 620 FHCF reimbursement premium multiplied by the TICL coverage  
 621 multiple. In order to determine an insurer's total limit of  
 622 coverage, an insurer shall add its TICL coverage multiple to its  
 623 payout multiple. The total shall represent a number that, when  
 624 multiplied by an insurer's FHCF reimbursement premium for a  
 625 given reimbursement contract year, defines an insurer's total  
 626 limit of FHCF reimbursement coverage for that reimbursement  
 627 contract year.

628 10. "TICL options addendum" means an addendum to the  
 629 reimbursement contract reflecting the obligations of the fund  
 630 and insurers selecting an option to increase an insurer's FHCF  
 631 coverage limit.

632 (e) TICL options addendum.--

633 1. The TICL options addendum shall provide for  
 634 reimbursement of TICL insurers for covered events occurring  
 635 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,  
 636 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,  
 637 2010, between June 1, 2010, and December 31, 2010, between  
 638 January 1, 2011, and December 31, 2011, between January 1, 2012,  
 639 and December 31, 2012, or between January 1, 2013, and December  
 640 31, 2013, in exchange for the TICL reimbursement premium paid  
 641 into the fund under paragraph (f). Any insurer writing covered  
 642 policies has the option of selecting an increased limit of  
 643 coverage under the TICL options addendum and shall select such  
 644 coverage at the time that it executes the FHCF reimbursement

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645 contract.

646 2. The TICL addendum shall contain a promise by the board  
647 to reimburse the TICL insurer for 45 percent, 75 percent, or 90  
648 percent of its losses from each covered event in excess of the  
649 insurer's retention, plus 5 percent of the reimbursed losses to  
650 cover loss adjustment expenses. The percentage shall be the same  
651 as the coverage level selected by the insurer under paragraph  
652 (4) (b).

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

656 4. The priorities, schedule, and method of reimbursements  
657 under the TICL addendum shall be the same as provided under  
658 subsection (4).

659 (f) TICL reimbursement premiums.--Each TICL insurer shall  
660 pay to the fund, in the manner and at the time provided in the  
661 reimbursement contract for payment of reimbursement premiums, a  
662 TICL reimbursement premium determined as specified in subsection  
663 (5), except that a cash build-up factor does not apply to the  
664 TICL reimbursement premiums. However, the TICL reimbursement  
665 premium shall be increased in contract year 2009-2010 by a  
666 factor of two, in the contract year beginning June 1, 2010, and  
667 ending December 31, 2010, by a factor of three, in the 2011  
668 contract year by a factor of four, in the 2012 contract year by  
669 a factor of five, and in the 2013 contract year by a factor of  
670 six.

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



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673 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and  
674 January 1, 2013, the program created by this subsection shall  
675 increase the claims-paying capacity of the fund as provided in  
676 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and  
677 shall depend on the TICL coverage options selected and the  
678 number of insurers that select the TICL optional coverage. The  
679 additional capacity shall apply only to the additional coverage  
680 provided under the TICL options and shall not otherwise affect  
681 any insurer's reimbursement from the fund if the insurer chooses  
682 not to select the temporary option to increase its limit of  
683 coverage under the FHCF.

684 ~~(h) Increasing the claims-paying capacity of the~~  
685 ~~fund. For the contract years commencing June 1, 2007, June 1,~~  
686 ~~2008, and June 1, 2009, the board may increase the claims-paying~~  
687 ~~capacity of the fund as provided in paragraph (g) by an amount~~  
688 ~~not to exceed \$4 billion in four \$1 billion options and shall~~  
689 ~~depend on the TICL coverage options selected and the number of~~  
690 ~~insurers that select the TICL optional coverage. Each insurer's~~  
691 ~~TICL premium shall be calculated based upon the additional limit~~  
692 ~~of increased coverage that the insurer selects. Such limit is~~  
693 ~~determined by multiplying the TICL multiple associated with one~~  
694 ~~of the four options times the insurer's FHCF reimbursement~~  
695 ~~premium. The reimbursement premium associated with the~~  
696 ~~additional coverage provided in this paragraph shall be~~  
697 ~~determined as specified in subsection (5).~~

698 Section 2. Section 215.5586, Florida Statutes, as amended  
699 by section 1 of chapter 2009-10, Laws of Florida, is amended to  
700 read:

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701           215.5586 My Safe Florida Home Program.--There is  
 702 established within the Department of Financial Services the My  
 703 Safe Florida Home Program. The department shall provide fiscal  
 704 accountability, contract management, and strategic leadership  
 705 for the program, consistent with this section. This section does  
 706 not create an entitlement for property owners or obligate the  
 707 state in any way to fund the inspection or retrofitting of  
 708 residential property in this state. Implementation of this  
 709 program is subject to annual legislative appropriations. It is  
 710 the intent of the Legislature that the My Safe Florida Home  
 711 Program provide trained and certified inspectors to perform  
 712 inspections for owners of ~~for at least 400,000~~ site-built,  
 713 single-family, residential properties and ~~provide~~ grants to  
 714 eligible ~~at least 35,000~~ applicants as funding allows ~~before~~  
 715 ~~June 30, 2009~~. The program shall develop and implement a  
 716 comprehensive and coordinated approach for hurricane damage  
 717 mitigation that may ~~shall~~ include the following:

718           (1) HURRICANE MITIGATION INSPECTIONS.--

719           (a) Certified inspectors to provide ~~free~~ home-retrofit  
 720 inspections of site-built, single-family, residential property  
 721 may ~~shall~~ be offered ~~throughout the state~~ to determine what  
 722 mitigation measures are needed, what insurance premium discounts  
 723 may be available, and what improvements to existing residential  
 724 properties are needed to reduce the property's vulnerability to  
 725 hurricane damage. The Department of Financial Services shall  
 726 contract with wind certification entities to provide ~~free~~  
 727 hurricane mitigation inspections. The inspections provided to  
 728 homeowners, at a minimum, must include:

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729 1. A home inspection and report that summarizes the  
 730 results and identifies recommended improvements a homeowner may  
 731 take to mitigate hurricane damage.

732 2. A range of cost estimates regarding the recommended  
 733 mitigation improvements.

734 3. Insurer-specific information regarding premium  
 735 discounts correlated to the current mitigation features and the  
 736 recommended mitigation improvements identified by the  
 737 inspection.

738 4. A hurricane resistance rating scale specifying the  
 739 home's current as well as projected wind resistance  
 740 capabilities. As soon as practical, the rating scale must be the  
 741 uniform home grading scale adopted by the Financial Services  
 742 Commission pursuant to s. 215.55865.

743 (b) To qualify for selection by the department as a wind  
 744 certification entity to provide hurricane mitigation  
 745 inspections, the entity shall, at a minimum, meet the following  
 746 requirements:

- 747 1. Use hurricane mitigation inspectors who:
  - 748 a. Are certified as a building inspector under s. 468.607;
  - 749 b. Are licensed as a general or residential contractor  
 750 under s. 489.111;
  - 751 c. Are licensed as a professional engineer under s.  
 752 471.015 and who have passed the appropriate equivalency test of  
 753 the Building Code Training Program as required by s. 553.841;
  - 754 d. Are licensed as a professional architect under s.  
 755 481.213; or
  - 756 e. Have at least 2 years of experience in residential

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757 construction or residential building inspection and have  
 758 received specialized training in hurricane mitigation  
 759 procedures. Such training may be provided by a class offered  
 760 online or in person.

761 2. Use hurricane mitigation inspectors who also:

762 a. Have undergone drug testing and level 2 background  
 763 checks pursuant to s. 435.04. The department may conduct  
 764 criminal record checks of inspectors used by wind certification  
 765 entities. Inspectors must submit a set of the fingerprints to  
 766 the department for state and national criminal history checks  
 767 and must pay the fingerprint processing fee set forth in s.  
 768 624.501. The fingerprints shall be sent by the department to the  
 769 Department of Law Enforcement and forwarded to the Federal  
 770 Bureau of Investigation for processing. The results shall be  
 771 returned to the department for screening. The fingerprints shall  
 772 be taken by a law enforcement agency, designated examination  
 773 center, or other department-approved entity; and

774 b. Have been certified, in a manner satisfactory to the  
 775 department, to conduct the inspections.

776 3. Provide a quality assurance program including a  
 777 reinspection component.

778 (c) The department shall implement a quality assurance  
 779 program that includes a statistically valid number of  
 780 reinspections.

781 (d) An application for an inspection must contain a signed  
 782 or electronically verified statement made under penalty of  
 783 perjury that the applicant has submitted only a single  
 784 application for that home.

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

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

793 (a) For a homeowner to be eligible for a grant, the  
 794 following criteria for persons who have obtained a completed  
 795 inspection after May 1, 2007, a residential property must be  
 796 met:

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

799 2. The home must be a dwelling with an insured value of  
 800 \$300,000 or less. Homeowners who are low-income persons, as  
 801 defined in s. 420.0004(10), are exempt from this requirement.

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

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

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

810  
 811 An application for a grant must contain a signed or  
 812 electronically verified statement made under penalty of perjury

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813 that the applicant has submitted only a single application and  
814 must have attached documents demonstrating the applicant meets  
815 the requirements of this paragraph.

816 (b) All grants must be matched on a dollar-for-dollar  
817 basis up to ~~for~~ a total of \$10,000 for the actual cost of the  
818 mitigation project with the state's contribution not to exceed  
819 \$5,000.

820 (c) The program shall create a process in which  
821 contractors agree to participate and homeowners select from a  
822 list of participating contractors. All mitigation must be based  
823 upon the securing of all required local permits and inspections  
824 and must be performed by properly licensed contractors.  
825 Mitigation projects are subject to random reinspection of up to  
826 at least 5 percent of all projects. Hurricane mitigation  
827 inspectors qualifying for the program may also participate as  
828 mitigation contractors as long as the inspectors meet the  
829 department's qualifications and certification requirements for  
830 mitigation contractors.

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

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

840 1. Opening protection.

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- 841 2. Exterior doors, including garage doors.
- 842 3. Brace gable ends.
- 843 4. Reinforcing roof-to-wall connections.
- 844 5. Improving the strength of roof-deck attachments.
- 845 6. Upgrading roof covering from code to code plus.
- 846 7. Secondary water barrier for roof.

847

848 The department may require that improvements be made to all

849 openings, including exterior doors and garage doors, as a

850 condition of reimbursing a homeowner approved for a grant. The

851 department may adopt, by rule, the maximum grant allowances for

852 any improvement allowable under this paragraph.

853 (f) Grants may be used on a previously inspected existing

854 structure or on a rebuild. A rebuild is defined as a site-built,

855 single-family dwelling under construction to replace a home that

856 was destroyed or significantly damaged by a hurricane and deemed

857 unlivable by a regulatory authority. The homeowner must be a

858 low-income homeowner as defined in paragraph (g), must have had

859 a homestead exemption for that home prior to the hurricane, and

860 must be intending to rebuild the home as that homeowner's

861 homestead.

862 (g) Low-income homeowners, as defined in s. 420.0004(10),

863 who otherwise meet the requirements of paragraphs (a), (c), (e),

864 and (f) are eligible for a grant of up to \$5,000 and are not

865 required to provide a matching amount to receive the grant.

866 Additionally, for low-income homeowners, grant funding may be

867 used for repair to existing structures leading to any of the

868 mitigation improvements provided in paragraph (e), limited to 20

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869 percent of the grant value. The program may accept a  
 870 certification directly from a low-income homeowner that the  
 871 homeowner meets the requirements of s. 420.0004(10) if the  
 872 homeowner provides such certification in a signed or  
 873 electronically verified statement made under penalty of perjury.

874 (h) The department shall establish objective, reasonable  
 875 criteria for prioritizing grant applications, consistent with  
 876 the requirements of this section.

877 (i) The department shall develop a process that ensures  
 878 the most efficient means to collect and verify grant  
 879 applications to determine eligibility and may direct hurricane  
 880 mitigation inspectors to collect and verify grant application  
 881 information or use the Internet or other electronic means to  
 882 collect information and determine eligibility.

883 (3) EDUCATION AND CONSUMER AWARENESS.--The department may  
 884 undertake a statewide multimedia public outreach and advertising  
 885 campaign to inform consumers of the availability and benefits of  
 886 hurricane inspections and of the safety and financial benefits  
 887 of residential hurricane damage mitigation. The department may  
 888 seek out and use local, state, federal, and private funds to  
 889 support the campaign.

890 (4) ADVISORY COUNCIL.--There is created an advisory  
 891 council to provide advice and assistance to the department  
 892 regarding administration of the program. The advisory council  
 893 shall consist of:

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



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897 (b) A representative of residential property insurers,  
 898 selected by the Financial Services Commission from a list of at  
 899 least three persons recommended by the Florida Insurance  
 900 Council.

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

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

907 (e) Two members of the House of Representatives, selected  
 908 by the Speaker of the House of Representatives.

909 (f) Two members of the Senate, selected by the President  
 910 of the Senate.

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

913 (h) The senior officer of the Florida Hurricane  
 914 Catastrophe Fund.

915 (i) The executive director of Citizens Property Insurance  
 916 Corporation.

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

919  
 920 Members appointed under paragraphs (a)-(d) shall serve at the  
 921 pleasure of the Financial Services Commission. Members appointed  
 922 under paragraphs (e) and (f) shall serve at the pleasure of the  
 923 appointing officer. All other members shall serve as voting ex  
 924 officio members. Members of the advisory council shall serve

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925 without compensation but may receive reimbursement as provided  
 926 in s. 112.061 for per diem and travel expenses incurred in the  
 927 performance of their official duties.

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

931 (6) RULES.--The Department of Financial Services shall  
 932 adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the  
 933 program; implement the provisions of this section; including  
 934 rules governing hurricane mitigation inspections and grants,  
 935 mitigation contractors, and training of inspectors and  
 936 contractors; and carry out the duties of the department under  
 937 this section.

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

942 ~~(8) NO-INTEREST LOANS.--The department shall implement a~~  
 943 ~~no-interest loan program by October 1, 2008, contingent upon the~~  
 944 ~~selection of a qualified vendor and execution of a contract~~  
 945 ~~acceptable to the department and the vendor. The department~~  
 946 ~~shall enter into partnerships with the private sector to provide~~  
 947 ~~loans to owners of site-built, single-family, residential~~  
 948 ~~property to pay for mitigation measures listed in subsection~~  
 949 ~~(2). A loan eligible for interest payments pursuant to this~~  
 950 ~~subsection may be for a term of up to 3 years and cover up to~~  
 951 ~~\$5,000 in mitigation measures. The department shall pay the~~  
 952 ~~creditor the market rate of interest using funds appropriated~~

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953 ~~for the My Safe Florida Home Program. In no case shall the~~  
 954 ~~department pay more than the interest rate set by s. 687.03. To~~  
 955 ~~be eligible for a loan, a loan applicant must first obtain a~~  
 956 ~~home inspection and report that specifies what improvements are~~  
 957 ~~needed to reduce the property's vulnerability to windstorm~~  
 958 ~~damage pursuant to this section and meet loan underwriting~~  
 959 ~~requirements set by the lender. The department may adopt rules~~  
 960 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~  
 961 ~~subsection which may include eligibility criteria.~~

962 (8)~~(9)~~ PUBLIC OUTREACH FOR CONTRACTORS AND REAL ESTATE  
 963 BROKERS AND SALES ASSOCIATES.--The program shall develop  
 964 brochures for distribution to general contractors, roofing  
 965 contractors, and real estate brokers and sales associates  
 966 licensed under part I of chapter 475 explaining the benefits to  
 967 homeowners of residential hurricane damage mitigation. The  
 968 program shall encourage contractors to distribute the brochures  
 969 to homeowners at the first meeting with a homeowner who is  
 970 considering contracting for home or roof repairs or contracting  
 971 for the construction of a new home. The program shall encourage  
 972 real estate brokers and sales associates licensed under part I  
 973 of chapter 475 to distribute the brochures to clients prior to  
 974 the purchase of a home. The brochures may be made available  
 975 electronically.

976 (9)~~(10)~~ CONTRACT MANAGEMENT.--The department may contract  
 977 with third parties for grants management, inspection services,  
 978 contractor services for low-income homeowners, information  
 979 technology, educational outreach, and auditing services. Such  
 980 contracts shall be considered direct costs of the program and

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981 shall not be subject to administrative cost limits, but  
 982 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject  
 983 to review and approval by the Legislative Budget Commission. The  
 984 department shall contract with providers that have a  
 985 demonstrated record of successful business operations in areas  
 986 directly related to the services to be provided and shall ensure  
 987 the highest accountability for use of state funds, consistent  
 988 with this section.

989 (10)~~(11)~~ INTENT.--It is the intent of the Legislature that  
 990 grants made to residential property owners under this section  
 991 shall be considered disaster-relief assistance within the  
 992 meaning of s. 139 of the Internal Revenue Code of 1986, as  
 993 amended.

994 (11)~~(12)~~ REPORTS.--The department shall make an annual  
 995 report on the activities of the program that shall account for  
 996 the use of state funds and indicate the number of inspections  
 997 requested, the number of inspections performed, the number of  
 998 grant applications received, and the number and value of grants  
 999 approved. The report shall be delivered to the President of the  
 1000 Senate and the Speaker of the House of Representatives by  
 1001 February 1 of each year.

1002 Section 3. Subsection (13) is added to section 626.854,  
 1003 Florida Statutes, to read:

1004 626.854 "Public adjuster" defined; prohibitions.--The  
 1005 Legislature finds that it is necessary for the protection of the  
 1006 public to regulate public insurance adjusters and to prevent the  
 1007 unauthorized practice of law.

1008 (13) A public adjuster, public adjuster apprentice, or any

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1009 person acting on behalf of a public adjuster or apprentice may  
 1010 not accept referrals of business from any person with whom the  
 1011 public adjuster conducts business if there is any form or manner  
 1012 of agreement to compensate the person, whether directly or  
 1013 indirectly, for referring business to the public adjuster. A  
 1014 public adjuster may not compensate any person, except for  
 1015 another public adjuster, whether directly or indirectly, for the  
 1016 principal purpose of referring business to the public adjuster.

1017  
 1018 The provisions of subsections (5)-(13) ~~subsections (5)-(12)~~  
 1019 apply only to residential property insurance policies and  
 1020 condominium association policies as defined in s. 718.111(11).

1021 Section 4. Subsection (7) is added to section 627.7011,  
 1022 Florida Statutes, to read:

1023 627.7011 Homeowners' policies; offer of replacement cost  
 1024 coverage and law and ordinance coverage.--

1025 (7) This section does not prohibit an insurer from  
 1026 exercising its right to repair damaged property in compliance  
 1027 with its policy and s. 627.702(7).

1028 Section 5. Subsection (1) of section 626.865, Florida  
 1029 Statutes, is amended to read:

1030 626.865 Public adjuster's qualifications, bond.--

1031 (1) The department shall issue a license to an applicant  
 1032 for a public adjuster's license upon determining that the  
 1033 applicant has paid the applicable fees specified in s. 624.501  
 1034 and possesses the following qualifications:

- 1035 (a) Is a natural person at least 18 years of age.
- 1036 (b) Is a United States citizen or legal alien who

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1037 possesses work authorization from the United States Bureau of  
 1038 Citizenship and Immigration Services and a bona fide resident of  
 1039 this state.

1040 (c) Is trustworthy and has such business reputation as  
 1041 would reasonably assure that the applicant will conduct his or  
 1042 her business as insurance adjuster fairly and in good faith and  
 1043 without detriment to the public.

1044 (d) Has had sufficient experience, training, or  
 1045 instruction concerning the adjusting of damages or losses under  
 1046 insurance contracts, other than life and annuity contracts, is  
 1047 sufficiently informed as to the terms and effects of the  
 1048 provisions of those types of insurance contracts, and possesses  
 1049 adequate knowledge of the laws of this state relating to such  
 1050 contracts as to enable and qualify him or her to engage in the  
 1051 business of insurance adjuster fairly and without injury to the  
 1052 public or any member thereof with whom the applicant may have  
 1053 business as a public adjuster.

1054 ~~(e) Has passed the required written examination.~~

1055 Section 6. Section 626.8651, Florida Statutes, is amended  
 1056 to read:

1057 626.8651 Public adjuster apprentice license;  
 1058 qualifications.--

1059 (1) The department shall issue a license as a public  
 1060 adjuster apprentice to an applicant who is:

1061 (a) A natural person at least 18 years of age.

1062 (b) A United States citizen or legal alien who possesses  
 1063 work authorization from the United States Bureau of Citizenship  
 1064 and Immigration Services and is a resident of this state.

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1065 (c) Trustworthy and has such business reputation as would  
 1066 reasonably ensure that the applicant will conduct business as a  
 1067 public adjuster apprentice fairly and in good faith and without  
 1068 detriment to the public.

1069 (2) All applicable license fees, as prescribed in s.  
 1070 624.501, must be paid in full before issuance of the license.

1071 (3) An applicant must pass the required written  
 1072 examination before a license may be issued.

1073 (4) An applicant must have received designation as an  
 1074 Accredited Claims Adjuster (ACA) after completion of training  
 1075 that qualifies the applicant to engage in the business of a  
 1076 public adjuster apprentice fairly and without injury to the  
 1077 public. Such training and instruction must address adjusting  
 1078 damages and losses under insurance contracts, the terms and  
 1079 effects of insurance contracts, and knowledge of the laws of  
 1080 this state relating to insurance contracts.

1081 (5) At the time of application for license as a public  
 1082 adjuster apprentice, the applicant shall file with the  
 1083 department a bond executed and issued by a surety insurer  
 1084 authorized to transact such business in this state in the amount  
 1085 of \$50,000, conditioned upon the faithful performance of his or  
 1086 her duties as a public adjuster apprentice under the license for  
 1087 which the applicant has applied, and thereafter maintain the  
 1088 bond unimpaired throughout the existence of the license and for  
 1089 at least 1 year after termination of the license. The bond shall  
 1090 be in favor of the department and shall specifically authorize  
 1091 recovery by the department of the damages sustained in case the  
 1092 licensee commits fraud or unfair practices in connection with

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1093 his or her business as a public adjuster apprentice. The  
 1094 aggregate liability of the surety for all such damages may not  
 1095 exceed the amount of the bond, and the bond may not be  
 1096 terminated by the issuing insurer unless written notice of at  
 1097 least 30 days is given to the licensee and filed with the  
 1098 department.

1099 (6)~~(4)~~ A public adjuster apprentice shall complete at a  
 1100 minimum 100 hours of employment per month for 12 months of  
 1101 employment under the supervision of a licensed and appointed  
 1102 all-lines public adjuster in order to qualify for licensure as a  
 1103 public adjuster. The department may adopt rules that establish  
 1104 standards for such employment requirements.

1105 (7)~~(5)~~ An appointing public adjusting firm may not  
 1106 maintain more than 12 public adjuster apprentices  
 1107 simultaneously. However, a supervising public adjuster may not  
 1108 shall be responsible for more than 3 public adjuster apprentices  
 1109 simultaneously and shall be accountable for the acts of all a  
 1110 public adjuster apprentices ~~apprentice~~ which are related to  
 1111 transacting business as a public adjuster apprentice.

1112 (8)~~(6)~~ An apprentice license is effective for 18 months  
 1113 unless the license expires due to lack of maintaining an  
 1114 appointment; is surrendered by the licensee; is terminated,  
 1115 suspended, or revoked by the department; or is canceled by the  
 1116 department upon issuance of a public adjuster license. The  
 1117 department may not issue a public adjuster apprentice license to  
 1118 any individual who has held such a license in this state within  
 1119 2 years after expiration, surrender, termination, revocation, or  
 1120 cancellation of the license.



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1121        (9)~~(7)~~ After completing the requirements for employment as  
 1122 a public adjuster apprentice, the licensee may file an  
 1123 application for a public adjuster license. The applicant and  
 1124 supervising public adjuster or public adjusting firm must each  
 1125 file a sworn affidavit, on a form prescribed by the department,  
 1126 verifying that the employment of the public adjuster apprentice  
 1127 meets the requirements of this section.

1128        (10)~~(8)~~ In no event shall a public adjuster apprentice  
 1129 licensed under this section perform any of the functions for  
 1130 which a public adjuster's license is required after expiration  
 1131 of the public adjuster apprentice license without having  
 1132 obtained a public adjuster license.

1133        (11)~~(9)~~ A public adjuster apprentice has the same  
 1134 authority as the licensed public adjuster or public adjusting  
 1135 firm that employs the apprentice except that an apprentice may  
 1136 not execute contracts for the services of a public adjuster or  
 1137 public adjusting firm and may not solicit contracts for the  
 1138 services except under the direct supervision and guidance of the  
 1139 supervisory public adjuster. An individual may not be, act as,  
 1140 or hold himself or herself out to be a public adjuster  
 1141 apprentice unless the individual is licensed and holds a current  
 1142 appointment by a licensed public all-lines adjuster or a public  
 1143 adjusting firm that employs a licensed all-lines public  
 1144 adjuster.

1145        Section 7. Paragraph (a) of subsection (2) and subsection  
 1146 (5) of section 627.062, Florida Statutes, are amended, and  
 1147 paragraph (k) is added to subsection (2) of that section, to  
 1148 read:

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1149           627.062 Rate standards.--  
 1150           (2) As to all such classes of insurance:  
 1151           (a) Insurers or rating organizations shall establish and  
 1152 use rates, rating schedules, or rating manuals to allow the  
 1153 insurer a reasonable rate of return on such classes of insurance  
 1154 written in this state. A copy of rates, rating schedules, rating  
 1155 manuals, premium credits or discount schedules, and surcharge  
 1156 schedules, and changes thereto, shall be filed with the office  
 1157 under one of the following procedures except as provided in  
 1158 subparagraph 3.:

1159           1. If the filing is made at least 90 days before the  
 1160 proposed effective date and the filing is not implemented during  
 1161 the office's review of the filing and any proceeding and  
 1162 judicial review, then such filing shall be considered a "file  
 1163 and use" filing. In such case, the office shall finalize its  
 1164 review by issuance of a notice of intent to approve or a notice  
 1165 of intent to disapprove within 90 days after receipt of the  
 1166 filing. The notice of intent to approve and the notice of intent  
 1167 to disapprove constitute agency action for purposes of the  
 1168 Administrative Procedure Act. Requests for supporting  
 1169 information, requests for mathematical or mechanical  
 1170 corrections, or notification to the insurer by the office of its  
 1171 preliminary findings shall not toll the 90-day period during any  
 1172 such proceedings and subsequent judicial review. The rate shall  
 1173 be deemed approved if the office does not issue a notice of  
 1174 intent to approve or a notice of intent to disapprove within 90  
 1175 days after receipt of the filing.

1176           2. If the filing is not made in accordance with the

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1177 provisions of subparagraph 1., such filing shall be made as soon  
 1178 as practicable, but no later than 30 days after the effective  
 1179 date, and shall be considered a "use and file" filing. An  
 1180 insurer making a "use and file" filing is potentially subject to  
 1181 an order by the office to return to policyholders portions of  
 1182 rates found to be excessive, as provided in paragraph (h).

1183 3. For all property insurance filings made or submitted  
 1184 after January 25, 2007, but before December 31, 2010 ~~2009~~, an  
 1185 insurer seeking a rate that is greater than the rate most  
 1186 recently approved by the office shall make a "file and use"  
 1187 filing. For purposes of this subparagraph, motor vehicle  
 1188 collision and comprehensive coverages are not considered to be  
 1189 property coverages.

1190 (k)1. An insurer may make a separate filing limited solely  
 1191 to an adjustment of its rates for reinsurance or financing costs  
 1192 incurred in the purchase of reinsurance or financing products to  
 1193 replace or finance the payment of the amount covered by the  
 1194 Temporary Increase in Coverage Limits (TICL) portion of the  
 1195 Florida Hurricane Catastrophe Fund including replacement  
 1196 reinsurance for the TICL reductions made pursuant to s.  
 1197 215.555(17)(e); the actual cost paid due to the application of  
 1198 the TICL premium factor pursuant to s. 215.555(17)(f); and the  
 1199 actual cost paid due to the application of the cash build-up  
 1200 factor pursuant to s. 215.555(5)(b) if the insurer:

1201 a. Elects to purchase financing products such as a  
 1202 liquidity instrument or line of credit, in which case the cost  
 1203 included in the filing for the liquidity instrument or line of  
 1204 credit may not result in a premium increase exceeding 3 percent

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1205 for any individual policyholder. All costs contained in the  
 1206 filing may not result in an overall premium increase of more  
 1207 than 10 percent for any individual policyholder.

1208 b. Includes in the filing a copy of all of its  
 1209 reinsurance, liquidity instrument, or line of credit contracts;  
 1210 proof of the billing or payment for the contracts; and the  
 1211 calculation upon which the proposed rate change is based  
 1212 demonstrates that the costs meet the criteria of this section  
 1213 and are not loaded for expenses or profit for the insurer making  
 1214 the filing.

1215 c. Includes no other changes to its rates in the filing.

1216 d. Has not implemented a rate increase within the 6 months  
 1217 immediately preceding the filing.

1218 e. Does not file for a rate increase under any other  
 1219 paragraph within 6 months after making a filing under this  
 1220 paragraph.

1221 f. That purchases reinsurance or financing products from  
 1222 an affiliated company in compliance with this paragraph does so  
 1223 only if the costs for such reinsurance or financing products are  
 1224 charged at or below charges made for comparable coverage by  
 1225 nonaffiliated reinsurers or financial entities making such  
 1226 coverage or financing products available in this state.

1227 2. An insurer may only make one filing in any 12-month  
 1228 period under this paragraph.

1229 3. An insurer that elects to implement a rate change under  
 1230 this paragraph must file its rate filing with the office at  
 1231 least 45 days before the effective date of the rate change.  
 1232 After an insurer submits a complete filing that meets all of the

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1233 requirements of this paragraph, the office has 45 days after the  
 1234 date of the filing to review the rate filing and determine if  
 1235 the rate is excessive, inadequate, or unfairly discriminatory.

1236  
 1237 The provisions of this subsection ~~shall~~ not apply to workers'  
 1238 compensation and employer's liability insurance and to motor  
 1239 vehicle insurance.

1240 (5) With respect to a rate filing involving coverage of  
 1241 the type for which the insurer is required to pay a  
 1242 reimbursement premium to the Florida Hurricane Catastrophe Fund,  
 1243 the insurer may fully recoup in its property insurance premiums  
 1244 any reimbursement premiums paid to the Florida Hurricane  
 1245 Catastrophe Fund, together with reasonable costs of other  
 1246 reinsurance, but except as otherwise provided in this section,  
 1247 may not recoup reinsurance costs that duplicate coverage  
 1248 provided by the Florida Hurricane Catastrophe Fund. An insurer  
 1249 may not recoup more than 1 year of reimbursement premium at a  
 1250 time. Any under-recoupment from the prior year may be added to  
 1251 the following year's reimbursement premium and any over-  
 1252 recoupment shall be subtracted from the following year's  
 1253 reimbursement premium.

1254 Section 8. Section 627.0621, Florida Statutes, is amended  
 1255 to read:

1256 627.0621 Transparency in rate regulation.--

1257 (1) DEFINITIONS.--As used in this section, the term:

1258 (a) "Rate filing" means any original or amended rate  
 1259 residential property insurance filing.

1260 (b) "Recommendation" means any proposed, preliminary, or

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1261 final recommendation from an office actuary reviewing a rate  
 1262 filing with respect to the issue of approval or disapproval of  
 1263 the rate filing or with respect to rate indications that the  
 1264 office would consider acceptable.

1265 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING  
 1266 INFORMATION.--

1267 (a) With respect to any residential property rate filing  
 1268 ~~made on or after July 1, 2008,~~ the office shall provide the  
 1269 following information on a publicly accessible Internet website:

1270 1. ~~(a)~~ The overall rate change requested by the insurer.

1271 2. The rate change approved by the office along with all  
 1272 of the actuary's assumptions and recommendations forming the  
 1273 basis of the office's decision.

1274 3. Certification by the office's actuary that, based on  
 1275 the actuary's knowledge, his or her recommendations are  
 1276 consistent with accepted actuarial principles.

1277 (b) For any rate filing, whether or not the filing is  
 1278 subject to a public hearing, the office shall provide on its  
 1279 website a means for any policyholder who may be affected by a  
 1280 proposed rate change to send an e-mail regarding the proposed  
 1281 rate change. Such e-mail must be accessible to the actuary  
 1282 assigned to review the rate filing.

1283 ~~(b) All assumptions made by the office's actuaries.~~

1284 ~~(c) A statement describing any assumptions or methods that~~  
 1285 ~~deviate from the actuarial standards of practice of the Casualty~~  
 1286 ~~Actuarial Society or the American Academy of Actuaries,~~  
 1287 ~~including an explanation of the nature, rationale, and effect of~~  
 1288 ~~the deviation.~~

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1289 ~~(d) All recommendations made by any office actuary who~~  
 1290 ~~reviewed the rate filing.~~

1291 ~~(e) Certification by the office's actuary that, based on~~  
 1292 ~~the actuary's knowledge, his or her recommendations are~~  
 1293 ~~consistent with accepted actuarial principles.~~

1294 ~~(f) The overall rate change approved by the office.~~

1295 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT. It is the~~  
 1296 ~~intent of the Legislature that the principles of the public~~  
 1297 ~~records and open meetings laws apply to the assertion of~~  
 1298 ~~attorney-client privilege and work product confidentiality by~~  
 1299 ~~the office in connection with a challenge to its actions on a~~  
 1300 ~~rate filing. Therefore, in any administrative or judicial~~  
 1301 ~~proceeding relating to a rate filing, attorney-client privilege~~  
 1302 ~~and work product exemptions from disclosure do not apply to~~  
 1303 ~~communications with office attorneys or records prepared by or~~  
 1304 ~~at the direction of an office attorney, except when the~~  
 1305 ~~conditions of paragraphs (a) and (b) have been met:~~

1306 ~~(a) The communication or record reflects a mental~~  
 1307 ~~impression, conclusion, litigation strategy, or legal theory of~~  
 1308 ~~the attorney or office that was prepared exclusively for civil~~  
 1309 ~~or criminal litigation or adversarial administrative~~  
 1310 ~~proceedings.~~

1311 ~~(b) The communication occurred or the record was prepared~~  
 1312 ~~after the initiation of an action in a court of competent~~  
 1313 ~~jurisdiction, after the issuance of a notice of intent to deny a~~  
 1314 ~~rate filing, or after the filing of a request for a proceeding~~  
 1315 ~~under ss. 120.569 and 120.57.~~

1316 Section 9. Paragraph (b) of subsection (1) and subsection

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1317 (5) of section 627.0629, Florida Statutes, are amended to read:  
 1318 627.0629 Residential property insurance; rate filings.--  
 1319 (1)  
 1320 (b) By February 1, 2011, the Office of Insurance  
 1321 Regulation, in consultation with the Department of Financial  
 1322 Services and the Department of Community Affairs, shall develop  
 1323 and make publicly available a proposed method for insurers to  
 1324 establish discounts, credits, or other rate differentials for  
 1325 hurricane mitigation measures which directly correlate to the  
 1326 numerical rating assigned to a structure pursuant to the uniform  
 1327 home grading scale adopted by the Financial Services Commission  
 1328 pursuant to s. 215.55865, including any proposed changes to the  
 1329 uniform home grading scale. By October 1, 2011, the commission  
 1330 shall adopt rules requiring insurers to make rate filings for  
 1331 residential property insurance which revise insurers' discounts,  
 1332 credits, or other rate differentials for hurricane mitigation  
 1333 measures so that such rate differentials correlate directly to  
 1334 the uniform home grading scale. The rules may include such  
 1335 changes to the uniform home grading scale as the commission  
 1336 determines are necessary, and may specify the minimum required  
 1337 discounts, credits, or other rate differentials. Such rate  
 1338 differentials must be consistent with generally accepted  
 1339 actuarial principles and wind-loss mitigation studies. The rules  
 1340 shall allow a period of at least 2 years after the effective  
 1341 date of the revised mitigation discounts, credits, or other rate  
 1342 differentials for a property owner to obtain an inspection or  
 1343 otherwise qualify for the revised credit, during which time the  
 1344 insurer shall continue to apply the mitigation credit that was



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1345 applied immediately prior to the effective date of the revised  
 1346 credit. Discounts, credits, and other rate differentials  
 1347 established for rate filings under this paragraph shall  
 1348 supersede, after adoption, the discounts, credits, and other  
 1349 rate differentials included in rate filings under paragraph (a).

1350 (5) In order to provide an appropriate transition period,  
 1351 an insurer may, in its sole discretion, implement an approved  
 1352 rate filing for residential property insurance over a period of  
 1353 years. An insurer electing to phase in its rate filing must  
 1354 provide an informational notice to the office setting out its  
 1355 schedule for implementation of the phased-in rate filing. An  
 1356 insurer may include in its rate the actual cost of private  
 1357 market reinsurance that corresponds to available coverage of the  
 1358 Temporary Increase in Coverage Limits, TICL, from the Florida  
 1359 Hurricane Catastrophe Fund. The insurer may also include the  
 1360 cost of reinsurance to replace the TICL reduction implemented  
 1361 pursuant to s. 215.555(17)(d)9. However, this cost for  
 1362 reinsurance may not include any expense or profit load or result  
 1363 in a total annual base rate increase in excess of 10 percent.

1364 Section 10. Paragraphs (a), (c), (m), and (x) of  
 1365 subsection (6) of section 627.351, Florida Statutes, are amended  
 1366 to read:

1367 627.351 Insurance risk apportionment plans.--

1368 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1369 (a)1. It is the public purpose of this subsection to  
 1370 ensure the existence of an orderly market for property insurance  
 1371 for Floridians and Florida businesses. The Legislature finds  
 1372 that private insurers are unwilling or unable to provide

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1373 | affordable property insurance coverage in this state to the  
1374 | extent sought and needed. The absence of affordable property  
1375 | insurance threatens the public health, safety, and welfare and  
1376 | likewise threatens the economic health of the state. The state  
1377 | therefore has a compelling public interest and a public purpose  
1378 | to assist in assuring that property in the state is insured and  
1379 | that it is insured at affordable rates so as to facilitate the  
1380 | remediation, reconstruction, and replacement of damaged or  
1381 | destroyed property in order to reduce or avoid the negative  
1382 | effects otherwise resulting to the public health, safety, and  
1383 | welfare, to the economy of the state, and to the revenues of the  
1384 | state and local governments which are needed to provide for the  
1385 | public welfare. It is necessary, therefore, to provide  
1386 | affordable property insurance to applicants who are in good  
1387 | faith entitled to procure insurance through the voluntary market  
1388 | but are unable to do so. The Legislature intends by this  
1389 | subsection that affordable property insurance be provided and  
1390 | that it continue to be provided, as long as necessary, through  
1391 | Citizens Property Insurance Corporation, a government entity  
1392 | that is an integral part of the state, and that is not a private  
1393 | insurance company. To that end, Citizens Property Insurance  
1394 | Corporation shall strive to increase the availability of  
1395 | affordable property insurance in this state, while achieving  
1396 | efficiencies and economies, and while providing service to  
1397 | policyholders, applicants, and agents which is no less than the  
1398 | quality generally provided in the voluntary market, for the  
1399 | achievement of the foregoing public purposes. Because it is  
1400 | essential for this government entity to have the maximum

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1401 financial resources to pay claims following a catastrophic  
1402 hurricane, it is the intent of the Legislature that Citizens  
1403 Property Insurance Corporation continue to be an integral part  
1404 of the state and that the income of the corporation be exempt  
1405 from federal income taxation and that interest on the debt  
1406 obligations issued by the corporation be exempt from federal  
1407 income taxation.

1408       2. The Residential Property and Casualty Joint  
1409 Underwriting Association originally created by this statute  
1410 shall be known, as of July 1, 2002, as the Citizens Property  
1411 Insurance Corporation. The corporation shall provide insurance  
1412 for residential and commercial property, for applicants who are  
1413 in good faith entitled, but are unable, to procure insurance  
1414 through the voluntary market. The corporation shall operate  
1415 pursuant to a plan of operation approved by order of the  
1416 Financial Services Commission. The plan is subject to continuous  
1417 review by the commission. The commission may, by order, withdraw  
1418 approval of all or part of a plan if the commission determines  
1419 that conditions have changed since approval was granted and that  
1420 the purposes of the plan require changes in the plan. The  
1421 corporation shall continue to operate pursuant to the plan of  
1422 operation approved by the Office of Insurance Regulation until  
1423 October 1, 2006. For the purposes of this subsection,  
1424 residential coverage includes both personal lines residential  
1425 coverage, which consists of the type of coverage provided by  
1426 homeowner's, mobile home owner's, dwelling, tenant's,  
1427 condominium unit owner's, and similar policies, and commercial  
1428 lines residential coverage, which consists of the type of

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1429 coverage provided by condominium association, apartment  
 1430 building, and similar policies.

1431 3. Effective January 1, 2009, a personal lines residential  
 1432 structure that has a dwelling replacement cost of \$2 million or  
 1433 more, or a single condominium unit that has a combined dwelling  
 1434 and content replacement cost of \$2 million or more is not  
 1435 eligible for coverage by the corporation. Such dwellings insured  
 1436 by the corporation on December 31, 2008, may continue to be  
 1437 covered by the corporation until the end of the policy term.  
 1438 However, such dwellings that are insured by the corporation and  
 1439 become ineligible for coverage due to the provisions of this  
 1440 subparagraph may reapply and obtain coverage if the property  
 1441 owner provides the corporation with a sworn affidavit from one  
 1442 or more insurance agents, on a form provided by the corporation,  
 1443 stating that the agents have made their best efforts to obtain  
 1444 coverage and that the property has been rejected for coverage by  
 1445 at least one authorized insurer and at least three surplus lines  
 1446 insurers. If such conditions are met, the dwelling may be  
 1447 insured by the corporation for up to 3 years, after which time  
 1448 the dwelling is ineligible for coverage. The office shall  
 1449 approve the method used by the corporation for valuing the  
 1450 dwelling replacement cost for the purposes of this subparagraph.  
 1451 If a policyholder is insured by the corporation prior to being  
 1452 determined to be ineligible pursuant to this subparagraph and  
 1453 such policyholder files a lawsuit challenging the determination,  
 1454 the policyholder may remain insured by the corporation until the  
 1455 conclusion of the litigation.

1456 4. It is the intent of the Legislature that policyholders,

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1457 applicants, and agents of the corporation receive service and  
1458 treatment of the highest possible level but never less than that  
1459 generally provided in the voluntary market. It also is intended  
1460 that the corporation be held to service standards no less than  
1461 those applied to insurers in the voluntary market by the office  
1462 with respect to responsiveness, timeliness, customer courtesy,  
1463 and overall dealings with policyholders, applicants, or agents  
1464 of the corporation.

1465 5. Effective January 1, 2009, a personal lines residential  
1466 structure that is located in the "wind-borne debris region," as  
1467 defined in s. 1609.2, International Building Code (2006), and  
1468 that has an insured value on the structure of \$750,000 or more  
1469 is not eligible for coverage by the corporation unless the  
1470 structure has opening protections as required under the Florida  
1471 Building Code for a newly constructed residential structure in  
1472 that area. A residential structure shall be deemed to comply  
1473 with the requirements of this subparagraph if it has shutters or  
1474 opening protections on all openings and if such opening  
1475 protections complied with the Florida Building Code at the time  
1476 they were installed. ~~Effective January 1, 2010, for personal~~  
1477 ~~lines residential property insured by the corporation that is~~  
1478 ~~located in the wind-borne debris region and has an insured value~~  
1479 ~~on the structure of \$500,000 or more, a prospective purchaser of~~  
1480 ~~any such residential property must be provided by the seller a~~  
1481 ~~written disclosure that contains the structure's windstorm~~  
1482 ~~mitigation rating based on the uniform home grading scale~~  
1483 ~~adopted under s. 215.55865. Such rating shall be provided to the~~  
1484 ~~purchaser at or before the time the purchaser executes a~~

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1485 ~~contract for sale and purchase.~~

1486 (c) The plan of operation of the corporation:

1487 1. Must provide for adoption of residential property and  
 1488 casualty insurance policy forms and commercial residential and  
 1489 nonresidential property insurance forms, which forms must be  
 1490 approved by the office prior to use. The corporation shall adopt  
 1491 the following policy forms:

1492 a. Standard personal lines policy forms that are  
 1493 comprehensive multiperil policies providing full coverage of a  
 1494 residential property equivalent to the coverage provided in the  
 1495 private insurance market under an HO-3, HO-4, or HO-6 policy.

1496 b. Basic personal lines policy forms that are policies  
 1497 similar to an HO-8 policy or a dwelling fire policy that provide  
 1498 coverage meeting the requirements of the secondary mortgage  
 1499 market, but which coverage is more limited than the coverage  
 1500 under a standard policy.

1501 c. Commercial lines residential and nonresidential policy  
 1502 forms that are generally similar to the basic perils of full  
 1503 coverage obtainable for commercial residential structures and  
 1504 commercial nonresidential structures in the admitted voluntary  
 1505 market.

1506 d. Personal lines and commercial lines residential  
 1507 property insurance forms that cover the peril of wind only. The  
 1508 forms are applicable only to residential properties located in  
 1509 areas eligible for coverage under the high-risk account referred  
 1510 to in sub-subparagraph (b)2.a.

1511 e. Commercial lines nonresidential property insurance  
 1512 forms that cover the peril of wind only. The forms are

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1513 applicable only to nonresidential properties located in areas  
 1514 eligible for coverage under the high-risk account referred to in  
 1515 sub-subparagraph (b)2.a.

1516 f. The corporation may adopt variations of the policy  
 1517 forms listed in sub-subparagraphs a.-e. that contain more  
 1518 restrictive coverage.

1519 2.a. Must provide that the corporation adopt a program in  
 1520 which the corporation and authorized insurers enter into quota  
 1521 share primary insurance agreements for hurricane coverage, as  
 1522 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
 1523 property insurance forms for eligible risks which cover the  
 1524 peril of wind only. As used in this subsection, the term:

1525 (I) "Quota share primary insurance" means an arrangement  
 1526 in which the primary hurricane coverage of an eligible risk is  
 1527 provided in specified percentages by the corporation and an  
 1528 authorized insurer. The corporation and authorized insurer are  
 1529 each solely responsible for a specified percentage of hurricane  
 1530 coverage of an eligible risk as set forth in a quota share  
 1531 primary insurance agreement between the corporation and an  
 1532 authorized insurer and the insurance contract. The  
 1533 responsibility of the corporation or authorized insurer to pay  
 1534 its specified percentage of hurricane losses of an eligible  
 1535 risk, as set forth in the quota share primary insurance  
 1536 agreement, may not be altered by the inability of the other  
 1537 party to the agreement to pay its specified percentage of  
 1538 hurricane losses. Eligible risks that are provided hurricane  
 1539 coverage through a quota share primary insurance arrangement  
 1540 must be provided policy forms that set forth the obligations of

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1541 the corporation and authorized insurer under the arrangement,  
1542 clearly specify the percentages of quota share primary insurance  
1543 provided by the corporation and authorized insurer, and  
1544 conspicuously and clearly state that neither the authorized  
1545 insurer nor the corporation may be held responsible beyond its  
1546 specified percentage of coverage of hurricane losses.

1547 (II) "Eligible risks" means personal lines residential and  
1548 commercial lines residential risks that meet the underwriting  
1549 criteria of the corporation and are located in areas that were  
1550 eligible for coverage by the Florida Windstorm Underwriting  
1551 Association on January 1, 2002.

1552 b. The corporation may enter into quota share primary  
1553 insurance agreements with authorized insurers at corporation  
1554 coverage levels of 90 percent and 50 percent.

1555 c. If the corporation determines that additional coverage  
1556 levels are necessary to maximize participation in quota share  
1557 primary insurance agreements by authorized insurers, the  
1558 corporation may establish additional coverage levels. However,  
1559 the corporation's quota share primary insurance coverage level  
1560 may not exceed 90 percent.

1561 d. Any quota share primary insurance agreement entered  
1562 into between an authorized insurer and the corporation must  
1563 provide for a uniform specified percentage of coverage of  
1564 hurricane losses, by county or territory as set forth by the  
1565 corporation board, for all eligible risks of the authorized  
1566 insurer covered under the quota share primary insurance  
1567 agreement.

1568 e. Any quota share primary insurance agreement entered



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1569 into between an authorized insurer and the corporation is  
1570 subject to review and approval by the office. However, such  
1571 agreement shall be authorized only as to insurance contracts  
1572 entered into between an authorized insurer and an insured who is  
1573 already insured by the corporation for wind coverage.

1574 f. For all eligible risks covered under quota share  
1575 primary insurance agreements, the exposure and coverage levels  
1576 for both the corporation and authorized insurers shall be  
1577 reported by the corporation to the Florida Hurricane Catastrophe  
1578 Fund. For all policies of eligible risks covered under quota  
1579 share primary insurance agreements, the corporation and the  
1580 authorized insurer shall maintain complete and accurate records  
1581 for the purpose of exposure and loss reimbursement audits as  
1582 required by Florida Hurricane Catastrophe Fund rules. The  
1583 corporation and the authorized insurer shall each maintain  
1584 duplicate copies of policy declaration pages and supporting  
1585 claims documents.

1586 g. The corporation board shall establish in its plan of  
1587 operation standards for quota share agreements which ensure that  
1588 there is no discriminatory application among insurers as to the  
1589 terms of quota share agreements, pricing of quota share  
1590 agreements, incentive provisions if any, and consideration paid  
1591 for servicing policies or adjusting claims.

1592 h. The quota share primary insurance agreement between the  
1593 corporation and an authorized insurer must set forth the  
1594 specific terms under which coverage is provided, including, but  
1595 not limited to, the sale and servicing of policies issued under  
1596 the agreement by the insurance agent of the authorized insurer

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1597 producing the business, the reporting of information concerning  
 1598 eligible risks, the payment of premium to the corporation, and  
 1599 arrangements for the adjustment and payment of hurricane claims  
 1600 incurred on eligible risks by the claims adjuster and personnel  
 1601 of the authorized insurer. Entering into a quota sharing  
 1602 insurance agreement between the corporation and an authorized  
 1603 insurer shall be voluntary and at the discretion of the  
 1604 authorized insurer.

1605         3. May provide that the corporation may employ or  
 1606 otherwise contract with individuals or other entities to provide  
 1607 administrative or professional services that may be appropriate  
 1608 to effectuate the plan. The corporation shall have the power to  
 1609 borrow funds, by issuing bonds or by incurring other  
 1610 indebtedness, and shall have other powers reasonably necessary  
 1611 to effectuate the requirements of this subsection, including,  
 1612 without limitation, the power to issue bonds and incur other  
 1613 indebtedness in order to refinance outstanding bonds or other  
 1614 indebtedness. The corporation may, but is not required to, seek  
 1615 judicial validation of its bonds or other indebtedness under  
 1616 chapter 75. The corporation may issue bonds or incur other  
 1617 indebtedness, or have bonds issued on its behalf by a unit of  
 1618 local government pursuant to subparagraph (p)2., in the absence  
 1619 of a hurricane or other weather-related event, upon a  
 1620 determination by the corporation, subject to approval by the  
 1621 office, that such action would enable it to efficiently meet the  
 1622 financial obligations of the corporation and that such  
 1623 financings are reasonably necessary to effectuate the  
 1624 requirements of this subsection. The corporation is authorized

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1625 to take all actions needed to facilitate tax-free status for any  
 1626 such bonds or indebtedness, including formation of trusts or  
 1627 other affiliated entities. The corporation shall have the  
 1628 authority to pledge assessments, projected recoveries from the  
 1629 Florida Hurricane Catastrophe Fund, other reinsurance  
 1630 recoverables, market equalization and other surcharges, and  
 1631 other funds available to the corporation as security for bonds  
 1632 or other indebtedness. In recognition of s. 10, Art. I of the  
 1633 State Constitution, prohibiting the impairment of obligations of  
 1634 contracts, it is the intent of the Legislature that no action be  
 1635 taken whose purpose is to impair any bond indenture or financing  
 1636 agreement or any revenue source committed by contract to such  
 1637 bond or other indebtedness.

1638 4.a. Must require that the corporation operate subject to  
 1639 the supervision and approval of a board of governors consisting  
 1640 of eight individuals who are residents of this state, from  
 1641 different geographical areas of this state. The Governor, the  
 1642 Chief Financial Officer, the President of the Senate, and the  
 1643 Speaker of the House of Representatives shall each appoint two  
 1644 members of the board. At least one of the two members appointed  
 1645 by each appointing officer must have demonstrated expertise in  
 1646 insurance. The Chief Financial Officer shall designate one of  
 1647 the appointees as chair. All board members serve at the pleasure  
 1648 of the appointing officer. All members of the board of governors  
 1649 are subject to removal at will by the officers who appointed  
 1650 them. All board members, including the chair, must be appointed  
 1651 to serve for 3-year terms beginning annually on a date  
 1652 designated by the plan. However, for the first term beginning on

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1653 or after July 1, 2009, each appointing officer shall appoint one  
1654 member of the board for a 2-year term and one member for a 3-  
1655 year term. Any board vacancy shall be filled for the unexpired  
1656 term by the appointing officer. The Chief Financial Officer  
1657 shall appoint a technical advisory group to provide information  
1658 and advice to the board of governors in connection with the  
1659 board's duties under this subsection. The executive director and  
1660 senior managers of the corporation shall be engaged by the board  
1661 and serve at the pleasure of the board. Any executive director  
1662 appointed on or after July 1, 2006, is subject to confirmation  
1663 by the Senate. The executive director is responsible for  
1664 employing other staff as the corporation may require, subject to  
1665 review and concurrence by the board.

1666       b. The board shall create a Market Accountability Advisory  
1667 Committee to assist the corporation in developing awareness of  
1668 its rates and its customer and agent service levels in  
1669 relationship to the voluntary market insurers writing similar  
1670 coverage. The members of the advisory committee shall consist of  
1671 the following 11 persons, one of whom must be elected chair by  
1672 the members of the committee: four representatives, one  
1673 appointed by the Florida Association of Insurance Agents, one by  
1674 the Florida Association of Insurance and Financial Advisors, one  
1675 by the Professional Insurance Agents of Florida, and one by the  
1676 Latin American Association of Insurance Agencies; three  
1677 representatives appointed by the insurers with the three highest  
1678 voluntary market share of residential property insurance  
1679 business in the state; one representative from the Office of  
1680 Insurance Regulation; one consumer appointed by the board who is

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1681 insured by the corporation at the time of appointment to the  
 1682 committee; one representative appointed by the Florida  
 1683 Association of Realtors; and one representative appointed by the  
 1684 Florida Bankers Association. All members must serve for 3-year  
 1685 terms and may serve for consecutive terms. The committee shall  
 1686 report to the corporation at each board meeting on insurance  
 1687 market issues which may include rates and rate competition with  
 1688 the voluntary market; service, including policy issuance, claims  
 1689 processing, and general responsiveness to policyholders,  
 1690 applicants, and agents; and matters relating to depopulation.

1691 5. Must provide a procedure for determining the  
 1692 eligibility of a risk for coverage, as follows:

1693 a. Subject to the provisions of s. 627.3517, with respect  
 1694 to personal lines residential risks, if the risk is offered  
 1695 coverage from an authorized insurer at the insurer's approved  
 1696 rate under either a standard policy including wind coverage or,  
 1697 if consistent with the insurer's underwriting rules as filed  
 1698 with the office, a basic policy including wind coverage, for a  
 1699 new application to the corporation for coverage, the risk is not  
 1700 eligible for any policy issued by the corporation unless the  
 1701 premium for coverage from the authorized insurer is more than 15  
 1702 percent greater than the premium for comparable coverage from  
 1703 the corporation. If the risk is not able to obtain any such  
 1704 offer, the risk is eligible for either a standard policy  
 1705 including wind coverage or a basic policy including wind  
 1706 coverage issued by the corporation; however, if the risk could  
 1707 not be insured under a standard policy including wind coverage  
 1708 regardless of market conditions, the risk shall be eligible for

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1709 a basic policy including wind coverage unless rejected under  
 1710 subparagraph 8. However, with regard to a policyholder of the  
 1711 corporation or a policyholder removed from the corporation  
 1712 through an assumption agreement until the end of the assumption  
 1713 period, the policyholder remains eligible for coverage from the  
 1714 corporation regardless of any offer of coverage from an  
 1715 authorized insurer or surplus lines insurer. The corporation  
 1716 shall determine the type of policy to be provided on the basis  
 1717 of objective standards specified in the underwriting manual and  
 1718 based on generally accepted underwriting practices.

1719 (I) If the risk accepts an offer of coverage through the  
 1720 market assistance plan or an offer of coverage through a  
 1721 mechanism established by the corporation before a policy is  
 1722 issued to the risk by the corporation or during the first 30  
 1723 days of coverage by the corporation, and the producing agent who  
 1724 submitted the application to the plan or to the corporation is  
 1725 not currently appointed by the insurer, the insurer shall:

1726 (A) Pay to the producing agent of record of the policy,  
 1727 for the first year, an amount that is the greater of the  
 1728 insurer's usual and customary commission for the type of policy  
 1729 written or a fee equal to the usual and customary commission of  
 1730 the corporation; or

1731 (B) Offer to allow the producing agent of record of the  
 1732 policy to continue servicing the policy for a period of not less  
 1733 than 1 year and offer to pay the agent the greater of the  
 1734 insurer's or the corporation's usual and customary commission  
 1735 for the type of policy written.

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1737 If the producing agent is unwilling or unable to accept  
 1738 appointment, the new insurer shall pay the agent in accordance  
 1739 with sub-sub-sub-subparagraph (A).

1740 (II) When the corporation enters into a contractual  
 1741 agreement for a take-out plan, the producing agent of record of  
 1742 the corporation policy is entitled to retain any unearned  
 1743 commission on the policy, and the insurer shall:

1744 (A) Pay to the producing agent of record of the  
 1745 corporation policy, for the first year, an amount that is the  
 1746 greater of the insurer's usual and customary commission for the  
 1747 type of policy written or a fee equal to the usual and customary  
 1748 commission of the corporation; or

1749 (B) Offer to allow the producing agent of record of the  
 1750 corporation policy to continue servicing the policy for a period  
 1751 of not less than 1 year and offer to pay the agent the greater  
 1752 of the insurer's or the corporation's usual and customary  
 1753 commission for the type of policy written.

1754  
 1755 If the producing agent is unwilling or unable to accept  
 1756 appointment, the new insurer shall pay the agent in accordance  
 1757 with sub-sub-sub-subparagraph (A).

1758 b. With respect to commercial lines residential risks, for  
 1759 a new application to the corporation for coverage, if the risk  
 1760 is offered coverage under a policy including wind coverage from  
 1761 an authorized insurer at its approved rate, the risk is not  
 1762 eligible for any policy issued by the corporation unless the  
 1763 premium for coverage from the authorized insurer is more than 15  
 1764 percent greater than the premium for comparable coverage from

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1765 the corporation. If the risk is not able to obtain any such  
 1766 offer, the risk is eligible for a policy including wind coverage  
 1767 issued by the corporation. However, with regard to a  
 1768 policyholder of the corporation or a policyholder removed from  
 1769 the corporation through an assumption agreement until the end of  
 1770 the assumption period, the policyholder remains eligible for  
 1771 coverage from the corporation regardless of any offer of  
 1772 coverage from an authorized insurer or surplus lines insurer.

1773 (I) If the risk accepts an offer of coverage through the  
 1774 market assistance plan or an offer of coverage through a  
 1775 mechanism established by the corporation before a policy is  
 1776 issued to the risk by the corporation or during the first 30  
 1777 days of coverage by the corporation, and the producing agent who  
 1778 submitted the application to the plan or the corporation is not  
 1779 currently appointed by the insurer, the insurer shall:

1780 (A) Pay to the producing agent of record of the policy,  
 1781 for the first year, an amount that is the greater of the  
 1782 insurer's usual and customary commission for the type of policy  
 1783 written or a fee equal to the usual and customary commission of  
 1784 the corporation; or

1785 (B) Offer to allow the producing agent of record of the  
 1786 policy to continue servicing the policy for a period of not less  
 1787 than 1 year and offer to pay the agent the greater of the  
 1788 insurer's or the corporation's usual and customary commission  
 1789 for the type of policy written.

1790  
 1791 If the producing agent is unwilling or unable to accept  
 1792 appointment, the new insurer shall pay the agent in accordance



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1793 with sub-sub-sub-subparagraph (A).

1794 (II) When the corporation enters into a contractual  
 1795 agreement for a take-out plan, the producing agent of record of  
 1796 the corporation policy is entitled to retain any unearned  
 1797 commission on the policy, and the insurer shall:

1798 (A) Pay to the producing agent of record of the  
 1799 corporation policy, for the first year, an amount that is the  
 1800 greater of the insurer's usual and customary commission for the  
 1801 type of policy written or a fee equal to the usual and customary  
 1802 commission of the corporation; or

1803 (B) Offer to allow the producing agent of record of the  
 1804 corporation policy to continue servicing the policy for a period  
 1805 of not less than 1 year and offer to pay the agent the greater  
 1806 of the insurer's or the corporation's usual and customary  
 1807 commission for the type of policy written.

1808  
 1809 If the producing agent is unwilling or unable to accept  
 1810 appointment, the new insurer shall pay the agent in accordance  
 1811 with sub-sub-sub-subparagraph (A).

1812 c. For purposes of determining comparable coverage under  
 1813 sub-subparagraphs a. and b., the comparison shall be based on  
 1814 those forms and coverages that are reasonably comparable. The  
 1815 corporation may rely on a determination of comparable coverage  
 1816 and premium made by the producing agent who submits the  
 1817 application to the corporation, made in the agent's capacity as  
 1818 the corporation's agent. A comparison may be made solely of the  
 1819 premium with respect to the main building or structure only on  
 1820 the following basis: the same coverage A or other building

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1821 limits; the same percentage hurricane deductible that applies on  
1822 an annual basis or that applies to each hurricane for commercial  
1823 residential property; the same percentage of ordinance and law  
1824 coverage, if the same limit is offered by both the corporation  
1825 and the authorized insurer; the same mitigation credits, to the  
1826 extent the same types of credits are offered both by the  
1827 corporation and the authorized insurer; the same method for loss  
1828 payment, such as replacement cost or actual cash value, if the  
1829 same method is offered both by the corporation and the  
1830 authorized insurer in accordance with underwriting rules; and  
1831 any other form or coverage that is reasonably comparable as  
1832 determined by the board. If an application is submitted to the  
1833 corporation for wind-only coverage in the high-risk account, the  
1834 premium for the corporation's wind-only policy plus the premium  
1835 for the ex-wind policy that is offered by an authorized insurer  
1836 to the applicant shall be compared to the premium for multiperil  
1837 coverage offered by an authorized insurer, subject to the  
1838 standards for comparison specified in this subparagraph. If the  
1839 corporation or the applicant requests from the authorized  
1840 insurer a breakdown of the premium of the offer by types of  
1841 coverage so that a comparison may be made by the corporation or  
1842 its agent and the authorized insurer refuses or is unable to  
1843 provide such information, the corporation may treat the offer as  
1844 not being an offer of coverage from an authorized insurer at the  
1845 insurer's approved rate.

1846         6. Must include rules for classifications of risks and  
1847 rates therefor.

1848         7. Must provide that if premium and investment income for

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1849 an account attributable to a particular calendar year are in  
 1850 excess of projected losses and expenses for the account  
 1851 attributable to that year, such excess shall be held in surplus  
 1852 in the account. Such surplus shall be available to defray  
 1853 deficits in that account as to future years and shall be used  
 1854 for that purpose prior to assessing assessable insurers and  
 1855 assessable insureds as to any calendar year.

1856 8. Must provide objective criteria and procedures to be  
 1857 uniformly applied for all applicants in determining whether an  
 1858 individual risk is so hazardous as to be uninsurable. In making  
 1859 this determination and in establishing the criteria and  
 1860 procedures, the following shall be considered:

1861 a. Whether the likelihood of a loss for the individual  
 1862 risk is substantially higher than for other risks of the same  
 1863 class; and

1864 b. Whether the uncertainty associated with the individual  
 1865 risk is such that an appropriate premium cannot be determined.

1866  
 1867 The acceptance or rejection of a risk by the corporation shall  
 1868 be construed as the private placement of insurance, and the  
 1869 provisions of chapter 120 shall not apply.

1870 9. Must provide that the corporation shall make its best  
 1871 efforts to procure catastrophe reinsurance at reasonable rates,  
 1872 to cover its projected 100-year probable maximum loss as  
 1873 determined by the board of governors.

1874 10. The policies issued by the corporation must provide  
 1875 that, if the corporation or the market assistance plan obtains  
 1876 an offer from an authorized insurer to cover the risk at its

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1877 approved rates, the risk is no longer eligible for renewal  
 1878 through the corporation, except as otherwise provided in this  
 1879 subsection.

1880 11. Corporation policies and applications must include a  
 1881 notice that the corporation policy could, under this section, be  
 1882 replaced with a policy issued by an authorized insurer that does  
 1883 not provide coverage identical to the coverage provided by the  
 1884 corporation. The notice shall also specify that acceptance of  
 1885 corporation coverage creates a conclusive presumption that the  
 1886 applicant or policyholder is aware of this potential.

1887 12. May establish, subject to approval by the office,  
 1888 different eligibility requirements and operational procedures  
 1889 for any line or type of coverage for any specified county or  
 1890 area if the board determines that such changes to the  
 1891 eligibility requirements and operational procedures are  
 1892 justified due to the voluntary market being sufficiently stable  
 1893 and competitive in such area or for such line or type of  
 1894 coverage and that consumers who, in good faith, are unable to  
 1895 obtain insurance through the voluntary market through ordinary  
 1896 methods would continue to have access to coverage from the  
 1897 corporation. When coverage is sought in connection with a real  
 1898 property transfer, such requirements and procedures shall not  
 1899 provide for an effective date of coverage later than the date of  
 1900 the closing of the transfer as established by the transferor,  
 1901 the transferee, and, if applicable, the lender.

1902 13. Must provide that, with respect to the high-risk  
 1903 account, any assessable insurer with a surplus as to  
 1904 policyholders of \$25 million or less writing 25 percent or more

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1905 of its total countrywide property insurance premiums in this  
 1906 state may petition the office, within the first 90 days of each  
 1907 calendar year, to qualify as a limited apportionment company. A  
 1908 regular assessment levied by the corporation on a limited  
 1909 apportionment company for a deficit incurred by the corporation  
 1910 for the high-risk account in 2006 or thereafter may be paid to  
 1911 the corporation on a monthly basis as the assessments are  
 1912 collected by the limited apportionment company from its insureds  
 1913 pursuant to s. 627.3512, but the regular assessment must be paid  
 1914 in full within 12 months after being levied by the corporation.  
 1915 A limited apportionment company shall collect from its  
 1916 policyholders any emergency assessment imposed under sub-  
 1917 subparagraph (b)3.d. The plan shall provide that, if the office  
 1918 determines that any regular assessment will result in an  
 1919 impairment of the surplus of a limited apportionment company,  
 1920 the office may direct that all or part of such assessment be  
 1921 deferred as provided in subparagraph (p)4. However, there shall  
 1922 be no limitation or deferment of an emergency assessment to be  
 1923 collected from policyholders under sub-subparagraph (b)3.d.

1924 14. Must provide that the corporation appoint as its  
 1925 licensed agents only those agents who also hold an appointment  
 1926 as defined in s. 626.015(3) with an insurer who at the time of  
 1927 the agent's initial appointment by the corporation is authorized  
 1928 to write and is actually writing personal lines residential  
 1929 property coverage, commercial residential property coverage, or  
 1930 commercial nonresidential property coverage within the state.

1931 15. Must provide, by July 1, 2007, a premium payment plan  
 1932 option to its policyholders which allows at a minimum for

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1933 quarterly and semiannual payment of premiums. A monthly payment  
 1934 plan may, but is not required to, be offered.

1935 16. Must limit coverage on mobile homes or manufactured  
 1936 homes built prior to 1994 to actual cash value of the dwelling  
 1937 rather than replacement costs of the dwelling.

1938 17. May provide such limits of coverage as the board  
 1939 determines, consistent with the requirements of this subsection.

1940 18. May require commercial property to meet specified  
 1941 hurricane mitigation construction features as a condition of  
 1942 eligibility for coverage.

1943 (m)1. Rates for coverage provided by the corporation shall  
 1944 be actuarially sound and subject to the requirements of s.  
 1945 627.062, except as otherwise provided in this paragraph. The  
 1946 corporation shall file its recommended rates with the office at  
 1947 least annually. The corporation shall provide any additional  
 1948 information regarding the rates which the office requires. The  
 1949 office shall consider the recommendations of the board and issue  
 1950 a final order establishing the rates for the corporation within  
 1951 45 days after the recommended rates are filed. The corporation  
 1952 may not pursue an administrative challenge or judicial review of  
 1953 the final order of the office.

1954 2. In addition to the rates otherwise determined pursuant  
 1955 to this paragraph, the corporation shall impose and collect an  
 1956 amount equal to the premium tax provided for in s. 624.509 to  
 1957 augment the financial resources of the corporation.

1958 3. After the public hurricane loss-projection model under  
 1959 s. 627.06281 has been found to be accurate and reliable by the  
 1960 Florida Commission on Hurricane Loss Projection Methodology,

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1961 that model shall serve as the minimum benchmark for determining  
 1962 the windstorm portion of the corporation's rates. This  
 1963 subparagraph does not require or allow the corporation to adopt  
 1964 rates lower than the rates otherwise required or allowed by this  
 1965 paragraph.

1966 4. The rate filings for the corporation which were  
 1967 approved by the office and which took effect January 1, 2007,  
 1968 are rescinded, except for those rates that were lowered. As soon  
 1969 as possible, the corporation shall begin using the lower rates  
 1970 that were in effect on December 31, 2006, and shall provide  
 1971 refunds to policyholders who have paid higher rates as a result  
 1972 of that rate filing. The rates in effect on December 31, 2006,  
 1973 shall remain in effect for the 2007 and 2008 calendar years  
 1974 except for any rate change that results in a lower rate. The  
 1975 next rate change that may increase rates shall take effect  
 1976 pursuant to a new rate filing recommended by the corporation and  
 1977 established by the office, subject to the requirements of this  
 1978 paragraph.

1979 5. Beginning on July 15, 2009, and each year thereafter,  
 1980 the corporation must make a recommended actuarially sound rate  
 1981 filing for each personal and commercial line of business it  
 1982 writes, to be effective no earlier than January 1, 2010.

1983 6. Beginning on or after January 1, 2010, and  
 1984 notwithstanding the board's recommended rates and the office's  
 1985 final order regarding the corporation's filed rates under  
 1986 subparagraph 1., the corporation shall implement a rate increase  
 1987 each year which does not exceed 10 percent for any single policy  
 1988 issued by the corporation, excluding coverage changes and

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1989 surcharges.  
 1990 7. The corporation may also implement an increase to  
 1991 reflect the effect on the corporation of the cash buildup factor  
 1992 pursuant to s. 215.555(5)(b).

1993 8. The corporation's implementation of rates as prescribed  
 1994 in subparagraph 6. shall cease for any line of business written  
 1995 by the corporation upon the corporation's implementation of  
 1996 actuarially sound rates. Thereafter, the corporation shall  
 1997 annually make a recommended actuarially sound rate filing for  
 1998 each commercial and personal line of business the corporation  
 1999 writes.

2000 (x) It is the intent of the Legislature that the  
 2001 amendments to this subsection enacted in 2002 should, over time,  
 2002 reduce the probable maximum windstorm losses in the residual  
 2003 markets and should reduce the potential assessments to be levied  
 2004 on property insurers and policyholders statewide. In furtherance  
 2005 of this intent:

2006 1. The board shall, on or before February 1 of each year,  
 2007 provide a report to the President of the Senate and the Speaker  
 2008 of the House of Representatives showing the reduction or  
 2009 increase in the 100-year probable maximum loss attributable to  
 2010 wind-only coverages and the quota share program under this  
 2011 subsection combined, as compared to the benchmark 100-year  
 2012 probable maximum loss of the Florida Windstorm Underwriting  
 2013 Association. For purposes of this paragraph, the benchmark 100-  
 2014 year probable maximum loss of the Florida Windstorm Underwriting  
 2015 Association shall be the calculation dated February 2001 and  
 2016 based on November 30, 2000, exposures. In order to ensure



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2017 comparability of data, the board shall use the same methods for  
 2018 calculating its probable maximum loss as were used to calculate  
 2019 the benchmark probable maximum loss.

2020 2. Beginning December 1, 2010 ~~February 1, 2010~~, if the  
 2021 report under subparagraph 1. for any year indicates that the  
 2022 100-year probable maximum loss attributable to wind-only  
 2023 coverages and the quota share program combined does not reflect  
 2024 a reduction of at least 25 percent from the benchmark, the board  
 2025 shall reduce the boundaries of the high-risk area eligible for  
 2026 wind-only coverages under this subsection in a manner calculated  
 2027 to reduce such probable maximum loss to an amount at least 25  
 2028 percent below the benchmark.

2029 3. Beginning February 1, 2015, if the report under  
 2030 subparagraph 1. for any year indicates that the 100-year  
 2031 probable maximum loss attributable to wind-only coverages and  
 2032 the quota share program combined does not reflect a reduction of  
 2033 at least 50 percent from the benchmark, the boundaries of the  
 2034 high-risk area eligible for wind-only coverages under this  
 2035 subsection shall be reduced by the elimination of any area that  
 2036 is not seaward of a line 1,000 feet inland from the Intracoastal  
 2037 Waterway.

2038 Section 11. Section 627.3512, Florida Statutes, is amended  
 2039 to read:

2040 627.3512 Recoupment of residual market deficit  
 2041 assessments.--

2042 (1) The Legislature finds and declares that all  
 2043 assessments paid by an insurer or insurer group as a result of a  
 2044 levy by any residual market entity, including regular

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2045 assessments levied on insurers by Citizens Property Insurance  
 2046 Corporation and any other assessments levied on insurers by an  
 2047 insurance risk apportionment plan or assigned risk plan under s.  
 2048 627.311 or s. 627.351 constitute advances of funds from the  
 2049 insurer to the residual market entity, and that the insurer is  
 2050 entitled to fully recoup such advances. An insurer or insurer  
 2051 group may recoup any assessments that have been paid during or  
 2052 after 1995 by the insurer or insurer group to defray deficits of  
 2053 an insurance risk apportionment plan or assigned risk plan under  
 2054 ss. 627.311 and 627.351, net of any earnings returned to the  
 2055 insurer or insurer group by the association or plan for any year  
 2056 after 1993. A limited apportionment company as defined in s.  
 2057 627.351(6)(c) may recoup any regular assessment that has been  
 2058 levied by, or paid to, Citizens Property Insurance Corporation.

2059 (2) The recoupment shall be made by applying a separate  
 2060 recoupment ~~assessment~~ factor on policies of the same line or  
 2061 type as were considered by the residual markets in determining  
 2062 the assessment liability of the insurer or insurer group. An  
 2063 insurer or insurer group shall calculate a separate assessment  
 2064 factor for personal lines and commercial lines. The separate  
 2065 assessment factor shall provide for full recoupment of the  
 2066 assessments over a period of 1 year, unless the insurer or  
 2067 insurer group, at its option, elects to recoup the assessments  
 2068 over a longer period. The assessment factor expires upon  
 2069 collection of the full amount allowed to be recouped. Amounts  
 2070 recouped under this section are not subject to premium taxes,  
 2071 fees, or commissions.

2072 (3) ~~(2)~~ The recoupment ~~assessment~~ factor may ~~must~~ not be

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2073 | more than 3 percentage points above the ratio of the deficit  
 2074 | assessment to the Florida direct written premium for policies  
 2075 | for the lines or types of business as to which the assessment  
 2076 | was calculated, as written in the year the deficit assessment  
 2077 | was paid. If an insurer or insurer group does not ~~fails to~~  
 2078 | collect the full amount of the deficit assessment during one 12-  
 2079 | month period, the insurer or insurer group may apply  
 2080 | recalculated recoupment factors to policies issued or renewed  
 2081 | during one or more succeeding 12-month periods ~~must carry~~  
 2082 | ~~forward the amount of the deficit and adjust the deficit~~  
 2083 | ~~assessment to be recouped in a subsequent year by that amount.~~

2084 |        (4)~~(3)~~ The insurer or insurer group shall file with the  
 2085 | office a statement for informational purposes only setting forth  
 2086 | the amount of the recoupment ~~assessment~~ factor and an  
 2087 | explanation of how the factor will be applied, at least 15 days  
 2088 | prior to the factor being applied to any policies. The  
 2089 | informational statement shall include documentation of the  
 2090 | assessment paid by the insurer or insurer group and the  
 2091 | arithmetic calculations supporting the recoupment ~~assessment~~  
 2092 | factor. ~~The office shall complete its review within 15 days~~  
 2093 | ~~after receipt of the filing and shall limit its review to~~  
 2094 | ~~verification of the arithmetic calculations.~~ The insurer or  
 2095 | insurer group may use the recoupment ~~assessment~~ factor at any  
 2096 | time after the expiration of the 15-day period ~~unless the office~~  
 2097 | ~~has notified the insurer or insurer group in writing that the~~  
 2098 | ~~arithmetic calculations are incorrect.~~ The recoupment factor  
 2099 | shall apply to all policies described in subsection (3) that are  
 2100 | issued or renewed by the insurer or insurer group during a 12-

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2101 month period. If full recoupment requires the insurer or insurer  
 2102 group to apply a recoupment factor over a subsequent 12-month  
 2103 period, the insurer or insurer group must file a supplemental  
 2104 informational statement pursuant to this subsection.

2105 (5) No later than 90 days after the insurer or insurer  
 2106 group has completed the recoupment process, it shall file with  
 2107 the office a final accounting report documenting the recoupment.  
 2108 The report shall provide the amounts of assessments paid by the  
 2109 insurer or insurer group, the amounts and percentages recouped  
 2110 by year from each affected line of business, and the direct  
 2111 written premium subject to recoupment by year.

2112 (6)~~(4)~~ The commission may adopt rules to implement this  
 2113 section.

2114 Section 12. Subsection (2) of section 627.711, Florida  
 2115 Statutes, is amended, and subsection (3) is added to that  
 2116 section, to read:

2117 627.711 Notice of premium discounts for hurricane loss  
 2118 mitigation; uniform mitigation verification inspection form.--

2119 (2) By July 1, 2007, the Financial Services Commission  
 2120 shall develop by rule a uniform mitigation verification  
 2121 inspection form that shall be used by all insurers when  
 2122 submitted by policyholders for the purpose of factoring  
 2123 discounts for wind insurance. In developing the form, the  
 2124 commission shall seek input from insurance, construction, and  
 2125 building code representatives. Further, the commission shall  
 2126 provide guidance as to the length of time the inspection results  
 2127 are valid. An insurer shall accept as valid a uniform mitigation  
 2128 verification form certified by the Department of Financial

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2129 Services or signed by:

2130 (a) A hurricane mitigation inspector certified ~~employed~~ by

2131 ~~the an approved~~ My Safe Florida Home program ~~wind certification~~

2132 ~~entity;~~

2133 (b) A building code inspector certified under s. 468.607;

2134 (c) A general, building, or residential contractor

2135 licensed under s. 489.111;

2136 (d) A professional engineer licensed under s. 471.015 who

2137 has passed the appropriate equivalency test of the Building Code

2138 Training Program as required by s. 553.841; ~~or~~

2139 (e) A professional architect licensed under s. 481.213; or

2140 (f) Any other individual or entity recognized by the

2141 insurer as possessing the necessary qualifications to properly

2142 complete a uniform mitigation verification form.

2143 (3) An individual or entity who knowingly provides or

2144 utters a false or fraudulent mitigation verification form with

2145 the intent to obtain or receive a discount on an insurance

2146 premium to which the individual or entity is not entitled

2147 commits a misdemeanor of the first degree, punishable as

2148 provided in s. 775.082 or s. 775.083.

2149 Section 13. Subsections (1) and (2) of section 627.712,

2150 Florida Statutes, are amended to read:

2151 627.712 Residential windstorm coverage required;

2152 availability of exclusions for windstorm or contents.--

2153 (1) An insurer issuing a residential property insurance

2154 policy must provide windstorm coverage. Except as provided in

2155 paragraph (2)(c), this section does not apply with respect to

2156 risks that are eligible for wind-only coverage from Citizens

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2157 | Property Insurance Corporation under s. 627.351(6), and with  
 2158 | respect to risks that are not eligible for coverage from  
 2159 | Citizens Property Insurance Corporation under s. 627.351(6)(a)3.  
 2160 | or s. 627.351(6)(a)5. A risk ineligible for Citizens coverage  
 2161 | under s. 627.351(6)(a)3. or s. 627.351(6)(a)5. is exempt from  
 2162 | the requirements of this section only if the risk is located  
 2163 | within the boundaries of the high-risk account of the  
 2164 | corporation.

2165 | (2) A property insurer must make available, at the option  
 2166 | of the policyholder, an exclusion of windstorm coverage.

2167 | (a) The coverage may be excluded only if:

2168 | 1. When the policyholder is a natural person, the  
 2169 | policyholder personally writes and provides to the insurer the  
 2170 | following statement in his or her own handwriting and signs his  
 2171 | or her name, which must also be signed by every other named  
 2172 | insured on the policy, and dated: "I do not want the insurance  
 2173 | on my (home/mobile home/condominium unit) to pay for damage from  
 2174 | windstorms. I will pay those costs. My insurance will not."

2175 | 2. When the policyholder is other than a natural person,  
 2176 | the policyholder provides to the insurer on the policyholder's  
 2177 | letterhead the following statement that must be signed by the  
 2178 | policyholder's authorized representative and dated: "... (Name of  
 2179 | entity)... does not want the insurance on its ... (type of  
 2180 | structure)... to pay for damage from windstorms. ... (Name of  
 2181 | entity)... will be responsible for these costs. ... (Name of  
 2182 | entity's)... insurance will not."

2183 | (b) If the structure insured by the policy is subject to a  
 2184 | mortgage or lien, the policyholder must provide the insurer with

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2185 a written statement from the mortgageholder or lienholder  
 2186 indicating that the mortgageholder or lienholder approves the  
 2187 policyholder electing to exclude windstorm coverage or hurricane  
 2188 coverage from his or her or its property insurance policy.

2189 ~~(c) If the residential structure is eligible for wind-only~~  
 2190 ~~coverage from Citizens Property Insurance Corporation,~~ An  
 2191 insurer nonrenewing a policy and issuing a replacement policy,  
 2192 or issuing a new policy, that does not provide wind coverage  
 2193 shall provide a notice to the mortgageholder or lienholder  
 2194 indicating the policyholder has elected coverage that does not  
 2195 cover wind.

2196 Section 14. Section 631.65, Florida Statutes, is amended  
 2197 to read:

2198 631.65 Prohibited advertisement or solicitation.--No  
 2199 person shall make, publish, disseminate, circulate, or place  
 2200 before the public, or cause, directly or indirectly, to be made,  
 2201 published, disseminated, circulated, or placed before the  
 2202 public, in a newspaper, magazine, or other publication, or in  
 2203 the form of a notice, circular, pamphlet, letter, or poster, or  
 2204 over any radio station or television station, or in any other  
 2205 way, any advertisement, announcement, or statement which uses  
 2206 the existence of the insurance guaranty association for the  
 2207 purpose of sales, solicitation, or inducement to purchase any  
 2208 form of insurance covered under this part. However, this section  
 2209 does not prohibit a duly licensed insurance agent from  
 2210 explaining the existence or function of the insurance guaranty  
 2211 association to policyholders, prospects, or applicants for  
 2212 coverage.

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2213           Section 15. By February 1, 2010, the Office of Program  
 2214 Policy Analysis and Government Accountability shall submit a  
 2215 report to the Speaker of the House of Representatives, the  
 2216 President of the Senate, the Commissioner of Insurance, the  
 2217 Chief Financial Officer, and the Governor reviewing the laws  
 2218 governing public adjusters as defined in s. 626.854, Florida  
 2219 Statutes. The report shall include a review of relevant Citizens  
 2220 Property Insurance Corporation claims and statistics involving  
 2221 public adjusters, public adjuster claims submission practices,  
 2222 and a review of the laws of this state and rules governing  
 2223 public adjusters. The report shall also review state laws  
 2224 governing public adjusters throughout the United States. The  
 2225 review shall encompass a review of both catastrophe and  
 2226 noncatastrophe related claims, with a specific focus on new and  
 2227 supplemental or reopened catastrophe claims originated in 2009  
 2228 which relate to hurricanes that occurred in 2004 and 2005. The  
 2229 study shall review the effects on consumers of the laws of this  
 2230 state relating to public adjusters.

2231           Section 16. Subsection (4) is added to section 627.0628,  
 2232 Florida Statutes, to read:

2233           627.0628 Florida Commission on Hurricane Loss Projection  
 2234 Methodology; public records exemption; public meetings  
 2235 exemption.--

2236           (4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE  
 2237 DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO  
 2238 WINDSTORM MITIGATION.--The commission shall hold public meetings  
 2239 for the purpose of receiving testimony and data regarding the  
 2240 implementation of windstorm mitigation discounts, credits, other



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2241 rate differentials, and appropriate reductions in deductibles  
 2242 pursuant to s. 627.0629. After reviewing the testimony and data  
 2243 as well as any other information the commission deems  
 2244 appropriate, the commission shall present a report by February  
 2245 1, 2010, to the Governor, the Cabinet, the President of the  
 2246 Senate, and the Speaker of the House of Representatives,  
 2247 including recommendations on improving the process of assessing,  
 2248 determining, and applying windstorm mitigation discounts,  
 2249 credits, other rate differentials, and appropriate reductions in  
 2250 deductibles pursuant to s. 627.0629.

2251 Section 17. Subsection (7) is added to section 624.46226,  
 2252 Florida Statutes, to read:

2253 624.46226 Public housing authorities self-insurance funds;  
 2254 exemption for taxation and assessments.--

2255 (7) Reinsurance companies complying with s. 624.610 may  
 2256 issue coverage directly to a public housing authority self-  
 2257 insuring its liabilities under this section. A public housing  
 2258 authority purchasing reinsurance shall be considered an insurer  
 2259 for the sole purpose of entering into such reinsurance  
 2260 contracts. Contracts of reinsurance issued to public housing  
 2261 authorities self-insuring under this section shall receive the  
 2262 same tax treatment as reinsurance contracts issued to insurance  
 2263 companies. However, the purchase of reinsurance coverage by a  
 2264 public housing authority self-insuring under this section shall  
 2265 not be construed as authorization to otherwise act as an  
 2266 insurer.

2267 Section 18. This act shall take effect upon becoming a  
 2268 law.