

By Senator Fasano

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1 A bill to be entitled
2 An act relating to insurance; amending s. 624.4213,
3 F.S.; providing penalties for incorrectly marking
4 information as trade secret; providing for attorney's
5 fees and costs; amending s. 624.4305, F.S.; limiting
6 nonrenewals of residential property insurance
7 policies; amending s. 624.605, F.S.; limiting the
8 definition of "casualty insurance" by prohibiting
9 credit property insurance coverage from being issued
10 on an inland marine policy form; amending s. 625.091,
11 F.S.; requiring that every insurer approved to offer
12 large deductibles in workers' compensation policies
13 obtain collateral from the policyholder; providing
14 requirements for such collateral; amending s.
15 626.7451, F.S.; requiring that managing general agents
16 render accounts to the insurer detailing certain
17 information and remit all funds due under a contract
18 within a specified period after collection of such
19 funds; amending s. 626.9541, F.S.; including on the
20 list of unfair methods of competition and unfair or
21 deceptive acts the refusal to insure or continue to
22 insure an individual or risk solely because of the
23 fact the individual owns an animal or animals;
24 authorizing an insurer to ask certain questions and
25 limit or exclude portions of liability coverage
26 pertaining to animals; repealing s. 627.0612, F.S.,
27 relating to administrative proceedings in rating
28 determinations; amending s. 627.062, F.S.; requiring
29 that rates be made in accordance with generally

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30 accepted actuarial techniques; requiring that the
31 Office of Insurance Regulation issue an approval
32 letter for certain rate filings; requiring that the
33 office consider certain factors when determining
34 whether a rate is excessive, inadequate, or unfairly
35 discriminatory; deleting conditions under which the
36 office is prohibited from disapproving certain rates
37 as excessive; revising restrictions on altering a rate
38 after notification by the office that such rate may be
39 excessive, inadequate, or unfairly discriminatory;
40 deleting provisions specifying actions constituting
41 violations of the insurance code; deleting a
42 requirement that the office develop a proposed
43 standard rating territory plan; requiring that the
44 chief executive officer or the chief financial officer
45 and the chief actuary of a property insurer certify
46 certain information which must accompany a rate
47 filing; deleting a provision requiring that the office
48 establish that rates are excessive for certain
49 personal lines residential coverage; amending s.
50 627.0621, F.S.; requiring that certain insurers and
51 the office make certain information available on a
52 public website; requiring that the office provide the
53 overall rate change approved for any rate filing made
54 on or after a specified date; revising legislative
55 intent; amending s. 627.0628, F.S.; revising
56 legislative findings and intent; revising membership
57 requirements of the Florida Commission on Hurricane
58 Loss Projection Methodology; providing for a chair of

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59 the commission; deleting a limitation on the
60 prohibition of modification of certain rating models;
61 prohibiting a modeler from submitting more than one
62 model per filing with the commission; requiring that
63 each model submitted contain certain information;
64 amending s. 627.0645, F.S.; exempting commercial
65 property insurance from certain annual filing
66 requirements; amending s. 627.0651, F.S.; requiring
67 that an insurer make a file-and-use filing under
68 certain circumstances; requiring that the office issue
69 a notice of intent to disapprove under certain
70 circumstances; amending s. 627.351, F.S.; requiring
71 flood insurance for all new and renewal policies
72 issued by Citizens Property Insurance Corporation for
73 properties located within a specified area between the
74 coast and the coastal construction control line;
75 prohibiting the corporation from insuring such
76 properties constructed or permitted on or after a
77 specified date unless such properties have obtained
78 flood insurance; prohibiting the corporation from
79 issuing wind-only policies after a specified date;
80 amending s. 627.3512, F.S.; providing filing
81 procedures for an insurer or insurer group electing to
82 recoup an assessment that has been paid; providing for
83 the calculation, application, and expiration of a
84 recoupment factor; providing procedures for
85 recoupment-removal and recoupment-continuation
86 filings; requiring that such filings include certain
87 information; requiring an insurer to refund excess

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88 recoupment; prohibiting certain insurers or insurer
89 groups from including an uncollected assessment as a
90 component of a subsequent rate filing; prohibiting an
91 insurer or insurer group discontinuing a line, type,
92 or subline of business from recouping amounts assessed
93 against that line, type, or subline; prohibiting such
94 insurer or insurer group from including an uncollected
95 assessment as a component of a subsequent rate filing
96 for other lines, types, or sublines of business;
97 providing a deadline for filing an initial recoupment;
98 amending s. 627.706, F.S.; providing that insurers are
99 not required to issue a notice of nonrenewal to
100 exclude sinkhole coverage upon the renewal of existing
101 policies in certain counties or territories;
102 authorizing insurers to exclude such coverage using a
103 notice of coverage change; requiring that insurers
104 continue to offer optional sinkhole coverage for an
105 appropriate additional premium; providing an effective
106 date.

107
108 Be It Enacted by the Legislature of the State of Florida:

109
110 Section 1. Section 624.4213, Florida Statutes, is amended
111 to read:

112 624.4213 Trade secret documents; abuse of trade secret
113 protection.—

114 (1) If any person who is required to submit documents or
115 other information to the office or department pursuant to the
116 insurance code or by rule or order of the office, department, or

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117 commission claims that such submission contains a trade secret,
118 such person may file with the office or department a notice of
119 trade secret as provided in this section. Failure to do so
120 constitutes a waiver of any claim by such person that the
121 document or information is a trade secret.

122 (a) Each page of such document or specific portion of a
123 document claimed to be a trade secret must be clearly marked as
124 "trade secret."

125 (b) All material marked as a trade secret must be separated
126 from all non-trade secret material, such as being submitted in a
127 separate envelope clearly marked as "trade secret."

128 (c) In submitting a notice of trade secret to the office or
129 department, the submitting party must include an affidavit
130 certifying under oath to the truth of the following statements
131 concerning all documents or information that are claimed to be
132 trade secrets:

133 1. [I consider/My company considers] this information a
134 trade secret that has value and provides an advantage or an
135 opportunity to obtain an advantage over those who do not know or
136 use it.

137 2. [I have/My company has] taken measures to prevent the
138 disclosure of the information to anyone other than those who
139 have been selected to have access for limited purposes, and [I
140 intend/my company intends] to continue to take such measures.

141 3. The information is not, and has not been, reasonably
142 obtainable without [my/our] consent by other persons by use of
143 legitimate means.

144 4. The information is not publicly available elsewhere.

145 (2) If the office or department receives a public records

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146 request for a document or information that is marked and
147 certified as a trade secret, the office or department shall
148 promptly notify the person that certified the document as a
149 trade secret. The notice shall inform such person that he or she
150 or his or her company has 30 days following receipt of such
151 notice to file an action in circuit court seeking a
152 determination whether the document in question contains trade
153 secrets and an order barring public disclosure of the document.
154 If that person or company files an action within 30 days after
155 receipt of notice of the public records request, the office or
156 department may not release the documents pending the outcome of
157 the legal action. The failure to file an action within 30 days
158 constitutes a waiver of any claim of confidentiality, and the
159 office or department shall release the document as requested.

160 (3) The office or department may disclose a trade secret,
161 together with the claim that it is a trade secret, to an officer
162 or employee of another governmental agency whose use of the
163 trade secret is within the scope of his or her employment.

164 (4) If it is determined by a court or administrative
165 tribunal that any document or information marked as a trade
166 secret and submitted to the office, department, or commission
167 pursuant to this section is not a trade secret, the person or
168 entity marking such information as a trade secret may be fined
169 up to \$500 for each page of a document or specific portion of a
170 document that is determined to be incorrectly marked as a trade
171 secret, plus attorney's fees and costs.

172 Section 2. Section 624.4305, Florida Statutes, is amended
173 to read:

174 624.4305 Nonrenewal of residential property insurance

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175 policies.-

176 (1) Any insurer planning to nonrenew more than 10,000
177 residential property insurance policies in this state within a
178 12-month period shall give notice in writing to the Office of
179 Insurance Regulation for informational purposes 90 days before
180 the issuance of any notices of nonrenewal. The notice provided
181 to the office must set forth the insurer's reasons for such
182 action, the effective dates of nonrenewal, and any arrangements
183 made for other insurers to offer coverage to affected
184 policyholders.

185 (2) For residential property insurance policies, the total
186 number of notices of intention not to renew a covered policy and
187 notices of intention to condition renewal upon reduction of
188 limits or elimination of any coverages that an insurer may
189 issue, rounded to the nearest whole number, shall be limited for
190 each calendar year to 2 percent of the total number of the
191 insurer's covered policies at the completion of the policy
192 period in effect at the last year end in each such insurer's
193 rating territory in use in this state. However, an insurer may
194 nonrenew or conditionally renew one policy in any such insurer's
195 rating territory in use in this state if the applicable
196 percentage limitation results in fewer than one policy.

197 Section 3. Paragraph (j) of subsection (1) of section
198 624.605, Florida Statutes, is amended to read:

199 624.605 "Casualty insurance" defined.-

200 (1) "Casualty insurance" includes:

201 (j) *Credit property insurance*.-Credit property insurance is
202 a limited line of insurance providing coverage on personal
203 property used as collateral for securing a loan or on personal

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204 property purchased under an installment sales agreement. Credit
205 property insurance shall not be considered to be property
206 insurance. The coverage may not ~~shall~~ be issued on an inland
207 marine policy form, and coverage limits shall be restricted to
208 the initial amount of the loan or the amount of the installment
209 sale.

210 Section 4. Subsection (1) of section 625.091, Florida
211 Statutes, is amended to read:

212 625.091 Losses and loss adjustment expense reserves;
213 liability insurance and workers' compensation insurance.—The
214 reserve liabilities recorded in the insurer's annual statement
215 and financial statements for unpaid losses and loss adjustment
216 expenses shall be the estimated value of its claims when
217 ultimately settled and shall be computed as follows:

218 (1) For all liability and workers' compensation claims, the
219 statement and statutory reserves and loss adjustment expenses
220 shall be in accordance with the form of the annual statement as
221 required in s. 624.424, and shall include the computed,
222 determined, or estimated value of the unpaid reported claims and
223 loss adjustment expenses, allocated and unallocated, and a
224 provision for loss and loss adjustment expenses, allocated and
225 unallocated, that are incurred but not reported. For claims
226 under liability policies, the reserve for reported claims shall
227 not be less than \$1,000 for each outstanding liability suit.

228 (a) Each insurer approved to offer large deductibles in its
229 workers' compensation policies shall obtain collateral from the
230 policyholder.

231 (b) The collateral offered by a policyholder shall equal or
232 exceed all losses, including case reserves and incurred

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233 reserves, but excluding reported reserves, within the deductible
234 of a large-deductible policy. A large-deductible policy is a
235 policy having a deductible equal to or greater than \$100,000.

236 (c) The collateral shall consist only of assets defined in
237 part I or part II, or clean, irrevocable, unconditional letters
238 of credit, issued or confirmed by a domestic financial
239 institution that is regulated, supervised, and examined by
240 federal or state authorities having regulatory authority over
241 banks and trust companies, and which are in the possession of,
242 or in trust for, the insurer.

243 Section 5. Subsections (2) and (3) of section 626.7451,
244 Florida Statutes, are amended to read:

245 626.7451 Managing general agents; required contract
246 provisions.—No person acting in the capacity of a managing
247 general agent shall place business with an insurer unless there
248 is in force a written contract between the parties which sets
249 forth the responsibility for a particular function, specifies
250 the division of responsibilities, and contains the following
251 minimum provisions:

252 (2) The managing general agent shall render accounts to the
253 insurer detailing all transactions and remit all funds due under
254 the terms of the contract to the insurer within 15 working days
255 after collection, regardless of any dispute ~~on a monthly or more~~
256 ~~frequent basis.~~

257 (3) All funds collected for the account of the insurer
258 shall be held by the managing general agent in a fiduciary
259 capacity in a bank which is a member of the Federal Reserve
260 System. This account shall be used for all payment as directed
261 by the insurer. The managing general agent may retain no more

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262 than 30 ~~60~~ days of estimated claims payments and allocated loss
263 adjustment expenses.

264

265 For the purposes of this section and ss. 626.7453 and 626.7454,
266 the term "controlling person" or "controlling" has the meaning
267 set forth in s. 625.012(5)(b)1., and the term "controlled
268 person" or "controlled" has the meaning set forth in s.
269 625.012(5)(b)2.

270 Section 6. Paragraph (x) of subsection (1) of section
271 626.9541, Florida Statutes, is amended to read:

272 626.9541 Unfair methods of competition and unfair or
273 deceptive acts or practices defined.—

274 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
275 ACTS.—The following are defined as unfair methods of competition
276 and unfair or deceptive acts or practices:

277 (x) *Refusal to insure.*—In addition to other provisions of
278 this code, the refusal to insure, or continue to insure, any
279 individual or risk solely because of:

280 1. Race, color, creed, marital status, sex, or national
281 origin;

282 2. The residence, age, or lawful occupation of the
283 individual or the location of the risk, unless there is a
284 reasonable relationship between the residence, age, or lawful
285 occupation of the individual or the location of the risk and the
286 coverage issued or to be issued;

287 3. The insured's or applicant's failure to agree to place
288 collateral business with any insurer, unless the coverage
289 applied for would provide liability coverage which is excess
290 over that provided in policies maintained on property or motor

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291 vehicles;

292 4. The insured's or applicant's failure to purchase
293 noninsurance services or commodities, including automobile
294 services as defined in s. 624.124;

295 5. The fact that the insured or applicant is a public
296 official; ~~or~~

297 6. The fact that the insured or applicant had been
298 previously refused insurance coverage by any insurer, when such
299 refusal to insure or continue to insure for this reason occurs
300 with such frequency as to indicate a general business practice;
301 or-

302 7. The fact that the insured or applicant owns an animal or
303 animals. An insurer may ask underwriting questions regarding the
304 animal species and history of any bites or aggressive behavior
305 of the animal or animals owned by the insured or applicant. An
306 insurer may limit or exclude any portion of the liability
307 coverage pertaining to animals.

308 Section 7. Section 627.0612, Florida Statutes, is repealed.

309 Section 8. Section 627.062, Florida Statutes, is amended to
310 read:

311 627.062 Rate standards.-

312 (1) The rates for all classes of insurance to which the
313 provisions of this part are applicable shall not be excessive,
314 inadequate, or unfairly discriminatory and shall be made in
315 accordance with generally accepted actuarial techniques.

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

317 (a) Insurers or rating organizations shall establish and
318 use rates, rating schedules, or rating manuals to allow the
319 insurer a reasonable rate of return on such classes of insurance

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320 written in this state. A copy of rates, rating schedules, rating
321 manuals, premium credits or discount schedules, and surcharge
322 schedules, and changes thereto, shall be filed with the office
323 under one of the following procedures except as provided in
324 subparagraph 3.:

325 1. If the filing is made at least 90 days before the
326 proposed effective date and the filing is not implemented during
327 the office's review of the filing and any proceeding and
328 judicial review, then such filing shall be considered a "file
329 and use" filing. In such case, the office shall finalize its
330 review by issuance of an approval letter ~~a notice of intent to~~
331 ~~approve~~ or a notice of intent to disapprove within 90 days after
332 receipt of the filing. The approval letter ~~notice of intent to~~
333 ~~approve~~ and the notice of intent to disapprove constitute agency
334 action for purposes of the Administrative Procedure Act.
335 Requests for supporting information, requests for mathematical
336 or mechanical corrections, or notification to the insurer by the
337 office of its preliminary findings shall not toll the 90-day
338 period during any such proceedings and subsequent judicial
339 review. The rate shall be deemed approved if the office does not
340 issue an approval letter ~~a notice of intent to approve~~ or a
341 notice of intent to disapprove within 90 days after receipt of
342 the filing.

343 2. If the filing is not made in accordance with the
344 provisions of subparagraph 1., such filing shall be made as soon
345 as practicable, but no later than 30 days after the effective
346 date, and shall be considered a "use and file" filing. An
347 insurer making a "use and file" filing is potentially subject to
348 an order by the office to return to policyholders portions of

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349 rates found to be excessive, as provided in paragraph (h).

350 3. For all property insurance filings ~~made or submitted~~
351 ~~after January 25, 2007, but before December 31, 2009,~~ an insurer
352 seeking a rate that is greater than the rate most recently
353 approved by the office shall make a "file and use" filing. For
354 purposes of this subparagraph, motor vehicle collision and
355 comprehensive coverages are not considered to be property
356 coverages.

357 (b) Upon receiving a rate filing, the office shall review
358 the rate filing to determine if a rate is excessive, inadequate,
359 or unfairly discriminatory. In making that determination, the
360 office shall, in accordance with generally accepted and
361 reasonable actuarial techniques, consider the following factors:

362 1. Past and prospective loss experience within and without
363 this state.

364 2. Past and prospective expenses. For businesses subject to
365 a reimbursement contract with the Florida Hurricane Catastrophe
366 Fund, prospective commissions, other acquisition expenses, and
367 general expenses combined must not exceed 20 percent of the
368 premium.

369 3. The degree of competition among insurers for the risk
370 insured.

371 4. Investment income reasonably expected by the insurer,
372 consistent with the insurer's investment practices, from
373 investable premiums anticipated in the filing, plus any other
374 expected income from currently invested assets representing the
375 amount expected on unearned premium reserves and loss reserves.
376 The commission may adopt rules using reasonable techniques of
377 actuarial science and economics to specify the manner in which

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378 insurers shall calculate investment income attributable to such
379 classes of insurance written in this state and the manner in
380 which such investment income shall be used to calculate
381 insurance rates. Such manner shall contemplate allowances for an
382 underwriting profit factor and full consideration of investment
383 income which produce a reasonable rate of return; however,
384 investment income from invested surplus may not be considered.

385 5. The reasonableness of the judgment reflected in the
386 filing.

387 6. Dividends, savings, or unabsorbed premium deposits
388 allowed or returned to Florida policyholders, members, or
389 subscribers.

390 7. The adequacy of loss reserves.

391 8. The cost of reinsurance. The office shall not disapprove
392 a rate as excessive solely due to the insurer having obtained
393 catastrophic reinsurance to cover the insurer's estimated 250-
394 year probable maximum loss or any lower level of loss.

395 a. For businesses subject to a reimbursement contract with
396 the Florida Hurricane Catastrophe Fund, the following conditions
397 shall be met:

398 (I) For reinsurance with unaffiliated companies, excluding
399 the Florida Hurricane Catastrophe Fund, the annual expected
400 recoveries must be at least 20 percent of the annual reinsurance
401 premium.

402 (II) For reinsurance with affiliated companies, the annual
403 expected recoveries must be at least 40 percent of the annual
404 reinsurance premium.

405 b. Any increase in limit or reduction in retention or any
406 other increase in reinsurance coverage may not be reflected as

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407 reinsurance cost in the rate filing if such action is taken at
408 the time of a coverage expansion by the Florida Hurricane
409 Catastrophe Fund unless required by the office for solvency
410 reasons.

411 9. Trend factors, including trends in actual losses per
412 insured unit for the insurer making the filing.

413 10. Conflagration and catastrophe hazards, if applicable.

414 11. Projected hurricane losses, if applicable, which must
415 be estimated using a model or method found to be acceptable or
416 reliable by the Florida Commission on Hurricane Loss Projection
417 Methodology, and as further provided in s. 627.0628.

418 12. A reasonable margin for underwriting profit and
419 contingencies.

420 13. The cost of medical services, if applicable.

421 14. Other relevant factors which impact upon the frequency
422 or severity of claims or upon expenses.

423 (c) In the case of fire insurance rates, consideration
424 shall be given to the availability of water supplies and the
425 experience of the fire insurance business during a period of not
426 less than the most recent 5-year period for which such
427 experience is available.

428 (d) If conflagration or catastrophe hazards are given
429 consideration by an insurer in its rates or rating plan,
430 including surcharges and discounts, the insurer shall establish
431 a reserve for that portion of the premium allocated to such
432 hazard and shall maintain the premium in a catastrophe reserve.
433 Any removal of such premiums from the reserve for purposes other
434 than paying claims associated with a catastrophe or purchasing
435 reinsurance for catastrophes shall be subject to approval of the

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436 office. Any ceding commission received by an insurer purchasing
437 reinsurance for catastrophes shall be placed in the catastrophe
438 reserve.

439 (e) After consideration of the rate factors provided in
440 paragraphs (b), (c), and (d), a rate may be found by the office
441 to be excessive, inadequate, or unfairly discriminatory based
442 upon the following standards:

443 1. Rates shall be deemed excessive if they are likely to
444 produce a profit from Florida business that is unreasonably high
445 in relation to the risk involved in the class of business or if
446 expenses are unreasonably high in relation to services rendered.

447 2. Rates shall be deemed excessive if, among other things,
448 the rate structure established by a stock insurance company
449 provides for replenishment of surpluses from premiums, when the
450 replenishment is attributable to investment losses.

451 3. Rates shall be deemed inadequate if they are clearly
452 insufficient, together with the investment income attributable
453 to them, to sustain projected losses and expenses in the class
454 of business to which they apply.

455 4. A rating plan, including discounts, credits, or
456 surcharges, shall be deemed unfairly discriminatory if it fails
457 to clearly and equitably reflect consideration of the
458 policyholder's participation in a risk management program
459 adopted pursuant to s. 627.0625.

460 5. A rate shall be deemed inadequate as to the premium
461 charged to a risk or group of risks if discounts or credits are
462 allowed which exceed a reasonable reflection of expense savings
463 and reasonably expected loss experience from the risk or group
464 of risks.

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465 6. A rate shall be deemed unfairly discriminatory as to a
466 risk or group of risks if the application of premium discounts,
467 credits, or surcharges among such risks does not bear a
468 reasonable relationship to the expected loss and expense
469 experience among the various risks.

470 (f) In reviewing a rate filing, the office may require the
471 insurer to provide at the insurer's expense all information
472 necessary to evaluate the condition of the company and the
473 reasonableness of the filing according to the criteria
474 enumerated in this section.

475 (g) The office may at any time review a rate, rating
476 schedule, rating manual, or rate change; the pertinent records
477 of the insurer; and market conditions. If the office finds on a
478 preliminary basis that a rate may be excessive, inadequate, or
479 unfairly discriminatory, the office shall initiate proceedings
480 to disapprove the rate and shall so notify the insurer. ~~However,~~
481 ~~the office may not disapprove as excessive any rate for which it~~
482 ~~has given final approval or which has been deemed approved for a~~
483 ~~period of 1 year after the effective date of the filing unless~~
484 ~~the office finds that a material misrepresentation or material~~
485 ~~error was made by the insurer or was contained in the filing.~~
486 Upon being so notified, the insurer or rating organization
487 shall, within 60 days, file with the office all information
488 which, in the belief of the insurer or organization, proves the
489 reasonableness, adequacy, and fairness of the rate or rate
490 change. The office shall issue an approval letter ~~a notice of~~
491 ~~intent to approve~~ or a notice of intent to disapprove pursuant
492 to the procedures of paragraph (a) within 90 days after receipt
493 of the insurer's initial response. In such instances and in any

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494 administrative proceeding relating to the legality of the rate,
495 the insurer or rating organization shall carry the burden of
496 proof by a preponderance of the evidence to show that the rate
497 is not excessive, inadequate, or unfairly discriminatory. After
498 the office notifies an insurer that a rate may be excessive,
499 inadequate, or unfairly discriminatory, unless the office
500 withdraws the notice of intent to disapprove notification, the
501 insurer shall not alter the rate or submit a new rate filing
502 affecting the disputed rate, without the office's approval
503 ~~except to conform with the office's notice until the earlier of~~
504 ~~120 days after the date the notification was provided or 180~~
505 ~~days after the date of the implementation of the rate. The~~
506 ~~office may, subject to chapter 120, disapprove without the 60-~~
507 ~~day notification any rate increase filed by an insurer within~~
508 ~~the prohibited time period or during the time that the legality~~
509 of the disputed ~~increased~~ rate is being contested.

510 (h) In the event the office finds that a rate or rate
511 change is excessive, inadequate, or unfairly discriminatory, the
512 office shall issue an order of disapproval specifying that a new
513 rate or rate schedule which responds to the findings of the
514 office be filed by the insurer. The office shall further order,
515 for any "use and file" filing made in accordance with
516 subparagraph (a)2., that premiums charged each policyholder
517 constituting the portion of the rate above that which was
518 actuarially justified be returned to such policyholder in the
519 form of a credit or refund. If the office finds that an
520 insurer's rate or rate change is inadequate, the new rate or
521 rate schedule filed with the office in response to such a
522 finding shall be applicable only to new or renewal business of

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523 the insurer written on or after the effective date of the
524 responsive filing.

525 (i) Except as otherwise specifically provided in this
526 chapter, the office shall not prohibit any insurer, including
527 any residual market plan or joint underwriting association, from
528 paying acquisition costs based on the full amount of premium, as
529 defined in s. 627.403, applicable to any policy, or prohibit any
530 such insurer from including the full amount of acquisition costs
531 in a rate filing.

532 (j) With respect to residential property insurance rate
533 filings, the rate filing must account for mitigation measures
534 undertaken by policyholders to reduce hurricane losses.

535
536 The provisions of this subsection shall not apply to workers'
537 compensation and employer's liability insurance and to motor
538 vehicle insurance.

539 (3) (a) For individual risks that are not rated in
540 accordance with the insurer's rates, rating schedules, rating
541 manuals, and underwriting rules filed with the office and which
542 have been submitted to the insurer for individual rating, the
543 insurer must maintain documentation on each risk subject to
544 individual risk rating. The documentation must identify the
545 named insured and specify the characteristics and classification
546 of the risk supporting the reason for the risk being
547 individually risk rated, including any modifications to existing
548 approved forms to be used on the risk. The insurer must maintain
549 these records for a period of at least 5 years after the
550 effective date of the policy.

551 (b) Individual risk rates and modifications to existing

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552 approved forms are not subject to this part or part II, except
553 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
554 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
555 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
556 627.4265, 627.427, and 627.428, but are subject to all other
557 applicable provisions of this code and rules adopted thereunder.

558 (c) This subsection does not apply to private passenger
559 motor vehicle insurance.

560 ~~(4) The establishment of any rate, rating classification,~~
561 ~~rating plan or schedule, or variation thereof in violation of~~
562 ~~part IX of chapter 626 is also in violation of this section. In~~
563 ~~order to enhance the ability of consumers to compare premiums~~
564 ~~and to increase the accuracy and usefulness of rate-comparison~~
565 ~~information provided by the office to the public, the office~~
566 ~~shall develop a proposed standard rating territory plan to be~~
567 ~~used by all authorized property and casualty insurers for~~
568 ~~residential property insurance. In adopting the proposed plan,~~
569 ~~the office may consider geographical characteristics relevant to~~
570 ~~risk, county lines, major roadways, existing rating territories~~
571 ~~used by a significant segment of the market, and other relevant~~
572 ~~factors. Such plan shall be submitted to the President of the~~
573 ~~Senate and the Speaker of the House of Representatives by~~
574 ~~January 15, 2006. The plan may not be implemented unless~~
575 ~~authorized by further act of the Legislature.~~

576 (4) ~~(5)~~ With respect to a rate filing involving coverage of
577 the type for which the insurer is required to pay a
578 reimbursement premium to the Florida Hurricane Catastrophe Fund,
579 the insurer may fully recoup in its property insurance premiums
580 any reimbursement premiums paid to the Florida Hurricane

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581 Catastrophe Fund, together with reasonable costs of other
582 reinsurance, but may not recoup reinsurance costs that duplicate
583 coverage provided by the Florida Hurricane Catastrophe Fund. An
584 insurer may not recoup more than 1 year of reimbursement premium
585 at a time. Any under-recoupment from the prior year may be added
586 to the following year's reimbursement premium and any over-
587 recoupment shall be subtracted from the following year's
588 reimbursement premium.

589 (5)~~(6)~~ (a) If an insurer requests an administrative hearing
590 pursuant to s. 120.57 related to a rate filing under this
591 section, the director of the Division of Administrative Hearings
592 shall expedite the hearing and assign an administrative law
593 judge who shall commence the hearing within 30 days after the
594 receipt of the formal request and shall enter a recommended
595 order within 30 days after the hearing or within 30 days after
596 receipt of the hearing transcript by the administrative law
597 judge, whichever is later. Each party shall be allowed 10 days
598 in which to submit written exceptions to the recommended order.
599 The office shall enter a final order within 30 days after the
600 entry of the recommended order. The provisions of this paragraph
601 may be waived upon stipulation of all parties.

602 (b) Upon entry of a final order, the insurer may request a
603 expedited appellate review pursuant to the Florida Rules of
604 Appellate Procedure. It is the intent of the Legislature that
605 the First District Court of Appeal grant an insurer's request
606 for an expedited appellate review.

607 (6)~~(7)~~ (a) The provisions of this subsection apply only with
608 respect to rates for medical malpractice insurance and shall
609 control to the extent of any conflict with other provisions of

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610 this section.

611 (b) Any portion of a judgment entered or settlement paid as
612 a result of a statutory or common-law bad faith action and any
613 portion of a judgment entered which awards punitive damages
614 against an insurer may not be included in the insurer's rate
615 base, and shall not be used to justify a rate or rate change.
616 Any common-law bad faith action identified as such, any portion
617 of a settlement entered as a result of a statutory or common-law
618 action, or any portion of a settlement wherein an insurer agrees
619 to pay specific punitive damages may not be used to justify a
620 rate or rate change. The portion of the taxable costs and
621 attorney's fees which is identified as being related to the bad
622 faith and punitive damages in these judgments and settlements
623 may not be included in the insurer's rate base and may not be
624 utilized to justify a rate or rate change.

625 (c) Upon reviewing a rate filing and determining whether
626 the rate is excessive, inadequate, or unfairly discriminatory,
627 the office shall consider, in accordance with generally accepted
628 and reasonable actuarial techniques, past and present
629 prospective loss experience, either using loss experience solely
630 for this state or giving greater credibility to this state's
631 loss data after applying actuarially sound methods of assigning
632 credibility to such data.

633 (d) Rates shall be deemed excessive if, among other
634 standards established by this section, the rate structure
635 provides for replenishment of reserves or surpluses from
636 premiums when the replenishment is attributable to investment
637 losses.

638 (e) The insurer must apply a discount or surcharge based on

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639 the health care provider's loss experience or shall establish an
640 alternative method giving due consideration to the provider's
641 loss experience. The insurer must include in the filing a copy
642 of the surcharge or discount schedule or a description of the
643 alternative method used, and must provide a copy of such
644 schedule or description, as approved by the office, to
645 policyholders at the time of renewal and to prospective
646 policyholders at the time of application for coverage.

647 (f) Each medical malpractice insurer must make a rate
648 filing under this section, sworn to by at least two executive
649 officers of the insurer, at least once each calendar year.

650 (7)~~(8)~~(a)1. No later than 60 days after the effective date
651 of medical malpractice legislation enacted during the 2003
652 Special Session D of the Florida Legislature, the office shall
653 calculate a presumed factor that reflects the impact that the
654 changes contained in such legislation will have on rates for
655 medical malpractice insurance and shall issue a notice informing
656 all insurers writing medical malpractice coverage of such
657 presumed factor. In determining the presumed factor, the office
658 shall use generally accepted actuarial techniques and standards
659 provided in this section in determining the expected impact on
660 losses, expenses, and investment income of the insurer. To the
661 extent that the operation of a provision of medical malpractice
662 legislation enacted during the 2003 Special Session D of the
663 Florida Legislature is stayed pending a constitutional
664 challenge, the impact of that provision shall not be included in
665 the calculation of a presumed factor under this subparagraph.

666 2. No later than 60 days after the office issues its notice
667 of the presumed rate change factor under subparagraph 1., each

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668 insurer writing medical malpractice coverage in this state shall
669 submit to the office a rate filing for medical malpractice
670 insurance, which will take effect no later than January 1, 2004,
671 and apply retroactively to policies issued or renewed on or
672 after the effective date of medical malpractice legislation
673 enacted during the 2003 Special Session D of the Florida
674 Legislature. Except as authorized under paragraph (b), the
675 filing shall reflect an overall rate reduction at least as great
676 as the presumed factor determined under subparagraph 1. With
677 respect to policies issued on or after the effective date of
678 such legislation and prior to the effective date of the rate
679 filing required by this subsection, the office shall order the
680 insurer to make a refund of the amount that was charged in
681 excess of the rate that is approved.

682 (b) Any insurer or rating organization that contends that
683 the rate provided for in paragraph (a) is excessive, inadequate,
684 or unfairly discriminatory shall separately state in its filing
685 the rate it contends is appropriate and shall state with
686 specificity the factors or data that it contends should be
687 considered in order to produce such appropriate rate. The
688 insurer or rating organization shall be permitted to use all of
689 the generally accepted actuarial techniques provided in this
690 section in making any filing pursuant to this subsection. The
691 office shall review each such exception and approve or
692 disapprove it prior to use. It shall be the insurer's burden to
693 actuarially justify any deviations from the rates required to be
694 filed under paragraph (a). The insurer making a filing under
695 this paragraph shall include in the filing the expected impact
696 of medical malpractice legislation enacted during the 2003

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697 Special Session D of the Florida Legislature on losses,
698 expenses, and rates.

699 (c) If any provision of medical malpractice legislation
700 enacted during the 2003 Special Session D of the Florida
701 Legislature is held invalid by a court of competent
702 jurisdiction, the office shall permit an adjustment of all
703 medical malpractice rates filed under this section to reflect
704 the impact of such holding on such rates so as to ensure that
705 the rates are not excessive, inadequate, or unfairly
706 discriminatory.

707 (d) Rates approved on or before July 1, 2003, for medical
708 malpractice insurance shall remain in effect until the effective
709 date of a new rate filing approved under this subsection.

710 (e) The calculation and notice by the office of the
711 presumed factor pursuant to paragraph (a) is not an order or
712 rule that is subject to chapter 120. If the office enters into a
713 contract with an independent consultant to assist the office in
714 calculating the presumed factor, such contract shall not be
715 subject to the competitive solicitation requirements of s.
716 287.057.

717 (8)~~(9)~~(a) The chief executive officer or chief financial
718 officer of a property insurer and the chief actuary of a
719 property insurer must certify under oath and subject to the
720 penalty of perjury, on a form approved by the commission, the
721 following information, which must accompany a rate filing:

722 1. The signing officer and actuary have reviewed the rate
723 filing;

724 2. Based on the signing officer's and actuary's knowledge,
725 the rate filing does not contain any untrue statement of a

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726 material fact or omit to state a material fact necessary in
727 order to make the statements made, in light of the circumstances
728 under which such statements were made, not misleading, and that
729 the filing complies with all applicable laws and rules;

730 3. Based on the signing officer's and actuary's knowledge,
731 the information and other factors described in paragraph (2) (b),
732 including, but not limited to, investment income, fairly present
733 in all material respects the basis of the rate filing for the
734 periods presented in the filing; ~~and~~

735 4. Based on the signing officer's and actuary's knowledge,
736 the rate filing reflects all premium savings that are reasonably
737 expected to result from legislative enactments and are in
738 accordance with generally accepted and reasonable actuarial
739 techniques; and-

740 5. Based on the signing officer's and actuary's knowledge,
741 the rate filing reflects the impact of any nonrenewals that have
742 occurred since the last annual rate filing or will occur within
743 the next 12 months following the effective date of this filing.

744 (b) An insurer and its A signing officer or actuary
745 knowingly making a false certification under this subsection
746 commits a violation of s. 626.9541(1) (e) and is subject to the
747 penalties under s. 626.9521.

748 (c) Failure to provide such certification by the officer
749 and actuary shall result in the rate filing being disapproved
750 without prejudice to be refiled.

751 (d) The commission may adopt rules and forms pursuant to
752 ss. 120.536(1) and 120.54 to administer this subsection.

753 ~~(10) The burden is on the office to establish that rates~~
754 ~~are excessive for personal lines residential coverage with a~~

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755 ~~dwelling replacement cost of \$1 million or more or for a single~~
756 ~~condominium unit with a combined dwelling and contents~~
757 ~~replacement cost of \$1 million or more. Upon request of the~~
758 ~~office, the insurer shall provide to the office such loss and~~
759 ~~expense information as the office reasonably needs to meet this~~
760 ~~burden.~~

761 ~~(9)(11)~~ Any interest paid pursuant to s. 627.70131(5) may
762 not be included in the insurer's rate base and may not be used
763 to justify a rate or rate change.

764 Section 9. Subsections (2) and (3) of section 627.0621,
765 Florida Statutes, are amended to read:

766 627.0621 Transparency in rate regulation.—

767 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—
768 With respect to any rate filing made on or after July 1, 2009
769 ~~July 1, 2008~~, an insurer making a rate filing that includes rate
770 level indication and the office shall provide the following
771 information on a publicly accessible Internet website:

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

773 (b) All assumptions made by the insurer's and office's
774 actuaries.

775 (c) A statement describing any assumptions or methods that
776 deviate from the actuarial standards of practice of the Casualty
777 Actuarial Society or the American Academy of Actuaries,
778 including an explanation of the nature, rationale, and effect of
779 the deviation.

780 (d) All recommendations made by any insurer or office
781 actuary who certified or reviewed the rate filing.

782 (e) Certification by the insurer's and office's actuary
783 that, based on the actuary's knowledge, his or her

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784 recommendations are consistent with accepted actuarial
785 principles.

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

787 (3) RATE CHANGE.—The office shall also provide the overall
788 rate change approved for any rate filing made on or after July
789 1, 2009.

790 (4) ~~(3)~~ ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT.—It is the
791 intent of the Legislature that the principles of the public
792 records and open meetings laws apply to the assertion of
793 attorney-client privilege and work product confidentiality by
794 the office in connection with a challenge to its actions on a
795 rate filing without providing the insurers an unfair advantage
796 in any administrative proceeding challenging the office's
797 decision regarding a rate filing. Therefore, in any
798 administrative or judicial proceeding relating to a rate filing,
799 attorney-client privilege and work product exemptions from
800 disclosure do not apply to communications with office attorneys
801 or records prepared by or at the direction of an office attorney
802 when an insurer agrees to waive its attorney-client privilege
803 and work-product exemptions from disclosure, except when the
804 conditions of paragraphs (a) and (b) have been met:

805 (a) The communication or record reflects a mental
806 impression, conclusion, litigation strategy, or legal theory of
807 the attorney or office that was prepared exclusively for civil
808 or criminal litigation or adversarial administrative
809 proceedings.

810 (b) The communication occurred or the record was prepared
811 after the initiation of an action in a court of competent
812 jurisdiction, after the issuance of a notice of intent to deny a

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813 rate filing, or after the filing of a request for a proceeding
814 under ss. 120.569 and 120.57.

815 Section 10. Paragraph (a) of subsection (1), paragraphs
816 (b), (c), and (d) of subsection (2), and paragraphs (a) and (d)
817 of subsection (3) of section 627.0628, Florida Statutes, are
818 amended, and paragraph (g) is added to subsection (3) of that
819 section, to read:

820 627.0628 Florida Commission on Hurricane Loss Projection
821 Methodology; public records exemption; public meetings
822 exemption.—

823 (1) LEGISLATIVE FINDINGS AND INTENT.—

824 (a) Reliable projections of hurricane losses are necessary
825 in order to assure that rates for personal residential property
826 insurance meet the statutory requirement that rates be neither
827 excessive nor inadequate. The ability to accurately project
828 hurricane losses has been enhanced greatly in recent years
829 through the use of computer modeling. It is the public policy of
830 this state to encourage the use of the most sophisticated
831 actuarial methods to assure that consumers are charged lawful
832 rates for personal residential property insurance coverage.

833 (2) COMMISSION CREATED.—

834 (b) The commission shall consist of the following 9 ~~11~~
835 members:

836 1. Five members appointed by the Governor.

837 2. Four members appointed by the Chief Financial Officer.

838 ~~1. The insurance consumer advocate.~~

839 ~~2. The senior employee of the State Board of Administration~~
840 ~~responsible for operations of the Florida Hurricane Catastrophe~~
841 ~~Fund.~~

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842 ~~3. The Executive Director of the Citizens Property~~
843 ~~Insurance Corporation.~~

844 ~~4. The Director of the Division of Emergency Management of~~
845 ~~the Department of Community Affairs.~~

846 ~~5. The actuary member of the Florida Hurricane Catastrophe~~
847 ~~Fund Advisory Council.~~

848 ~~6. An employee of the office who is an actuary responsible~~
849 ~~for property insurance rate filings and who is appointed by the~~
850 ~~director of the office.~~

851 ~~7. Five members appointed by the Chief Financial Officer,~~
852 ~~as follows:~~

853 ~~a. An actuary who is employed full time by a property and~~
854 ~~casualty insurer which was responsible for at least 1 percent of~~
855 ~~the aggregate statewide direct written premium for homeowner's~~
856 ~~insurance in the calendar year preceding the member's~~
857 ~~appointment to the commission.~~

858 ~~b. An expert in insurance finance who is a full-time member~~
859 ~~of the faculty of the State University System and who has a~~
860 ~~background in actuarial science.~~

861 ~~c. An expert in statistics who is a full-time member of the~~
862 ~~faculty of the State University System and who has a background~~
863 ~~in insurance.~~

864 ~~d. An expert in computer system design who is a full-time~~
865 ~~member of the faculty of the State University System.~~

866 ~~e. An expert in meteorology who is a full-time member of~~
867 ~~the faculty of the State University System and who specializes~~
868 ~~in hurricanes.~~

869 (c) Members shall serve at the pleasure of the appointing
870 official. A member may not be a person who may profit personally

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871 or professionally from the work product of the commission
872 ~~designated under subparagraphs (b)1.-5. shall serve on the~~
873 ~~commission as long as they maintain the respective offices~~
874 ~~designated in subparagraphs (b)1.-5. The member appointed by the~~
875 ~~director of the office under subparagraph (b)6. shall serve on~~
876 ~~the commission until the end of the term of office of the~~
877 ~~director who appointed him or her, unless removed earlier by the~~
878 ~~director for cause. Members appointed by the Chief Financial~~
879 ~~Officer under subparagraph (b)7. shall serve on the commission~~
880 ~~until the end of the term of office of the Chief Financial~~
881 ~~Officer who appointed them, unless earlier removed by the Chief~~
882 ~~Financial Officer for cause. Vacancies on the commission shall~~
883 ~~be filled in the same manner as the original appointment.~~

884 (d) The State Board of Administration shall annually
885 appoint one of the members of the commission to serve as chair.
886 Such member shall serve as chair at the pleasure of the State
887 Board of Administration.

888 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

889 (a) The commission shall consider any actuarial methods,
890 principles, standards, models, or output ranges that have the
891 potential for improving the accuracy of or reliability of the
892 hurricane loss projections used in personal residential property
893 insurance rate filings. The commission shall, from time to time,
894 adopt findings as to the accuracy or reliability of particular
895 methods, principles, standards, models, or output ranges.

896 (d) With respect to a rate filing under s. 627.062, an
897 insurer shall employ and may not modify or adjust actuarial
898 methods, principles, standards, models, or output ranges found
899 by the commission to be accurate or reliable in determining

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900 hurricane loss factors for use in a rate filing under s.
 901 627.062. An insurer shall employ and may not modify or adjust
 902 models found by the commission to be accurate or reliable in
 903 determining probable maximum loss levels pursuant to paragraph
 904 (b) with respect to a rate filing under s. 627.062 ~~made more~~
 905 ~~than 60 days after the commission has made such findings.~~

906 (g) A modeler may not submit more than one model per filing
 907 with the commission. Each model submitted to the commission
 908 shall contain all historical data and all hurricane sets.

909 Section 11. Subsection (1) of section 627.0645, Florida
 910 Statutes, is amended to read:

911 627.0645 Annual filings.—

912 (1) Each rating organization filing rates for, and each
 913 insurer writing, any line of property or casualty insurance to
 914 which this part applies, except:

915 (a) Workers' compensation and employer's liability
 916 insurance; or

917 (b) Commercial property and casualty insurance as defined
 918 in s. 627.0625(1) other than commercial property, commercial
 919 multiple line, and commercial motor vehicle,

920
 921 shall make an annual base rate filing for each such line with
 922 the office no later than 12 months after its previous base rate
 923 filing, demonstrating that its rates are not inadequate,
 924 excessive, or unfairly discriminatory.

925 Section 12. Paragraph (c) is added to subsection (1) of
 926 section 627.0651, Florida Statutes, and subsection (11) of that
 927 section is amended, to read:

928 627.0651 Making and use of rates for motor vehicle

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929 insurance.-

930 (1) Insurers shall establish and use rates, rating
931 schedules, or rating manuals to allow the insurer a reasonable
932 rate of return on motor vehicle insurance written in this state.
933 A copy of rates, rating schedules, and rating manuals, and
934 changes therein, shall be filed with the office under one of the
935 following procedures:

936 (c) For all motor vehicle insurance filings, an insurer
937 seeking a rate that is greater than the rate most recently
938 approved by the office shall make a "file and use" filing.

939 (11) ~~If In the event~~ the office finds that a rate or rate
940 change is excessive, inadequate, or unfairly discriminatory, the
941 office shall issue a notice of intent to disapprove ~~an order of~~
942 ~~disapproval~~ specifying that a new rate or rate schedule which
943 responds to the findings of the office be filed by the insurer.
944 The office shall further order for any "use and file" filing
945 made in accordance with paragraph (1)(b), that premiums charged
946 each policyholder constituting the portion of the rate above
947 that which was actuarially justified be returned to such
948 policyholder in the form of a credit or refund. If the office
949 finds that an insurer's rate or rate change is inadequate, the
950 new rate or rate schedule filed with the office in response to
951 such a finding shall be applicable only to new or renewal
952 business of the insurer written on or after the effective date
953 of the responsive filing.

954 Section 13. Paragraphs (a) and (b) of subsection (6) of
955 section 627.351, Florida Statutes, are amended to read:

956 627.351 Insurance risk apportionment plans.-

957 (6) CITIZENS PROPERTY INSURANCE CORPORATION.-

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958 (a)1. It is the public purpose of this subsection to ensure
959 the existence of an orderly market for property insurance for
960 Floridians and Florida businesses. The Legislature finds that
961 private insurers are unwilling or unable to provide affordable
962 property insurance coverage in this state to the extent sought
963 and needed. The absence of affordable property insurance
964 threatens the public health, safety, and welfare and likewise
965 threatens the economic health of the state. The state therefore
966 has a compelling public interest and a public purpose to assist
967 in assuring that property in the state is insured and that it is
968 insured at affordable rates so as to facilitate the remediation,
969 reconstruction, and replacement of damaged or destroyed property
970 in order to reduce or avoid the negative effects otherwise
971 resulting to the public health, safety, and welfare, to the
972 economy of the state, and to the revenues of the state and local
973 governments which are needed to provide for the public welfare.
974 It is necessary, therefore, to provide affordable property
975 insurance to applicants who are in good faith entitled to
976 procure insurance through the voluntary market but are unable to
977 do so. The Legislature intends by this subsection that
978 affordable property insurance be provided and that it continue
979 to be provided, as long as necessary, through Citizens Property
980 Insurance Corporation, a government entity that is an integral
981 part of the state, and that is not a private insurance company.
982 To that end, Citizens Property Insurance Corporation shall
983 strive to increase the availability of affordable property
984 insurance in this state, while achieving efficiencies and
985 economies, and while providing service to policyholders,
986 applicants, and agents which is no less than the quality

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987 generally provided in the voluntary market, for the achievement
988 of the foregoing public purposes. Because it is essential for
989 this government entity to have the maximum financial resources
990 to pay claims following a catastrophic hurricane, it is the
991 intent of the Legislature that Citizens Property Insurance
992 Corporation continue to be an integral part of the state and
993 that the income of the corporation be exempt from federal income
994 taxation and that interest on the debt obligations issued by the
995 corporation be exempt from federal income taxation.

996 2. The Residential Property and Casualty Joint Underwriting
997 Association originally created by this statute shall be known,
998 as of July 1, 2002, as the Citizens Property Insurance
999 Corporation. The corporation shall provide insurance for
1000 residential and commercial property, for applicants who are in
1001 good faith entitled, but are unable, to procure insurance
1002 through the voluntary market. The corporation shall operate
1003 pursuant to a plan of operation approved by order of the
1004 Financial Services Commission. The plan is subject to continuous
1005 review by the commission. The commission may, by order, withdraw
1006 approval of all or part of a plan if the commission determines
1007 that conditions have changed since approval was granted and that
1008 the purposes of the plan require changes in the plan. The
1009 corporation shall continue to operate pursuant to the plan of
1010 operation approved by the Office of Insurance Regulation until
1011 October 1, 2006. For the purposes of this subsection,
1012 residential coverage includes both personal lines residential
1013 coverage, which consists of the type of coverage provided by
1014 homeowner's, mobile home owner's, dwelling, tenant's,
1015 condominium unit owner's, and similar policies, and commercial

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1016 lines residential coverage, which consists of the type of
1017 coverage provided by condominium association, apartment
1018 building, and similar policies.

1019 3. Effective January 1, 2009, a personal lines residential
1020 structure that has a dwelling replacement cost of \$2 million or
1021 more, or a single condominium unit that has a combined dwelling
1022 and content replacement cost of \$2 million or more is not
1023 eligible for coverage by the corporation. Such dwellings insured
1024 by the corporation on December 31, 2008, may continue to be
1025 covered by the corporation until the end of the policy term.
1026 However, such dwellings that are insured by the corporation and
1027 become ineligible for coverage due to the provisions of this
1028 subparagraph may reapply and obtain coverage if the property
1029 owner provides the corporation with a sworn affidavit from one
1030 or more insurance agents, on a form provided by the corporation,
1031 stating that the agents have made their best efforts to obtain
1032 coverage and that the property has been rejected for coverage by
1033 at least one authorized insurer and at least three surplus lines
1034 insurers. If such conditions are met, the dwelling may be
1035 insured by the corporation for up to 3 years, after which time
1036 the dwelling is ineligible for coverage. The office shall
1037 approve the method used by the corporation for valuing the
1038 dwelling replacement cost for the purposes of this subparagraph.
1039 If a policyholder is insured by the corporation prior to being
1040 determined to be ineligible pursuant to this subparagraph and
1041 such policyholder files a lawsuit challenging the determination,
1042 the policyholder may remain insured by the corporation until the
1043 conclusion of the litigation.

1044 4. It is the intent of the Legislature that policyholders,

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1045 applicants, and agents of the corporation receive service and
1046 treatment of the highest possible level but never less than that
1047 generally provided in the voluntary market. It also is intended
1048 that the corporation be held to service standards no less than
1049 those applied to insurers in the voluntary market by the office
1050 with respect to responsiveness, timeliness, customer courtesy,
1051 and overall dealings with policyholders, applicants, or agents
1052 of the corporation.

1053 5. Effective January 1, 2009, a personal lines residential
1054 structure that is located in the "wind-borne debris region," as
1055 defined in s. 1609.2, International Building Code (2006), and
1056 that has an insured value on the structure of \$750,000 or more
1057 is not eligible for coverage by the corporation unless the
1058 structure has opening protections as required under the Florida
1059 Building Code for a newly constructed residential structure in
1060 that area. A residential structure shall be deemed to comply
1061 with the requirements of this subparagraph if it has shutters or
1062 opening protections on all openings and if such opening
1063 protections complied with the Florida Building Code at the time
1064 they were installed. Effective January 1, 2010, for personal
1065 lines residential property insured by the corporation that is
1066 located in the wind-borne debris region and has an insured value
1067 on the structure of \$500,000 or more, a prospective purchaser of
1068 any such residential property must be provided by the seller a
1069 written disclosure that contains the structure's windstorm
1070 mitigation rating based on the uniform home grading scale
1071 adopted under s. 215.55865. Such rating shall be provided to the
1072 purchaser at or before the time the purchaser executes a
1073 contract for sale and purchase.

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1074 6. Flood insurance is required for all new or renewal
1075 policies for properties located within the area between the
1076 coast and 2,500 feet landward of the coastal construction
1077 control line. For properties constructed or permitted for
1078 construction on or after January 1, 2010, the corporation may
1079 not insure such properties located within the area between the
1080 coast and 2,500 feet landward of the coastal construction
1081 control line unless such properties have obtained flood
1082 insurance.

1083 (b)1. All insurers authorized to write one or more subject
1084 lines of business in this state are subject to assessment by the
1085 corporation and, for the purposes of this subsection, are
1086 referred to collectively as "assessable insurers." Insurers
1087 writing one or more subject lines of business in this state
1088 pursuant to part VIII of chapter 626 are not assessable
1089 insurers, but insureds who procure one or more subject lines of
1090 business in this state pursuant to part VIII of chapter 626 are
1091 subject to assessment by the corporation and are referred to
1092 collectively as "assessable insureds." An authorized insurer's
1093 assessment liability shall begin on the first day of the
1094 calendar year following the year in which the insurer was issued
1095 a certificate of authority to transact insurance for subject
1096 lines of business in this state and shall terminate 1 year after
1097 the end of the first calendar year during which the insurer no
1098 longer holds a certificate of authority to transact insurance
1099 for subject lines of business in this state.

1100 2.a. All revenues, assets, liabilities, losses, and
1101 expenses of the corporation shall be divided into three separate
1102 accounts as follows:

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1103 (I) A personal lines account for personal residential
1104 policies issued by the corporation or issued by the Residential
1105 Property and Casualty Joint Underwriting Association and renewed
1106 by the corporation that provide comprehensive, multiperil
1107 coverage on risks that are not located in areas eligible for
1108 coverage in the Florida Windstorm Underwriting Association as
1109 those areas were defined on January 1, 2002, and for such
1110 policies that do not provide coverage for the peril of wind on
1111 risks that are located in such areas;

1112 (II) A commercial lines account for commercial residential
1113 and commercial nonresidential policies issued by the corporation
1114 or issued by the Residential Property and Casualty Joint
1115 Underwriting Association and renewed by the corporation that
1116 provide coverage for basic property perils on risks that are not
1117 located in areas eligible for coverage in the Florida Windstorm
1118 Underwriting Association as those areas were defined on January
1119 1, 2002, and for such policies that do not provide coverage for
1120 the peril of wind on risks that are located in such areas; and

1121 (III) A high-risk account for personal residential policies
1122 and commercial residential and commercial nonresidential
1123 property policies issued by the corporation or transferred to
1124 the corporation that provide coverage for the peril of wind on
1125 risks that are located in areas eligible for coverage in the
1126 Florida Windstorm Underwriting Association as those areas were
1127 defined on January 1, 2002. The corporation may offer policies
1128 that provide multiperil coverage and the corporation may renew
1129 ~~shall continue to offer~~ policies that provide coverage only for
1130 the peril of wind for risks located in areas eligible for
1131 coverage in the high-risk account. Beginning July 1, 2009, the

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1132 corporation may not issue new policies providing coverage for
1133 the peril of wind only. ~~In issuing multiperil coverage, the~~
1134 ~~corporation may use its approved policy forms and rates for the~~
1135 ~~personal lines account.~~ An applicant or insured who is eligible
1136 to purchase a multiperil policy from the corporation may
1137 purchase a multiperil policy from an authorized insurer without
1138 prejudice to the applicant's or insured's eligibility to
1139 prospectively purchase a policy that provides coverage only for
1140 the peril of wind from the corporation. An applicant or insured
1141 who is eligible for a corporation policy that provides coverage
1142 only for the peril of wind may elect to purchase or retain such
1143 policy and also purchase or retain coverage excluding wind from
1144 an authorized insurer without prejudice to the applicant's or
1145 insured's eligibility to prospectively purchase a policy that
1146 provides multiperil coverage from the corporation. It is the
1147 goal of the Legislature that there would be an overall average
1148 savings of 10 percent or more for a policyholder who currently
1149 has a wind-only policy with the corporation, and an ex-wind
1150 policy with a voluntary insurer or the corporation, and who then
1151 obtains a multiperil policy from the corporation. It is the
1152 intent of the Legislature that the offer of multiperil coverage
1153 in the high-risk account be made and implemented in a manner
1154 that does not adversely affect the tax-exempt status of the
1155 corporation or creditworthiness of or security for currently
1156 outstanding financing obligations or credit facilities of the
1157 high-risk account, the personal lines account, or the commercial
1158 lines account. The high-risk account must also include quota
1159 share primary insurance under subparagraph (c)2. The area
1160 eligible for coverage under the high-risk account also includes

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1161 the area within Port Canaveral, which is bordered on the south
1162 by the City of Cape Canaveral, bordered on the west by the
1163 Banana River, and bordered on the north by Federal Government
1164 property.

1165 b. The three separate accounts must be maintained as long
1166 as financing obligations entered into by the Florida Windstorm
1167 Underwriting Association or Residential Property and Casualty
1168 Joint Underwriting Association are outstanding, in accordance
1169 with the terms of the corresponding financing documents. When
1170 the financing obligations are no longer outstanding, in
1171 accordance with the terms of the corresponding financing
1172 documents, the corporation may use a single account for all
1173 revenues, assets, liabilities, losses, and expenses of the
1174 corporation. Consistent with the requirement of this
1175 subparagraph and prudent investment policies that minimize the
1176 cost of carrying debt, the board shall exercise its best efforts
1177 to retire existing debt or to obtain approval of necessary
1178 parties to amend the terms of existing debt, so as to structure
1179 the most efficient plan to consolidate the three separate
1180 accounts into a single account. By February 1, 2007, the board
1181 shall submit a report to the Financial Services Commission, the
1182 President of the Senate, and the Speaker of the House of
1183 Representatives which includes an analysis of consolidating the
1184 accounts, the actions the board has taken to minimize the cost
1185 of carrying debt, and its recommendations for executing the most
1186 efficient plan.

1187 c. Creditors of the Residential Property and Casualty Joint
1188 Underwriting Association and of the accounts specified in sub-
1189 sub-subparagraphs a.(I) and (II) may have a claim against, and

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1190 recourse to, the accounts referred to in sub-sub-subparagraphs
1191 a.(I) and (II) and shall have no claim against, or recourse to,
1192 the account referred to in sub-sub-subparagraph a.(III).

1193 Creditors of the Florida Windstorm Underwriting Association
1194 shall have a claim against, and recourse to, the account
1195 referred to in sub-sub-subparagraph a.(III) and shall have no
1196 claim against, or recourse to, the accounts referred to in sub-
1197 sub-subparagraphs a.(I) and (II).

1198 d. Revenues, assets, liabilities, losses, and expenses not
1199 attributable to particular accounts shall be prorated among the
1200 accounts.

1201 e. The Legislature finds that the revenues of the
1202 corporation are revenues that are necessary to meet the
1203 requirements set forth in documents authorizing the issuance of
1204 bonds under this subsection.

1205 f. No part of the income of the corporation may inure to
1206 the benefit of any private person.

1207 3. With respect to a deficit in an account:

1208 a. After accounting for the Citizens policyholder surcharge
1209 imposed under sub-subparagraph i., when the remaining projected
1210 deficit incurred in a particular calendar year is not greater
1211 than 6 percent of the aggregate statewide direct written premium
1212 for the subject lines of business for the prior calendar year,
1213 the entire deficit shall be recovered through regular
1214 assessments of assessable insurers under paragraph (p) and
1215 assessable insureds.

1216 b. After accounting for the Citizens policyholder surcharge
1217 imposed under sub-subparagraph i., when the remaining projected
1218 deficit incurred in a particular calendar year exceeds 6 percent

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1219 of the aggregate statewide direct written premium for the
1220 subject lines of business for the prior calendar year, the
1221 corporation shall levy regular assessments on assessable
1222 insurers under paragraph (p) and on assessable insureds in an
1223 amount equal to the greater of 6 percent of the deficit or 6
1224 percent of the aggregate statewide direct written premium for
1225 the subject lines of business for the prior calendar year. Any
1226 remaining deficit shall be recovered through emergency
1227 assessments under sub-subparagraph d.

1228 c. Each assessable insurer's share of the amount being
1229 assessed under sub-subparagraph a. or sub-subparagraph b. shall
1230 be in the proportion that the assessable insurer's direct
1231 written premium for the subject lines of business for the year
1232 preceding the assessment bears to the aggregate statewide direct
1233 written premium for the subject lines of business for that year.
1234 The assessment percentage applicable to each assessable insured
1235 is the ratio of the amount being assessed under sub-subparagraph
1236 a. or sub-subparagraph b. to the aggregate statewide direct
1237 written premium for the subject lines of business for the prior
1238 year. Assessments levied by the corporation on assessable
1239 insurers under sub-subparagraphs a. and b. shall be paid as
1240 required by the corporation's plan of operation and paragraph
1241 (p). Assessments levied by the corporation on assessable
1242 insureds under sub-subparagraphs a. and b. shall be collected by
1243 the surplus lines agent at the time the surplus lines agent
1244 collects the surplus lines tax required by s. 626.932 and shall
1245 be paid to the Florida Surplus Lines Service Office at the time
1246 the surplus lines agent pays the surplus lines tax to the
1247 Florida Surplus Lines Service Office. Upon receipt of regular

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1248 assessments from surplus lines agents, the Florida Surplus Lines
1249 Service Office shall transfer the assessments directly to the
1250 corporation as determined by the corporation.

1251 d. Upon a determination by the board of governors that a
1252 deficit in an account exceeds the amount that will be recovered
1253 through regular assessments under sub-subparagraph a. or sub-
1254 subparagraph b., plus the amount that is expected to be
1255 recovered through surcharges under sub-subparagraph i., as to
1256 the remaining projected deficit the board shall levy, after
1257 verification by the office, emergency assessments, for as many
1258 years as necessary to cover the deficits, to be collected by
1259 assessable insurers and the corporation and collected from
1260 assessable insureds upon issuance or renewal of policies for
1261 subject lines of business, excluding National Flood Insurance
1262 policies. The amount of the emergency assessment collected in a
1263 particular year shall be a uniform percentage of that year's
1264 direct written premium for subject lines of business and all
1265 accounts of the corporation, excluding National Flood Insurance
1266 Program policy premiums, as annually determined by the board and
1267 verified by the office. The office shall verify the arithmetic
1268 calculations involved in the board's determination within 30
1269 days after receipt of the information on which the determination
1270 was based. Notwithstanding any other provision of law, the
1271 corporation and each assessable insurer that writes subject
1272 lines of business shall collect emergency assessments from its
1273 policyholders without such obligation being affected by any
1274 credit, limitation, exemption, or deferment. Emergency
1275 assessments levied by the corporation on assessable insureds
1276 shall be collected by the surplus lines agent at the time the

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1277 surplus lines agent collects the surplus lines tax required by
1278 s. 626.932 and shall be paid to the Florida Surplus Lines
1279 Service Office at the time the surplus lines agent pays the
1280 surplus lines tax to the Florida Surplus Lines Service Office.
1281 The emergency assessments so collected shall be transferred
1282 directly to the corporation on a periodic basis as determined by
1283 the corporation and shall be held by the corporation solely in
1284 the applicable account. The aggregate amount of emergency
1285 assessments levied for an account under this sub-subparagraph in
1286 any calendar year may, at the discretion of the board of
1287 governors, be less than but may not exceed the greater of 10
1288 percent of the amount needed to cover the deficit, plus
1289 interest, fees, commissions, required reserves, and other costs
1290 associated with financing of the original deficit, or 10 percent
1291 of the aggregate statewide direct written premium for subject
1292 lines of business and for all accounts of the corporation for
1293 the prior year, plus interest, fees, commissions, required
1294 reserves, and other costs associated with financing the deficit.

1295 e. The corporation may pledge the proceeds of assessments,
1296 projected recoveries from the Florida Hurricane Catastrophe
1297 Fund, other insurance and reinsurance recoverables, policyholder
1298 surcharges and other surcharges, and other funds available to
1299 the corporation as the source of revenue for and to secure bonds
1300 issued under paragraph (p), bonds or other indebtedness issued
1301 under subparagraph (c)3., or lines of credit or other financing
1302 mechanisms issued or created under this subsection, or to retire
1303 any other debt incurred as a result of deficits or events giving
1304 rise to deficits, or in any other way that the board determines
1305 will efficiently recover such deficits. The purpose of the lines

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1306 of credit or other financing mechanisms is to provide additional
1307 resources to assist the corporation in covering claims and
1308 expenses attributable to a catastrophe. As used in this
1309 subsection, the term "assessments" includes regular assessments
1310 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1311 (p)1. and emergency assessments under sub-subparagraph d.
1312 Emergency assessments collected under sub-subparagraph d. are
1313 not part of an insurer's rates, are not premium, and are not
1314 subject to premium tax, fees, or commissions; however, failure
1315 to pay the emergency assessment shall be treated as failure to
1316 pay premium. The emergency assessments under sub-subparagraph d.
1317 shall continue as long as any bonds issued or other indebtedness
1318 incurred with respect to a deficit for which the assessment was
1319 imposed remain outstanding, unless adequate provision has been
1320 made for the payment of such bonds or other indebtedness
1321 pursuant to the documents governing such bonds or other
1322 indebtedness.

1323 f. As used in this subsection for purposes of any deficit
1324 incurred on or after January 25, 2007, the term "subject lines
1325 of business" means insurance written by assessable insurers or
1326 procured by assessable insureds for all property and casualty
1327 lines of business in this state, but not including workers'
1328 compensation or medical malpractice. As used in the sub-
1329 subparagraph, the term "property and casualty lines of business"
1330 includes all lines of business identified on Form 2, Exhibit of
1331 Premiums and Losses, in the annual statement required of
1332 authorized insurers by s. 624.424 and any rule adopted under
1333 this section, except for those lines identified as accident and
1334 health insurance and except for policies written under the

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1335 National Flood Insurance Program or the Federal Crop Insurance
1336 Program. For purposes of this sub-subparagraph, the term
1337 "workers' compensation" includes both workers' compensation
1338 insurance and excess workers' compensation insurance.

1339 g. The Florida Surplus Lines Service Office shall determine
1340 annually the aggregate statewide written premium in subject
1341 lines of business procured by assessable insureds and shall
1342 report that information to the corporation in a form and at a
1343 time the corporation specifies to ensure that the corporation
1344 can meet the requirements of this subsection and the
1345 corporation's financing obligations.

1346 h. The Florida Surplus Lines Service Office shall verify
1347 the proper application by surplus lines agents of assessment
1348 percentages for regular assessments and emergency assessments
1349 levied under this subparagraph on assessable insureds and shall
1350 assist the corporation in ensuring the accurate, timely
1351 collection and payment of assessments by surplus lines agents as
1352 required by the corporation.

1353 i. If a deficit is incurred in any account in 2008 or
1354 thereafter, the board of governors shall levy a Citizens
1355 policyholder surcharge against all policyholders of the
1356 corporation for a 12-month period, which shall be collected at
1357 the time of issuance or renewal of a policy, as a uniform
1358 percentage of the premium for the policy of up to 15 percent of
1359 such premium, which funds shall be used to offset the deficit.
1360 Citizens policyholder surcharges under this sub-subparagraph are
1361 not considered premium and are not subject to commissions, fees,
1362 or premium taxes. However, failure to pay such surcharges shall
1363 be treated as failure to pay premium.

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1364 j. If the amount of any assessments or surcharges collected
 1365 from corporation policyholders, assessable insurers or their
 1366 policyholders, or assessable insureds exceeds the amount of the
 1367 deficits, such excess amounts shall be remitted to and retained
 1368 by the corporation in a reserve to be used by the corporation,
 1369 as determined by the board of governors and approved by the
 1370 office, to pay claims or reduce any past, present, or future
 1371 plan-year deficits or to reduce outstanding debt.

1372 Section 14. Section 627.3512, Florida Statutes, is amended
 1373 to read:

1374 627.3512 Recoupment of residual market deficit
 1375 assessments.—

1376 (1) An insurer or insurer group may recoup any assessments
 1377 that have been paid during or after 1995 by the insurer or
 1378 insurer group to defray deficits of an insurance risk
 1379 apportionment plan or assigned risk plan under ss. 627.311 and
 1380 627.351, net of any earnings returned to the insurer or insurer
 1381 group by the association or plan for any year after 1993. ~~A~~
 1382 ~~limited apportionment company as defined in s. 627.351(6)(c) may~~
 1383 ~~recoup any regular assessment that has been levied by, or paid~~
 1384 ~~to, Citizens Property Insurance Corporation.~~

1385 (2) If an insurer or insurer group elects to recoup an
 1386 assessment that has been paid, the following filing procedures
 1387 shall apply:

1388 (a) The insurer or insurer group shall submit an initial
 1389 recoupment filing to the office within 180 days after the date
 1390 of the assessment as indicated on the invoice received by the
 1391 insurer or insurer group. Failure to submit the filing within
 1392 180 days shall result in the inability to recoup the amount

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1393 assessed.

1394 (b) The initial recoupment filing shall be submitted on a
1395 file-and-use basis, pursuant to s. 627.062 or s. 627.0651 and
1396 subsection (10).

1397 (c) The initial recoupment filing shall include the
1398 following:

1399 1. A copy of the invoice received from the corporation and
1400 proof of payment.

1401 2. A 1-year direct written premium projection for that line
1402 or type of business as defined in s. 624.6012 and subject to the
1403 assessment, including supporting documentation. The dates of the
1404 1-year direct written premium projection shall coincide with the
1405 proposed effective dates of the initial recoupment filing.

1406 3. A manual page listing the initial recoupment factor and
1407 explaining how such recoupment factor is applied.

1408 (d) The initial recoupment factor shall be calculated by
1409 dividing the assessment amount for that line or type of business
1410 by the projected 1-year direct written premium for that line or
1411 type of business.

1412 (3) For purposes of calculating a ~~The recoupment shall be~~
1413 ~~made by applying a separate assessment factor, on policies of~~
1414 ~~the same line or type as were considered by the residual markets~~
1415 ~~in determining the assessment liability of the insurer or~~
1416 ~~insurer group.~~ an insurer or insurer group may combine all shall
1417 calculate a separate assessment factor for personal lines of
1418 business or all and commercial lines of business. An insurer or
1419 insurer group may not combine personal and commercial lines of
1420 business. ~~The recoupment separate assessment~~ factor shall
1421 provide for full recoupment of the assessments over a period of

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1422 1 year, unless the insurer or insurer group, at its option,
1423 elects to recoup the assessments over a longer period. The
1424 recoupment ~~assessment~~ factor expires upon collection of the full
1425 amount allowed to be recouped or at the end of the 1-year
1426 period, whichever occurs first. Amounts recouped under this
1427 section are not subject to premium taxes, fees, or commissions.

1428 (4) ~~(2)~~ The recoupment ~~assessment~~ factor may ~~must~~ not be
1429 more than 2 ~~3~~ percentage points above the ratio of the deficit
1430 assessment to the Florida direct written premium for policies
1431 for the lines or types of business as to which the assessment
1432 was calculated, ~~as written in the year the deficit assessment~~
1433 ~~was paid~~. If an insurer or insurer group fails to collect the
1434 full amount of the deficit assessment, the insurer or insurer
1435 group may ~~must~~ carry forward the amount of the deficit and
1436 adjust the deficit assessment to be recouped in the next a
1437 ~~subsequent~~ year by that amount.

1438 (5) A recoupment-removal filing shall be submitted to the
1439 office to stop the recoupment process. The following filing
1440 procedures shall apply to the recoupment-removal filing:

1441 (a) The filing may be submitted on a file-and-use basis or
1442 use-and-file basis as provided in s. 627.062 or s. 627.0651.

1443 (b) The filing shall include the following:

1444 1. A copy of the exhibit used to show the calculation of
1445 the factor originally approved in the initial recoupment filing,
1446 including the effective dates of the policy.

1447 2. An exhibit showing the direct written premium and
1448 associated recoupment amounts received by month for the entire
1449 recoupment period.

1450 3. A manual page indicating that the recoupment factor no

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1451 longer applies.

1452 (6) If the insurer or insurer group elects to continue the
1453 recoupment process for an additional year, the following filing
1454 procedures shall apply:

1455 (a) The recoupment-continuation filing may be submitted on
1456 a file-and-use basis or use-and-file basis as provided in s.
1457 627.062 or s. 627.0651. The recoupment-continuation filing does
1458 not result in a gap between the application of the approved
1459 initial recoupment factor and the application of the recoupment-
1460 continuation factor. If the initial recoupment filing used a
1461 combination of lines or types of business to compute a
1462 recoupment factor, those same lines or types of business
1463 combinations shall be used again to compute the recoupment-
1464 continuation factor.

1465 (b) The recoupment-continuation filing shall include the
1466 following:

1467 1. A copy of the exhibit used to show the calculation of
1468 the factor approved in the initial recoupment filing, including
1469 the effective dates of the policy.

1470 2. An exhibit showing the direct written premium and
1471 associated recoupment amounts received by month for the entire
1472 initial recoupment period.

1473 3. A subsequent 1-year direct written premium projection
1474 for that line or type of business as defined in s. 624.6012 and
1475 subject to the assessment, including supporting documentation.
1476 The dates of the subsequent 1-year direct written premium
1477 projection shall coincide with the proposed effective dates of
1478 the recoupment-continuation filing.

1479 4. The recoupment-continuation factor, which shall be

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1480 calculated by dividing the remaining uncollected assessment
1481 amount for that line or type of business by the projected 1-year
1482 direct written premium for that line or type of business.

1483 5. A manual page listing the recoupment-continuation factor
1484 and explaining how such factor is to be applied.

1485 (c) Recoupment-continuation filings are subject to
1486 subsections (3), (4), and (5).

1487 (7) If an insurer or insurer group over-recoups any
1488 assessment it has paid, it shall refund the over-recoupment
1489 amount to its policyholders. The refund process shall be
1490 monitored by the office. The administrative costs to accomplish
1491 such refund may not be included as any component in any
1492 subsequent rate filing required by s. 627.062 or s. 627.0651.

1493 (8) Any insurer or insurer group that does not elect to use
1494 the process described in subsection (7) to recoup an assessment
1495 amount that it has paid may not include an uncollected
1496 assessment amount as a component in any subsequent rate filing
1497 required by s. 627.062 or s. 627.0651.

1498 (9) An insurer or insurer group that discontinues a line or
1499 type of business or subline within a line or type of business
1500 may not recoup amounts assessed against that line, type, or
1501 subline from policyholders under different lines, types, or
1502 sublines of business. The assessment amounts attributable to the
1503 discontinued line, type, or subline of business shall remain
1504 uncollected. The uncollected assessment amount may not be
1505 included in any component in any subsequent rate filing for
1506 other lines, types, or sublines of business as required by s.
1507 627.062 or s. 627.0651

1508 (10)-(3) The initial recoupment shall be filed insurer or

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1509 ~~insurer group shall file with the office a statement setting~~
 1510 ~~forth the amount of the assessment factor and an explanation of~~
 1511 ~~how the factor will be applied,~~ at least 45 ~~15~~ days before ~~prior~~
 1512 ~~to~~ the factor is ~~being~~ applied to any policies. ~~The statement~~
 1513 ~~shall include documentation of the assessment paid by the~~
 1514 ~~insurer or insurer group and the arithmetic calculations~~
 1515 ~~supporting the assessment factor.~~ The office shall complete its
 1516 review within 15 days after receipt of the filing and shall
 1517 limit its review to verification of the arithmetic calculations.
 1518 The insurer or insurer group may use the assessment factor at
 1519 any time after the expiration of the 15-day period unless the
 1520 office has notified the insurer or insurer group in writing that
 1521 the arithmetic calculations are incorrect.

1522 (11) ~~(4)~~ The commission may adopt rules to implement this
 1523 section.

1524 Section 15. Subsection (5) is added to section 627.706,
 1525 Florida Statutes, to read:

1526 627.706 Sinkhole insurance; catastrophic ground cover
 1527 collapse; definitions.-

1528 (5) Insurers are not required to issue a notice of
 1529 nonrenewal to exclude sinkhole coverage upon the renewal of
 1530 existing policies in one or more counties or other territories
 1531 as determined by the office. Insurers may exclude such coverage
 1532 using a notice of coverage change. Insurers shall continue to
 1533 offer optional sinkhole coverage for an appropriate additional
 1534 premium.

1535 Section 16. This act shall take effect July 1, 2009.