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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/22/2009 05:14 PM

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Senators Fasano and Crist moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) of subsection (2), paragraphs (b),
(c), and (d) of subsection (4), and subsection (17) of section
215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(2) DEFINITIONS.—As used in this section:

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



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13 insurer's retention shall be calculated as follows:

14 1. The board shall calculate and report to each insurer the
15 retention multiples for that year. For the contract year
16 beginning June 1, 2005, the retention multiple shall be equal to
17 \$4.5 billion divided by the total estimated reimbursement
18 premium for the contract year; for subsequent years, the
19 retention multiple shall be equal to \$4.5 billion, adjusted
20 based upon the reported exposure from the prior contract year to
21 reflect the percentage growth in exposure to the fund for
22 covered policies since 2004, divided by the total estimated
23 reimbursement premium for the contract year. Total reimbursement
24 premium for purposes of the calculation under this subparagraph
25 shall be estimated using the assumption that all insurers have
26 selected the 90-percent coverage level. In 2010, the contract
27 year begins June 1 and ends December 31, 2010. In 2011 and
28 thereafter, the contract year begins January 1 and ends December
29 31.

30 2. The retention multiple as determined under subparagraph
31 1. shall be adjusted to reflect the coverage level elected by
32 the insurer. For insurers electing the 90-percent coverage
33 level, the adjusted retention multiple is 100 percent of the
34 amount determined under subparagraph 1. For insurers electing
35 the 75-percent coverage level, the retention multiple is 120
36 percent of the amount determined under subparagraph 1. For
37 insurers electing the 45-percent coverage level, the adjusted
38 retention multiple is 200 percent of the amount determined under
39 subparagraph 1.

40 3. An insurer shall determine its provisional retention by
41 multiplying its provisional reimbursement premium by the



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42 applicable adjusted retention multiple and shall determine its
43 actual retention by multiplying its actual reimbursement premium
44 by the applicable adjusted retention multiple.

45 4. For insurers who experience multiple covered events
46 causing loss during the contract year, beginning June 1, 2005,
47 each insurer's full retention shall be applied to each of the
48 covered events causing the two largest losses for that insurer.
49 For each other covered event resulting in losses, the insurer's
50 retention shall be reduced to one-third of the full retention.
51 The reimbursement contract shall provide for the reimbursement
52 of losses for each covered event based on the full retention
53 with adjustments made to reflect the reduced retentions on or
54 after January 1 of the contract year provided the insurer
55 reports its losses as specified in the reimbursement contract.

56 (4) REIMBURSEMENT CONTRACTS.—

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

62 2. The insurer must elect one of the percentage coverage
63 levels specified in this paragraph and may, upon renewal of a
64 reimbursement contract, elect a lower percentage coverage level
65 if no revenue bonds issued under subsection (6) after a covered
66 event are outstanding, or elect a higher percentage coverage
67 level, regardless of whether or not revenue bonds are
68 outstanding. All members of an insurer group must elect the same
69 percentage coverage level. Any joint underwriting association,
70 risk apportionment plan, or other entity created under s.



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71 627.351 must elect the 90-percent coverage level.

72 3. The contract shall provide that reimbursement amounts
73 shall not be reduced by reinsurance paid or payable to the
74 insurer from other sources.

75 4. Notwithstanding any other provision contained in this
76 section, the board shall make available to insurers that
77 purchased coverage provided by this subparagraph in 2008 ~~2007~~,
78 insurers qualifying as limited apportionment companies under s.
79 627.351(6)(c), and insurers that have been approved to
80 participate in the Insurance Capital Build-Up Incentive Program
81 pursuant to s. 215.5595 a contract or contract addendum that
82 provides an additional amount of reimbursement coverage of up to
83 \$10 million. The premium to be charged for this additional
84 reimbursement coverage shall be 50 percent of the additional
85 reimbursement coverage provided, which shall include one prepaid
86 reinstatement. The minimum retention level that an eligible
87 participating insurer must retain associated with this
88 additional coverage layer is 30 percent of the insurer's surplus
89 as of December 31, 2008 ~~December 31, 2007~~. This coverage shall
90 be in addition to all other coverage that may be provided under
91 this section. The coverage provided by the fund under this
92 subparagraph shall be in addition to the claims-paying capacity
93 as defined in subparagraph (c)1., but only with respect to those
94 insurers that select the additional coverage option and meet the
95 requirements of this subparagraph. The claims-paying capacity
96 with respect to all other participating insurers and limited
97 apportionment companies that do not select the additional
98 coverage option shall be limited to their reimbursement
99 premium's proportionate share of the actual claims-paying



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100 capacity otherwise defined in subparagraph (c)1. and as provided
101 for under the terms of the reimbursement contract. The optional
102 coverage retention as specified shall be accessed before the
103 mandatory coverage under the reimbursement contract, but once
104 the limit of coverage selected under this option is exhausted,
105 the insurer's retention under the mandatory coverage applies.
106 This coverage shall apply and must be paid concurrently with
107 mandatory coverage. ~~Coverage provided in the reimbursement~~
108 ~~contract shall not be affected by the additional premiums paid~~
109 ~~by participating insurers exercising the additional coverage~~
110 ~~option allowed in this subparagraph.~~ This subparagraph expires
111 on January 1, 2012 ~~May 31, 2009~~.

112 (c)1. The contract shall also provide that the obligation
113 of the board with respect to all contracts covering a particular
114 contract year shall not exceed the actual claims-paying capacity
115 of the fund up to a limit of \$15 billion for that contract year
116 adjusted based upon the reported exposure from the prior
117 contract year to reflect the percentage growth in exposure to
118 the fund for covered policies since 2003, provided the dollar
119 growth in the limit may not increase in any year by an amount
120 greater than the dollar growth of the balance of the fund as of
121 December 31, less any premiums or interest attributable to
122 optional coverage, as defined by rule which occurred over the
123 prior calendar year.

124 2. In May ~~before the start of the upcoming contract year~~
125 and ~~in~~ October of ~~during~~ the contract year, the board shall
126 publish in the Florida Administrative Weekly a statement of the
127 fund's estimated borrowing capacity, the fund's estimated
128 claims-paying capacity, and the projected balance of the fund as



129 of December 31. After the end of each calendar year, the board
130 shall notify insurers of the estimated borrowing capacity, the
131 fund's estimated claims-paying capacity, and the balance of the
132 fund as of December 31 to provide insurers with data necessary
133 to assist them in determining their retention and projected
134 payout from the fund for loss reimbursement purposes. In
135 conjunction with the development of the premium formula, as
136 provided for in subsection (5), the board shall publish factors
137 or multiples that assist insurers in determining their retention
138 and projected payout for the next contract year. For all
139 regulatory and reinsurance purposes, an insurer may calculate
140 its projected payout from the fund as its share of the total
141 fund premium for the current contract year multiplied by the sum
142 of the projected balance of the fund as of December 31 and the
143 estimated borrowing capacity for that contract year as reported
144 under this subparagraph.

145 (d)1. For purposes of determining potential liability and
146 to aid in the sound administration of the fund, the contract
147 shall require each insurer to report such insurer's losses from
148 each covered event on an interim basis, as directed by the
149 board. The contract shall require the insurer to report to the
150 board no later than December 31 of each year, and quarterly
151 thereafter, its reimbursable losses from covered events for the
152 year. The contract shall require the board to determine and pay,
153 as soon as practicable after receiving these reports of
154 reimbursable losses, the initial amount of reimbursement due and
155 adjustments to this amount based on later loss information. The
156 adjustments to reimbursement amounts shall require the board to
157 pay, or the insurer to return, amounts reflecting the most



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158 recent calculation of losses.

159 2. In determining reimbursements pursuant to this
160 subsection, the contract shall provide that the board shall pay
161 to each insurer such insurer's projected payout, which is the
162 amount of reimbursement it is owed, up to an amount equal to the
163 insurer's share of the actual premium paid for that contract
164 year, multiplied by the actual claims-paying capacity available
165 for that contract year.

166 3. The board may reimburse insurers for amounts up to the
167 published factors or multiples for determining each
168 participating insurer's retention and projected payout derived
169 as a result of the development of the premium formula in those
170 situations in which the total reimbursement of losses to such
171 insurers would not exceed the estimated claims-paying capacity
172 of the fund. Otherwise, such factors or multiples may be reduced
173 among all insurers to reflect the fund's estimated claims-paying
174 capacity.

175 (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

176 (a) *Findings and intent.*—

177 1. The Legislature finds that:

178 a. Because of temporary disruptions in the market for
179 catastrophic reinsurance, many property insurers were unable to
180 procure sufficient amounts of reinsurance for the 2006 hurricane
181 season or were able to procure such reinsurance only by
182 incurring substantially higher costs than in prior years.

183 b. The reinsurance market problems were responsible, at
184 least in part, for substantial premium increases to many
185 consumers and increases in the number of policies issued by
186 Citizens Property Insurance Corporation.



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

189 2. It is the intent of the Legislature to create options
190 for insurers to purchase a temporary increased coverage limit
191 above the statutorily determined limit in subparagraph (4)(c)1.,
192 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and
193 2013 hurricane seasons, to address market disruptions and enable
194 insurers, at their option, to procure additional coverage from
195 the Florida Hurricane Catastrophe Fund.

196 (b) *Applicability of other provisions of this section.*—All
197 provisions of this section and the rules adopted under this
198 section apply to the coverage created by this subsection unless
199 specifically superseded by provisions in this subsection.

200 (c) *Optional coverage.*—For the contract year commencing
201 June 1, 2007, and ending May 31, 2008, the contract year
202 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the
203 contract year commencing June 1, 2009, and ending May 31, 2010,
204 the contract year commencing June 1, 2010, and ending December
205 31, 2010, the contract year commencing January 1, 2011, and
206 ending December 31, 2011, the contract year commencing January
207 1, 2012, and ending December 31, 2012, and the contract year
208 commencing January 1, 2013, and ending December 31, 2013, the
209 board shall offer, for each of such years, the optional coverage
210 as provided in this subsection.

211 (d) *Additional definitions.*—As used in this subsection, the
212 term:

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

214 2. "FHCF reimbursement premium" means the premium paid by
215 an insurer for its coverage as a mandatory participant in the



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216 FHCF, but does not include additional premiums for optional
217 coverages.

218 3. "Payout multiple" means the number or multiple created
219 by dividing the statutorily defined claims-paying capacity as
220 determined in subparagraph (4)(c)1. by the aggregate
221 reimbursement premiums paid by all insurers estimated or
222 projected as of calendar year-end.

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

224 5. "TICL options" means the temporary increase in coverage
225 options created under this subsection.

226 6. "TICL insurer" means an insurer that has opted to obtain
227 coverage under the TICL options addendum in addition to the
228 coverage provided to the insurer under its FHCF reimbursement
229 contract.

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

232 8. "TICL coverage multiple" means the coverage multiple
233 when multiplied by an insurer's reimbursement premium that
234 defines the temporary increase in coverage limit.

235 9. "TICL coverage" means the coverage for an insurer's
236 losses above the insurer's statutorily determined claims-paying
237 capacity based on the claims-paying limit in subparagraph
238 (4)(c)1., which an insurer selects as its temporary increase in
239 coverage from the fund under the TICL options selected. A TICL
240 insurer's increased coverage limit options shall be calculated
241 as follows:

242 a. The board shall calculate and report to each TICL
243 insurer the TICL coverage multiples based on 12 options for
244 increasing the insurer's FHCF coverage limit. Each TICL coverage



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245 multiple shall be calculated by dividing \$1 billion, \$2 billion,
246 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
247 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by
248 the total estimated aggregate FHCF reimbursement premiums for
249 the 2007-2008 contract year and~~7~~ the 2008-2009 contract year~~7~~
250 ~~and the 2009-2010 contract year.~~

251 b. For the 2009-2010 contract year, the board shall
252 calculate and report to each TICL insurer the TICL coverage
253 multiples based on 10 options for increasing the insurer's FHCF
254 coverage limit. Each TICL coverage multiple shall be calculated
255 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
256 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10
257 billion by the total estimated aggregate FHCF reimbursement
258 premiums for the 2009-2010 contract year.

259 c. For the contract year beginning June 1, 2010, and ending
260 December 31, 2010, the board shall calculate and report to each
261 TICL insurer the TICL coverage multiples based on eight options
262 for increasing the insurer's FHCF coverage limit. Each TICL
263 coverage multiple shall be calculated by dividing \$1 billion, \$2
264 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7
265 billion, and \$8 billion by the total estimated aggregate FHCF
266 reimbursement premiums for the contract year.

267 d. For the 2011 contract year, the board shall calculate
268 and report to each TICL insurer the TICL coverage multiples
269 based on six options for increasing the insurer's FHCF coverage
270 limit. Each TICL coverage multiple shall be calculated by
271 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
272 billion, and \$6 billion by the total estimated aggregate FHCF
273 reimbursement premiums for the 2011 contract year.



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274 e. For the 2012 contract year, the board shall calculate
275 and report to each TICL insurer the TICL coverage multiples
276 based on four options for increasing the insurer's FHCF coverage
277 limit. Each TICL coverage multiple shall be calculated by
278 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by
279 the total estimated aggregate FHCF reimbursement premiums for
280 the 2012 contract year.

281 f. For the 2013 contract year, the board shall calculate
282 and report to each TICL insurer the TICL coverage multiples
283 based on two options for increasing the insurer's FHCF coverage
284 limit. Each TICL coverage multiple shall be calculated by
285 dividing \$1 billion and \$2 billion by the total estimated
286 aggregate FHCF reimbursement premiums for the 2013 contract
287 year.

288 g.~~b.~~ The TICL insurer's increased coverage shall be the
289 FHCF reimbursement premium multiplied by the TICL coverage
290 multiple. In order to determine an insurer's total limit of
291 coverage, an insurer shall add its TICL coverage multiple to its
292 payout multiple. The total shall represent a number that, when
293 multiplied by an insurer's FHCF reimbursement premium for a
294 given reimbursement contract year, defines an insurer's total
295 limit of FHCF reimbursement coverage for that reimbursement
296 contract year.

297 10. "TICL options addendum" means an addendum to the
298 reimbursement contract reflecting the obligations of the fund
299 and insurers selecting an option to increase an insurer's FHCF
300 coverage limit.

301 (e) *TICL options addendum.*—

302 1. The TICL options addendum shall provide for



303 reimbursement of TICL insurers for covered events occurring
304 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,
305 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,
306 2010, between June 1, 2010, and December 31, 2010, between
307 January 1, 2011, and December 31, 2011, between January 1, 2012,
308 and December 31, 2012, or between January 1, 2013, and December
309 31, 2013, in exchange for the TICL reimbursement premium paid
310 into the fund under paragraph (f). Any insurer writing covered
311 policies has the option of selecting an increased limit of
312 coverage under the TICL options addendum and shall select such
313 coverage at the time that it executes the FHCF reimbursement
314 contract.

315 2. The TICL addendum shall contain a promise by the board
316 to reimburse the TICL insurer for 45 percent, 75 percent, or 90
317 percent of its losses from each covered event in excess of the
318 insurer's retention, plus 5 percent of the reimbursed losses to
319 cover loss adjustment expenses. The percentage shall be the same
320 as the coverage level selected by the insurer under paragraph
321 (4) (b).

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

325 4. The priorities, schedule, and method of reimbursements
326 under the TICL addendum shall be the same as provided under
327 subsection (4).

328 (f) *TICL reimbursement premiums.*—Each TICL insurer shall
329 pay to the fund, in the manner and at the time provided in the
330 reimbursement contract for payment of reimbursement premiums, a
331 TICL reimbursement premium determined as specified in subsection



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332 (5).

333 (g) *Effect on claims-paying capacity of the fund.*—For the
334 contract terms commencing June 1, 2007, June 1, 2008, and June
335 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and
336 January 1, 2013, the program created by this subsection shall
337 increase the claims-paying capacity of the fund as provided in
338 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and
339 shall depend on the TICL coverage options selected and the
340 number of insurers that select the TICL optional coverage. The
341 additional capacity shall apply only to the additional coverage
342 provided under the TICL options and shall not otherwise affect
343 any insurer's reimbursement from the fund if the insurer chooses
344 not to select the temporary option to increase its limit of
345 coverage under the FHCF.

346 ~~(h) *Increasing the claims-paying capacity of the fund.*—For~~
347 ~~the contract years commencing June 1, 2007, June 1, 2008, and~~
348 ~~June 1, 2009, the board may increase the claims-paying capacity~~
349 ~~of the fund as provided in paragraph (g) by an amount not to~~
350 ~~exceed \$4 billion in four \$1 billion options and shall depend on~~
351 ~~the TICL coverage options selected and the number of insurers~~
352 ~~that select the TICL optional coverage. Each insurer's TICL~~
353 ~~premium shall be calculated based upon the additional limit of~~
354 ~~increased coverage that the insurer selects. Such limit is~~
355 ~~determined by multiplying the TICL multiple associated with one~~
356 ~~of the four options times the insurer's FHCF reimbursement~~
357 ~~premium. The reimbursement premium associated with the~~
358 ~~additional coverage provided in this paragraph shall be~~
359 ~~determined as specified in subsection (5).~~

360 Section 2. Subsection (11) of section 215.5595, Florida



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361 Statutes, is amended to read:

362 215.5595 Insurance Capital Build-Up Incentive Program.—

363 (11) By September 30, 2009, and quarterly thereafter ~~On~~
364 ~~January 15, 2009,~~ the State Board of Administration shall
365 transfer to the general revenue fund for appropriation to the My
366 Safe Florida Home program all funds from loan repayments made by
367 insurers and all interest and investment income earned and held
368 for the Insurance Capital Build-Up Incentive Program ~~Citizens~~
369 ~~Property Insurance Corporation any funds that have not been~~
370 ~~committed or reserved for insurers approved to receive such~~
371 ~~funds under the program, from the funds that were transferred~~
372 ~~from Citizens Property Insurance Corporation in 2008-2009 for~~
373 ~~such purposes.~~

374 Section 3. Subsections (2) and (5) of section 627.062,
375 Florida Statutes, are amended to read:

376 627.062 Rate standards.—

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

378 (a) Insurers or rating organizations shall establish and
379 use rates, rating schedules, or rating manuals to allow the
380 insurer a reasonable rate of return on such classes of insurance
381 written in this state. A copy of rates, rating schedules, rating
382 manuals, premium credits or discount schedules, and surcharge
383 schedules, and changes thereto, shall be filed with the office
384 under one of the following procedures except as provided in
385 subparagraph 3.:

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



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390 and use" filing. In such case, the office shall finalize its
391 review by issuance of a notice of intent to approve or a notice
392 of intent to disapprove within 90 days after receipt of the
393 filing. The notice of intent to approve and the notice of intent
394 to disapprove constitute agency action for purposes of the
395 Administrative Procedure Act. Requests for supporting
396 information, requests for mathematical or mechanical
397 corrections, or notification to the insurer by the office of its
398 preliminary findings shall not toll the 90-day period during any
399 such proceedings and subsequent judicial review. The rate shall
400 be deemed approved if the office does not issue a notice of
401 intent to approve or a notice of intent to disapprove within 90
402 days after receipt of the filing.

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

410 3. For all residential property insurance filings made or
411 submitted after January 25, 2007, but before December 31, 2012
412 ~~December 31, 2009~~, an insurer seeking a rate that is greater
413 than the rate most recently approved by the office shall make a
414 "file and use" filing. For purposes of this subparagraph, motor
415 vehicle collision and comprehensive coverages are not considered
416 to be property coverages.

417 (b) Upon receiving a rate filing, the office shall review
418 the rate filing to determine if a rate is excessive, inadequate,



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419 or unfairly discriminatory. In making that determination, the
420 office shall, in accordance with generally accepted and
421 reasonable actuarial techniques, consider the following factors:

422 1. Past and prospective loss experience within and without
423 this state.

424 2. Past and prospective expenses.

425 3. The degree of competition among insurers for the risk
426 insured.

427 4. Investment income reasonably expected by the insurer,
428 consistent with the insurer's investment practices, from
429 investable premiums anticipated in the filing, plus any other
430 expected income from currently invested assets representing the
431 amount expected on unearned premium reserves and loss reserves.
432 The commission may adopt rules using reasonable techniques of
433 actuarial science and economics to specify the manner in which
434 insurers shall calculate investment income attributable to such
435 classes of insurance written in this state and the manner in
436 which such investment income shall be used to calculate
437 insurance rates. Such manner shall contemplate allowances for an
438 underwriting profit factor and full consideration of investment
439 income which produce a reasonable rate of return; however,
440 investment income from invested surplus may not be considered.

441 5. The reasonableness of the judgment reflected in the
442 filing.

443 6. Dividends, savings, or unabsorbed premium deposits
444 allowed or returned to Florida policyholders, members, or
445 subscribers.

446 7. The adequacy of loss reserves.

447 8. The cost of reinsurance. The office shall not disapprove



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448 a rate as excessive solely due to the insurer having obtained
449 catastrophic reinsurance to cover the insurer's estimated 250-
450 year probable maximum loss or any lower level of loss.

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

453 10. Conflagration and catastrophe hazards, if applicable.

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

458 12. A reasonable margin for underwriting profit and
459 contingencies.

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

461 14. Other relevant factors which impact upon the frequency
462 or severity of claims or upon expenses.

463 (c) In the case of fire insurance rates, consideration
464 shall be given to the availability of water supplies and the
465 experience of the fire insurance business during a period of not
466 less than the most recent 5-year period for which such
467 experience is available.

468 (d) If conflagration or catastrophe hazards are given
469 consideration by an insurer in its rates or rating plan,
470 including surcharges and discounts, the insurer shall establish
471 a reserve for that portion of the premium allocated to such
472 hazard and shall maintain the premium in a catastrophe reserve.
473 Any removal of such premiums from the reserve for purposes other
474 than paying claims associated with a catastrophe or purchasing
475 reinsurance for catastrophes shall be subject to approval of the
476 office. Any ceding commission received by an insurer purchasing



477 reinsurance for catastrophes shall be placed in the catastrophe
478 reserve.

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

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

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

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

495 4. A rating plan, including discounts, credits, or
496 surcharges, shall be deemed unfairly discriminatory if it fails
497 to clearly and equitably reflect consideration of the
498 policyholder's participation in a risk management program
499 adopted pursuant to s. 627.0625.

500 5. A rate shall be deemed inadequate as to the premium
501 charged to a risk or group of risks if discounts or credits are
502 allowed which exceed a reasonable reflection of expense savings
503 and reasonably expected loss experience from the risk or group
504 of risks.

505 6. A rate shall be deemed unfairly discriminatory as to a



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506 risk or group of risks if the application of premium discounts,
507 credits, or surcharges among such risks does not bear a
508 reasonable relationship to the expected loss and expense
509 experience among the various risks.

510 (f) In reviewing a rate filing, the office may require the
511 insurer to provide at the insurer's expense all information
512 necessary to evaluate the condition of the company and the
513 reasonableness of the filing according to the criteria
514 enumerated in this section.

515 (g) The office may at any time review a rate, rating
516 schedule, rating manual, or rate change; the pertinent records
517 of the insurer; and market conditions. If the office finds on a
518 preliminary basis that a rate may be excessive, inadequate, or
519 unfairly discriminatory, the office shall initiate proceedings
520 to disapprove the rate and shall so notify the insurer. However,
521 the office may not disapprove as excessive any rate for which it
522 has given final approval or which has been deemed approved for a
523 period of 1 year after the effective date of the filing unless
524 the office finds that a material misrepresentation or material
525 error was made by the insurer or was contained in the filing.
526 Upon being so notified, the insurer or rating organization
527 shall, within 60 days, file with the office all information
528 which, in the belief of the insurer or organization, proves the
529 reasonableness, adequacy, and fairness of the rate or rate
530 change. The office shall issue a notice of intent to approve or
531 a notice of intent to disapprove pursuant to the procedures of
532 paragraph (a) within 90 days after receipt of the insurer's
533 initial response. In such instances and in any administrative
534 proceeding relating to the legality of the rate, the insurer or



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535 rating organization shall carry the burden of proof by a
536 preponderance of the evidence to show that the rate is not
537 excessive, inadequate, or unfairly discriminatory. After the
538 office notifies an insurer that a rate may be excessive,
539 inadequate, or unfairly discriminatory, unless the office
540 withdraws the notification, the insurer shall not alter the rate
541 except to conform with the office's notice until the earlier of
542 120 days after the date the notification was provided or 180
543 days after the date of the implementation of the rate. The
544 office may, subject to chapter 120, disapprove without the 60-
545 day notification any rate increase filed by an insurer within
546 the prohibited time period or during the time that the legality
547 of the increased rate is being contested.

548 (h) In the event the office finds that a rate or rate
549 change is excessive, inadequate, or unfairly discriminatory, the
550 office shall issue an order of disapproval specifying that a new
551 rate or rate schedule which responds to the findings of the
552 office be filed by the insurer. The office shall further order,
553 for any "use and file" filing made in accordance with
554 subparagraph (a)2., that premiums charged each policyholder
555 constituting the portion of the rate above that which was
556 actuarially justified be returned to such policyholder in the
557 form of a credit or refund. If the office finds that an
558 insurer's rate or rate change is inadequate, the new rate or
559 rate schedule filed with the office in response to such a
560 finding shall be applicable only to new or renewal business of
561 the insurer written on or after the effective date of the
562 responsive filing.

563 (i) Except as otherwise specifically provided in this



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564 chapter, the office shall not prohibit any insurer, including
565 any residual market plan or joint underwriting association, from
566 paying acquisition costs based on the full amount of premium, as
567 defined in s. 627.403, applicable to any policy, or prohibit any
568 such insurer from including the full amount of acquisition costs
569 in a rate filing.

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

573 (k) An insurer may make a separate filing limited solely to
574 an adjustment of its rates for reinsurance or financing costs to
575 replace or finance payment of amounts covered by the Florida
576 Hurricane Catastrophe Fund if:

577 a. Reinsurance costs contained in the filing do not result
578 in an overall premium increase of more than 10 percent for any
579 individual policyholder. If the insurer elects to purchase a
580 liquidity instrument or line of credit instead of reinsurance,
581 the cost included in the filing for the liquidity instrument or
582 line of credit may not result in a premium increase exceeding 3
583 percent for any individual policyholder;

584 b. The insurer includes in the filing a copy of all of its
585 reinsurance or liquidity instrument or line of credit contracts,
586 proof of the billing or payment for the contracts, and the
587 calculations upon which the proposed rate changes are based,
588 demonstrating that the costs meet the criteria of this section
589 and are not loaded for expenses or profit;

590 c. The insurer makes no other changes to its rates; and

591 d. The insurer has not implemented an increase in its rate
592 within the 6 months preceding the filing. An insurer making a



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593 filing pursuant to this paragraph is not eligible to file for
594 any additional rate increase for the same business for at least
595 12 months after implementation of the limited filing.

596 4. This paragraph does not limit the authority of the
597 office to disapprove the rate filing as excessive, inadequate,
598 or unfairly discriminatory. All other standards of the rating
599 law apply, including the standard of reasonableness.

600 5. This paragraph does not apply to rate filings for any
601 insurance other than residential property insurance.

602

603 The provisions of this subsection do ~~shall~~ not apply to workers'
604 compensation and employer's liability insurance and to motor
605 vehicle insurance.

606 (5) With respect to a rate filing involving coverage of the
607 type for which the insurer is required to pay a reimbursement
608 premium to the Florida Hurricane Catastrophe Fund, the insurer
609 may fully recoup in its property insurance premiums any
610 reimbursement premiums paid to the Florida Hurricane Catastrophe
611 Fund, together with reasonable costs of other reinsurance, but,
612 except as otherwise provided in this section, may not recoup
613 reinsurance costs that duplicate coverage provided by the
614 Florida Hurricane Catastrophe Fund. An insurer may not recoup
615 more than 1 year of reimbursement premium at a time. Any under-
616 recoupment from the prior year may be added to the following
617 year's reimbursement premium and any over-recoupment shall be
618 subtracted from the following year's reimbursement premium.

619 Section 4. Section 627.0621, Florida Statutes, is amended
620 to read:

621 627.0621 Transparency in rate regulation.—



622 (1) DEFINITIONS.—As used in this section, the term:
623 (a) "Rate filing" means any original or amended rate
624 residential property insurance filing.
625 (b) "Recommendation" means any proposed, preliminary, or
626 final recommendation from an office actuary reviewing a rate
627 filing with respect to the issue of approval or disapproval of
628 the rate filing or with respect to rate indications that the
629 office would consider acceptable.

630 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—
631 With respect to any residential property rate filing ~~made on or~~
632 ~~after July 1, 2008~~, the office shall provide the following
633 information on a publicly accessible Internet website:
634 (a) The overall rate change requested by the insurer.
635 (b) The rate change approved by the office along with all
636 of the actuary's assumptions and recommendations forming the
637 basis of the office's decision.
638 (c) For any rate filing, whether or not the filing is
639 subject to a public hearing, a place for any policyholder who
640 may be affected by the proposed rate change to send e-mail
641 regarding the proposed rate change. Such e-mail shall be
642 accessible to the actuary assigned to review the rate filing.
643 ~~(b) All assumptions made by the office's actuaries.~~
644 ~~(c) A statement describing any assumptions or methods that~~
645 ~~deviate from the actuarial standards of practice of the Casualty~~
646 ~~Actuarial Society or the American Academy of Actuaries,~~
647 ~~including an explanation of the nature, rationale, and effect of~~
648 ~~the deviation.~~
649 ~~(d) All recommendations made by any office actuary who~~
650 ~~reviewed the rate filing.~~



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

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

655 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT. It is the~~
656 ~~intent of the Legislature that the principles of the public~~
657 ~~records and open meetings laws apply to the assertion of~~
658 ~~attorney-client privilege and work product confidentiality by~~
659 ~~the office in connection with a challenge to its actions on a~~
660 ~~rate filing. Therefore, in any administrative or judicial~~
661 ~~proceeding relating to a rate filing, attorney-client privilege~~
662 ~~and work product exemptions from disclosure do not apply to~~
663 ~~communications with office attorneys or records prepared by or~~
664 ~~at the direction of an office attorney, except when the~~
665 ~~conditions of paragraphs (a) and (b) have been met:~~

666 ~~(a) The communication or record reflects a mental~~
667 ~~impression, conclusion, litigation strategy, or legal theory of~~
668 ~~the attorney or office that was prepared exclusively for civil~~
669 ~~or criminal litigation or adversarial administrative~~
670 ~~proceedings.~~

671 ~~(b) The communication occurred or the record was prepared~~
672 ~~after the initiation of an action in a court of competent~~
673 ~~jurisdiction, after the issuance of a notice of intent to deny a~~
674 ~~rate filing, or after the filing of a request for a proceeding~~
675 ~~under ss. 120.569 and 120.57.~~

676 Section 5. Paragraphs (a), (b), (c), (m), and (x) of
677 subsection (6) of section 627.351, Florida Statutes, are amended
678 to read:

679 627.351 Insurance risk apportionment plans.-



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680 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
681 (a)1. It is the public purpose of this subsection to ensure
682 the existence of an orderly market for property insurance for
683 Floridians and Florida businesses. The Legislature finds that
684 private insurers are unwilling or unable to provide affordable
685 property insurance coverage in this state to the extent sought
686 and needed. The absence of affordable property insurance
687 threatens the public health, safety, and welfare and likewise
688 threatens the economic health of the state. The state therefore
689 has a compelling public interest and a public purpose to assist
690 in assuring that property in the state is insured and that it is
691 insured at affordable rates so as to facilitate the remediation,
692 reconstruction, and replacement of damaged or destroyed property
693 in order to reduce or avoid the negative effects otherwise
694 resulting to the public health, safety, and welfare, to the
695 economy of the state, and to the revenues of the state and local
696 governments which are needed to provide for the public welfare.
697 It is necessary, therefore, to provide affordable property
698 insurance to applicants who are in good faith entitled to
699 procure insurance through the voluntary market but are unable to
700 do so. The Legislature intends by this subsection that
701 affordable property insurance be provided and that it continue
702 to be provided, as long as necessary, through Citizens Property
703 Insurance Corporation, a government entity that is an integral
704 part of the state, and that is not a private insurance company.
705 To that end, Citizens Property Insurance Corporation shall
706 strive to increase the availability of affordable property
707 insurance in this state, while achieving efficiencies and
708 economies, and while providing service to policyholders,



709 applicants, and agents which is no less than the quality
710 generally provided in the voluntary market, for the achievement
711 of the foregoing public purposes. Because it is essential for
712 this government entity to have the maximum financial resources
713 to pay claims following a catastrophic hurricane, it is the
714 intent of the Legislature that Citizens Property Insurance
715 Corporation continue to be an integral part of the state and
716 that the income of the corporation be exempt from federal income
717 taxation and that interest on the debt obligations issued by the
718 corporation be exempt from federal income taxation.

719 2. The Residential Property and Casualty Joint Underwriting
720 Association originally created by this statute shall be known,
721 as of July 1, 2002, as the Citizens Property Insurance
722 Corporation. The corporation shall provide insurance for
723 residential and commercial property, for applicants who are in
724 good faith entitled, but are unable, to procure insurance
725 through the voluntary market. The corporation shall operate
726 pursuant to a plan of operation approved by order of the
727 Financial Services Commission. The plan is subject to continuous
728 review by the commission. The commission may, by order, withdraw
729 approval of all or part of a plan if the commission determines
730 that conditions have changed since approval was granted and that
731 the purposes of the plan require changes in the plan. The
732 corporation shall continue to operate pursuant to the plan of
733 operation approved by the Office of Insurance Regulation until
734 October 1, 2006. For the purposes of this subsection,
735 residential coverage includes both personal lines residential
736 coverage, which consists of the type of coverage provided by
737 homeowner's, mobile home owner's, dwelling, tenant's,



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738 condominium unit owner's, and similar policies, and commercial
739 lines residential coverage, which consists of the type of
740 coverage provided by condominium association, apartment
741 building, and similar policies.

742 3. Effective January 1, 2009, a personal lines residential
743 structure that has a dwelling replacement cost of \$2 million or
744 more, or a single condominium unit that has a combined dwelling
745 and content replacement cost of \$2 million or more is not
746 eligible for coverage by the corporation. Such dwellings insured
747 by the corporation on December 31, 2008, may continue to be
748 covered by the corporation until the end of the policy term.
749 However, such dwellings that are insured by the corporation and
750 become ineligible for coverage due to the provisions of this
751 subparagraph may reapply and obtain coverage if the property
752 owner provides the corporation with a sworn affidavit from one
753 or more insurance agents, on a form provided by the corporation,
754 stating that the agents have made their best efforts to obtain
755 coverage and that the property has been rejected for coverage by
756 at least one authorized insurer and at least three surplus lines
757 insurers. If such conditions are met, the dwelling may be
758 insured by the corporation for up to 3 years, after which time
759 the dwelling is ineligible for coverage. The office shall
760 approve the method used by the corporation for valuing the
761 dwelling replacement cost for the purposes of this subparagraph.
762 If a policyholder is insured by the corporation prior to being
763 determined to be ineligible pursuant to this subparagraph and
764 such policyholder files a lawsuit challenging the determination,
765 the policyholder may remain insured by the corporation until the
766 conclusion of the litigation.



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767 4. It is the intent of the Legislature that policyholders,
768 applicants, and agents of the corporation receive service and
769 treatment of the highest possible level but never less than that
770 generally provided in the voluntary market. It also is intended
771 that the corporation be held to service standards no less than
772 those applied to insurers in the voluntary market by the office
773 with respect to responsiveness, timeliness, customer courtesy,
774 and overall dealings with policyholders, applicants, or agents
775 of the corporation.

776 5. Effective January 1, 2009, a personal lines residential
777 structure that is located in the "wind-borne debris region," as
778 defined in s. 1609.2, International Building Code (2006), and
779 that has an insured value on the structure of \$750,000 or more
780 is not eligible for coverage by the corporation unless the
781 structure has opening protections as required under the Florida
782 Building Code for a newly constructed residential structure in
783 that area. A residential structure shall be deemed to comply
784 with the requirements of this subparagraph if it has shutters or
785 opening protections on all openings and if such opening
786 protections complied with the Florida Building Code at the time
787 they were installed. ~~Effective January 1, 2010, for personal~~
788 ~~lines residential property insured by the corporation that is~~
789 ~~located in the wind-borne debris region and has an insured value~~
790 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
791 ~~any such residential property must be provided by the seller a~~
792 ~~written disclosure that contains the structure's windstorm~~
793 ~~mitigation rating based on the uniform home grading scale~~
794 ~~adopted under s. 215.55865. Such rating shall be provided to the~~
795 ~~purchaser at or before the time the purchaser executes a~~



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796 ~~contract for sale and purchase.~~

797 (b)1. All insurers authorized to write one or more subject
798 lines of business in this state are subject to assessment by the
799 corporation and, for the purposes of this subsection, are
800 referred to collectively as "assessable insurers." Insurers
801 writing one or more subject lines of business in this state
802 pursuant to part VIII of chapter 626 are not assessable
803 insurers, but insureds who procure one or more subject lines of
804 business in this state pursuant to part VIII of chapter 626 are
805 subject to assessment by the corporation and are referred to
806 collectively as "assessable insureds." An authorized insurer's
807 assessment liability shall begin on the first day of the
808 calendar year following the year in which the insurer was issued
809 a certificate of authority to transact insurance for subject
810 lines of business in this state and shall terminate 1 year after
811 the end of the first calendar year during which the insurer no
812 longer holds a certificate of authority to transact insurance
813 for subject lines of business in this state.

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

817 (I) A personal lines account for personal residential
818 policies issued by the corporation or issued by the Residential
819 Property and Casualty Joint Underwriting Association and renewed
820 by the corporation that provide comprehensive, multiperil
821 coverage on risks that are not located in areas eligible for
822 coverage in the Florida Windstorm Underwriting Association as
823 those areas were defined on January 1, 2002, and for such
824 policies that do not provide coverage for the peril of wind on



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825 risks that are located in such areas;

826 (II) A commercial lines account for commercial residential
827 and commercial nonresidential policies issued by the corporation
828 or issued by the Residential Property and Casualty Joint
829 Underwriting Association and renewed by the corporation that
830 provide coverage for basic property perils on risks that are not
831 located in areas eligible for coverage in the Florida Windstorm
832 Underwriting Association as those areas were defined on January
833 1, 2002, and for such policies that do not provide coverage for
834 the peril of wind on risks that are located in such areas; and

835 (III) A high-risk account for personal residential policies
836 and commercial residential and commercial nonresidential
837 property policies issued by the corporation or transferred to
838 the corporation that provide coverage for the peril of wind on
839 risks that are located in areas eligible for coverage in the
840 Florida Windstorm Underwriting Association as those areas were
841 defined on January 1, 2002. The corporation may offer policies
842 that provide multiperil coverage and the corporation may renew
843 ~~shall continue to offer~~ policies that provide coverage only for
844 the peril of wind for risks located in areas eligible for
845 coverage in the high-risk account. Beginning July 1, 2009, the
846 corporation shall not issue new policies that provide coverage
847 for the peril of wind only. In issuing multiperil coverage, the
848 corporation may use its approved policy forms and rates for the
849 personal lines account. ~~An applicant or insured who is eligible~~
850 ~~to purchase a multiperil policy from the corporation may~~
851 ~~purchase a multiperil policy from an authorized insurer without~~
852 ~~prejudice to the applicant's or insured's eligibility to~~
853 ~~prospectively purchase a policy that provides coverage only for~~



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854 ~~the peril of wind from the corporation. An applicant or insured~~
855 ~~who is eligible for a corporation policy that provides coverage~~
856 ~~only for the peril of wind may elect to purchase or retain such~~
857 ~~policy and also purchase or retain coverage excluding wind from~~
858 ~~an authorized insurer without prejudice to the applicant's or~~
859 ~~insured's eligibility to prospectively purchase a policy that~~
860 ~~provides multiperil coverage from the corporation. It is the~~
861 ~~goal of the Legislature that there would be an overall average~~
862 ~~savings of 10 percent or more for a policyholder who currently~~
863 ~~has a wind only policy with the corporation, and an ex wind~~
864 ~~policy with a voluntary insurer or the corporation, and who then~~
865 ~~obtains a multiperil policy from the corporation. It is the~~
866 intent of the Legislature that the offer of multiperil coverage
867 in the high-risk account be made and implemented in a manner
868 that does not adversely affect the tax-exempt status of the
869 corporation or creditworthiness of or security for currently
870 outstanding financing obligations or credit facilities of the
871 high-risk account, the personal lines account, or the commercial
872 lines account. The high-risk account must also include quota
873 share primary insurance under subparagraph (c)2. The area
874 eligible for coverage under the high-risk account also includes
875 the area within Port Canaveral, which is bordered on the south
876 by the City of Cape Canaveral, bordered on the west by the
877 Banana River, and bordered on the north by Federal Government
878 property.

879 b. The three separate accounts must be maintained as long
880 as financing obligations entered into by the Florida Windstorm
881 Underwriting Association or Residential Property and Casualty
882 Joint Underwriting Association are outstanding, in accordance



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883 with the terms of the corresponding financing documents. When
884 the financing obligations are no longer outstanding, in
885 accordance with the terms of the corresponding financing
886 documents, the corporation may use a single account for all
887 revenues, assets, liabilities, losses, and expenses of the
888 corporation. Consistent with the requirement of this
889 subparagraph and prudent investment policies that minimize the
890 cost of carrying debt, the board shall exercise its best efforts
891 to retire existing debt or to obtain approval of necessary
892 parties to amend the terms of existing debt, so as to structure
893 the most efficient plan to consolidate the three separate
894 accounts into a single account. By February 1, 2007, the board
895 shall submit a report to the Financial Services Commission, the
896 President of the Senate, and the Speaker of the House of
897 Representatives which includes an analysis of consolidating the
898 accounts, the actions the board has taken to minimize the cost
899 of carrying debt, and its recommendations for executing the most
900 efficient plan.

901 c. Creditors of the Residential Property and Casualty Joint
902 Underwriting Association and of the accounts specified in sub-
903 sub-subparagraphs a.(I) and (II) may have a claim against, and
904 recourse to, the accounts referred to in sub-sub-subparagraphs
905 a.(I) and (II) and shall have no claim against, or recourse to,
906 the account referred to in sub-sub-subparagraph a.(III).
907 Creditors of the Florida Windstorm Underwriting Association
908 shall have a claim against, and recourse to, the account
909 referred to in sub-sub-subparagraph a.(III) and shall have no
910 claim against, or recourse to, the accounts referred to in sub-
911 sub-subparagraphs a.(I) and (II).



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912 d. Revenues, assets, liabilities, losses, and expenses not
913 attributable to particular accounts shall be prorated among the
914 accounts.

915 e. The Legislature finds that the revenues of the
916 corporation are revenues that are necessary to meet the
917 requirements set forth in documents authorizing the issuance of
918 bonds under this subsection.

919 f. No part of the income of the corporation may inure to
920 the benefit of any private person.

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

922 a. After accounting for the Citizens policyholder surcharge
923 imposed under sub-subparagraph i., when the remaining projected
924 deficit incurred in a particular calendar year is not greater
925 than 6 percent of the aggregate statewide direct written premium
926 for the subject lines of business for the prior calendar year,
927 the entire deficit shall be recovered through regular
928 assessments of assessable insurers under paragraph (p) and
929 assessable insureds.

930 b. After accounting for the Citizens policyholder surcharge
931 imposed under sub-subparagraph i., when the remaining projected
932 deficit incurred in a particular calendar year exceeds 6 percent
933 of the aggregate statewide direct written premium for the
934 subject lines of business for the prior calendar year, the
935 corporation shall levy regular assessments on assessable
936 insurers under paragraph (p) and on assessable insureds in an
937 amount equal to the greater of 6 percent of the deficit or 6
938 percent of the aggregate statewide direct written premium for
939 the subject lines of business for the prior calendar year. Any
940 remaining deficit shall be recovered through emergency



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941 assessments under sub-subparagraph d.

942 c. Each assessable insurer's share of the amount being
943 assessed under sub-subparagraph a. or sub-subparagraph b. shall
944 be in the proportion that the assessable insurer's direct
945 written premium for the subject lines of business for the year
946 preceding the assessment bears to the aggregate statewide direct
947 written premium for the subject lines of business for that year.
948 The assessment percentage applicable to each assessable insured
949 is the ratio of the amount being assessed under sub-subparagraph
950 a. or sub-subparagraph b. to the aggregate statewide direct
951 written premium for the subject lines of business for the prior
952 year. Assessments levied by the corporation on assessable
953 insurers under sub-subparagraphs a. and b. shall be paid as
954 required by the corporation's plan of operation and paragraph
955 (p). Assessments levied by the corporation on assessable
956 insureds under sub-subparagraphs a. and b. shall be collected by
957 the surplus lines agent at the time the surplus lines agent
958 collects the surplus lines tax required by s. 626.932 and shall
959 be paid to the Florida Surplus Lines Service Office at the time
960 the surplus lines agent pays the surplus lines tax to the
961 Florida Surplus Lines Service Office. Upon receipt of regular
962 assessments from surplus lines agents, the Florida Surplus Lines
963 Service Office shall transfer the assessments directly to the
964 corporation as determined by the corporation.

965 d. Upon a determination by the board of governors that a
966 deficit in an account exceeds the amount that will be recovered
967 through regular assessments under sub-subparagraph a. or sub-
968 subparagraph b., plus the amount that is expected to be
969 recovered through surcharges under sub-subparagraph i., as to



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970 the remaining projected deficit the board shall levy, after
971 verification by the office, emergency assessments, for as many
972 years as necessary to cover the deficits, to be collected by
973 assessable insurers and the corporation and collected from
974 assessable insureds upon issuance or renewal of policies for
975 subject lines of business, excluding National Flood Insurance
976 policies. The amount of the emergency assessment collected in a
977 particular year shall be a uniform percentage of that year's
978 direct written premium for subject lines of business and all
979 accounts of the corporation, excluding National Flood Insurance
980 Program policy premiums, as annually determined by the board and
981 verified by the office. The office shall verify the arithmetic
982 calculations involved in the board's determination within 30
983 days after receipt of the information on which the determination
984 was based. Notwithstanding any other provision of law, the
985 corporation and each assessable insurer that writes subject
986 lines of business shall collect emergency assessments from its
987 policyholders without such obligation being affected by any
988 credit, limitation, exemption, or deferment. Emergency
989 assessments levied by the corporation on assessable insureds
990 shall be collected by the surplus lines agent at the time the
991 surplus lines agent collects the surplus lines tax required by
992 s. 626.932 and shall be paid to the Florida Surplus Lines
993 Service Office at the time the surplus lines agent pays the
994 surplus lines tax to the Florida Surplus Lines Service Office.
995 The emergency assessments so collected shall be transferred
996 directly to the corporation on a periodic basis as determined by
997 the corporation and shall be held by the corporation solely in
998 the applicable account. The aggregate amount of emergency



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999 assessments levied for an account under this sub-subparagraph in
1000 any calendar year may, at the discretion of the board of
1001 governors, be less than but may not exceed the greater of 10
1002 percent of the amount needed to cover the deficit, plus
1003 interest, fees, commissions, required reserves, and other costs
1004 associated with financing of the original deficit, or 10 percent
1005 of the aggregate statewide direct written premium for subject
1006 lines of business and for all accounts of the corporation for
1007 the prior year, plus interest, fees, commissions, required
1008 reserves, and other costs associated with financing the deficit.

1009 e. The corporation may pledge the proceeds of assessments,
1010 projected recoveries from the Florida Hurricane Catastrophe
1011 Fund, other insurance and reinsurance recoverables, policyholder
1012 surcharges and other surcharges, and other funds available to
1013 the corporation as the source of revenue for and to secure bonds
1014 issued under paragraph (p), bonds or other indebtedness issued
1015 under subparagraph (c)3., or lines of credit or other financing
1016 mechanisms issued or created under this subsection, or to retire
1017 any other debt incurred as a result of deficits or events giving
1018 rise to deficits, or in any other way that the board determines
1019 will efficiently recover such deficits. The purpose of the lines
1020 of credit or other financing mechanisms is to provide additional
1021 resources to assist the corporation in covering claims and
1022 expenses attributable to a catastrophe. As used in this
1023 subsection, the term "assessments" includes regular assessments
1024 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1025 (p)1. and emergency assessments under sub-subparagraph d.
1026 Emergency assessments collected under sub-subparagraph d. are
1027 not part of an insurer's rates, are not premium, and are not



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1028 subject to premium tax, fees, or commissions; however, failure
1029 to pay the emergency assessment shall be treated as failure to
1030 pay premium. The emergency assessments under sub-subparagraph d.
1031 shall continue as long as any bonds issued or other indebtedness
1032 incurred with respect to a deficit for which the assessment was
1033 imposed remain outstanding, unless adequate provision has been
1034 made for the payment of such bonds or other indebtedness
1035 pursuant to the documents governing such bonds or other
1036 indebtedness.

1037 f. As used in this subsection for purposes of any deficit
1038 incurred on or after January 25, 2007, the term "subject lines
1039 of business" means insurance written by assessable insurers or
1040 procured by assessable insureds for all property and casualty
1041 lines of business in this state, but not including workers'
1042 compensation or medical malpractice. As used in the sub-
1043 subparagraph, the term "property and casualty lines of business"
1044 includes all lines of business identified on Form 2, Exhibit of
1045 Premiums and Losses, in the annual statement required of
1046 authorized insurers by s. 624.424 and any rule adopted under
1047 this section, except for those lines identified as accident and
1048 health insurance and except for policies written under the
1049 National Flood Insurance Program or the Federal Crop Insurance
1050 Program. For purposes of this sub-subparagraph, the term
1051 "workers' compensation" includes both workers' compensation
1052 insurance and excess workers' compensation insurance.

1053 g. The Florida Surplus Lines Service Office shall determine
1054 annually the aggregate statewide written premium in subject
1055 lines of business procured by assessable insureds and shall
1056 report that information to the corporation in a form and at a



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1057 time the corporation specifies to ensure that the corporation
1058 can meet the requirements of this subsection and the
1059 corporation's financing obligations.

1060 h. The Florida Surplus Lines Service Office shall verify
1061 the proper application by surplus lines agents of assessment
1062 percentages for regular assessments and emergency assessments
1063 levied under this subparagraph on assessable insureds and shall
1064 assist the corporation in ensuring the accurate, timely
1065 collection and payment of assessments by surplus lines agents as
1066 required by the corporation.

1067 i. If a deficit is incurred in any account in 2008 or
1068 thereafter, the board of governors shall levy a Citizens
1069 policyholder surcharge against all policyholders of the
1070 corporation for a 12-month period, which shall be collected at
1071 the time of issuance or renewal of a policy, as a uniform
1072 percentage of the premium for the policy of up to 15 percent of
1073 such premium, which funds shall be used to offset the deficit.
1074 Citizens policyholder surcharges under this sub-subparagraph are
1075 not considered premium and are not subject to commissions, fees,
1076 or premium taxes. However, failure to pay such surcharges shall
1077 be treated as failure to pay premium.

1078 j. If the amount of any assessments or surcharges collected
1079 from corporation policyholders, assessable insurers or their
1080 policyholders, or assessable insureds exceeds the amount of the
1081 deficits, such excess amounts shall be remitted to and retained
1082 by the corporation in a reserve to be used by the corporation,
1083 as determined by the board of governors and approved by the
1084 office, to pay claims or reduce any past, present, or future
1085 plan-year deficits or to reduce outstanding debt.



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1086 (c) The plan of operation of the corporation:
1087 1. Must provide for adoption of residential property and
1088 casualty insurance policy forms and commercial residential and
1089 nonresidential property insurance forms, which forms must be
1090 approved by the office prior to use. The corporation shall adopt
1091 the following policy forms:
1092 a. Standard personal lines policy forms that are
1093 comprehensive multiperil policies providing full coverage of a
1094 residential property equivalent to the coverage provided in the
1095 private insurance market under an HO-3, HO-4, or HO-6 policy.
1096 b. Basic personal lines policy forms that are policies
1097 similar to an HO-8 policy or a dwelling fire policy that provide
1098 coverage meeting the requirements of the secondary mortgage
1099 market, but which coverage is more limited than the coverage
1100 under a standard policy.
1101 c. Commercial lines residential and nonresidential policy
1102 forms that are generally similar to the basic perils of full
1103 coverage obtainable for commercial residential structures and
1104 commercial nonresidential structures in the admitted voluntary
1105 market.
1106 d. Personal lines and commercial lines residential property
1107 insurance forms that cover the peril of wind only. The forms are
1108 applicable only to residential properties located in areas
1109 eligible for coverage under the high-risk account referred to in
1110 sub-subparagraph (b)2.a.
1111 e. Commercial lines nonresidential property insurance forms
1112 that cover the peril of wind only. The forms are applicable only
1113 to nonresidential properties located in areas eligible for
1114 coverage under the high-risk account referred to in sub-



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1115 subparagraph (b)2.a.

1116 f. The corporation may adopt variations of the policy forms
1117 listed in sub-subparagraphs a.-e. that contain more restrictive
1118 coverage.

1119 2.a. Must provide that the corporation adopt a program in
1120 which the corporation and authorized insurers enter into quota
1121 share primary insurance agreements for hurricane coverage, as
1122 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1123 property insurance forms for eligible risks which cover the
1124 peril of wind only. As used in this subsection, the term:

1125 (I) "Quota share primary insurance" means an arrangement in
1126 which the primary hurricane coverage of an eligible risk is
1127 provided in specified percentages by the corporation and an
1128 authorized insurer. The corporation and authorized insurer are
1129 each solely responsible for a specified percentage of hurricane
1130 coverage of an eligible risk as set forth in a quota share
1131 primary insurance agreement between the corporation and an
1132 authorized insurer and the insurance contract. The
1133 responsibility of the corporation or authorized insurer to pay
1134 its specified percentage of hurricane losses of an eligible
1135 risk, as set forth in the quota share primary insurance
1136 agreement, may not be altered by the inability of the other
1137 party to the agreement to pay its specified percentage of
1138 hurricane losses. Eligible risks that are provided hurricane
1139 coverage through a quota share primary insurance arrangement
1140 must be provided policy forms that set forth the obligations of
1141 the corporation and authorized insurer under the arrangement,
1142 clearly specify the percentages of quota share primary insurance
1143 provided by the corporation and authorized insurer, and



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1144 conspicuously and clearly state that neither the authorized
1145 insurer nor the corporation may be held responsible beyond its
1146 specified percentage of coverage of hurricane losses.

1147 (II) "Eligible risks" means personal lines residential and
1148 commercial lines residential risks that meet the underwriting
1149 criteria of the corporation and are located in areas that were
1150 eligible for coverage by the Florida Windstorm Underwriting
1151 Association on January 1, 2002.

1152 b. The corporation may enter into quota share primary
1153 insurance agreements with authorized insurers at corporation
1154 coverage levels of 90 percent and 50 percent.

1155 c. If the corporation determines that additional coverage
1156 levels are necessary to maximize participation in quota share
1157 primary insurance agreements by authorized insurers, the
1158 corporation may establish additional coverage levels. However,
1159 the corporation's quota share primary insurance coverage level
1160 may not exceed 90 percent.

1161 d. Any quota share primary insurance agreement entered into
1162 between an authorized insurer and the corporation must provide
1163 for a uniform specified percentage of coverage of hurricane
1164 losses, by county or territory as set forth by the corporation
1165 board, for all eligible risks of the authorized insurer covered
1166 under the quota share primary insurance agreement.

1167 e. Any quota share primary insurance agreement entered into
1168 between an authorized insurer and the corporation is subject to
1169 review and approval by the office. However, such agreement shall
1170 be authorized only as to insurance contracts entered into
1171 between an authorized insurer and an insured who is already
1172 insured by the corporation for wind coverage.



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1173 f. For all eligible risks covered under quota share primary
1174 insurance agreements, the exposure and coverage levels for both
1175 the corporation and authorized insurers shall be reported by the
1176 corporation to the Florida Hurricane Catastrophe Fund. For all
1177 policies of eligible risks covered under quota share primary
1178 insurance agreements, the corporation and the authorized insurer
1179 shall maintain complete and accurate records for the purpose of
1180 exposure and loss reimbursement audits as required by Florida
1181 Hurricane Catastrophe Fund rules. The corporation and the
1182 authorized insurer shall each maintain duplicate copies of
1183 policy declaration pages and supporting claims documents.

1184 g. The corporation board shall establish in its plan of
1185 operation standards for quota share agreements which ensure that
1186 there is no discriminatory application among insurers as to the
1187 terms of quota share agreements, pricing of quota share
1188 agreements, incentive provisions if any, and consideration paid
1189 for servicing policies or adjusting claims.

1190 h. The quota share primary insurance agreement between the
1191 corporation and an authorized insurer must set forth the
1192 specific terms under which coverage is provided, including, but
1193 not limited to, the sale and servicing of policies issued under
1194 the agreement by the insurance agent of the authorized insurer
1195 producing the business, the reporting of information concerning
1196 eligible risks, the payment of premium to the corporation, and
1197 arrangements for the adjustment and payment of hurricane claims
1198 incurred on eligible risks by the claims adjuster and personnel
1199 of the authorized insurer. Entering into a quota sharing
1200 insurance agreement between the corporation and an authorized
1201 insurer shall be voluntary and at the discretion of the



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1202 authorized insurer.

1203 3. May provide that the corporation may employ or otherwise
1204 contract with individuals or other entities to provide
1205 administrative or professional services that may be appropriate
1206 to effectuate the plan. The corporation shall have the power to
1207 borrow funds, by issuing bonds or by incurring other
1208 indebtedness, and shall have other powers reasonably necessary
1209 to effectuate the requirements of this subsection, including,
1210 without limitation, the power to issue bonds and incur other
1211 indebtedness in order to refinance outstanding bonds or other
1212 indebtedness. The corporation may, but is not required to, seek
1213 judicial validation of its bonds or other indebtedness under
1214 chapter 75. The corporation may issue bonds or incur other
1215 indebtedness, or have bonds issued on its behalf by a unit of
1216 local government pursuant to subparagraph (p)2., in the absence
1217 of a hurricane or other weather-related event, upon a
1218 determination by the corporation, subject to approval by the
1219 office, that such action would enable it to efficiently meet the
1220 financial obligations of the corporation and that such
1221 financings are reasonably necessary to effectuate the
1222 requirements of this subsection. The corporation is authorized
1223 to take all actions needed to facilitate tax-free status for any
1224 such bonds or indebtedness, including formation of trusts or
1225 other affiliated entities. The corporation shall have the
1226 authority to pledge assessments, projected recoveries from the
1227 Florida Hurricane Catastrophe Fund, other reinsurance
1228 recoverables, market equalization and other surcharges, and
1229 other funds available to the corporation as security for bonds
1230 or other indebtedness. In recognition of s. 10, Art. I of the



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1231 State Constitution, prohibiting the impairment of obligations of
1232 contracts, it is the intent of the Legislature that no action be
1233 taken whose purpose is to impair any bond indenture or financing
1234 agreement or any revenue source committed by contract to such
1235 bond or other indebtedness.

1236 4.a. Must require that the corporation operate subject to
1237 the supervision and approval of a board of governors consisting
1238 of eight individuals who are residents of this state, from
1239 different geographical areas of this state. The Governor, the
1240 Chief Financial Officer, the President of the Senate, and the
1241 Speaker of the House of Representatives shall each appoint two
1242 members of the board. At least one of the two members appointed
1243 by each appointing officer must have demonstrated expertise in
1244 insurance. The Chief Financial Officer shall designate one of
1245 the appointees as chair. All board members serve at the pleasure
1246 of the appointing officer. All members of the board of governors
1247 are subject to removal at will by the officers who appointed
1248 them. All board members, including the chair, must be appointed
1249 to serve for 3-year terms beginning annually on a date
1250 designated by the plan. However, for the first term beginning on
1251 or after July 1, 2009, each appointing officer shall appoint one
1252 member of the board for a 2-year term and one member for a 3-
1253 year term. Any board vacancy shall be filled for the unexpired
1254 term by the appointing officer. The Chief Financial Officer
1255 shall appoint a technical advisory group to provide information
1256 and advice to the board of governors in connection with the
1257 board's duties under this subsection. The executive director and
1258 senior managers of the corporation shall be engaged by the board
1259 and serve at the pleasure of the board. Any executive director



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1260 appointed on or after July 1, 2006, is subject to confirmation
1261 by the Senate. The executive director is responsible for
1262 employing other staff as the corporation may require, subject to
1263 review and concurrence by the board.

1264 b. The board shall create a Market Accountability Advisory
1265 Committee to assist the corporation in developing awareness of
1266 its rates and its customer and agent service levels in
1267 relationship to the voluntary market insurers writing similar
1268 coverage. The members of the advisory committee shall consist of
1269 the following 11 persons, one of whom must be elected chair by
1270 the members of the committee: four representatives, one
1271 appointed by the Florida Association of Insurance Agents, one by
1272 the Florida Association of Insurance and Financial Advisors, one
1273 by the Professional Insurance Agents of Florida, and one by the
1274 Latin American Association of Insurance Agencies; three
1275 representatives appointed by the insurers with the three highest
1276 voluntary market share of residential property insurance
1277 business in the state; one representative from the Office of
1278 Insurance Regulation; one consumer appointed by the board who is
1279 insured by the corporation at the time of appointment to the
1280 committee; one representative appointed by the Florida
1281 Association of Realtors; and one representative appointed by the
1282 Florida Bankers Association. All members must serve for 3-year
1283 terms and may serve for consecutive terms. The committee shall
1284 report to the corporation at each board meeting on insurance
1285 market issues which may include rates and rate competition with
1286 the voluntary market; service, including policy issuance, claims
1287 processing, and general responsiveness to policyholders,
1288 applicants, and agents; and matters relating to depopulation.



1289 5. Must provide a procedure for determining the eligibility
1290 of a risk for coverage, as follows:

1291 a. Subject to the provisions of s. 627.3517, with respect
1292 to personal lines residential risks, if the risk is offered
1293 coverage from an authorized insurer at the insurer's approved
1294 rate under either a standard policy including wind coverage or,
1295 if consistent with the insurer's underwriting rules as filed
1296 with the office, a basic policy including wind coverage, for a
1297 new application to the corporation for coverage, the risk is not
1298 eligible for any policy issued by the corporation unless the
1299 premium for coverage from the authorized insurer is more than 15
1300 percent greater than the premium for comparable coverage from
1301 the corporation. If the risk is not able to obtain any such
1302 offer, the risk is eligible for either a standard policy
1303 including wind coverage or a basic policy including wind
1304 coverage issued by the corporation; however, if the risk could
1305 not be insured under a standard policy including wind coverage
1306 regardless of market conditions, the risk shall be eligible for
1307 a basic policy including wind coverage unless rejected under
1308 subparagraph 8. However, with regard to a policyholder of the
1309 corporation or a policyholder removed from the corporation
1310 through an assumption agreement until the end of the assumption
1311 period, the policyholder remains eligible for coverage from the
1312 corporation regardless of any offer of coverage from an
1313 authorized insurer or surplus lines insurer. The corporation
1314 shall determine the type of policy to be provided on the basis
1315 of objective standards specified in the underwriting manual and
1316 based on generally accepted underwriting practices.

1317 (I) If the risk accepts an offer of coverage through the



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1318 market assistance plan or an offer of coverage through a
1319 mechanism established by the corporation before a policy is
1320 issued to the risk by the corporation or during the first 30
1321 days of coverage by the corporation, and the producing agent who
1322 submitted the application to the plan or to the corporation is
1323 not currently appointed by the insurer, the insurer shall:

1324 (A) Pay to the producing agent of record of the policy, for
1325 the first year, an amount that is the greater of the insurer's
1326 usual and customary commission for the type of policy written or
1327 a fee equal to the usual and customary commission of the
1328 corporation; or

1329 (B) Offer to allow the producing agent of record of the
1330 policy to continue servicing the policy for a period of not less
1331 than 1 year and offer to pay the agent the greater of the
1332 insurer's or the corporation's usual and customary commission
1333 for the type of policy written.

1334
1335 If the producing agent is unwilling or unable to accept
1336 appointment, the new insurer shall pay the agent in accordance
1337 with sub-sub-sub-subparagraph (A).

1338 (II) When the corporation enters into a contractual
1339 agreement for a take-out plan, the producing agent of record of
1340 the corporation policy is entitled to retain any unearned
1341 commission on the policy, and the insurer shall:

1342 (A) Pay to the producing agent of record of the corporation
1343 policy, for the first year, an amount that is the greater of the
1344 insurer's usual and customary commission for the type of policy
1345 written or a fee equal to the usual and customary commission of
1346 the corporation; or



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1347 (B) Offer to allow the producing agent of record of the
1348 corporation policy to continue servicing the policy for a period
1349 of not less than 1 year and offer to pay the agent the greater
1350 of the insurer's or the corporation's usual and customary
1351 commission for the type of policy written.

1352
1353 If the producing agent is unwilling or unable to accept
1354 appointment, the new insurer shall pay the agent in accordance
1355 with sub-sub-sub-subparagraph (A).

1356 b. With respect to commercial lines residential risks, for
1357 a new application to the corporation for coverage, if the risk
1358 is offered coverage under a policy including wind coverage from
1359 an authorized insurer at its approved rate, the risk is not
1360 eligible for any policy issued by the corporation unless the
1361 premium for coverage from the authorized insurer is more than 15
1362 percent greater than the premium for comparable coverage from
1363 the corporation. If the risk is not able to obtain any such
1364 offer, the risk is eligible for a policy including wind coverage
1365 issued by the corporation. However, with regard to a
1366 policyholder of the corporation or a policyholder removed from
1367 the corporation through an assumption agreement until the end of
1368 the assumption period, the policyholder remains eligible for
1369 coverage from the corporation regardless of any offer of
1370 coverage from an authorized insurer or surplus lines insurer.

1371 (I) If the risk accepts an offer of coverage through the
1372 market assistance plan or an offer of coverage through a
1373 mechanism established by the corporation before a policy is
1374 issued to the risk by the corporation or during the first 30
1375 days of coverage by the corporation, and the producing agent who



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1376 submitted the application to the plan or the corporation is not
1377 currently appointed by the insurer, the insurer shall:

1378 (A) Pay to the producing agent of record of the policy, for
1379 the first year, an amount that is the greater of the insurer's
1380 usual and customary commission for the type of policy written or
1381 a fee equal to the usual and customary commission of the
1382 corporation; or

1383 (B) Offer to allow the producing agent of record of the
1384 policy to continue servicing the policy for a period of not less
1385 than 1 year and offer to pay the agent the greater of the
1386 insurer's or the corporation's usual and customary commission
1387 for the type of policy written.

1388
1389 If the producing agent is unwilling or unable to accept
1390 appointment, the new insurer shall pay the agent in accordance
1391 with sub-sub-sub-subparagraph (A).

1392 (II) When the corporation enters into a contractual
1393 agreement for a take-out plan, the producing agent of record of
1394 the corporation policy is entitled to retain any unearned
1395 commission on the policy, and the insurer shall:

1396 (A) Pay to the producing agent of record of the corporation
1397 policy, for the first year, an amount that is the greater of the
1398 insurer's usual and customary commission for the type of policy
1399 written or a fee equal to the usual and customary commission of
1400 the corporation; or

1401 (B) Offer to allow the producing agent of record of the
1402 corporation policy to continue servicing the policy for a period
1403 of not less than 1 year and offer to pay the agent the greater
1404 of the insurer's or the corporation's usual and customary



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1405 commission for the type of policy written.

1406

1407 If the producing agent is unwilling or unable to accept
1408 appointment, the new insurer shall pay the agent in accordance
1409 with sub-sub-sub-subparagraph (A).

1410 c. For purposes of determining comparable coverage under
1411 sub-subparagraphs a. and b., the comparison shall be based on
1412 those forms and coverages that are reasonably comparable. The
1413 corporation may rely on a determination of comparable coverage
1414 and premium made by the producing agent who submits the
1415 application to the corporation, made in the agent's capacity as
1416 the corporation's agent. A comparison may be made solely of the
1417 premium with respect to the main building or structure only on
1418 the following basis: the same coverage A or other building
1419 limits; the same percentage hurricane deductible that applies on
1420 an annual basis or that applies to each hurricane for commercial
1421 residential property; the same percentage of ordinance and law
1422 coverage, if the same limit is offered by both the corporation
1423 and the authorized insurer; the same mitigation credits, to the
1424 extent the same types of credits are offered both by the
1425 corporation and the authorized insurer; the same method for loss
1426 payment, such as replacement cost or actual cash value, if the
1427 same method is offered both by the corporation and the
1428 authorized insurer in accordance with underwriting rules; and
1429 any other form or coverage that is reasonably comparable as
1430 determined by the board. If an application is submitted to the
1431 corporation for wind-only coverage in the high-risk account, the
1432 premium for the corporation's wind-only policy plus the premium
1433 for the ex-wind policy that is offered by an authorized insurer



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1434 to the applicant shall be compared to the premium for multiperil
1435 coverage offered by an authorized insurer, subject to the
1436 standards for comparison specified in this subparagraph. If the
1437 corporation or the applicant requests from the authorized
1438 insurer a breakdown of the premium of the offer by types of
1439 coverage so that a comparison may be made by the corporation or
1440 its agent and the authorized insurer refuses or is unable to
1441 provide such information, the corporation may treat the offer as
1442 not being an offer of coverage from an authorized insurer at the
1443 insurer's approved rate.

1444 6. Must include rules for classifications of risks and
1445 rates therefor.

1446 7. Must provide that if premium and investment income for
1447 an account attributable to a particular calendar year are in
1448 excess of projected losses and expenses for the account
1449 attributable to that year, such excess shall be held in surplus
1450 in the account. Such surplus shall be available to defray
1451 deficits in that account as to future years and shall be used
1452 for that purpose prior to assessing assessable insurers and
1453 assessable insureds as to any calendar year.

1454 8. Must provide objective criteria and procedures to be
1455 uniformly applied for all applicants in determining whether an
1456 individual risk is so hazardous as to be uninsurable. In making
1457 this determination and in establishing the criteria and
1458 procedures, the following shall be considered:

1459 a. Whether the likelihood of a loss for the individual risk
1460 is substantially higher than for other risks of the same class;
1461 and

1462 b. Whether the uncertainty associated with the individual



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1463 risk is such that an appropriate premium cannot be determined.

1464

1465 The acceptance or rejection of a risk by the corporation shall
1466 be construed as the private placement of insurance, and the
1467 provisions of chapter 120 shall not apply.

1468 9. Must provide that the corporation shall make its best
1469 efforts to procure catastrophe reinsurance at reasonable rates,
1470 to cover its projected 100-year probable maximum loss as
1471 determined by the board of governors.

1472 10. The policies issued by the corporation must provide
1473 that, if the corporation or the market assistance plan obtains
1474 an offer from an authorized insurer to cover the risk at its
1475 approved rates, the risk is no longer eligible for renewal
1476 through the corporation, except as otherwise provided in this
1477 subsection.

1478 11. Corporation policies and applications must include a
1479 notice that the corporation policy could, under this section, be
1480 replaced with a policy issued by an authorized insurer that does
1481 not provide coverage identical to the coverage provided by the
1482 corporation. The notice shall also specify that acceptance of
1483 corporation coverage creates a conclusive presumption that the
1484 applicant or policyholder is aware of this potential.

1485 12. May establish, subject to approval by the office,
1486 different eligibility requirements and operational procedures
1487 for any line or type of coverage for any specified county or
1488 area if the board determines that such changes to the
1489 eligibility requirements and operational procedures are
1490 justified due to the voluntary market being sufficiently stable
1491 and competitive in such area or for such line or type of



1492 coverage and that consumers who, in good faith, are unable to
1493 obtain insurance through the voluntary market through ordinary
1494 methods would continue to have access to coverage from the
1495 corporation. When coverage is sought in connection with a real
1496 property transfer, such requirements and procedures shall not
1497 provide for an effective date of coverage later than the date of
1498 the closing of the transfer as established by the transferor,
1499 the transferee, and, if applicable, the lender.

1500 13. Must provide that, with respect to the high-risk
1501 account, any assessable insurer with a surplus as to
1502 policyholders of \$25 million or less writing 25 percent or more
1503 of its total countrywide property insurance premiums in this
1504 state may petition the office, within the first 90 days of each
1505 calendar year, to qualify as a limited apportionment company. A
1506 regular assessment levied by the corporation on a limited
1507 apportionment company for a deficit incurred by the corporation
1508 for the high-risk account in 2006 or thereafter may be paid to
1509 the corporation on a monthly basis as the assessments are
1510 collected by the limited apportionment company from its insureds
1511 pursuant to s. 627.3512, but the regular assessment must be paid
1512 in full within 12 months after being levied by the corporation.
1513 A limited apportionment company shall collect from its
1514 policyholders any emergency assessment imposed under sub-
1515 subparagraph (b)3.d. The plan shall provide that, if the office
1516 determines that any regular assessment will result in an
1517 impairment of the surplus of a limited apportionment company,
1518 the office may direct that all or part of such assessment be
1519 deferred as provided in subparagraph (p)4. However, there shall
1520 be no limitation or deferment of an emergency assessment to be



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1521 collected from policyholders under sub-subparagraph (b)3.d.
1522 14. Must provide that the corporation appoint as its
1523 licensed agents only those agents who also hold an appointment
1524 as defined in s. 626.015(3) with an insurer who at the time of
1525 the agent's initial appointment by the corporation is authorized
1526 to write and is actually writing personal lines residential
1527 property coverage, commercial residential property coverage, or
1528 commercial nonresidential property coverage within the state.
1529 15. Must provide, by July 1, 2007, a premium payment plan
1530 option to its policyholders which allows at a minimum for
1531 quarterly and semiannual payment of premiums. A monthly payment
1532 plan may, but is not required to, be offered.
1533 16. Must limit coverage on mobile homes or manufactured
1534 homes built prior to 1994 to actual cash value of the dwelling
1535 rather than replacement costs of the dwelling.
1536 17. May provide such limits of coverage as the board
1537 determines, consistent with the requirements of this subsection.
1538 18. May require commercial property to meet specified
1539 hurricane mitigation construction features as a condition of
1540 eligibility for coverage.
1541 (m)1. Rates for coverage provided by the corporation shall
1542 be actuarially sound and subject to the requirements of s.
1543 627.062, except as otherwise provided in this paragraph. The
1544 corporation shall file its recommended rates with the office at
1545 least annually. The corporation shall provide any additional
1546 information regarding the rates which the office requires. The
1547 office shall consider the recommendations of the board and issue
1548 a final order establishing the rates for the corporation within
1549 45 days after the recommended rates are filed. The corporation



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1550 may not pursue an administrative challenge or judicial review of
1551 the final order of the office.

1552 2. In addition to the rates otherwise determined pursuant
1553 to this paragraph, the corporation shall impose and collect an
1554 amount equal to the premium tax provided for in s. 624.509 to
1555 augment the financial resources of the corporation.

1556 3. After the public hurricane loss-projection model under
1557 s. 627.06281 has been found to be accurate and reliable by the
1558 Florida Commission on Hurricane Loss Projection Methodology,
1559 that model shall serve as the minimum benchmark for determining
1560 the windstorm portion of the corporation's rates. This
1561 subparagraph does not require or allow the corporation to adopt
1562 rates lower than the rates otherwise required or allowed by this
1563 paragraph.

1564 4. The rate filings for the corporation which were approved
1565 by the office and which took effect January 1, 2007, are
1566 rescinded, except for those rates that were lowered. As soon as
1567 possible, the corporation shall begin using the lower rates that
1568 were in effect on December 31, 2006, and shall provide refunds
1569 to policyholders who have paid higher rates as a result of that
1570 rate filing. The rates in effect on December 31, 2006, shall
1571 remain in effect for the 2007 and 2008 calendar years except for
1572 any rate change that results in a lower rate. The next rate
1573 change that may increase rates shall take effect pursuant to a
1574 new rate filing recommended by the corporation and established
1575 by the office, subject to the requirements of this paragraph.

1576 5. Beginning on July 15, 2009, and each year thereafter,
1577 the corporation must make a recommended actuarially sound rate
1578 filing for each personal and commercial line of business it



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1579 writes, to be effective no earlier than January 1, 2010.

1580 6. Notwithstanding the board's recommended rates and the
1581 office's final order regarding the corporation's filed rates
1582 under subparagraph 1., the corporation shall implement a rate
1583 increase each year which does not exceed 5 percent for any
1584 single policy issued by the corporation, excluding coverage
1585 changes and surcharges.

1586 7. The corporation shall inform the Speaker of the House
1587 and the President of the Senate when its actuaries conclude that
1588 the corporation's statewide average rates have reached an
1589 actuarially sound level. The limitation on the corporation's
1590 implementation of rates as prescribed in subparagraph 6. shall
1591 cease upon the corporation's implementation of actuarially sound
1592 rates.

1593 (x) It is the intent of the Legislature that the amendments
1594 to this subsection enacted in 2002 should, over time, reduce the
1595 probable maximum windstorm losses in the residual markets and
1596 should reduce the potential assessments to be levied on property
1597 insurers and policyholders statewide. In furtherance of this
1598 intent, ~~÷~~

1599 ~~1. the board shall, on or before February 1 of each year,~~
1600 ~~provide a report to the President of the Senate and the Speaker~~
1601 ~~of the House of Representatives showing the reduction or~~
1602 ~~increase in the 100-year probable maximum loss attributable to~~
1603 ~~wind-only coverages and multiperil coverages the quota share~~
1604 ~~program under this subsection combined, as compared to the~~
1605 ~~benchmark 100-year probable maximum loss of the Florida~~
1606 ~~Windstorm Underwriting Association. For purposes of this~~
1607 ~~paragraph, the benchmark 100-year probable maximum loss of the~~



1608 ~~Florida Windstorm Underwriting Association shall be the~~
1609 ~~calculation dated February 2001 and based on November 30, 2000,~~
1610 ~~exposures. In order to ensure comparability of data, the board~~
1611 ~~shall use the same methods for calculating its probable maximum~~
1612 ~~loss as were used to calculate the benchmark probable maximum~~
1613 ~~loss.~~

1614 ~~2. Beginning February 1, 2010, if the report under~~
1615 ~~subparagraph 1. for any year indicates that the 100-year~~
1616 ~~probable maximum loss attributable to wind-only coverages and~~
1617 ~~the quota share program combined does not reflect a reduction of~~
1618 ~~at least 25 percent from the benchmark, the board shall reduce~~
1619 ~~the boundaries of the high-risk area eligible for wind-only~~
1620 ~~coverages under this subsection in a manner calculated to reduce~~
1621 ~~such probable maximum loss to an amount at least 25 percent~~
1622 ~~below the benchmark.~~

1623 ~~3. Beginning February 1, 2015, if the report under~~
1624 ~~subparagraph 1. for any year indicates that the 100-year~~
1625 ~~probable maximum loss attributable to wind-only coverages and~~
1626 ~~the quota share program combined does not reflect a reduction of~~
1627 ~~at least 50 percent from the benchmark, the boundaries of the~~
1628 ~~high-risk area eligible for wind-only coverages under this~~
1629 ~~subsection shall be reduced by the elimination of any area that~~
1630 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
1631 ~~Waterway.~~

1632 Section 6. Subsections (1) and (2) of section 627.712,
1633 Florida Statutes, are amended to read:

1634 627.712 Residential windstorm coverage required;
1635 availability of exclusions for windstorm or contents.-

1636 (1) An insurer issuing a residential property insurance



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1637 policy must provide windstorm coverage unless at the time of
1638 inception of the residential property insurance policy, the
1639 policyholder has windstorm coverage from another admitted
1640 insurer, a surplus lines insurer, or Citizens Property Insurance
1641 Corporation. ~~Except as provided in paragraph (2) (c), this~~
1642 section does not apply with respect to risks that are eligible
1643 for wind only coverage from Citizens Property Insurance
1644 Corporation under s. 627.351(6).

1645 (2) A residential property insurer must make available, at
1646 the option of the policyholder, an exclusion of windstorm
1647 coverage.

1648 (a) The coverage may be excluded only if:

1649 1. The agent or insurer issuing the residential property
1650 insurance policy has documentation that the policyholder has
1651 windstorm coverage from another admitted insurer, a surplus
1652 lines insurer, or Citizens Property Insurance Corporation.

1653 2.1. When the policyholder is a natural person, the
1654 policyholder personally writes and provides to the insurer the
1655 following statement in his or her own handwriting and signs his
1656 or her name, which must also be signed by every other named
1657 insured on the policy, and dated: "I do not want the insurance
1658 on my (home/mobile home/condominium unit) to pay for damage from
1659 windstorms. I will pay those costs. My insurance will not."

1660 3.2. When the policyholder is other than a natural person,
1661 the policyholder provides to the insurer on the policyholder's
1662 letterhead the following statement that must be signed by the
1663 policyholder's authorized representative and dated: "... (Name of
1664 entity)... does not want the insurance on its ...(type of
1665 structure)... to pay for damage from windstorms. ...(Name of



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1666 entity)... will be responsible for these costs. ... (Name of
1667 entity's)... insurance will not."

1668 (b) If the structure insured by the policy is subject to a
1669 mortgage or lien, the policyholder must provide the insurer with
1670 a written statement from the mortgageholder or lienholder
1671 indicating that the mortgageholder or lienholder approves the
1672 policyholder electing to exclude windstorm coverage or hurricane
1673 coverage from his or her or its property insurance policy.

1674 ~~(c) If the residential structure is eligible for wind-only~~
1675 ~~coverage from Citizens Property Insurance Corporation, An~~
1676 insurer nonrenewing a policy and issuing a replacement policy,
1677 or issuing a new policy, that does not provide wind coverage
1678 shall provide a notice to the mortgageholder or lienholder
1679 indicating the policyholder has elected coverage that does not
1680 cover wind.

1681 Section 7. Section 631.65, Florida Statutes, is amended to
1682 read:

1683 631.65 Prohibited advertisement or solicitation.—No person
1684 shall make, publish, disseminate, circulate, or place before the
1685 public, or cause, directly or indirectly, to be made, published,
1686 disseminated, circulated, or placed before the public, in a
1687 newspaper, magazine, or other publication, or in the form of a
1688 notice, circular, pamphlet, letter, or poster, or over any radio
1689 station or television station, or in any other way, any
1690 advertisement, announcement, or statement which uses the
1691 existence of the insurance guaranty association for the purpose
1692 of sales, solicitation, or inducement to purchase any form of
1693 insurance covered under this part. However, this section does
1694 not prohibit a duly licensed insurance agent from explaining the



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1695 existence or function of the insurance guaranty association to
1696 policyholders, prospects, or applicants for coverage.

1697 Section 8. Upon receipt of funds transferred to the General
1698 Revenue Fund pursuant to s. 215.5595, Florida Statutes, the
1699 funds transferred are appropriated on a nonrecurring basis from
1700 the General Revenue Fund to the Insurance Regulatory Trust Fund
1701 within the Department of Financial Services for purposes of the
1702 My Safe Florida Home Program specified in s. 215.5586, Florida
1703 Statutes. The My Safe Florida Home Program shall use the funds
1704 solely for the provision of mitigation grants pursuant to s.
1705 215.5586(2), Florida Statutes, for single-family homes insured
1706 by Citizens Property Insurance Corporation. The department shall
1707 establish a separate account within the trust fund for
1708 accounting purposes.

1709 Section 9. Section 627.0612, Florida Statutes, is repealed.

1710 Section 10. This act shall take effect June 1, 2009.

1711
1712 ===== T I T L E A M E N D M E N T =====

1713 And the title is amended as follows:

1714 Delete everything before the enacting clause
1715 and insert:

1716
1717 A bill to be entitled
1718 An act relating to insurance; amending s. 215.555,
1719 F.S.; specifying the beginning and end dates of
1720 certain contract years for purposes of the definition
1721 of the term "retention"; providing for the assessment
1722 of optional coverage retention in reimbursement
1723 contracts; providing for the application of and



1724 payment for certain coverage; requiring that the State
1725 Board of Administration publish certain information in
1726 the Florida Administrative Weekly and notify insurers
1727 of such information at specified intervals;
1728 authorizing the board to reimburse insurers for
1729 certain amounts; expanding the periods for which the
1730 board must offer certain optional coverage; expanding
1731 the definition of the term "TICL coverage" to include
1732 requirements for the calculation and reporting of TICL
1733 coverage multiples for additional contract years;
1734 specifying additional periods for which the TICL
1735 options addendum shall provide for reimbursement of
1736 TICL insurers for covered events and for which a
1737 specified program shall increase the claims-paying
1738 capacity of the Florida Hurricane Catastrophe Fund;
1739 deleting provisions authorizing the board to increase
1740 the claims-paying capacity of the fund; amending s.
1741 215.5595, F.S.; requiring that the board transfer by a
1742 specified date certain moneys to the General Revenue
1743 Fund for specified purposes; amending s. 627.062,
1744 F.S.; authorizing an insurer to make a separate filing
1745 limited solely to an adjustment of its rates for
1746 reinsurance or financing costs to replace or finance
1747 payment of amounts covered by the Florida Hurricane
1748 Catastrophe Fund under certain circumstances;
1749 preserving certain authority of the office; providing
1750 for applicability of specified provisions of state
1751 law; amending s. 627.0621, F.S.; requiring that the
1752 Office of Insurance Regulation provide certain



1753 information on a publicly accessible website; amending
1754 s. 627.351, F.S.; deleting a provisions requiring that
1755 the seller of certain types of property provide the
1756 buyer with a certain disclosure; revising certain
1757 duties and authority of Citizens Property Insurance
1758 Corporation; providing requirements regarding the
1759 appointment of members of the board of governors of
1760 the corporation during the first term beginning on or
1761 after a specified date; requiring that the corporation
1762 implement a rate increase each year, not to exceed a
1763 specified amount; requiring that the corporation
1764 inform the Speaker of the House and the President of
1765 the Senate when its actuaries conclude that the
1766 corporation's statewide average rates have reached an
1767 actuarially sound level; providing for the expiration
1768 of the limitation on the corporation's implementation
1769 of rates upon the occurrence of a specified event;
1770 deleting provisions relating to certain reports by the
1771 corporation; amending s. 627.712, F.S.; providing an
1772 exception to the requirement that an insurer issuing
1773 residential property insurance provide windstorm
1774 coverage; requiring that such insurer make available
1775 an exclusion of windstorm coverage at the option of
1776 the policyholder; specifying conditions under which
1777 such coverage may be excluded; amending s. 631.65,
1778 F.S.; preserving the authority of a licensed insurance
1779 agent to explain specified information to certain
1780 parties; providing for the nonrecurring appropriation
1781 of certain funds transferred to the General Revenue



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1782 Fund to the Insurance Regulatory Trust Fund for
1783 purposes of the My Safe Florida Home Program;
1784 requiring that the program use such funds for
1785 specified purposes; requiring that the Department of
1786 Financial Services establish a separate account with
1787 the Insurance Regulatory Trust Fund for accounting
1788 purposes; repealing s. 627.0612, F.S., relating to
1789 administrative proceedings in rating determinations;
1790 providing an effective date.