

By the Policy and Steering Committee on Ways and Means; the Committee on Banking and Insurance; and Senator Richter

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

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30 temporary increased coverage limit premiums; providing
31 dates on which the claims-paying capacity of the fund
32 will increase; deleting authority for the State Board
33 of Administration to increase the claims-paying
34 capacity of the Hurricane Catastrophe Fund; amending
35 s. 215.5586, F.S.; revising legislative intent;
36 revising criteria for hurricane mitigation
37 inspections; revising criteria for eligibility for a
38 mitigation grant; expanding the list of improvements
39 for which grants may be used; correcting a reference
40 to the Florida Division of Emergency Management;
41 deleting provisions relating to no-interest loans;
42 requiring that contracts valued at or greater than a
43 specified amount be subject to review and approval of
44 the Legislative Budget Commission; amending s.
45 627.062, F.S.; revising the date by which certain
46 filings for a rate increase must be made by a file and
47 use filing; exempting certain rate filings from
48 determination by the Office of Insurance Regulation
49 that the rate in the rate filing is excessive or
50 unfairly discriminatory; amending s. 627.0621, F.S.;
51 deleting a limitation on the application of the
52 attorney-client privilege and work product doctrine in
53 challenges to actions by the Office of Insurance
54 Regulation relating to rate filings; amending s.
55 627.0629, F.S.; authorizing an insurer to include in
56 its rates the actual cost of certain reinsurance;
57 amending s. 627.351, F.S.; deleting a provision
58 requiring a seller of certain residential property to

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59 disclose the structure's windstorm mitigation rating
60 to the prospective purchaser of the property;
61 providing for members of the board of governors of
62 Citizens Property Insurance Corporation to serve
63 staggered terms; requiring Citizen's Property
64 Insurance Corporation to implement rate increases
65 until the implementation of actuarially sound rates;
66 requiring the corporation to transfer a portion of the
67 funds received from the rate increase into the General
68 Revenue Fund; revising the dates after which the State
69 Board of Administration is required to reduce the
70 boundaries of high-risk areas eligible for wind-only
71 coverages under certain circumstances; amending s.
72 627.3512, F.S.; authorizing insurers to recoup
73 assessments within a certain period; requiring
74 insurers to file a final accounting report with the
75 Office of Insurance Regulation which documents the
76 assessment recouped; requiring the officer of the
77 insurer who signs the report to acknowledge certain
78 statements; prohibiting insurers that do not file the
79 report from including the uncollected assessment
80 amount in any subsequent rate filing; amending s.
81 627.712, F.S.; revising the properties for which an
82 insurer must make policies available which exclude
83 windstorm coverage; amending s. 631.57, F.S.; deleting
84 provisions requiring certain insurers to submit
85 certain information; amending s. 631.64, F.S.;

86 authorizing insurers to recoup certain assessments;
87 requiring the recoupment to begin within a certain

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88 period; limiting the recoupment factor; authorizing
89 insurers to carry forward certain assessments that
90 have not been recouped; requiring insurers to file a
91 final accounting report with the Office of Insurance
92 Regulation which documents the assessment recouped;
93 requiring the officer of the insurer who signs the
94 report to acknowledge certain statements; providing
95 that all excess recoupment be sent to the Florida
96 Insurance Guaranty Association; requiring that the
97 insurer document the accounting of the over-recoupment
98 in the final accounting report; authorizing the
99 commission to adopt rules; amending s. 631.65, F.S.;
100 providing that an insurance agent is not prohibited
101 from explaining the existence or function of the
102 insurance guaranty association; providing for the
103 appropriation of certain transferred funds to the
104 Insurance Regulatory Trust Fund for purposes of the My
105 Safe Florida Home Program; providing an effective
106 date.

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

109
110 Section 1. Paragraph (e) of subsection (2), subsection (4),
111 paragraph (b) of subsection (5), and subsections (7) and (17) of
112 section 215.555, Florida Statutes, are amended to read:

113 215.555 Florida Hurricane Catastrophe Fund.—

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

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

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117 insurer's retention shall be calculated as follows:

118 1. The board shall calculate and report to each insurer the
119 retention multiples for that year. For the contract year
120 beginning June 1, 2005, the retention multiple shall be equal to
121 \$4.5 billion divided by the total estimated reimbursement
122 premium for the contract year; for subsequent years, the
123 retention multiple shall be equal to \$4.5 billion, adjusted
124 based upon the reported exposure from the prior contract year to
125 reflect the percentage growth in exposure to the fund for
126 covered policies since 2004, divided by the total estimated
127 reimbursement premium for the contract year. Total reimbursement
128 premium for purposes of the calculation under this subparagraph
129 shall be estimated using the assumption that all insurers have
130 selected the 90-percent coverage level. In 2010, the contract
131 year begins June 1 and ends December 31, 2010. In 2011 and
132 thereafter, the contract year begins January 1 and ends December
133 31.

134 2. The retention multiple as determined under subparagraph
135 1. shall be adjusted to reflect the coverage level elected by
136 the insurer. For insurers electing the 90-percent coverage
137 level, the adjusted retention multiple is 100 percent of the
138 amount determined under subparagraph 1. For insurers electing
139 the 75-percent coverage level, the retention multiple is 120
140 percent of the amount determined under subparagraph 1. For
141 insurers electing the 45-percent coverage level, the adjusted
142 retention multiple is 200 percent of the amount determined under
143 subparagraph 1.

144 3. An insurer shall determine its provisional retention by
145 multiplying its provisional reimbursement premium by the

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146 applicable adjusted retention multiple and shall determine its
147 actual retention by multiplying its actual reimbursement premium
148 by the applicable adjusted retention multiple.

149 4. For insurers who experience multiple covered events
150 causing loss during the contract year, beginning June 1, 2005,
151 each insurer's full retention shall be applied to each of the
152 covered events causing the two largest losses for that insurer.
153 For each other covered event resulting in losses, the insurer's
154 retention shall be reduced to one-third of the full retention.
155 The reimbursement contract shall provide for the reimbursement
156 of losses for each covered event based on the full retention
157 with adjustments made to reflect the reduced retentions on or
158 after January 1 of the contract year provided the insurer
159 reports its losses as specified in the reimbursement contract.

160 (4) REIMBURSEMENT CONTRACTS.—

161 (a) The board shall enter into a contract with each insurer
162 writing covered policies in this state to provide to the insurer
163 the reimbursement described in paragraphs (b) and (d), in
164 exchange for the reimbursement premium paid into the fund under
165 subsection (5). As a condition of doing business in this state,
166 each such insurer shall enter into such a contract.

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

172 2. The insurer must elect one of the percentage coverage
173 levels specified in this paragraph and may, upon renewal of a
174 reimbursement contract, elect a lower percentage coverage level

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175 if no revenue bonds issued under subsection (6) after a covered
176 event are outstanding, or elect a higher percentage coverage
177 level, regardless of whether or not revenue bonds are
178 outstanding. All members of an insurer group must elect the same
179 percentage coverage level. Any joint underwriting association,
180 risk apportionment plan, or other entity created under s.
181 627.351 must elect the 90-percent coverage level.

182 3. The contract shall provide that reimbursement amounts
183 shall not be reduced by reinsurance paid or payable to the
184 insurer from other sources.

185 4. Notwithstanding any other provision contained in this
186 section, the board shall make available to insurers that
187 purchased coverage provided by this subparagraph in 2008 ~~2007~~,
188 insurers qualifying as limited apportionment companies under s.
189 627.351(6)(c), and insurers that have been approved to
190 participate in the Insurance Capital Build-Up Incentive Program
191 pursuant to s. 215.5595 a contract or contract addendum that
192 provides an additional amount of reimbursement coverage of up to
193 \$10 million. The premium to be charged for this additional
194 reimbursement coverage shall be 50 percent of the additional
195 reimbursement coverage provided, which shall include one prepaid
196 reinstatement. The minimum retention level that an eligible
197 participating insurer must retain associated with this
198 additional coverage layer is 30 percent of the insurer's surplus
199 as of December 31, 2008, for the 2009 contract year; as of
200 December 31, 2009, for the 2010 contract year; and as of
201 December 31, 2010, for the 2011 contract year ~~December 31, 2007~~.
202 This coverage shall be in addition to all other coverage that
203 may be provided under this section. The coverage provided by the

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204 fund under this subparagraph shall be in addition to the claims-
205 paying capacity as defined in subparagraph (c)1., but only with
206 respect to those insurers that select the additional coverage
207 option and meet the requirements of this subparagraph. The
208 claims-paying capacity with respect to all other participating
209 insurers and limited apportionment companies that do not select
210 the additional coverage option shall be limited to their
211 reimbursement premium's proportionate share of the actual
212 claims-paying capacity otherwise defined in subparagraph (c)1.
213 and as provided for under the terms of the reimbursement
214 contract. The optional coverage retention as specified shall be
215 accessed before the mandatory coverage under the reimbursement
216 contract, but once the limit of coverage selected under this
217 option is exhausted, the insurer's retention under the mandatory
218 coverage will apply. This coverage will apply and be paid
219 concurrently with mandatory coverage. ~~Coverage provided in the~~
220 ~~reimbursement contract shall not be affected by the additional~~
221 ~~premiums paid by participating insurers exercising the~~
222 ~~additional coverage option allowed in this subparagraph.~~ This
223 subparagraph expires on December 31, 2011 ~~May 31, 2009~~.

224 (c)1. The contract shall also provide that the obligation
225 of the board with respect to all contracts covering a particular
226 contract year shall not exceed the actual claims-paying capacity
227 of the fund up to a limit of \$15 billion for that contract year
228 adjusted based upon the reported exposure from the prior
229 contract year to reflect the percentage growth in exposure to
230 the fund for covered policies since 2003, provided the dollar
231 growth in the limit may not increase in any year by an amount
232 greater than the dollar growth of the balance of the fund as of

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233 December 31, less any premiums or interest attributable to
234 optional coverage, as defined by rule which occurred over the
235 prior calendar year.

236 2. In May ~~before the start of the upcoming contract year~~
237 and ~~in~~ October of ~~during~~ the contract year, the board shall
238 publish in the Florida Administrative Weekly a statement of the
239 fund's estimated borrowing capacity, the fund's estimated
240 claims-paying capacity, and the projected balance of the fund as
241 of December 31. After the end of each calendar year, the board
242 shall notify insurers of the estimated borrowing capacity,
243 estimated claims-paying capacity, and the balance of the fund as
244 of December 31 to provide insurers with data necessary to assist
245 them in determining their retention and projected payout from
246 the fund for loss reimbursement purposes. In conjunction with
247 the development of the premium formula, as provided for in
248 subsection (5), the board shall publish factors or multiples
249 that assist insurers in determining their retention and
250 projected payout for the next contract year. For all regulatory
251 and reinsurance purposes, an insurer may calculate its projected
252 payout from the fund as its share of the total fund premium for
253 the current contract year multiplied by the sum of the projected
254 balance of the fund as of December 31 and the estimated
255 borrowing capacity for that contract year as reported under this
256 subparagraph.

257 (d)1. For purposes of determining potential liability and
258 to aid in the sound administration of the fund, the contract
259 shall require each insurer to report such insurer's losses from
260 each covered event on an interim basis, as directed by the
261 board. The contract shall require the insurer to report to the

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262 board no later than December 31 of each year, and quarterly
263 thereafter, its reimbursable losses from covered events for the
264 year. The contract shall require the board to determine and pay,
265 as soon as practicable after receiving these reports of
266 reimbursable losses, the initial amount of reimbursement due and
267 adjustments to this amount based on later loss information. The
268 adjustments to reimbursement amounts shall require the board to
269 pay, or the insurer to return, amounts reflecting the most
270 recent calculation of losses.

271 2. In determining reimbursements pursuant to this
272 subsection, the contract shall provide that the board shall pay
273 to each insurer such insurer's projected payout, which is the
274 amount of reimbursement it is owed, up to an amount equal to the
275 insurer's share of the actual premium paid for that contract
276 year, multiplied by the actual claims-paying capacity available
277 for that contract year.

278 3. The board may reimburse insurers for amounts up to the
279 published factors or multiples for determining each
280 participating insurer's retention and projected payout derived
281 as a result of the development of the premium formula in those
282 situations in which the total reimbursement of losses to such
283 insurers would not exceed the estimated claims-paying capacity
284 of the fund. Otherwise, such factors or multiples shall be
285 reduced uniformly among all insurers to reflect the estimated
286 claims-paying capacity.

287 (e)1. Except as provided in subparagraphs 2. and 3., the
288 contract shall provide that if an insurer demonstrates to the
289 board that it is likely to qualify for reimbursement under the
290 contract, and demonstrates to the board that the immediate

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291 receipt of moneys from the board is likely to prevent the
292 insurer from becoming insolvent, the board shall advance the
293 insurer, at market interest rates, the amounts necessary to
294 maintain the solvency of the insurer, up to 50 percent of the
295 board's estimate of the reimbursement due the insurer. The
296 insurer's reimbursement shall be reduced by an amount equal to
297 the amount of the advance and interest thereon.

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

302 a. The board's estimate of the amount of reimbursement due
303 to such entity; or

304 b. The entity's share of the actual reimbursement premium
305 paid for that contract year, multiplied by the currently
306 available liquid assets of the fund. In order for the entity to
307 qualify for an advance under this subparagraph, the entity must
308 demonstrate to the board that the advance is essential to allow
309 the entity to pay claims for a covered event and the board must
310 determine that the fund's assets are sufficient and are
311 sufficiently liquid to allow the board to make an advance to the
312 entity and still fulfill the board's reimbursement obligations
313 to other insurers. The entity's final reimbursement for any
314 contract year in which an advance has been made under this
315 subparagraph must be reduced by an amount equal to the amount of
316 the advance and any interest on such advance. In order to
317 determine what amounts, if any, are due the entity, the board
318 may require the entity to report its exposure and its losses at
319 any time to determine retention levels and reimbursements

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320 payable.

321 3. The contract shall also provide specifically and solely
322 with respect to any limited apportionment company under s.
323 627.351(2)(b)3. that the board may, upon application by such
324 company, advance to such company the amount of the estimated
325 reimbursement payable to such company as calculated pursuant to
326 paragraph (d), at market interest rates, if the board determines
327 that the fund's assets are sufficient and are sufficiently
328 liquid to permit the board to make an advance to such company
329 and at the same time fulfill its reimbursement obligations to
330 the insurers that are participants in the fund. Such company's
331 final reimbursement for any contract year in which an advance
332 pursuant to this subparagraph has been made shall be reduced by
333 an amount equal to the amount of the advance and interest
334 thereon. In order to determine what amounts, if any, are due to
335 such company, the board may require such company to report its
336 exposure and its losses at such times as may be required to
337 determine retention levels and loss reimbursements payable.

338 (f) In order to ensure that insurers have properly reported
339 the insured values on which the reimbursement premium is based
340 and to ensure that insurers have properly reported the losses
341 for which reimbursements have been made, the board shall
342 inspect, examine, and verify the records of each insurer's
343 covered policies at such times as the board deems appropriate
344 and according to standards established by rule for the specific
345 purpose of validating the accuracy of exposures and losses
346 required to be reported under the terms and conditions of the
347 reimbursement contract. The costs of the examinations shall be
348 borne by the board. However, in order to remove any incentive

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349 for an insurer to delay preparations for an examination, the
350 board shall be reimbursed by the insurer for any examination
351 expenses incurred in addition to the usual and customary costs
352 of the examination, which additional expenses were incurred as a
353 result of an insurer's failure, despite proper notice, to be
354 prepared for the examination or as a result of an insurer's
355 failure to provide requested information while the examination
356 is in progress. If the board finds any insurer's records or
357 other necessary information to be inadequate or inadequately
358 posted, recorded, or maintained, the board may employ experts to
359 reconstruct, rewrite, record, post, or maintain such records or
360 information, at the expense of the insurer being examined, if
361 such insurer has failed to maintain, complete, or correct such
362 records or deficiencies after the board has given the insurer
363 notice and a reasonable opportunity to do so. Any information
364 contained in an examination report, which information is
365 described in s. 215.557, is confidential and exempt from the
366 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
367 Constitution, as provided in s. 215.557. Nothing in this
368 paragraph expands the exemption in s. 215.557.

369 (g) The contract shall provide that in the event of the
370 insolvency of an insurer, the fund shall pay directly to the
371 Florida Insurance Guaranty Association for the benefit of
372 Florida policyholders of the insurer the net amount of all
373 reimbursement moneys owed to the insurer. As used in this
374 paragraph, the term "net amount of all reimbursement moneys"
375 means that amount which remains after reimbursement for:

376 1. Preliminary or duplicate payments owed to private
377 reinsurers or other inuring reinsurance payments to private

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378 reinsurers that satisfy statutory or contractual obligations of
379 the insolvent insurer attributable to covered events to such
380 reinsurers; or

381 2. Funds owed to a bank or other financial institution to
382 cover obligations of the insolvent insurer under a credit
383 agreement that assists the insolvent insurer in paying claims
384 attributable to covered events.

385

386 The private reinsurers, banks, or other financial institutions
387 shall be reimbursed or otherwise paid prior to payment to the
388 Florida Insurance Guaranty Association, notwithstanding any law
389 to the contrary. The guaranty association shall pay all claims
390 up to the maximum amount permitted by chapter 631; thereafter,
391 any remaining moneys shall be paid pro rata to claims not fully
392 satisfied. This paragraph does not apply to a joint underwriting
393 association, risk apportionment plan, or other entity created
394 under s. 627.351.

395 (5) REIMBURSEMENT PREMIUMS.—

396 (b) The State Board of Administration shall select an
397 independent consultant to develop a formula for determining the
398 actuarially indicated premium to be paid to the fund. The
399 formula shall specify, for each zip code or other limited
400 geographical area, the amount of premium to be paid by an
401 insurer for each \$1,000 of insured value under covered policies
402 in that zip code or other area. In establishing premiums, the
403 board shall consider the coverage elected under paragraph (4) (b)
404 and any factors that tend to enhance the actuarial
405 sophistication of ratemaking for the fund, including
406 deductibles, type of construction, type of coverage provided,

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407 relative concentration of risks, and other such factors deemed
408 by the board to be appropriate. The formula must provide for a
409 cash build-up factor. For the 2009-2010 contract year, the
410 factor is 5 percent. For the contract year beginning June 1,
411 2010, and ending December 31, 2010, the factor is 10 percent.
412 For the 2011 contract year, the factor is 15 percent. For the
413 2012 contract year, the factor is 20 percent. For the 2013
414 contract year and thereafter, the factor is 25 percent. The
415 formula may provide for a procedure to determine the premiums to
416 be paid by new insurers that begin writing covered policies
417 after the beginning of a contract year, taking into
418 consideration when the insurer starts writing covered policies,
419 the potential exposure of the insurer, the potential exposure of
420 the fund, the administrative costs to the insurer and to the
421 fund, and any other factors deemed appropriate by the board. The
422 formula must be approved by unanimous vote of the board. The
423 board may, at any time, revise the formula pursuant to the
424 procedure provided in this paragraph.

425 (7) ADDITIONAL POWERS AND DUTIES.—

426 (a) The board may procure reinsurance from reinsurers
427 acceptable to the Office of Insurance Regulation for the purpose
428 of maximizing the capacity of the fund and may enter into
429 capital market transactions, including, but not limited to,
430 industry loss warranties, catastrophe bonds, side-car
431 arrangements, or financial contracts permissible for the board's
432 usage under s. 215.47(10) and (11), consistent with prudent
433 management of the fund.

434 (b) In addition to borrowing under subsection (6), the
435 board may also borrow from, or enter into other financing

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436 arrangements with, any market sources at prevailing interest
437 rates.

438 (c) Each fiscal year, the Legislature shall appropriate
439 from the investment income of the Florida Hurricane Catastrophe
440 Fund an amount no less than \$10 million and no more than 35
441 percent of the investment income based upon the most recent
442 fiscal year-end audited financial statements for the purpose of
443 providing funding for local governments, state agencies, public
444 and private educational institutions, and nonprofit
445 organizations to support programs intended to improve hurricane
446 preparedness, reduce potential losses in the event of a
447 hurricane, provide research into means to reduce such losses,
448 educate or inform the public as to means to reduce hurricane
449 losses, assist the public in determining the appropriateness of
450 particular upgrades to structures or in the financing of such
451 upgrades, or protect local infrastructure from potential damage
452 from a hurricane. Moneys shall first be available for
453 appropriation under this paragraph in fiscal year 1997-1998.
454 Moneys in excess of the \$10 million specified in this paragraph
455 shall not be available for appropriation under this paragraph if
456 the State Board of Administration finds that an appropriation of
457 investment income from the fund would jeopardize the actuarial
458 soundness of the fund.

459 (d) The board may allow insurers to comply with reporting
460 requirements and reporting format requirements by using
461 alternative methods of reporting if the proper administration of
462 the fund is not thereby impaired and if the alternative methods
463 produce data which is consistent with the purposes of this
464 section.

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

469 (f) The board may require insurers to notarize documents
470 submitted to the board.

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

472 (a) *Findings and intent.*—

473 1. The Legislature finds that:

474 a. Because of temporary disruptions in the market for
475 catastrophic reinsurance, many property insurers were unable to
476 procure sufficient amounts of reinsurance for the 2006 hurricane
477 season or were able to procure such reinsurance only by
478 incurring substantially higher costs than in prior years.

479 b. The reinsurance market problems were responsible, at
480 least in part, for substantial premium increases to many
481 consumers and increases in the number of policies issued by
482 Citizens Property Insurance Corporation.

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

485 2. It is the intent of the Legislature to create options
486 for insurers to purchase a temporary increased coverage limit
487 above the statutorily determined limit in subparagraph (4)(c)1.,
488 applicable for the 2007, 2008, ~~and~~ 2009, 2010, 2011, 2012, and
489 2013 hurricane seasons, to address market disruptions and enable
490 insurers, at their option, to procure additional coverage from
491 the Florida Hurricane Catastrophe Fund.

492 (b) *Applicability of other provisions of this section.*—All
493 provisions of this section and the rules adopted under this

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494 section apply to the coverage created by this subsection unless
495 specifically superseded by provisions in this subsection.

496 (c) *Optional coverage.*—For the contract year commencing
497 June 1, 2007, and ending May 31, 2008, the contract year
498 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the
499 contract year commencing June 1, 2009, and ending May 31, 2010,
500 the contract year commencing June 1, 2010, and ending December
501 31, 2010, the contract year commencing January 1, 2011, and
502 ending December 31, 2011, the contract year commencing January
503 1, 2012, and ending December 31, 2012, and the contract year
504 commencing January 1, 2013, and ending December 31, 2013, the
505 board shall offer, for each of such years, the optional coverage
506 as provided in this subsection.

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

509 1. "FHCF" means Florida Hurricane Catastrophe Fund.
510 2. "FHCF reimbursement premium" means the premium paid by
511 an insurer for its coverage as a mandatory participant in the
512 FHCF, but does not include additional premiums for optional
513 coverages.

514 3. "Payout multiple" means the number or multiple created
515 by dividing the statutorily defined claims-paying capacity as
516 determined in subparagraph (4)(c)1. by the aggregate
517 reimbursement premiums paid by all insurers estimated or
518 projected as of calendar year-end.

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

520 5. "TICL options" means the temporary increase in coverage
521 options created under this subsection.

522 6. "TICL insurer" means an insurer that has opted to obtain

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523 coverage under the TICL options addendum in addition to the
524 coverage provided to the insurer under its FHCF reimbursement
525 contract.

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

528 8. "TICL coverage multiple" means the coverage multiple
529 when multiplied by an insurer's reimbursement premium that
530 defines the temporary increase in coverage limit.

531 9. "TICL coverage" means the coverage for an insurer's
532 losses above the insurer's statutorily determined claims-paying
533 capacity based on the claims-paying limit in subparagraph
534 (4)(c)1., which an insurer selects as its temporary increase in
535 coverage from the fund under the TICL options selected. A TICL
536 insurer's increased coverage limit options shall be calculated
537 as follows:

538 a. The board shall calculate and report to each TICL
539 insurer the TICL coverage multiples based on 12 options for
540 increasing the insurer's FHCF coverage limit. Each TICL coverage
541 multiple shall be calculated by dividing \$1 billion, \$2 billion,
542 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
543 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by
544 the total estimated aggregate FHCF reimbursement premiums for
545 the 2007-2008 contract year, and the 2008-2009 contract year,
546 ~~and the 2009-2010 contract year.~~

547 b. For the 2009-2010 contract year, the board shall
548 calculate and report to each TICL insurer the TICL coverage
549 multiples based on 10 options for increasing the insurer's FHCF
550 coverage limit. Each TICL coverage multiple shall be calculated
551 by dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5

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552 billion, \$6 billion, \$7 billion, \$8 billion, \$9 billion, and \$10
553 billion by the total estimated aggregate FHCF reimbursement
554 premiums for the 2009-2010 contract year.

555 c. For the contract year beginning June 1, 2010, and ending
556 December 31, 2010, the board shall calculate and report to each
557 TICL insurer the TICL coverage multiples based on eight options
558 for increasing the insurer's FHCF coverage limit. Each TICL
559 coverage multiple shall be calculated by dividing \$1 billion, \$2
560 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7
561 billion, and \$8 billion by the total estimated aggregate FHCF
562 reimbursement premiums for the contract year.

563 d. For the 2011 contract year, the board shall calculate
564 and report to each TICL insurer the TICL coverage multiples
565 based on six options for increasing the insurer's FHCF coverage
566 limit. Each TICL coverage multiple shall be calculated by
567 dividing \$1 billion, \$2 billion, \$3 billion, \$4 billion, \$5
568 billion, and \$6 billion by the total estimated aggregate FHCF
569 reimbursement premiums for the 2011 contract year.

570 e. For the 2012 contract year, the board shall calculate
571 and report to each TICL insurer the TICL coverage multiples
572 based on four options for increasing the insurer's FHCF coverage
573 limit. Each TICL coverage multiple shall be calculated by
574 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by
575 the total estimated aggregate FHCF reimbursement premiums for
576 the 2012 contract year.

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

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581 dividing \$1 billion and \$2 billion by the total estimated
582 aggregate FHCF reimbursement premiums for the 2013 contract
583 year.

584 ~~g.b.~~ The TICL insurer's increased coverage shall be the
585 FHCF reimbursement premium multiplied by the TICL coverage
586 multiple. In order to determine an insurer's total limit of
587 coverage, an insurer shall add its TICL coverage multiple to its
588 payout multiple. The total shall represent a number that, when
589 multiplied by an insurer's FHCF reimbursement premium for a
590 given reimbursement contract year, defines an insurer's total
591 limit of FHCF reimbursement coverage for that reimbursement
592 contract year.

593 10. "TICL options addendum" means an addendum to the
594 reimbursement contract reflecting the obligations of the fund
595 and insurers selecting an option to increase an insurer's FHCF
596 coverage limit.

597 (e) *TICL options addendum.*—

598 1. The TICL options addendum shall provide for
599 reimbursement of TICL insurers for covered events occurring
600 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,
601 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,
602 2010, between June 1, 2010, and December 31, 2010, between
603 January 1, 2011, and December 31, 2011, between January 1, 2012,
604 and December 31, 2012, or between January 1, 2013, and December
605 31, 2013, in exchange for the TICL reimbursement premium paid
606 into the fund under paragraph (f). Any insurer writing covered
607 policies has the option of selecting an increased limit of
608 coverage under the TICL options addendum and shall select such
609 coverage at the time that it executes the FHCF reimbursement

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610 contract.

611 2. The TICL addendum shall contain a promise by the board
612 to reimburse the TICL insurer for 45 percent, 75 percent, or 90
613 percent of its losses from each covered event in excess of the
614 insurer's retention, plus 5 percent of the reimbursed losses to
615 cover loss adjustment expenses. The percentage shall be the same
616 as the coverage level selected by the insurer under paragraph
617 (4) (b).

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

621 4. The priorities, schedule, and method of reimbursements
622 under the TICL addendum shall be the same as provided under
623 subsection (4).

624 (f) *TICL reimbursement premiums.*—Each TICL insurer shall
625 pay to the fund, in the manner and at the time provided in the
626 reimbursement contract for payment of reimbursement premiums, a
627 TICL reimbursement premium determined as specified in subsection
628 (5), except that a cash build-up factor does not apply to the
629 TICL reimbursement premiums. However, the TICL reimbursement
630 premium shall be increased in contract year 2009-2010 by a
631 factor of two, in the contract year beginning June 1, 2010, and
632 ending December 31, 2010, by a factor of three, in the 2011
633 contract year by a factor of four, in the 2012 contract year by
634 a factor of five, and in the 2013 contract year by a factor of
635 six.

636 (g) *Effect on claims-paying capacity of the fund.*—For the
637 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June
638 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and

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639 January 1, 2013, the program created by this subsection shall
640 increase the claims-paying capacity of the fund as provided in
641 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and
642 shall depend on the TICL coverage options selected and the
643 number of insurers that select the TICL optional coverage. The
644 additional capacity shall apply only to the additional coverage
645 provided under the TICL options and shall not otherwise affect
646 any insurer's reimbursement from the fund if the insurer chooses
647 not to select the temporary option to increase its limit of
648 coverage under the FHCF.

649 ~~(h) Increasing the claims-paying capacity of the fund. For~~
650 ~~the contract years commencing June 1, 2007, June 1, 2008, and~~
651 ~~June 1, 2009, the board may increase the claims-paying capacity~~
652 ~~of the fund as provided in paragraph (g) by an amount not to~~
653 ~~exceed \$4 billion in four \$1 billion options and shall depend on~~
654 ~~the TICL coverage options selected and the number of insurers~~
655 ~~that select the TICL optional coverage. Each insurer's TICL~~
656 ~~premium shall be calculated based upon the additional limit of~~
657 ~~increased coverage that the insurer selects. Such limit is~~
658 ~~determined by multiplying the TICL multiple associated with one~~
659 ~~of the four options times the insurer's FHCF reimbursement~~
660 ~~premium. The reimbursement premium associated with the~~
661 ~~additional coverage provided in this paragraph shall be~~
662 ~~determined as specified in subsection (5).~~

663 Section 2. Section 215.5586, Florida Statutes, as amended
664 by section 1 of chapter 2009-10, Laws of Florida, is amended to
665 read:

666 215.5586 My Safe Florida Home Program.—There is established
667 within the Department of Financial Services the My Safe Florida

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668 Home Program. The department shall provide fiscal
669 accountability, contract management, and strategic leadership
670 for the program, consistent with this section. This section does
671 not create an entitlement for property owners or obligate the
672 state in any way to fund the inspection or retrofitting of
673 residential property in this state. Implementation of this
674 program is subject to annual legislative appropriations. It is
675 the intent of the Legislature that the My Safe Florida Home
676 Program provide trained and certified inspectors to perform
677 inspections for owners of ~~for at least 400,000~~ site-built,
678 single-family, residential properties and ~~provide~~ grants to
679 eligible at least 35,000 applicants as funding allows ~~before~~
680 ~~June 30, 2009~~. The program shall develop and implement a
681 comprehensive and coordinated approach for hurricane damage
682 mitigation that may ~~shall~~ include the following:

683 (1) HURRICANE MITIGATION INSPECTIONS.

684 (a) Certified inspectors to provide ~~free~~ home-retrofit
685 inspections of site-built, single-family, residential property
686 may ~~shall~~ be offered ~~throughout the state~~ to determine what
687 mitigation measures are needed, what insurance premium discounts
688 may be available, and what improvements to existing residential
689 properties are needed to reduce the property's vulnerability to
690 hurricane damage. The Department of Financial Services shall
691 contract with wind certification entities to provide ~~free~~
692 hurricane mitigation inspections. The inspections provided to
693 homeowners, at a minimum, must include:

694 1. A home inspection and report that summarizes the results
695 and identifies recommended improvements a homeowner may take to
696 mitigate hurricane damage.

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697 2. A range of cost estimates regarding the recommended
698 mitigation improvements.

699 3. Insurer-specific information regarding premium discounts
700 correlated to the current mitigation features and the
701 recommended mitigation improvements identified by the
702 inspection.

703 4. A hurricane resistance rating scale specifying the
704 home's current as well as projected wind resistance
705 capabilities. As soon as practical, the rating scale must be the
706 uniform home grading scale adopted by the Financial Services
707 Commission pursuant to s. 215.55865.

708 (b) To qualify for selection by the department as a wind
709 certification entity to provide hurricane mitigation
710 inspections, the entity shall, at a minimum, meet the following
711 requirements:

712 1. Use hurricane mitigation inspectors who:

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

714 b. Are licensed as a general or residential contractor
715 under s. 489.111;

716 c. Are licensed as a professional engineer under s. 471.015
717 and who have passed the appropriate equivalency test of the
718 Building Code Training Program as required by s. 553.841;

719 d. Are licensed as a professional architect under s.
720 481.213; or

721 e. Have at least 2 years of experience in residential
722 construction or residential building inspection and have
723 received specialized training in hurricane mitigation
724 procedures. Such training may be provided by a class offered
725 online or in person.

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- 726 2. Use hurricane mitigation inspectors who also:
727 a. Have undergone drug testing and level 2 background
728 checks pursuant to s. 435.04. The department may conduct
729 criminal record checks of inspectors used by wind certification
730 entities. Inspectors must submit a set of the fingerprints to
731 the department for state and national criminal history checks
732 and must pay the fingerprint processing fee set forth in s.
733 624.501. The fingerprints shall be sent by the department to the
734 Department of Law Enforcement and forwarded to the Federal
735 Bureau of Investigation for processing. The results shall be
736 returned to the department for screening. The fingerprints shall
737 be taken by a law enforcement agency, designated examination
738 center, or other department-approved entity; and
739 b. Have been certified, in a manner satisfactory to the
740 department, to conduct the inspections.
- 741 3. Provide a quality assurance program including a
742 reinspection component.
- 743 (c) The department shall implement a quality assurance
744 program that includes a statistically valid number of
745 reinspections.
- 746 (d) An application for an inspection must contain a signed
747 or electronically verified statement made under penalty of
748 perjury that the applicant has submitted only a single
749 application for that home.
- 750 (e) The owner of a site-built, single-family, residential
751 property may apply for and receive an inspection without also
752 applying for a grant pursuant to subsection (2) and without
753 meeting the requirements of paragraph (2)(a).
- 754 (2) MITIGATION GRANTS.—Financial grants shall be used to

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755 encourage single-family, site-built, owner-occupied, residential
756 property owners to retrofit their properties to make them less
757 vulnerable to hurricane damage.

758 (a) For a homeowner to be eligible for a grant, the
759 following criteria ~~for persons who have obtained a completed~~
760 ~~inspection after May 1, 2007, a residential property must be~~ be
761 met:

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

764 2. The home must be a dwelling with an insured value of
765 \$300,000 or less. Homeowners who are low-income persons, as
766 defined in s. 420.0004(10), are exempt from this requirement.

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

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

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

775
776 An application for a grant must contain a signed or
777 electronically verified statement made under penalty of perjury
778 that the applicant has submitted only a single application and
779 must have attached documents demonstrating the applicant meets
780 the requirements of this paragraph.

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

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784 \$5,000.

785 (c) The program shall create a process in which contractors
786 agree to participate and homeowners select from a list of
787 participating contractors. All mitigation must be based upon the
788 securing of all required local permits and inspections and must
789 be performed by properly licensed contractors. Mitigation
790 projects are subject to random reinspection of up to at least 5
791 percent of all projects. Hurricane mitigation inspectors
792 qualifying for the program may also participate as mitigation
793 contractors as long as the inspectors meet the department's
794 qualifications and certification requirements for mitigation
795 contractors.

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

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

- 805 1. Opening protection.
806 2. Exterior doors, including garage doors.
807 3. Brace gable ends.
808 4. Reinforcing roof-to-wall connections.
809 5. Improving the strength of roof-deck attachments.
810 6. Upgrading roof covering from code to code plus.
811 7. Secondary water barrier for roof.
812

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813 The department may require that improvements be made to all
814 openings, including exterior doors and garage doors, as a
815 condition of reimbursing a homeowner approved for a grant. The
816 department may adopt, by rule, the maximum grant allowances for
817 any improvement allowable under this paragraph.

818 (f) Grants may be used on a previously inspected existing
819 structure or on a rebuild. A rebuild is defined as a site-built,
820 single-family dwelling under construction to replace a home that
821 was destroyed or significantly damaged by a hurricane and deemed
822 unlivable by a regulatory authority. The homeowner must be a
823 low-income homeowner as defined in paragraph (g), must have had
824 a homestead exemption for that home prior to the hurricane, and
825 must be intending to rebuild the home as that homeowner's
826 homestead.

827 (g) Low-income homeowners, as defined in s. 420.0004(10),
828 who otherwise meet the requirements of paragraphs (a), (c), (e),
829 and (f) are eligible for a grant of up to \$5,000 and are not
830 required to provide a matching amount to receive the grant.
831 Additionally, for low-income homeowners, grant funding may be
832 used for repair to existing structures leading to any of the
833 mitigation improvements provided in paragraph (e), limited to 20
834 percent of the grant value. The program may accept a
835 certification directly from a low-income homeowner that the
836 homeowner meets the requirements of s. 420.0004(10) if the
837 homeowner provides such certification in a signed or
838 electronically verified statement made under penalty of perjury.

839 (h) The department shall establish objective, reasonable
840 criteria for prioritizing grant applications, consistent with
841 the requirements of this section.

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842 (i) The department shall develop a process that ensures the
843 most efficient means to collect and verify grant applications to
844 determine eligibility and may direct hurricane mitigation
845 inspectors to collect and verify grant application information
846 or use the Internet or other electronic means to collect
847 information and determine eligibility.

848 (3) EDUCATION AND CONSUMER AWARENESS.—The department may
849 undertake a statewide multimedia public outreach and advertising
850 campaign to inform consumers of the availability and benefits of
851 hurricane inspections and of the safety and financial benefits
852 of residential hurricane damage mitigation. The department may
853 seek out and use local, state, federal, and private funds to
854 support the campaign.

855 (4) ADVISORY COUNCIL.—There is created an advisory council
856 to provide advice and assistance to the department regarding
857 administration of the program. The advisory council shall
858 consist of:

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

862 (b) A representative of residential property insurers,
863 selected by the Financial Services Commission from a list of at
864 least three persons recommended by the Florida Insurance
865 Council.

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

869 (d) A faculty member of a state university, selected by the
870 Financial Services Commission, who is an expert in hurricane-

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871 resistant construction methodologies and materials.

872 (e) Two members of the House of Representatives, selected
873 by the Speaker of the House of Representatives.

874 (f) Two members of the Senate, selected by the President of
875 the Senate.

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

878 (h) The senior officer of the Florida Hurricane Catastrophe
879 Fund.

880 (i) The executive director of Citizens Property Insurance
881 Corporation.

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

884

885 Members appointed under paragraphs (a)-(d) shall serve at the
886 pleasure of the Financial Services Commission. Members appointed
887 under paragraphs (e) and (f) shall serve at the pleasure of the
888 appointing officer. All other members shall serve as voting ex
889 officio members. Members of the advisory council shall serve
890 without compensation but may receive reimbursement as provided
891 in s. 112.061 for per diem and travel expenses incurred in the
892 performance of their official duties.

893 (5) FUNDING.—The department may seek out and leverage
894 local, state, federal, or private funds to enhance the financial
895 resources of the program.

896 (6) RULES.—The Department of Financial Services shall adopt
897 rules pursuant to ss. 120.536(1) and 120.54 to govern the
898 program; implement the provisions of this section; including
899 rules governing hurricane mitigation inspections and grants,

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900 mitigation contractors, and training of inspectors and
901 contractors; and carry out the duties of the department under
902 this section.

903 (7) HURRICANE MITIGATION INSPECTOR LIST.—The department
904 shall develop and maintain as a public record a current list of
905 hurricane mitigation inspectors authorized to conduct hurricane
906 mitigation inspections pursuant to this section.

907 ~~(8) NO-INTEREST LOANS.—The department shall implement a no-~~
908 ~~interest loan program by October 1, 2008, contingent upon the~~
909 ~~selection of a qualified vendor and execution of a contract~~
910 ~~acceptable to the department and the vendor. The department~~
911 ~~shall enter into partnerships with the private sector to provide~~
912 ~~loans to owners of site-built, single-family, residential~~
913 ~~property to pay for mitigation measures listed in subsection~~
914 ~~(2). A loan eligible for interest payments pursuant to this~~
915 ~~subsection may be for a term of up to 3 years and cover up to~~
916 ~~\$5,000 in mitigation measures. The department shall pay the~~
917 ~~creditor the market rate of interest using funds appropriated~~
918 ~~for the My Safe Florida Home Program. In no case shall the~~
919 ~~department pay more than the interest rate set by s. 687.03. To~~
920 ~~be eligible for a loan, a loan applicant must first obtain a~~
921 ~~home inspection and report that specifies what improvements are~~
922 ~~needed to reduce the property's vulnerability to windstorm~~
923 ~~damage pursuant to this section and meet loan underwriting~~
924 ~~requirements set by the lender. The department may adopt rules~~
925 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~
926 ~~subsection which may include eligibility criteria.~~

927 (8)-(9) PUBLIC OUTREACH FOR CONTRACTORS AND REAL ESTATE
928 BROKERS AND SALES ASSOCIATES.—The program shall develop

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929 brochures for distribution to general contractors, roofing
930 contractors, and real estate brokers and sales associates
931 licensed under part I of chapter 475 explaining the benefits to
932 homeowners of residential hurricane damage mitigation. The
933 program shall encourage contractors to distribute the brochures
934 to homeowners at the first meeting with a homeowner who is
935 considering contracting for home or roof repairs or contracting
936 for the construction of a new home. The program shall encourage
937 real estate brokers and sales associates licensed under part I
938 of chapter 475 to distribute the brochures to clients prior to
939 the purchase of a home. The brochures may be made available
940 electronically.

941 (9)~~(10)~~ CONTRACT MANAGEMENT.—The department may contract
942 with third parties for grants management, inspection services,
943 contractor services for low-income homeowners, information
944 technology, educational outreach, and auditing services. Such
945 contracts shall be considered direct costs of the program and
946 shall not be subject to administrative cost limits, but
947 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject
948 to review and approval by the Legislative Budget Commission. The
949 department shall contract with providers that have a
950 demonstrated record of successful business operations in areas
951 directly related to the services to be provided and shall ensure
952 the highest accountability for use of state funds, consistent
953 with this section.

954 (10)~~(11)~~ INTENT.—It is the intent of the Legislature that
955 grants made to residential property owners under this section
956 shall be considered disaster-relief assistance within the
957 meaning of s. 139 of the Internal Revenue Code of 1986, as

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958 amended.

959 (11)~~(12)~~ REPORTS.—The department shall make an annual
960 report on the activities of the program that shall account for
961 the use of state funds and indicate the number of inspections
962 requested, the number of inspections performed, the number of
963 grant applications received, and the number and value of grants
964 approved. The report shall be delivered to the President of the
965 Senate and the Speaker of the House of Representatives by
966 February 1 of each year.

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

969 627.062 Rate standards.—

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

971 (a) Insurers or rating organizations shall establish and
972 use rates, rating schedules, or rating manuals to allow the
973 insurer a reasonable rate of return on such classes of insurance
974 written in this state. A copy of rates, rating schedules, rating
975 manuals, premium credits or discount schedules, and surcharge
976 schedules, and changes thereto, shall be filed with the office
977 under one of the following procedures except as provided in
978 subparagraph 3.:

979 1. If the filing is made at least 90 days before the
980 proposed effective date and the filing is not implemented during
981 the office's review of the filing and any proceeding and
982 judicial review, then such filing shall be considered a "file
983 and use" filing. In such case, the office shall finalize its
984 review by issuance of a notice of intent to approve or a notice
985 of intent to disapprove within 90 days after receipt of the
986 filing. The notice of intent to approve and the notice of intent

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987 to disapprove constitute agency action for purposes of the
988 Administrative Procedure Act. Requests for supporting
989 information, requests for mathematical or mechanical
990 corrections, or notification to the insurer by the office of its
991 preliminary findings shall not toll the 90-day period during any
992 such proceedings and subsequent judicial review. The rate shall
993 be deemed approved if the office does not issue a notice of
994 intent to approve or a notice of intent to disapprove within 90
995 days after receipt of the filing.

996 2. If the filing is not made in accordance with the
997 provisions of subparagraph 1., such filing shall be made as soon
998 as practicable, but no later than 30 days after the effective
999 date, and shall be considered a "use and file" filing. An
1000 insurer making a "use and file" filing is potentially subject to
1001 an order by the office to return to policyholders portions of
1002 rates found to be excessive, as provided in paragraph (h).

1003 3. For all property insurance filings made or submitted
1004 before December 31, 2010 ~~after January 25, 2007, but before~~
1005 ~~December 31, 2009~~, an insurer seeking a rate that is greater
1006 than the rate most recently approved by the office shall make a
1007 "file and use" filing. For purposes of this subparagraph, motor
1008 vehicle collision and comprehensive coverages are not considered
1009 to be property coverages.

1010 (b) Upon receiving a rate filing, the office shall review
1011 the rate filing to determine if a rate is excessive, inadequate,
1012 or unfairly discriminatory, except as provided in paragraph (k).
1013 In making that determination, the office shall, in accordance
1014 with generally accepted and reasonable actuarial techniques,
1015 consider the following factors:

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- 1016 1. Past and prospective loss experience within and without
1017 this state.
- 1018 2. Past and prospective expenses.
- 1019 3. The degree of competition among insurers for the risk
1020 insured.
- 1021 4. Investment income reasonably expected by the insurer,
1022 consistent with the insurer's investment practices, from
1023 investable premiums anticipated in the filing, plus any other
1024 expected income from currently invested assets representing the
1025 amount expected on unearned premium reserves and loss reserves.
1026 The commission may adopt rules using reasonable techniques of
1027 actuarial science and economics to specify the manner in which
1028 insurers shall calculate investment income attributable to such
1029 classes of insurance written in this state and the manner in
1030 which such investment income shall be used to calculate
1031 insurance rates. Such manner shall contemplate allowances for an
1032 underwriting profit factor and full consideration of investment
1033 income which produce a reasonable rate of return; however,
1034 investment income from invested surplus may not be considered.
- 1035 5. The reasonableness of the judgment reflected in the
1036 filing.
- 1037 6. Dividends, savings, or unabsorbed premium deposits
1038 allowed or returned to Florida policyholders, members, or
1039 subscribers.
- 1040 7. The adequacy of loss reserves.
- 1041 8. The cost of reinsurance. The office shall not disapprove
1042 a rate as excessive solely due to the insurer having obtained
1043 catastrophic reinsurance to cover the insurer's estimated 250-
1044 year probable maximum loss or any lower level of loss.

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1045 9. Trend factors, including trends in actual losses per
1046 insured unit for the insurer making the filing.

1047 10. Conflagration and catastrophe hazards, if applicable.

1048 11. Projected hurricane losses, if applicable, which must
1049 be estimated using a model or method found to be acceptable or
1050 reliable by the Florida Commission on Hurricane Loss Projection
1051 Methodology, and as further provided in s. 627.0628.

1052 12. A reasonable margin for underwriting profit and
1053 contingencies.

1054 13. The cost of medical services, if applicable.

1055 14. Other relevant factors which impact upon the frequency
1056 or severity of claims or upon expenses.

1057 (c) In the case of fire insurance rates, consideration
1058 shall be given to the availability of water supplies and the
1059 experience of the fire insurance business during a period of not
1060 less than the most recent 5-year period for which such
1061 experience is available.

1062 (d) If conflagration or catastrophe hazards are given
1063 consideration by an insurer in its rates or rating plan,
1064 including surcharges and discounts, the insurer shall establish
1065 a reserve for that portion of the premium allocated to such
1066 hazard and shall maintain the premium in a catastrophe reserve.
1067 Any removal of such premiums from the reserve for purposes other
1068 than paying claims associated with a catastrophe or purchasing
1069 reinsurance for catastrophes shall be subject to approval of the
1070 office. Any ceding commission received by an insurer purchasing
1071 reinsurance for catastrophes shall be placed in the catastrophe
1072 reserve.

1073 (e) After consideration of the rate factors provided in

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1074 paragraphs (b), (c), and (d), a rate may be found by the office
1075 to be excessive, inadequate, or unfairly discriminatory based
1076 upon the following standards:

1077 1. Rates shall be deemed excessive if they are likely to
1078 produce a profit from Florida business that is unreasonably high
1079 in relation to the risk involved in the class of business or if
1080 expenses are unreasonably high in relation to services rendered.

1081 2. Rates shall be deemed excessive if, among other things,
1082 the rate structure established by a stock insurance company
1083 provides for replenishment of surpluses from premiums, when the
1084 replenishment is attributable to investment losses.

1085 3. Rates shall be deemed inadequate if they are clearly
1086 insufficient, together with the investment income attributable
1087 to them, to sustain projected losses and expenses in the class
1088 of business to which they apply.

1089 4. A rating plan, including discounts, credits, or
1090 surcharges, shall be deemed unfairly discriminatory if it fails
1091 to clearly and equitably reflect consideration of the
1092 policyholder's participation in a risk management program
1093 adopted pursuant to s. 627.0625.

1094 5. A rate shall be deemed inadequate as to the premium
1095 charged to a risk or group of risks if discounts or credits are
1096 allowed which exceed a reasonable reflection of expense savings
1097 and reasonably expected loss experience from the risk or group
1098 of risks.

1099 6. A rate shall be deemed unfairly discriminatory as to a
1100 risk or group of risks if the application of premium discounts,
1101 credits, or surcharges among such risks does not bear a
1102 reasonable relationship to the expected loss and expense

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1103 experience among the various risks.

1104 (f) In reviewing a rate filing, the office may require the
1105 insurer to provide at the insurer's expense all information
1106 necessary to evaluate the condition of the company and the
1107 reasonableness of the filing according to the criteria
1108 enumerated in this section.

1109 (g) The office may at any time review a rate, rating
1110 schedule, rating manual, or rate change; the pertinent records
1111 of the insurer; and market conditions. If the office finds on a
1112 preliminary basis that a rate may be excessive, inadequate, or
1113 unfairly discriminatory, the office shall initiate proceedings
1114 to disapprove the rate and shall so notify the insurer. However,
1115 the office may not disapprove as excessive any rate for which it
1116 has given final approval or which has been deemed approved for a
1117 period of 1 year after the effective date of the filing unless
1118 the office finds that a material misrepresentation or material
1119 error was made by the insurer or was contained in the filing.
1120 Upon being so notified, the insurer or rating organization
1121 shall, within 60 days, file with the office all information
1122 which, in the belief of the insurer or organization, proves the
1123 reasonableness, adequacy, and fairness of the rate or rate
1124 change. The office shall issue a notice of intent to approve or
1125 a notice of intent to disapprove pursuant to the procedures of
1126 paragraph (a) within 90 days after receipt of the insurer's
1127 initial response. In such instances and in any administrative
1128 proceeding relating to the legality of the rate, the insurer or
1129 rating organization shall carry the burden of proof by a
1130 preponderance of the evidence to show that the rate is not
1131 excessive, inadequate, or unfairly discriminatory. After the

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1132 office notifies an insurer that a rate may be excessive,
1133 inadequate, or unfairly discriminatory, unless the office
1134 withdraws the notification, the insurer shall not alter the rate
1135 except to conform with the office's notice until the earlier of
1136 120 days after the date the notification was provided or 180
1137 days after the date of the implementation of the rate. The
1138 office may, subject to chapter 120, disapprove without the 60-
1139 day notification any rate increase filed by an insurer within
1140 the prohibited time period or during the time that the legality
1141 of the increased rate is being contested.

1142 (h) In the event the office finds that a rate or rate
1143 change is excessive, inadequate, or unfairly discriminatory, the
1144 office shall issue an order of disapproval specifying that a new
1145 rate or rate schedule which responds to the findings of the
1146 office be filed by the insurer. The office shall further order,
1147 for any "use and file" filing made in accordance with
1148 subparagraph (a)2., that premiums charged each policyholder
1149 constituting the portion of the rate above that which was
1150 actuarially justified be returned to such policyholder in the
1151 form of a credit or refund. If the office finds that an
1152 insurer's rate or rate change is inadequate, the new rate or
1153 rate schedule filed with the office in response to such a
1154 finding shall be applicable only to new or renewal business of
1155 the insurer written on or after the effective date of the
1156 responsive filing.

1157 (i) Except as otherwise specifically provided in this
1158 chapter, the office shall not prohibit any insurer, including
1159 any residual market plan or joint underwriting association, from
1160 paying acquisition costs based on the full amount of premium, as

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1161 defined in s. 627.403, applicable to any policy, or prohibit any
1162 such insurer from including the full amount of acquisition costs
1163 in a rate filing.

1164 (j) With respect to residential property insurance rate
1165 filings, the rate filing must account for mitigation measures
1166 undertaken by policyholders to reduce hurricane losses.

1167 (k) Notwithstanding any other provision of this section:

1168 1. A rate filing for residential property insurance
1169 relating to rate changes, rating factors, territories,
1170 classification, discounts, credits, or similar matters with
1171 respect to any policy form, including endorsements issued with
1172 the form, is exempt from a determination by the office that the
1173 rate is excessive or unfairly discriminatory under s. 627.062
1174 if:

1175 a. All changes specified in the filing do not result in an
1176 increase from the insurer's rates then in effect of more than
1177 the rate increase authorized by s. 627.0629(5), plus the actual
1178 additional cost paid due to the application of s.
1179 215.555(17)(f), plus the actual additional cost paid due to the
1180 application by the Florida Hurricane Catastrophe Fund of a cash
1181 buildup factor pursuant to s. 215.555(5)(b); and

1182 b. All changes specified in the filing do not result in an
1183 overall premium increase of more than 10 percent statewide, and
1184 12 percent for an individual policyholder, for reasons related
1185 solely to the rate change.

1186 2. An insurer that submits a filing pursuant to this
1187 paragraph shall include a copy of the reinsurance contract,
1188 proof of the billing or payment for the contract, and the
1189 calculations upon which the rate change is based.

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1190 3. A rate filing is not exempt under subparagraph 1. if the
1191 filing exceeds the overall premium increases authorized under
1192 subparagraph 1. in any 12-month period. An insurer must proceed
1193 under other provisions of this section or other provisions of
1194 law if the insurer seeks to exceed the premium or rate
1195 limitations of subparagraph 1.

1196 4. This paragraph does not limit the authority of the
1197 office to disapprove a rate as inadequate or to disapprove a
1198 filing for the use of unfairly discriminatory rating factors
1199 pursuant to s. 626.9541. An insurer that elects to implement a
1200 rate change under this paragraph must file its rate filing with
1201 the office at least 40 days before the effective date of the
1202 rate change. The office shall have 30 days after the date that
1203 the rate filing is submitted to review the filing and determine
1204 if the rate is inadequate or uses unfairly discriminatory rating
1205 factors. Absent a finding by the office within the 30-day period
1206 that the rate is inadequate or that the insurer has used
1207 unfairly discriminatory rating factors, the filing is deemed
1208 approved. If the office finds during the 30-day period that the
1209 filing will result in inadequate premiums or otherwise endanger
1210 the insurer's solvency, the rate increase shall proceed pending
1211 additional action by the office to ensure the adequacy of the
1212 rate.

1213 5. This paragraph does not apply to rate filings for any
1214 insurance other than residential property insurance.

1215
1216 The provisions of this subsection do ~~shall~~ not apply to workers'
1217 compensation and employer's liability insurance and to motor
1218 vehicle insurance.

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1219 (5) With respect to a rate filing involving coverage of the
1220 type for which the insurer is required to pay a reimbursement
1221 premium to the Florida Hurricane Catastrophe Fund, the insurer
1222 may fully recoup in its property insurance premiums any
1223 reimbursement premiums paid to the Florida Hurricane Catastrophe
1224 Fund, together with reasonable costs of other reinsurance, but
1225 except as otherwise provided in this section, may not recoup
1226 reinsurance costs that duplicate coverage provided by the
1227 Florida Hurricane Catastrophe Fund. An insurer may not recoup
1228 more than 1 year of reimbursement premium at a time. Any under-
1229 recoupment from the prior year may be added to the following
1230 year's reimbursement premium and any over-recoupment shall be
1231 subtracted from the following year's reimbursement premium.

1232 Section 4. Section 627.0621, Florida Statutes, is amended
1233 to read:

1234 627.0621 Transparency in rate regulation.—

1235 (1) DEFINITIONS.—As used in this section, the term:

1236 (a) "Rate filing" means any original or amended rate
1237 residential property insurance filing.

1238 (b) "Recommendation" means any proposed, preliminary, or
1239 final recommendation from an office actuary reviewing a rate
1240 filing with respect to the issue of approval or disapproval of
1241 the rate filing or with respect to rate indications that the
1242 office would consider acceptable.

1243 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—

1244 With respect to any rate filing made on or after July 1, 2008,
1245 the office shall provide the following information on a publicly
1246 accessible Internet website:

1247 (a) The overall rate change requested by the insurer.

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1248 (b) All assumptions made by the office's actuaries.

1249 (c) A statement describing any assumptions or methods that
1250 deviate from the actuarial standards of practice of the Casualty
1251 Actuarial Society or the American Academy of Actuaries,
1252 including an explanation of the nature, rationale, and effect of
1253 the deviation.

1254 (d) All recommendations made by any office actuary who
1255 reviewed the rate filing.

1256 (e) Certification by the office's actuary that, based on
1257 the actuary's knowledge, his or her recommendations are
1258 consistent with accepted actuarial principles.

1259 (f) The overall rate change approved by the office.

1260 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT. It is the~~
1261 ~~intent of the Legislature that the principles of the public~~
1262 ~~records and open meetings laws apply to the assertion of~~
1263 ~~attorney-client privilege and work product confidentiality by~~
1264 ~~the office in connection with a challenge to its actions on a~~
1265 ~~rate filing. Therefore, in any administrative or judicial~~
1266 ~~proceeding relating to a rate filing, attorney-client privilege~~
1267 ~~and work product exemptions from disclosure do not apply to~~
1268 ~~communications with office attorneys or records prepared by or~~
1269 ~~at the direction of an office attorney, except when the~~
1270 ~~conditions of paragraphs (a) and (b) have been met:~~

1271 ~~(a) The communication or record reflects a mental~~
1272 ~~impression, conclusion, litigation strategy, or legal theory of~~
1273 ~~the attorney or office that was prepared exclusively for civil~~
1274 ~~or criminal litigation or adversarial administrative~~
1275 ~~proceedings.~~

1276 ~~(b) The communication occurred or the record was prepared~~

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1277 ~~after the initiation of an action in a court of competent~~
1278 ~~jurisdiction, after the issuance of a notice of intent to deny a~~
1279 ~~rate filing, or after the filing of a request for a proceeding~~
1280 ~~under ss. 120.569 and 120.57.~~

1281 Section 5. Subsection (5) of section 627.0629, Florida
1282 Statutes, is amended to read:

1283 627.0629 Residential property insurance; rate filings.—

1284 (5) In order to provide an appropriate transition period,
1285 an insurer may, in its sole discretion, implement an approved
1286 rate filing for residential property insurance over a period of
1287 years. An insurer electing to phase in its rate filing must
1288 provide an informational notice to the office setting out its
1289 schedule for implementation of the phased-in rate filing. An
1290 insurer may include in its rate the actual cost of reinsurance
1291 that duplicates available coverage of the Temporary Increase in
1292 Coverage Limits, TICL, from the Florida Hurricane Catastrophe
1293 Fund. The insurer may include the cost of reinsurance in its
1294 rate even if the insurer does not purchase the TICL layer.
1295 However, this cost for reinsurance may not include any expense
1296 or profit load or result in a total annual base rate increase in
1297 excess of 10 percent.

1298 Section 6. Paragraphs (a), (c), (m), and (x) of subsection
1299 (6) of section 627.351, Florida Statutes, are amended to read:

1300 627.351 Insurance risk apportionment plans.—

1301 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1302 (a)1. It is the public purpose of this subsection to ensure
1303 the existence of an orderly market for property insurance for
1304 Floridians and Florida businesses. The Legislature finds that
1305 private insurers are unwilling or unable to provide affordable

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1306 property insurance coverage in this state to the extent sought
1307 and needed. The absence of affordable property insurance
1308 threatens the public health, safety, and welfare and likewise
1309 threatens the economic health of the state. The state therefore
1310 has a compelling public interest and a public purpose to assist
1311 in assuring that property in the state is insured and that it is
1312 insured at affordable rates so as to facilitate the remediation,
1313 reconstruction, and replacement of damaged or destroyed property
1314 in order to reduce or avoid the negative effects otherwise
1315 resulting to the public health, safety, and welfare, to the
1316 economy of the state, and to the revenues of the state and local
1317 governments which are needed to provide for the public welfare.
1318 It is necessary, therefore, to provide affordable property
1319 insurance to applicants who are in good faith entitled to
1320 procure insurance through the voluntary market but are unable to
1321 do so. The Legislature intends by this subsection that
1322 affordable property insurance be provided and that it continue
1323 to be provided, as long as necessary, through Citizens Property
1324 Insurance Corporation, a government entity that is an integral
1325 part of the state, and that is not a private insurance company.
1326 To that end, Citizens Property Insurance Corporation shall
1327 strive to increase the availability of affordable property
1328 insurance in this state, while achieving efficiencies and
1329 economies, and while providing service to policyholders,
1330 applicants, and agents which is no less than the quality
1331 generally provided in the voluntary market, for the achievement
1332 of the foregoing public purposes. Because it is essential for
1333 this government entity to have the maximum financial resources
1334 to pay claims following a catastrophic hurricane, it is the

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1335 intent of the Legislature that Citizens Property Insurance
1336 Corporation continue to be an integral part of the state and
1337 that the income of the corporation be exempt from federal income
1338 taxation and that interest on the debt obligations issued by the
1339 corporation be exempt from federal income taxation.

1340 2. The Residential Property and Casualty Joint Underwriting
1341 Association originally created by this statute shall be known,
1342 as of July 1, 2002, as the Citizens Property Insurance
1343 Corporation. The corporation shall provide insurance for
1344 residential and commercial property, for applicants who are in
1345 good faith entitled, but are unable, to procure insurance
1346 through the voluntary market. The corporation shall operate
1347 pursuant to a plan of operation approved by order of the
1348 Financial Services Commission. The plan is subject to continuous
1349 review by the commission. The commission may, by order, withdraw
1350 approval of all or part of a plan if the commission determines
1351 that conditions have changed since approval was granted and that
1352 the purposes of the plan require changes in the plan. The
1353 corporation shall continue to operate pursuant to the plan of
1354 operation approved by the Office of Insurance Regulation until
1355 October 1, 2006. For the purposes of this subsection,
1356 residential coverage includes both personal lines residential
1357 coverage, which consists of the type of coverage provided by
1358 homeowner's, mobile home owner's, dwelling, tenant's,
1359 condominium unit owner's, and similar policies, and commercial
1360 lines residential coverage, which consists of the type of
1361 coverage provided by condominium association, apartment
1362 building, and similar policies.

1363 3. Effective January 1, 2009, a personal lines residential

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1364 structure that has a dwelling replacement cost of \$2 million or
1365 more, or a single condominium unit that has a combined dwelling
1366 and content replacement cost of \$2 million or more is not
1367 eligible for coverage by the corporation. Such dwellings insured
1368 by the corporation on December 31, 2008, may continue to be
1369 covered by the corporation until the end of the policy term.
1370 However, such dwellings that are insured by the corporation and
1371 become ineligible for coverage due to the provisions of this
1372 subparagraph may reapply and obtain coverage if the property
1373 owner provides the corporation with a sworn affidavit from one
1374 or more insurance agents, on a form provided by the corporation,
1375 stating that the agents have made their best efforts to obtain
1376 coverage and that the property has been rejected for coverage by
1377 at least one authorized insurer and at least three surplus lines
1378 insurers. If such conditions are met, the dwelling may be
1379 insured by the corporation for up to 3 years, after which time
1380 the dwelling is ineligible for coverage. The office shall
1381 approve the method used by the corporation for valuing the
1382 dwelling replacement cost for the purposes of this subparagraph.
1383 If a policyholder is insured by the corporation prior to being
1384 determined to be ineligible pursuant to this subparagraph and
1385 such policyholder files a lawsuit challenging the determination,
1386 the policyholder may remain insured by the corporation until the
1387 conclusion of the litigation.

1388 4. It is the intent of the Legislature that policyholders,
1389 applicants, and agents of the corporation receive service and
1390 treatment of the highest possible level but never less than that
1391 generally provided in the voluntary market. It also is intended
1392 that the corporation be held to service standards no less than

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1393 those applied to insurers in the voluntary market by the office
1394 with respect to responsiveness, timeliness, customer courtesy,
1395 and overall dealings with policyholders, applicants, or agents
1396 of the corporation.

1397 5. Effective January 1, 2009, a personal lines residential
1398 structure that is located in the "wind-borne debris region," as
1399 defined in s. 1609.2, International Building Code (2006), and
1400 that has an insured value on the structure of \$750,000 or more
1401 is not eligible for coverage by the corporation unless the
1402 structure has opening protections as required under the Florida
1403 Building Code for a newly constructed residential structure in
1404 that area. A residential structure shall be deemed to comply
1405 with the requirements of this subparagraph if it has shutters or
1406 opening protections on all openings and if such opening
1407 protections complied with the Florida Building Code at the time
1408 they were installed. ~~Effective January 1, 2010, for personal~~
1409 ~~lines residential property insured by the corporation that is~~
1410 ~~located in the wind-borne debris region and has an insured value~~
1411 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
1412 ~~any such residential property must be provided by the seller a~~
1413 ~~written disclosure that contains the structure's windstorm~~
1414 ~~mitigation rating based on the uniform home grading scale~~
1415 ~~adopted under s. 215.55865. Such rating shall be provided to the~~
1416 ~~purchaser at or before the time the purchaser executes a~~
1417 ~~contract for sale and purchase.~~

1418 (c) The plan of operation of the corporation:

1419 1. Must provide for adoption of residential property and
1420 casualty insurance policy forms and commercial residential and
1421 nonresidential property insurance forms, which forms must be

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1422 approved by the office prior to use. The corporation shall adopt
1423 the following policy forms:

1424 a. Standard personal lines policy forms that are
1425 comprehensive multiperil policies providing full coverage of a
1426 residential property equivalent to the coverage provided in the
1427 private insurance market under an HO-3, HO-4, or HO-6 policy.

1428 b. Basic personal lines policy forms that are policies
1429 similar to an HO-8 policy or a dwelling fire policy that provide
1430 coverage meeting the requirements of the secondary mortgage
1431 market, but which coverage is more limited than the coverage
1432 under a standard policy.

1433 c. Commercial lines residential and nonresidential policy
1434 forms that are generally similar to the basic perils of full
1435 coverage obtainable for commercial residential structures and
1436 commercial nonresidential structures in the admitted voluntary
1437 market.

1438 d. Personal lines and commercial lines residential property
1439 insurance forms that cover the peril of wind only. The forms are
1440 applicable only to residential properties located in areas
1441 eligible for coverage under the high-risk account referred to in
1442 sub-subparagraph (b)2.a.

1443 e. Commercial lines nonresidential property insurance forms
1444 that cover the peril of wind only. The forms are applicable only
1445 to nonresidential properties located in areas eligible for
1446 coverage under the high-risk account referred to in sub-
1447 subparagraph (b)2.a.

1448 f. The corporation may adopt variations of the policy forms
1449 listed in sub-subparagraphs a.-e. that contain more restrictive
1450 coverage.

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1451 2.a. Must provide that the corporation adopt a program in
1452 which the corporation and authorized insurers enter into quota
1453 share primary insurance agreements for hurricane coverage, as
1454 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1455 property insurance forms for eligible risks which cover the
1456 peril of wind only. As used in this subsection, the term:

1457 (I) "Quota share primary insurance" means an arrangement in
1458 which the primary hurricane coverage of an eligible risk is
1459 provided in specified percentages by the corporation and an
1460 authorized insurer. The corporation and authorized insurer are
1461 each solely responsible for a specified percentage of hurricane
1462 coverage of an eligible risk as set forth in a quota share
1463 primary insurance agreement between the corporation and an
1464 authorized insurer and the insurance contract. The
1465 responsibility of the corporation or authorized insurer to pay
1466 its specified percentage of hurricane losses of an eligible
1467 risk, as set forth in the quota share primary insurance
1468 agreement, may not be altered by the inability of the other
1469 party to the agreement to pay its specified percentage of
1470 hurricane losses. Eligible risks that are provided hurricane
1471 coverage through a quota share primary insurance arrangement
1472 must be provided policy forms that set forth the obligations of
1473 the corporation and authorized insurer under the arrangement,
1474 clearly specify the percentages of quota share primary insurance
1475 provided by the corporation and authorized insurer, and
1476 conspicuously and clearly state that neither the authorized
1477 insurer nor the corporation may be held responsible beyond its
1478 specified percentage of coverage of hurricane losses.

1479 (II) "Eligible risks" means personal lines residential and

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1480 commercial lines residential risks that meet the underwriting
1481 criteria of the corporation and are located in areas that were
1482 eligible for coverage by the Florida Windstorm Underwriting
1483 Association on January 1, 2002.

1484 b. The corporation may enter into quota share primary
1485 insurance agreements with authorized insurers at corporation
1486 coverage levels of 90 percent and 50 percent.

1487 c. If the corporation determines that additional coverage
1488 levels are necessary to maximize participation in quota share
1489 primary insurance agreements by authorized insurers, the
1490 corporation may establish additional coverage levels. However,
1491 the corporation's quota share primary insurance coverage level
1492 may not exceed 90 percent.

1493 d. Any quota share primary insurance agreement entered into
1494 between an authorized insurer and the corporation must provide
1495 for a uniform specified percentage of coverage of hurricane
1496 losses, by county or territory as set forth by the corporation
1497 board, for all eligible risks of the authorized insurer covered
1498 under the quota share primary insurance agreement.

1499 e. Any quota share primary insurance agreement entered into
1500 between an authorized insurer and the corporation is subject to
1501 review and approval by the office. However, such agreement shall
1502 be authorized only as to insurance contracts entered into
1503 between an authorized insurer and an insured who is already
1504 insured by the corporation for wind coverage.

1505 f. For all eligible risks covered under quota share primary
1506 insurance agreements, the exposure and coverage levels for both
1507 the corporation and authorized insurers shall be reported by the
1508 corporation to the Florida Hurricane Catastrophe Fund. For all

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1509 policies of eligible risks covered under quota share primary
1510 insurance agreements, the corporation and the authorized insurer
1511 shall maintain complete and accurate records for the purpose of
1512 exposure and loss reimbursement audits as required by Florida
1513 Hurricane Catastrophe Fund rules. The corporation and the
1514 authorized insurer shall each maintain duplicate copies of
1515 policy declaration pages and supporting claims documents.

1516 g. The corporation board shall establish in its plan of
1517 operation standards for quota share agreements which ensure that
1518 there is no discriminatory application among insurers as to the
1519 terms of quota share agreements, pricing of quota share
1520 agreements, incentive provisions if any, and consideration paid
1521 for servicing policies or adjusting claims.

1522 h. The quota share primary insurance agreement between the
1523 corporation and an authorized insurer must set forth the
1524 specific terms under which coverage is provided, including, but
1525 not limited to, the sale and servicing of policies issued under
1526 the agreement by the insurance agent of the authorized insurer
1527 producing the business, the reporting of information concerning
1528 eligible risks, the payment of premium to the corporation, and
1529 arrangements for the adjustment and payment of hurricane claims
1530 incurred on eligible risks by the claims adjuster and personnel
1531 of the authorized insurer. Entering into a quota sharing
1532 insurance agreement between the corporation and an authorized
1533 insurer shall be voluntary and at the discretion of the
1534 authorized insurer.

1535 3. May provide that the corporation may employ or otherwise
1536 contract with individuals or other entities to provide
1537 administrative or professional services that may be appropriate

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1538 to effectuate the plan. The corporation shall have the power to
1539 borrow funds, by issuing bonds or by incurring other
1540 indebtedness, and shall have other powers reasonably necessary
1541 to effectuate the requirements of this subsection, including,
1542 without limitation, the power to issue bonds and incur other
1543 indebtedness in order to refinance outstanding bonds or other
1544 indebtedness. The corporation may, but is not required to, seek
1545 judicial validation of its bonds or other indebtedness under
1546 chapter 75. The corporation may issue bonds or incur other
1547 indebtedness, or have bonds issued on its behalf by a unit of
1548 local government pursuant to subparagraph (p)2., in the absence
1549 of a hurricane or other weather-related event, upon a
1550 determination by the corporation, subject to approval by the
1551 office, that such action would enable it to efficiently meet the
1552 financial obligations of the corporation and that such
1553 financings are reasonably necessary to effectuate the
1554 requirements of this subsection. The corporation is authorized
1555 to take all actions needed to facilitate tax-free status for any
1556 such bonds or indebtedness, including formation of trusts or
1557 other affiliated entities. The corporation shall have the
1558 authority to pledge assessments, projected recoveries from the
1559 Florida Hurricane Catastrophe Fund, other reinsurance
1560 recoverables, market equalization and other surcharges, and
1561 other funds available to the corporation as security for bonds
1562 or other indebtedness. In recognition of s. 10, Art. I of the
1563 State Constitution, prohibiting the impairment of obligations of
1564 contracts, it is the intent of the Legislature that no action be
1565 taken whose purpose is to impair any bond indenture or financing
1566 agreement or any revenue source committed by contract to such

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1567 bond or other indebtedness.

1568 4.a. Must require that the corporation operate subject to
1569 the supervision and approval of a board of governors consisting
1570 of eight individuals who are residents of this state, from
1571 different geographical areas of this state. The Governor, the
1572 Chief Financial Officer, the President of the Senate, and the
1573 Speaker of the House of Representatives shall each appoint two
1574 members of the board. At least one of the two members appointed
1575 by each appointing officer must have demonstrated expertise in
1576 insurance. The Chief Financial Officer shall designate one of
1577 the appointees as chair. All board members serve at the pleasure
1578 of the appointing officer. All members of the board of governors
1579 are subject to removal at will by the officers who appointed
1580 them. All board members, including the chair, must be appointed
1581 to serve for 3-year terms beginning annually on a date
1582 designated by the plan. However, for the first term beginning on
1583 or after July 1, 2009, each appointing officer shall appoint one
1584 member of the board for a 2-year term and one member for a 3-
1585 year term. Any board vacancy shall be filled for the unexpired
1586 term by the appointing officer. The Chief Financial Officer
1587 shall appoint a technical advisory group to provide information
1588 and advice to the board of governors in connection with the
1589 board's duties under this subsection. The executive director and
1590 senior managers of the corporation shall be engaged by the board
1591 and serve at the pleasure of the board. Any executive director
1592 appointed on or after July 1, 2006, is subject to confirmation
1593 by the Senate. The executive director is responsible for
1594 employing other staff as the corporation may require, subject to
1595 review and concurrence by the board.

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1596 b. The board shall create a Market Accountability Advisory
1597 Committee to assist the corporation in developing awareness of
1598 its rates and its customer and agent service levels in
1599 relationship to the voluntary market insurers writing similar
1600 coverage. The members of the advisory committee shall consist of
1601 the following 11 persons, one of whom must be elected chair by
1602 the members of the committee: four representatives, one
1603 appointed by the Florida Association of Insurance Agents, one by
1604 the Florida Association of Insurance and Financial Advisors, one
1605 by the Professional Insurance Agents of Florida, and one by the
1606 Latin American Association of Insurance Agencies; three
1607 representatives appointed by the insurers with the three highest
1608 voluntary market share of residential property insurance
1609 business in the state; one representative from the Office of
1610 Insurance Regulation; one consumer appointed by the board who is
1611 insured by the corporation at the time of appointment to the
1612 committee; one representative appointed by the Florida
1613 Association of Realtors; and one representative appointed by the
1614 Florida Bankers Association. All members must serve for 3-year
1615 terms and may serve for consecutive terms. The committee shall
1616 report to the corporation at each board meeting on insurance
1617 market issues which may include rates and rate competition with
1618 the voluntary market; service, including policy issuance, claims
1619 processing, and general responsiveness to policyholders,
1620 applicants, and agents; and matters relating to depopulation.

1621 5. Must provide a procedure for determining the eligibility
1622 of a risk for coverage, as follows:

1623 a. Subject to the provisions of s. 627.3517, with respect
1624 to personal lines residential risks, if the risk is offered

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1625 coverage from an authorized insurer at the insurer's approved
1626 rate under either a standard policy including wind coverage or,
1627 if consistent with the insurer's underwriting rules as filed
1628 with the office, a basic policy including wind coverage, for a
1629 new application to the corporation for coverage, the risk is not
1630 eligible for any policy issued by the corporation unless the
1631 premium for coverage from the authorized insurer is more than 15
1632 percent greater than the premium for comparable coverage from
1633 the corporation. If the risk is not able to obtain any such
1634 offer, the risk is eligible for either a standard policy
1635 including wind coverage or a basic policy including wind
1636 coverage issued by the corporation; however, if the risk could
1637 not be insured under a standard policy including wind coverage
1638 regardless of market conditions, the risk shall be eligible for
1639 a basic policy including wind coverage unless rejected under
1640 subparagraph 8. However, with regard to a policyholder of the
1641 corporation or a policyholder removed from the corporation
1642 through an assumption agreement until the end of the assumption
1643 period, the policyholder remains eligible for coverage from the
1644 corporation regardless of any offer of coverage from an
1645 authorized insurer or surplus lines insurer. The corporation
1646 shall determine the type of policy to be provided on the basis
1647 of objective standards specified in the underwriting manual and
1648 based on generally accepted underwriting practices.

1649 (I) If the risk accepts an offer of coverage through the
1650 market assistance plan or an offer of coverage through a
1651 mechanism established by the corporation before a policy is
1652 issued to the risk by the corporation or during the first 30
1653 days of coverage by the corporation, and the producing agent who

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1654 submitted the application to the plan or to the corporation is
1655 not currently appointed by the insurer, the insurer shall:

1656 (A) Pay to the producing agent of record of the policy, for
1657 the first year, an amount that is the greater of the insurer's
1658 usual and customary commission for the type of policy written or
1659 a fee equal to the usual and customary commission of the
1660 corporation; or

1661 (B) Offer to allow the producing agent of record of the
1662 policy to continue servicing the policy for a period of not less
1663 than 1 year and offer to pay the agent the greater of the
1664 insurer's or the corporation's usual and customary commission
1665 for the type of policy written.

1666
1667 If the producing agent is unwilling or unable to accept
1668 appointment, the new insurer shall pay the agent in accordance
1669 with sub-sub-sub-subparagraph (A).

1670 (II) When the corporation enters into a contractual
1671 agreement for a take-out plan, the producing agent of record of
1672 the corporation policy is entitled to retain any unearned
1673 commission on the policy, and the insurer shall:

1674 (A) Pay to the producing agent of record of the corporation
1675 policy, for the first year, an amount that is the greater of the
1676 insurer's usual and customary commission for the type of policy
1677 written or a fee equal to the usual and customary commission of
1678 the corporation; or

1679 (B) Offer to allow the producing agent of record of the
1680 corporation policy to continue servicing the policy for a period
1681 of not less than 1 year and offer to pay the agent the greater
1682 of the insurer's or the corporation's usual and customary

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1683 commission for the type of policy written.

1684

1685 If the producing agent is unwilling or unable to accept
1686 appointment, the new insurer shall pay the agent in accordance
1687 with sub-sub-sub-subparagraph (A).

1688 b. With respect to commercial lines residential risks, for
1689 a new application to the corporation for coverage, if the risk
1690 is offered coverage under a policy including wind coverage from
1691 an authorized insurer at its approved rate, the risk is not
1692 eligible for any policy issued by the corporation unless the
1693 premium for coverage from the authorized insurer is more than 15
1694 percent greater than the premium for comparable coverage from
1695 the corporation. If the risk is not able to obtain any such
1696 offer, the risk is eligible for a policy including wind coverage
1697 issued by the corporation. However, with regard to a
1698 policyholder of the corporation or a policyholder removed from
1699 the corporation through an assumption agreement until the end of
1700 the assumption period, the policyholder remains eligible for
1701 coverage from the corporation regardless of any offer of
1702 coverage from an authorized insurer or surplus lines insurer.

1703 (I) If the risk accepts an offer of coverage through the
1704 market assistance plan or an offer of coverage through a
1705 mechanism established by the corporation before a policy is
1706 issued to the risk by the corporation or during the first 30
1707 days of coverage by the corporation, and the producing agent who
1708 submitted the application to the plan or the corporation is not
1709 currently appointed by the insurer, the insurer shall:

1710 (A) Pay to the producing agent of record of the policy, for
1711 the first year, an amount that is the greater of the insurer's

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1712 usual and customary commission for the type of policy written or
1713 a fee equal to the usual and customary commission of the
1714 corporation; or

1715 (B) Offer to allow the producing agent of record of the
1716 policy to continue servicing the policy for a period of not less
1717 than 1 year and offer to pay the agent the greater of the
1718 insurer's or the corporation's usual and customary commission
1719 for the type of policy written.

1720

1721 If the producing agent is unwilling or unable to accept
1722 appointment, the new insurer shall pay the agent in accordance
1723 with sub-sub-sub-subparagraph (A).

1724 (II) When the corporation enters into a contractual
1725 agreement for a take-out plan, the producing agent of record of
1726 the corporation policy is entitled to retain any unearned
1727 commission on the policy, and the insurer shall:

1728 (A) Pay to the producing agent of record of the corporation
1729 policy, for the first year, an amount that is the greater of the
1730 insurer's usual and customary commission for the type of policy
1731 written or a fee equal to the usual and customary commission of
1732 the corporation; or

1733 (B) Offer to allow the producing agent of record of the
1734 corporation policy to continue servicing the policy for a period
1735 of not less than 1 year and offer to pay the agent the greater
1736 of the insurer's or the corporation's usual and customary
1737 commission for the type of policy written.

1738

1739 If the producing agent is unwilling or unable to accept
1740 appointment, the new insurer shall pay the agent in accordance

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1741 with sub-sub-sub-subparagraph (A).

1742 c. For purposes of determining comparable coverage under
1743 sub-subparagraphs a. and b., the comparison shall be based on
1744 those forms and coverages that are reasonably comparable. The
1745 corporation may rely on a determination of comparable coverage
1746 and premium made by the producing agent who submits the
1747 application to the corporation, made in the agent's capacity as
1748 the corporation's agent. A comparison may be made solely of the
1749 premium with respect to the main building or structure only on
1750 the following basis: the same coverage A or other building
1751 limits; the same percentage hurricane deductible that applies on
1752 an annual basis or that applies to each hurricane for commercial
1753 residential property; the same percentage of ordinance and law
1754 coverage, if the same limit is offered by both the corporation
1755 and the authorized insurer; the same mitigation credits, to the
1756 extent the same types of credits are offered both by the
1757 corporation and the authorized insurer; the same method for loss
1758 payment, such as replacement cost or actual cash value, if the
1759 same method is offered both by the corporation and the
1760 authorized insurer in accordance with underwriting rules; and
1761 any other form or coverage that is reasonably comparable as
1762 determined by the board. If an application is submitted to the
1763 corporation for wind-only coverage in the high-risk account, the
1764 premium for the corporation's wind-only policy plus the premium
1765 for the ex-wind policy that is offered by an authorized insurer
1766 to the applicant shall be compared to the premium for multiperil
1767 coverage offered by an authorized insurer, subject to the
1768 standards for comparison specified in this subparagraph. If the
1769 corporation or the applicant requests from the authorized

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1770 insurer a breakdown of the premium of the offer by types of
1771 coverage so that a comparison may be made by the corporation or
1772 its agent and the authorized insurer refuses or is unable to
1773 provide such information, the corporation may treat the offer as
1774 not being an offer of coverage from an authorized insurer at the
1775 insurer's approved rate.

1776 6. Must include rules for classifications of risks and
1777 rates therefor.

1778 7. Must provide that if premium and investment income for
1779 an account attributable to a particular calendar year are in
1780 excess of projected losses and expenses for the account
1781 attributable to that year, such excess shall be held in surplus
1782 in the account. Such surplus shall be available to defray
1783 deficits in that account as to future years and shall be used
1784 for that purpose prior to assessing assessable insurers and
1785 assessable insureds as to any calendar year.

1786 8. Must provide objective criteria and procedures to be
1787 uniformly applied for all applicants in determining whether an
1788 individual risk is so hazardous as to be uninsurable. In making
1789 this determination and in establishing the criteria and
1790 procedures, the following shall be considered:

1791 a. Whether the likelihood of a loss for the individual risk
1792 is substantially higher than for other risks of the same class;
1793 and

1794 b. Whether the uncertainty associated with the individual
1795 risk is such that an appropriate premium cannot be determined.

1796

1797 The acceptance or rejection of a risk by the corporation shall
1798 be construed as the private placement of insurance, and the

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1799 provisions of chapter 120 shall not apply.

1800 9. Must provide that the corporation shall make its best
1801 efforts to procure catastrophe reinsurance at reasonable rates,
1802 to cover its projected 100-year probable maximum loss as
1803 determined by the board of governors.

1804 10. The policies issued by the corporation must provide
1805 that, if the corporation or the market assistance plan obtains
1806 an offer from an authorized insurer to cover the risk at its
1807 approved rates, the risk is no longer eligible for renewal
1808 through the corporation, except as otherwise provided in this
1809 subsection.

1810 11. Corporation policies and applications must include a
1811 notice that the corporation policy could, under this section, be
1812 replaced with a policy issued by an authorized insurer that does
1813 not provide coverage identical to the coverage provided by the
1814 corporation. The notice shall also specify that acceptance of
1815 corporation coverage creates a conclusive presumption that the
1816 applicant or policyholder is aware of this potential.

1817 12. May establish, subject to approval by the office,
1818 different eligibility requirements and operational procedures
1819 for any line or type of coverage for any specified county or
1820 area if the board determines that such changes to the
1821 eligibility requirements and operational procedures are
1822 justified due to the voluntary market being sufficiently stable
1823 and competitive in such area or for such line or type of
1824 coverage and that consumers who, in good faith, are unable to
1825 obtain insurance through the voluntary market through ordinary
1826 methods would continue to have access to coverage from the
1827 corporation. When coverage is sought in connection with a real

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1828 property transfer, such requirements and procedures shall not
1829 provide for an effective date of coverage later than the date of
1830 the closing of the transfer as established by the transferor,
1831 the transferee, and, if applicable, the lender.

1832 13. Must provide that, with respect to the high-risk
1833 account, any assessable insurer with a surplus as to
1834 policyholders of \$25 million or less writing 25 percent or more
1835 of its total countrywide property insurance premiums in this
1836 state may petition the office, within the first 90 days of each
1837 calendar year, to qualify as a limited apportionment company. A
1838 regular assessment levied by the corporation on a limited
1839 apportionment company for a deficit incurred by the corporation
1840 for the high-risk account in 2006 or thereafter may be paid to
1841 the corporation on a monthly basis as the assessments are
1842 collected by the limited apportionment company from its insureds
1843 pursuant to s. 627.3512, but the regular assessment must be paid
1844 in full within 12 months after being levied by the corporation.
1845 A limited apportionment company shall collect from its
1846 policyholders any emergency assessment imposed under sub-
1847 subparagraph (b)3.d. The plan shall provide that, if the office
1848 determines that any regular assessment will result in an
1849 impairment of the surplus of a limited apportionment company,
1850 the office may direct that all or part of such assessment be
1851 deferred as provided in subparagraph (p)4. However, there shall
1852 be no limitation or deferment of an emergency assessment to be
1853 collected from policyholders under sub-subparagraph (b)3.d.

1854 14. Must provide that the corporation appoint as its
1855 licensed agents only those agents who also hold an appointment
1856 as defined in s. 626.015(3) with an insurer who at the time of

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1857 the agent's initial appointment by the corporation is authorized
1858 to write and is actually writing personal lines residential
1859 property coverage, commercial residential property coverage, or
1860 commercial nonresidential property coverage within the state.

1861 15. Must provide, by July 1, 2007, a premium payment plan
1862 option to its policyholders which allows at a minimum for
1863 quarterly and semiannual payment of premiums. A monthly payment
1864 plan may, but is not required to, be offered.

1865 16. Must limit coverage on mobile homes or manufactured
1866 homes built prior to 1994 to actual cash value of the dwelling
1867 rather than replacement costs of the dwelling.

1868 17. May provide such limits of coverage as the board
1869 determines, consistent with the requirements of this subsection.

1870 18. May require commercial property to meet specified
1871 hurricane mitigation construction features as a condition of
1872 eligibility for coverage.

1873 (m)1. Rates for coverage provided by the corporation shall
1874 be actuarially sound and subject to the requirements of s.
1875 627.062, except as otherwise provided in this paragraph. The
1876 corporation shall file its recommended rates with the office at
1877 least annually. The corporation shall provide any additional
1878 information regarding the rates which the office requires. The
1879 office shall consider the recommendations of the board and issue
1880 a final order establishing the rates for the corporation within
1881 45 days after the recommended rates are filed. The corporation
1882 may not pursue an administrative challenge or judicial review of
1883 the final order of the office.

1884 2. In addition to the rates otherwise determined pursuant
1885 to this paragraph, the corporation shall impose and collect an

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1886 amount equal to the premium tax provided for in s. 624.509 to
1887 augment the financial resources of the corporation.

1888 3. After the public hurricane loss-projection model under
1889 s. 627.06281 has been found to be accurate and reliable by the
1890 Florida Commission on Hurricane Loss Projection Methodology,
1891 that model shall serve as the minimum benchmark for determining
1892 the windstorm portion of the corporation's rates. This
1893 subparagraph does not require or allow the corporation to adopt
1894 rates lower than the rates otherwise required or allowed by this
1895 paragraph.

1896 4. The rate filings for the corporation which were approved
1897 by the office and which took effect January 1, 2007, are
1898 rescinded, except for those rates that were lowered. As soon as
1899 possible, the corporation shall begin using the lower rates that
1900 were in effect on December 31, 2006, and shall provide refunds
1901 to policyholders who have paid higher rates as a result of that
1902 rate filing. The rates in effect on December 31, 2006, shall
1903 remain in effect for the 2007 and 2008 calendar years except for
1904 any rate change that results in a lower rate. The next rate
1905 change that may increase rates shall take effect pursuant to a
1906 new rate filing recommended by the corporation and established
1907 by the office, subject to the requirements of this paragraph.

1908 5. Beginning on July 15, 2009, and each year thereafter,
1909 the corporation must make a recommended actuarially sound rate
1910 filing for each personal and commercial line of business it
1911 writes, to be effective no earlier than January 1, 2010.

1912 6. Notwithstanding the board's recommended rates and the
1913 office's final order regarding the corporation's filed rates
1914 under subparagraph 1., the corporation shall implement a rate

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1915 increase each year which does not exceed 10 percent for any
1916 single policy issued by the corporation, excluding coverage
1917 changes and surcharges. The corporation may also implement an
1918 increase to reflect the effect on the corporation of the cash
1919 buildup factor pursuant to s. 215.555(5) (b).

1920 7. The corporation's implementation of rates as prescribed
1921 in subparagraph 6. shall cease upon the corporation's
1922 implementation of actuarially sound rates.

1923 8. Beginning January 1, 2010, and each year thereafter, the
1924 corporation shall transfer 10 percent of the funds received from
1925 the rate increase prescribed by subparagraph 6. to the General
1926 Revenue Fund. The corporation's transfer of such funds shall
1927 cease upon the corporation's implementation of actuarially sound
1928 rates.

1929 (x) It is the intent of the Legislature that the amendments
1930 to this subsection enacted in 2002 should, over time, reduce the
1931 probable maximum windstorm losses in the residual markets and
1932 should reduce the potential assessments to be levied on property
1933 insurers and policyholders statewide. In furtherance of this
1934 intent:

1935 1. The board shall, on or before February 1 of each year,
1936 provide a report to the President of the Senate and the Speaker
1937 of the House of Representatives showing the reduction or
1938 increase in the 100-year probable maximum loss attributable to
1939 wind-only coverages and the quota share program under this
1940 subsection combined, as compared to the benchmark 100-year
1941 probable maximum loss of the Florida Windstorm Underwriting
1942 Association. For purposes of this paragraph, the benchmark 100-
1943 year probable maximum loss of the Florida Windstorm Underwriting

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1944 Association shall be the calculation dated February 2001 and
1945 based on November 30, 2000, exposures. In order to ensure
1946 comparability of data, the board shall use the same methods for
1947 calculating its probable maximum loss as were used to calculate
1948 the benchmark probable maximum loss.

1949 2. Beginning February 1, 2013 ~~February 1, 2010~~, if the
1950 report under subparagraph 1. for any year indicates that the
1951 100-year probable maximum loss attributable to wind-only
1952 coverages and the quota share program combined does not reflect
1953 a reduction of at least 25 percent from the benchmark, the board
1954 shall reduce the boundaries of the high-risk area eligible for
1955 wind-only coverages under this subsection in a manner calculated
1956 to reduce such probable maximum loss to an amount at least 25
1957 percent below the benchmark.

1958 3. Beginning February 1, 2018 ~~February 1, 2015~~, if the
1959 report under subparagraph 1. for any year indicates that the
1960 100-year probable maximum loss attributable to wind-only
1961 coverages and the quota share program combined does not reflect
1962 a reduction of at least 50 percent from the benchmark, the
1963 boundaries of the high-risk area eligible for wind-only
1964 coverages under this subsection shall be reduced by the
1965 elimination of any area that is not seaward of a line 1,000 feet
1966 inland from the Intracoastal Waterway.

1967 Section 7. Section 627.3512, Florida Statutes, is amended
1968 to read:

1969 627.3512 Recoupment of residual market deficit
1970 assessments.—

1971 (1) An insurer or insurer group may recoup any assessments
1972 that have been paid during or after 1995 by the insurer or

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1973 insurer group to defray deficits of an insurance risk
1974 apportionment plan or assigned risk plan under ss. 627.311 and
1975 627.351, net of any earnings returned to the insurer or insurer
1976 group by the association or plan for any year after 1993. The
1977 insurer or insurer group shall begin the recoupment process
1978 within 180 days after the date of the assessment as indicated on
1979 the invoice received by the insurer or insurer group. An insurer
1980 that fails to begin the recoupment process within 180 days after
1981 the date of the assessment may not recoup the amount assessed. A
1982 ~~limited apportionment company as defined in s. 627.351(6)(c) may~~
1983 ~~recoup any regular assessment that has been levied by, or paid~~
1984 ~~to, Citizens Property Insurance Corporation.~~

1985 (2) The recoupment shall be made by applying a separate
1986 recoupment assessment factor on policies of the same line or
1987 type as were considered by the residual markets in determining
1988 the assessment liability of the insurer or insurer group. An
1989 insurer or insurer group shall calculate a separate assessment
1990 factor for personal lines and commercial lines. ~~The separate~~
1991 ~~assessment factor shall provide for full recoupment of the~~
1992 ~~assessments over a period of 1 year, unless the insurer or~~
1993 ~~insurer group, at its option, elects to recoup the assessments~~
1994 ~~over a longer period. The assessment factor expires upon~~
1995 ~~collection of the full amount allowed to be recouped. Amounts~~
1996 ~~recouped under this section are not subject to premium taxes,~~
1997 ~~fees, or commissions.~~

1998 (3)~~(2)~~ The recoupment assessment factor may ~~must~~ not be
1999 more than 3 percentage points above the ratio of the deficit
2000 assessment to the Florida direct written premium for policies
2001 for the lines or types of business as to which the assessment

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2002 was calculated, ~~as written in the year the deficit assessment~~
2003 ~~was paid~~. If an insurer or insurer group fails to collect the
2004 full amount of the deficit assessment within a 1-year period,
2005 the insurer or insurer group may ~~must~~ carry forward the amount
2006 of the deficit and adjust the deficit assessment to be recouped
2007 in the ~~a~~ subsequent year ~~by that amount~~. The insurer or insurer
2008 group shall adjust the recoupment factor to be applied for the
2009 subsequent year. The insurer or insurer group may not apply any
2010 recoupment factor in a manner that is unfairly discriminatory
2011 among its policyholders within the same lines, types, or
2012 sublines of business.

2013 (4) ~~(3)~~ The insurer or insurer group shall file with the
2014 office a statement setting forth the amount of the assessment
2015 factor and an explanation of how the factor will be applied, at
2016 least 15 days prior to the factor being applied to any policies.
2017 The statement shall include documentation of the assessment paid
2018 by the insurer or insurer group and the arithmetic calculations
2019 supporting the assessment factor. The office shall complete its
2020 review within 30 ~~15~~ days after receipt of the filing and shall
2021 limit its review to verification of the arithmetic calculations.
2022 The insurer or insurer group may use the assessment factor at
2023 any time after the expiration of the 30-day ~~15-day~~ period unless
2024 the office has notified the insurer or insurer group in writing
2025 that the arithmetic calculations are incorrect.

2026 (5) If an insurer or insurer group over-recoups any
2027 assessment it has, it shall forward all excess recoupment to the
2028 corporation to be held in a separate account to offset future
2029 assessments.

2030 (6) A final accounting report documenting the assessment

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2031 recouped shall be submitted to the office within 60 days after
2032 the recoupment period ends. The chief executive officer or chief
2033 financial officer must certify under oath and subject to the
2034 penalty of perjury, on a form approved by the commission, that
2035 he or she has reviewed the report; that the information in the
2036 report is true and accurate; and that, based on his or her
2037 knowledge:

2038 (a) The report does not contain any untrue statement of a
2039 material fact or omit a material fact necessary in order to make
2040 the statements not misleading, in light of the circumstances
2041 under which the statements were made;

2042 (b) The effective dates of the recoupment period are
2043 correct;

2044 (c) The recoupment factor used is correct;

2045 (d) The direct written premium and associated recoupment
2046 amounts received each month for the entire recoupment period are
2047 correct; and

2048 (e) All excess recoupment moneys have been paid to the
2049 corporation.

2050 (7) Any insurer or insurer group that does not elect to use
2051 this process to recoup an assessment amount that it has paid is
2052 prohibited from including this uncollected assessment amount as
2053 any component in any subsequent rate filing required by s.
2054 627.062 or s. 627.0651.

2055 (8)(4) The commission may adopt rules to implement this
2056 section.

2057 Section 8. Subsections (1) and (2) of section 627.712,
2058 Florida Statutes, are amended to read:

2059 627.712 Residential windstorm coverage required;

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2060 availability of exclusions for windstorm or contents.-

2061 (1) An insurer issuing a residential property insurance
2062 policy must provide windstorm coverage. Except as provided in
2063 paragraph (2)(c), this section does not apply with respect to
2064 risks that are eligible for wind-only coverage from Citizens
2065 Property Insurance Corporation under s. 627.351(6), and with
2066 respect to risks that are not eligible for coverage from
2067 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
2068 or s. 627.351(6)(a)5. A risk ineligible for Citizens coverage
2069 under s. 627.351(6)(a)3. or s. 627.351(6)(a)5. is exempt from
2070 the requirements of this section only if the risk is located
2071 within the boundaries of the high-risk account of the
2072 corporation.

2073 (2) A property insurer must make available, at the option
2074 of the policyholder, an exclusion of windstorm coverage.

2075 (a) The coverage may be excluded only if:

2076 1. When the policyholder is a natural person, the
2077 policyholder personally writes and provides to the insurer the
2078 following statement in his or her own handwriting and signs his
2079 or her name, which must also be signed by every other named
2080 insured on the policy, and dated: "I do not want the insurance
2081 on my (home/mobile home/condominium unit) to pay for damage from
2082 windstorms. I will pay those costs. My insurance will not."

2083 2. When the policyholder is other than a natural person,
2084 the policyholder provides to the insurer on the policyholder's
2085 letterhead the following statement that must be signed by the
2086 policyholder's authorized representative and dated: "... (Name of
2087 entity)... does not want the insurance on its ...(type of
2088 structure)... to pay for damage from windstorms. ...(Name of

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2089 entity)... will be responsible for these costs. ... (Name of
2090 entity's)... insurance will not."

2091 (b) If the structure insured by the policy is subject to a
2092 mortgage or lien, the policyholder must provide the insurer with
2093 a written statement from the mortgageholder or lienholder
2094 indicating that the mortgageholder or lienholder approves the
2095 policyholder electing to exclude windstorm coverage or hurricane
2096 coverage from his or her or its property insurance policy.

2097 ~~(c) If the residential structure is eligible for wind-only~~
2098 ~~coverage from Citizens Property Insurance Corporation, An~~
2099 ~~insurer nonrenewing a policy and issuing a replacement policy,~~
2100 ~~or issuing a new policy, that does not provide wind coverage~~
2101 ~~shall provide a notice to the mortgageholder or lienholder~~
2102 ~~indicating the policyholder has elected coverage that does not~~
2103 ~~cover wind.~~

2104 Section 9. Subsection (3) of section 631.57, Florida
2105 Statutes, is amended to read:

2106 631.57 Powers and duties of the association.—

2107 (3) (a) To the extent necessary to secure the funds for the
2108 respective accounts for the payment of covered claims, to pay
2109 the reasonable costs to administer the same, and to the extent
2110 necessary to secure the funds for the account specified in s.
2111 631.55(2) (c) or to retire indebtedness, including, without
2112 limitation, the principal, redemption premium, if any, and
2113 interest on, and related costs of issuance of, bonds issued
2114 under s. 631.695 and the funding of any reserves and other
2115 payments required under the bond resolution or trust indenture
2116 pursuant to which such bonds have been issued, the office, upon
2117 certification of the board of directors, shall levy assessments

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2118 in the proportion that each insurer's net direct written
2119 premiums in this state in the classes protected by the account
2120 bears to the total of said net direct written premiums received
2121 in this state by all such insurers for the preceding calendar
2122 year for the kinds of insurance included within such account.
2123 Assessments shall be remitted to and administered by the board
2124 of directors in the manner specified by the approved plan. Each
2125 insurer so assessed shall have at least 30 days' written notice
2126 as to the date the assessment is due and payable. Every
2127 assessment shall be made as a uniform percentage applicable to
2128 the net direct written premiums of each insurer in the kinds of
2129 insurance included within the account in which the assessment is
2130 made. The assessments levied against any insurer shall not
2131 exceed in any one year more than 2 percent of that insurer's net
2132 direct written premiums in this state for the kinds of insurance
2133 included within such account during the calendar year next
2134 preceding the date of such assessments.

2135 (b) If sufficient funds from such assessments, together
2136 with funds previously raised, are not available in any one year
2137 in the respective account to make all the payments or
2138 reimbursements then owing to insurers, the funds available shall
2139 be prorated and the unpaid portion shall be paid as soon
2140 thereafter as funds become available.

2141 (c) Assessments shall be included as an appropriate factor
2142 in the making of rates.

2143 (d) No state funds of any kind shall be allocated or paid
2144 to said association or any of its accounts.

2145 (e) 1.a. In addition to assessments otherwise authorized in
2146 paragraph (a) and to the extent necessary to secure the funds

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2147 for the account specified in s. 631.55(2)(c) for the direct
2148 payment of covered claims of insurers rendered insolvent by the
2149 effects of a hurricane and to pay the reasonable costs to
2150 administer such claims, or to retire indebtedness, including,
2151 without limitation, the principal, redemption premium, if any,
2152 and interest on, and related costs of issuance of, bonds issued
2153 under s. 631.695 and the funding of any reserves and other
2154 payments required under the bond resolution or trust indenture
2155 pursuant to which such bonds have been issued, the office, upon
2156 certification of the board of directors, shall levy emergency
2157 assessments upon insurers holding a certificate of authority.
2158 The emergency assessments payable under this paragraph by any
2159 insurer shall not exceed in any single year more than 2 percent
2160 of that insurer's direct written premiums, net of refunds, in
2161 this state during the preceding calendar year for the kinds of
2162 insurance within the account specified in s. 631.55(2)(c).

2163 b. Any emergency assessments authorized under this
2164 paragraph shall be levied by the office upon insurers referred
2165 to in sub-subparagraph a., upon certification as to the need for
2166 such assessments by the board of directors. In the event the
2167 board of directors participates in the issuance of bonds in
2168 accordance with s. 631.695, emergency assessments shall be
2169 levied in each year that bonds issued under s. 631.695 and
2170 secured by such emergency assessments are outstanding, in such
2171 amounts up to such 2-percent limit as required in order to
2172 provide for the full and timely payment of the principal of,
2173 redemption premium, if any, and interest on, and related costs
2174 of issuance of, such bonds. The emergency assessments provided
2175 for in this paragraph are assigned and pledged to the

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2176 municipality, county, or legal entity issuing bonds under s.
2177 631.695 for the benefit of the holders of such bonds, in order
2178 to enable such municipality, county, or legal entity to provide
2179 for the payment of the principal of, redemption premium, if any,
2180 and interest on such bonds, the cost of issuance of such bonds,
2181 and the funding of any reserves and other payments required
2182 under the bond resolution or trust indenture pursuant to which
2183 such bonds have been issued, without the necessity of any
2184 further action by the association, the office, or any other
2185 party. To the extent bonds are issued under s. 631.695 and the
2186 association determines to secure such bonds by a pledge of
2187 revenues received from the emergency assessments, such bonds,
2188 upon such pledge of revenues, shall be secured by and payable
2189 from the proceeds of such emergency assessments, and the
2190 proceeds of emergency assessments levied under this paragraph
2191 shall be remitted directly to and administered by the trustee or
2192 custodian appointed for such bonds.

2193 c. Emergency assessments under this paragraph may be
2194 payable in a single payment or, at the option of the
2195 association, may be payable in 12 monthly installments with the
2196 first installment being due and payable at the end of the month
2197 after an emergency assessment is levied and subsequent
2198 installments being due not later than the end of each succeeding
2199 month.

2200 d. If emergency assessments are imposed, the report
2201 required by s. 631.695(7) shall include an analysis of the
2202 revenues generated from the emergency assessments imposed under
2203 this paragraph.

2204 e. If emergency assessments are imposed, the references in

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2205 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
2206 assessments levied under paragraph (a) shall include emergency
2207 assessments imposed under this paragraph.

2208 ~~2. In order to ensure that insurers paying emergency~~
2209 ~~assessments levied under this paragraph continue to charge rates~~
2210 ~~that are neither inadequate nor excessive, within 90 days after~~
2211 ~~being notified of such assessments, each insurer that is to be~~
2212 ~~assessed pursuant to this paragraph shall submit a rate filing~~
2213 ~~for coverage included within the account specified in s.~~
2214 ~~631.55(2)(c) and for which rates are required to be filed under~~
2215 ~~s. 627.062. If the filing reflects a rate change that, as a~~
2216 ~~percentage, is equal to the difference between the rate of such~~
2217 ~~assessment and the rate of the previous year's assessment under~~
2218 ~~this paragraph, the filing shall consist of a certification so~~
2219 ~~stating and shall be deemed approved when made. Any rate change~~
2220 ~~of a different percentage shall be subject to the standards and~~
2221 ~~procedures of s. 627.062.~~

2222 2.3. In the event the board of directors participates in
2223 the issuance of bonds in accordance with s. 631.695, an annual
2224 assessment under this paragraph shall continue while the bonds
2225 issued with respect to which the assessment was imposed are
2226 outstanding, including any bonds the proceeds of which were used
2227 to refund bonds issued pursuant to s. 631.695, unless adequate
2228 provision has been made for the payment of the bonds in the
2229 documents authorizing the issuance of such bonds.

2230 3.4. Emergency assessments under this paragraph are not
2231 premium and are not subject to the premium tax, to any fees, or
2232 to any commissions. An insurer is liable for all emergency
2233 assessments that the insurer collects and shall treat the

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2234 failure of an insured to pay an emergency assessment as a
2235 failure to pay the premium. An insurer is not liable for
2236 uncollectible emergency assessments.

2237 Section 10. Section 631.64, Florida Statutes, is amended to
2238 read:

2239 631.64 Recognition of assessments in rates.—

2240 (1) The rates and premiums charged for insurance policies
2241 to which this part applies may include amounts sufficient to
2242 recoup a sum equal to the amounts paid to the association by the
2243 member insurer less any amounts returned to the member insurer
2244 by the association, and such rates shall not be deemed excessive
2245 because they contain an amount reasonably calculated to recoup
2246 assessments paid by the member insurer. The member insurer shall
2247 begin the recoupment process within 180 days after the date of
2248 the assessment as indicated on the invoice received by the
2249 member insurer. A member insurer that fails to begin the
2250 recoupment process within 180 days after the date of the
2251 assessment may not recoup the amount assessed.

2252 (2) The recoupment factor may not be more than 2 percentage
2253 points above the ratio of the deficit assessment to the Florida
2254 direct written premium for policies for the lines or types of
2255 business as to which the assessment was calculated. If a member
2256 insurer fails to collect the full amount of the deficit
2257 assessment within a 1-year period, the member insurer may carry
2258 forward the amount of the deficit assessment to be recouped in
2259 the next subsequent year. The member insurer shall adjust the
2260 recoupment factor to be applied for the next subsequent year.
2261 The member insurer may not apply any recoupment factor in a
2262 manner that is unfairly discriminatory among its policyholders

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2263 within the same lines, types, or sublines of business.

2264 (3) A final accounting report documenting the assessment
2265 recouped shall be submitted to the office within 60 days after
2266 the recoupment period ends. The chief executive officer or chief
2267 financial officer must certify under oath and subject to the
2268 penalty of perjury, on a form approved by the commission, that
2269 he or she has reviewed the report; that the information in the
2270 report is true and accurate; and that, based on his or her
2271 knowledge:

2272 (a) The report does not contain any untrue statement of a
2273 material fact or omit to state a material fact necessary in
2274 order to make the statements not misleading, in light of the
2275 circumstances under which the statements were made;

2276 (b) The effective dates of the recoupment period are
2277 correct; and

2278 (c) The direct written premium and associated recoupment
2279 amounts received each month for the entire recoupment period are
2280 correct.

2281 (4) If a member insurer over-recoups any assessment it has
2282 paid, it shall forward all excess recoupment to the association.
2283 An accounting of the over-recoupment shall be documented in the
2284 final accounting report.

2285 (5) Any member insurer that does not elect to use this
2286 process to recoup an assessment amount that it has paid is
2287 prohibited from including this uncollected assessment amount as
2288 any component in any subsequent rate filing required by s.
2289 627.062 or s. 627.0651.

2290 (6) The commission may adopt rules to implement this
2291 section.

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2292 Section 11. Section 631.65, Florida Statutes, is amended to
2293 read:

2294 631.65 Prohibited advertisement or solicitation.—No person
2295 shall make, publish, disseminate, circulate, or place before the
2296 public, or cause, directly or indirectly, to be made, published,
2297 disseminated, circulated, or placed before the public, in a
2298 newspaper, magazine, or other publication, or in the form of a
2299 notice, circular, pamphlet, letter, or poster, or over any radio
2300 station or television station, or in any other way, any
2301 advertisement, announcement, or statement which uses the
2302 existence of the insurance guaranty association for the purpose
2303 of sales, solicitation, or inducement to purchase any form of
2304 insurance covered under this part. However, this section does
2305 not prohibit a duly licensed insurance agent from explaining the
2306 existence or function of the insurance guaranty association to
2307 policyholders, prospects, or applicants for coverage.

2308 Section 12. Upon receipt of funds transferred to the
2309 General Revenue fund pursuant to s. 627.351(6)(m)8., Florida
2310 Statutes, the funds transferred are appropriated on a
2311 nonrecurring basis from the General Revenue Fund to the
2312 Insurance Regulatory Trust Fund in the Department of Financial
2313 Services for purposes of the My Safe Florida Home Program
2314 specified in s. 215.5586, Florida Statutes. The My Safe Florida
2315 Home Program shall use the funds solely for the provision of
2316 mitigation grants pursuant to s. 215.5586(2), Florida Statutes,
2317 for single-family homes insured by the corporation. The
2318 department shall establish a separate account within the trust
2319 fund for accounting purposes.

2320 Section 13. This act shall take effect June 1, 2009.