

20091950e1

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

20091950e1

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.
45 626.854, F.S.; prohibiting a public adjuster from
46 accepting referrals for compensation from a person
47 with whom the public adjuster conducts business;
48 prohibiting a public adjuster from compensating a
49 person other than a public adjuster for referrals;
50 amending s. 627.7011, F.S.; providing that an insurer
51 may repair damaged property in compliance with its
52 policy; amending s. 626.865, F.S.; deleting a
53 requirement that an applicant for a license as a
54 public adjuster pass a written examination as a
55 prerequisite to licensure; amending s. 626.8651, F.S.;
56 requiring an applicant for a public adjuster
57 apprentice license to pass a written exam and receive
58 an Accredited Claims Adjuster designation and related

20091950e1

59 training before licensure; limiting the number of
60 public adjuster apprentices that may be maintained by
61 a single public adjusting firm or supervised by a
62 public adjuster; amending s. 627.062, F.S.; extending
63 the period for which an insurer seeking a residential
64 property insurance rate that is greater than the rate
65 most recently approved by the Office of Insurance
66 Regulation must make a "file and use" filing;
67 authorizing an insurer to make a separate filing
68 limited solely to an adjustment of its rates for
69 reinsurance or financing costs to replace or finance
70 payment of amounts covered by the Florida Hurricane
71 Catastrophe Fund under certain circumstances;
72 providing that certain insurers are not eligible to
73 file for certain additional rate increases during a
74 specified period after implementation of a limited
75 filing; preserving the authority of the office to
76 disapprove a rate filing as excessive, inadequate, or
77 unfairly discriminatory; providing for the
78 applicability of certain provisions of state law;
79 amending s. 627.0621, F.S.; requiring that the Office
80 of Insurance Regulation provide certain information
81 regarding any residential property rate filing on a
82 publicly accessible Internet website; requiring that
83 the office provide a means on its website for certain
84 persons to submit e-mail regarding any rate filing;
85 requiring that such e-mail be accessible by the
86 actuary assigned to review the subject rate filing;
87 deleting a limitation on the application of the

20091950e1

88 attorney-client privilege and work product doctrine in
89 challenges to actions by the Office of Insurance
90 Regulation relating to rate filings; repealing s.
91 627.0612, F.S., relating to administrative proceedings
92 in rating determinations; amending s. 627.0629, F.S.;
93 authorizing an insurer to include in its rates the
94 actual cost of certain reinsurance; amending s.
95 627.351, F.S.; deleting a provision requiring a seller
96 of certain residential property to disclose the
97 structure's windstorm mitigation rating to the
98 prospective purchaser of the property; providing for
99 members of the board of governors of Citizens Property
100 Insurance Corporation to serve staggered terms;
101 requiring Citizen's Property Insurance Corporation to
102 implement rate increases until the implementation of
103 actuarially sound rates; requiring the corporation to
104 transfer a portion of the funds received from the rate
105 increase into the General Revenue Fund; revising the
106 date after which the State Board of Administration is
107 required to reduce the boundaries of high-risk areas
108 eligible for wind-only coverages under certain
109 circumstances; amending s. 627.3512, F.S.; providing
110 legislative findings; providing for the recoupment of
111 residual market assessments paid by insurers or
112 insurer groups; limiting the amount of a recoupment
113 factor; authorizing an insurer to apply recalculated
114 recoupment factors to policies issued or renewed
115 during specified periods under certain circumstances;
116 requiring that insurers or insurer groups file a

20091950e1

117 statement setting forth certain information; providing
118 for the application of recoupment factors to certain
119 policies upon issuance or renewal; requiring that
120 insurers or insurer groups file a supplemental
121 statement under certain circumstances; requiring that
122 such entities file a final accounting report
123 documenting certain information within a specified
124 period after the completion of the recoupment process;
125 requiring that such report provide certain
126 information; amending s. 627.711, F.S.; requiring that
127 an insurer accept as valid a uniform mitigation
128 verification form certified by the Department of
129 Financial Services or signed by certain individuals or
130 entities; providing a criminal penalty for knowingly
131 submitting a false or fraudulent mitigation form with
132 the intent to receive an undeserved discount; amending
133 s. 627.712, F.S.; revising the properties for which an
134 insurer must make policies available which exclude
135 windstorm coverage; amending s. 631.65, F.S.;

136 providing that an insurance agent is not prohibited
137 from explaining the existence or function of the
138 insurance guaranty association; providing for the
139 appropriation of certain transferred funds to the
140 Insurance Regulatory Trust Fund for purposes of the My
141 Safe Florida Home Program; providing an effective
142 date.

143
144 Be It Enacted by the Legislature of the State of Florida:
145

20091950e1

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

149 215.555 Florida Hurricane Catastrophe Fund.—

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

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

154 1. The board shall calculate and report to each insurer the
155 retention multiples for that year. For the contract year
156 beginning June 1, 2005, the retention multiple shall be equal to
157 \$4.5 billion divided by the total estimated reimbursement
158 premium for the contract year; for subsequent years, the
159 retention multiple shall be equal to \$4.5 billion, adjusted
160 based upon the reported exposure from the prior contract year to
161 reflect the percentage growth in exposure to the fund for
162 covered policies since 2004, divided by the total estimated
163 reimbursement premium for the contract year. Total reimbursement
164 premium for purposes of the calculation under this subparagraph
165 shall be estimated using the assumption that all insurers have
166 selected the 90-percent coverage level. In 2010, the contract
167 year begins June 1 and ends December 31, 2010. In 2011 and
168 thereafter, the contract year begins January 1 and ends December
169 31.

170 2. The retention multiple as determined under subparagraph
171 1. shall be adjusted to reflect the coverage level elected by
172 the insurer. For insurers electing the 90-percent coverage
173 level, the adjusted retention multiple is 100 percent of the
174 amount determined under subparagraph 1. For insurers electing

20091950e1

175 the 75-percent coverage level, the retention multiple is 120
176 percent of the amount determined under subparagraph 1. For
177 insurers electing the 45-percent coverage level, the adjusted
178 retention multiple is 200 percent of the amount determined under
179 subparagraph 1.

180 3. An insurer shall determine its provisional retention by
181 multiplying its provisional reimbursement premium by the
182 applicable adjusted retention multiple and shall determine its
183 actual retention by multiplying its actual reimbursement premium
184 by the applicable adjusted retention multiple.

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

196 (4) REIMBURSEMENT CONTRACTS.—

197 (a) The board shall enter into a contract with each insurer
198 writing covered policies in this state to provide to the insurer
199 the reimbursement described in paragraphs (b) and (d), in
200 exchange for the reimbursement premium paid into the fund under
201 subsection (5). As a condition of doing business in this state,
202 each such insurer shall enter into such a contract.

203 (b)1. The contract shall contain a promise by the board to

20091950e1

204 reimburse the insurer for 45 percent, 75 percent, or 90 percent
205 of its losses from each covered event in excess of the insurer's
206 retention, plus 5 percent of the reimbursed losses to cover loss
207 adjustment expenses.

208 2. The insurer must elect one of the percentage coverage
209 levels specified in this paragraph and may, upon renewal of a
210 reimbursement contract, elect a lower percentage coverage level
211 if no revenue bonds issued under subsection (6) after a covered
212 event are outstanding, or elect a higher percentage coverage
213 level, regardless of whether or not revenue bonds are
214 outstanding. All members of an insurer group must elect the same
215 percentage coverage level. Any joint underwriting association,
216 risk apportionment plan, or other entity created under s.
217 627.351 must elect the 90-percent coverage level.

218 3. The contract shall provide that reimbursement amounts
219 shall not be reduced by reinsurance paid or payable to the
220 insurer from other sources.

221 4. Notwithstanding any other provision contained in this
222 section, the board shall make available to insurers that
223 purchased coverage provided by this subparagraph in 2008 ~~2007~~,
224 insurers qualifying as limited apportionment companies under s.
225 627.351(6)(c), and insurers that have been approved to
226 participate in the Insurance Capital Build-Up Incentive Program
227 pursuant to s. 215.5595 a contract or contract addendum that
228 provides an additional amount of reimbursement coverage of up to
229 \$10 million. The premium to be charged for this additional
230 reimbursement coverage shall be 50 percent of the additional
231 reimbursement coverage provided, which shall include one prepaid
232 reinstatement. The minimum retention level that an eligible

20091950e1

233 participating insurer must retain associated with this
234 additional coverage layer is 30 percent of the insurer's surplus
235 as of December 31, 2008, for the 2009 contract year; as of
236 December 31, 2009, for the 2010 contract year; and as of
237 December 31, 2010, for the 2011 contract year ~~December 31, 2007.~~
238 This coverage shall be in addition to all other coverage that
239 may be provided under this section. The coverage provided by the
240 fund under this subparagraph shall be in addition to the claims-
241 paying capacity as defined in subparagraph (c)1., but only with
242 respect to those insurers that select the additional coverage
243 option and meet the requirements of this subparagraph. The
244 claims-paying capacity with respect to all other participating
245 insurers and limited apportionment companies that do not select
246 the additional coverage option shall be limited to their
247 reimbursement premium's proportionate share of the actual
248 claims-paying capacity otherwise defined in subparagraph (c)1.
249 and as provided for under the terms of the reimbursement
250 contract. The optional coverage retention as specified shall be
251 accessed before the mandatory coverage under the reimbursement
252 contract, but once the limit of coverage selected under this
253 option is exhausted, the insurer's retention under the mandatory
254 coverage will apply. This coverage will apply and be paid
255 concurrently with mandatory coverage. ~~Coverage provided in the~~
256 ~~reimbursement contract shall not be affected by the additional~~
257 ~~premiums paid by participating insurers exercising the~~
258 ~~additional coverage option allowed in this subparagraph. This~~
259 subparagraph expires on December 31, 2011 ~~May 31, 2009.~~

260 (c)1. The contract shall also provide that the obligation
261 of the board with respect to all contracts covering a particular

20091950e1

262 contract year shall not exceed the actual claims-paying capacity
263 of the fund up to a limit of \$15 billion for that contract year
264 adjusted based upon the reported exposure from the prior
265 contract year to reflect the percentage growth in exposure to
266 the fund for covered policies since 2003, provided the dollar
267 growth in the limit may not increase in any year by an amount
268 greater than the dollar growth of the balance of the fund as of
269 December 31, less any premiums or interest attributable to
270 optional coverage, as defined by rule which occurred over the
271 prior calendar year.

272 2. In May ~~before the start of the upcoming contract year~~
273 and ~~in~~ October of ~~during~~ the contract year, the board shall
274 publish in the Florida Administrative Weekly a statement of the
275 fund's estimated borrowing capacity, the fund's estimated
276 claims-paying capacity, and the projected balance of the fund as
277 of December 31. After the end of each calendar year, the board
278 shall notify insurers of the estimated borrowing capacity,
279 estimated claims-paying capacity, and the balance of the fund as
280 of December 31 to provide insurers with data necessary to assist
281 them in determining their retention and projected payout from
282 the fund for loss reimbursement purposes. In conjunction with
283 the development of the premium formula, as provided for in
284 subsection (5), the board shall publish factors or multiples
285 that assist insurers in determining their retention and
286 projected payout for the next contract year. For all regulatory
287 and reinsurance purposes, an insurer may calculate its projected
288 payout from the fund as its share of the total fund premium for
289 the current contract year multiplied by the sum of the projected
290 balance of the fund as of December 31 and the estimated

20091950e1

291 borrowing capacity for that contract year as reported under this
292 subparagraph.

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

307 2. In determining reimbursements pursuant to this
308 subsection, the contract shall provide that the board shall pay
309 to each insurer such insurer's projected payout, which is the
310 amount of reimbursement it is owed, up to an amount equal to the
311 insurer's share of the actual premium paid for that contract
312 year, multiplied by the actual claims-paying capacity available
313 for that contract year.

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

20091950e1

320 of the fund. Otherwise, such factors or multiples shall be
321 reduced uniformly among all insurers to reflect the estimated
322 claims-paying capacity.

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

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

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

340 b. The entity's share of the actual reimbursement premium
341 paid for that contract year, multiplied by the currently
342 available liquid assets of the fund. In order for the entity to
343 qualify for an advance under this subparagraph, the entity must
344 demonstrate to the board that the advance is essential to allow
345 the entity to pay claims for a covered event and the board must
346 determine that the fund's assets are sufficient and are
347 sufficiently liquid to allow the board to make an advance to the
348 entity and still fulfill the board's reimbursement obligations

20091950e1

349 to other insurers. The entity's final reimbursement for any
350 contract year in which an advance has been made under this
351 subparagraph must be reduced by an amount equal to the amount of
352 the advance and any interest on such advance. In order to
353 determine what amounts, if any, are due the entity, the board
354 may require the entity to report its exposure and its losses at
355 any time to determine retention levels and reimbursements
356 payable.

357 3. The contract shall also provide specifically and solely
358 with respect to any limited apportionment company under s.
359 627.351(2)(b)3. that the board may, upon application by such
360 company, advance to such company the amount of the estimated
361 reimbursement payable to such company as calculated pursuant to
362 paragraph (d), at market interest rates, if the board determines
363 that the fund's assets are sufficient and are sufficiently
364 liquid to permit the board to make an advance to such company
365 and at the same time fulfill its reimbursement obligations to
366 the insurers that are participants in the fund. Such company's
367 final reimbursement for any contract year in which an advance
368 pursuant to this subparagraph has been made shall be reduced by
369 an amount equal to the amount of the advance and interest
370 thereon. In order to determine what amounts, if any, are due to
371 such company, the board may require such company to report its
372 exposure and its losses at such times as may be required to
373 determine retention levels and loss reimbursements payable.

374 (f) In order to ensure that insurers have properly reported
375 the insured values on which the reimbursement premium is based
376 and to ensure that insurers have properly reported the losses
377 for which reimbursements have been made, the board shall

20091950e1

378 inspect, examine, and verify the records of each insurer's
379 covered policies at such times as the board deems appropriate
380 and according to standards established by rule for the specific
381 purpose of validating the accuracy of exposures and losses
382 required to be reported under the terms and conditions of the
383 reimbursement contract. The costs of the examinations shall be
384 borne by the board. However, in order to remove any incentive
385 for an insurer to delay preparations for an examination, the
386 board shall be reimbursed by the insurer for any examination
387 expenses incurred in addition to the usual and customary costs
388 of the examination, which additional expenses were incurred as a
389 result of an insurer's failure, despite proper notice, to be
390 prepared for the examination or as a result of an insurer's
391 failure to provide requested information while the examination
392 is in progress. If the board finds any insurer's records or
393 other necessary information to be inadequate or inadequately
394 posted, recorded, or maintained, the board may employ experts to
395 reconstruct, rewrite, record, post, or maintain such records or
396 information, at the expense of the insurer being examined, if
397 such insurer has failed to maintain, complete, or correct such
398 records or deficiencies after the board has given the insurer
399 notice and a reasonable opportunity to do so. Any information
400 contained in an examination report, which information is
401 described in s. 215.557, is confidential and exempt from the
402 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
403 Constitution, as provided in s. 215.557. Nothing in this
404 paragraph expands the exemption in s. 215.557.

405 (g) The contract shall provide that in the event of the
406 insolvency of an insurer, the fund shall pay directly to the

20091950e1

407 Florida Insurance Guaranty Association for the benefit of
408 Florida policyholders of the insurer the net amount of all
409 reimbursement moneys owed to the insurer. As used in this
410 paragraph, the term "net amount of all reimbursement moneys"
411 means that amount which remains after reimbursement for:

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

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

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

431 (5) REIMBURSEMENT PREMIUMS.—

432 (b) The State Board of Administration shall select an
433 independent consultant to develop a formula for determining the
434 actuarially indicated premium to be paid to the fund. The
435 formula shall specify, for each zip code or other limited

20091950e1

436 geographical area, the amount of premium to be paid by an
437 insurer for each \$1,000 of insured value under covered policies
438 in that zip code or other area. In establishing premiums, the
439 board shall consider the coverage elected under paragraph (4) (b)
440 and any factors that tend to enhance the actuarial
441 sophistication of ratemaking for the fund, including
442 deductibles, type of construction, type of coverage provided,
443 relative concentration of risks, and other such factors deemed
444 by the board to be appropriate. The formula must provide for a
445 cash build-up factor. For the 2009-2010 contract year, the
446 factor is 5 percent. For the contract year beginning June 1,
447 2010, and ending December 31, 2010, the factor is 10 percent.
448 For the 2011 contract year, the factor is 15 percent. For the
449 2012 contract year, the factor is 20 percent. For the 2013
450 contract year and thereafter, the factor is 25 percent. The
451 formula may provide for a procedure to determine the premiums to
452 be paid by new insurers that begin writing covered policies
453 after the beginning of a contract year, taking into
454 consideration when the insurer starts writing covered policies,
455 the potential exposure of the insurer, the potential exposure of
456 the fund, the administrative costs to the insurer and to the
457 fund, and any other factors deemed appropriate by the board. The
458 formula must be approved by unanimous vote of the board. The
459 board may, at any time, revise the formula pursuant to the
460 procedure provided in this paragraph.

461 (7) ADDITIONAL POWERS AND DUTIES.—

462 (a) The board may procure reinsurance from reinsurers
463 acceptable to the Office of Insurance Regulation for the purpose
464 of maximizing the capacity of the fund and may enter into

20091950e1

465 capital market transactions, including, but not limited to,
466 industry loss warranties, catastrophe bonds, side-car
467 arrangements, or financial contracts permissible for the board's
468 usage under s. 215.47(10) and (11), consistent with prudent
469 management of the fund.

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

474 (c) Each fiscal year, the Legislature shall appropriate
475 from the investment income of the Florida Hurricane Catastrophe
476 Fund an amount no less than \$10 million and no more than 35
477 percent of the investment income based upon the most recent
478 fiscal year-end audited financial statements for the purpose of
479 providing funding for local governments, state agencies, public
480 and private educational institutions, and nonprofit
481 organizations to support programs intended to improve hurricane
482 preparedness, reduce potential losses in the event of a
483 hurricane, provide research into means to reduce such losses,
484 educate or inform the public as to means to reduce hurricane
485 losses, assist the public in determining the appropriateness of
486 particular upgrades to structures or in the financing of such
487 upgrades, or protect local infrastructure from potential damage
488 from a hurricane. Moneys shall first be available for
489 appropriation under this paragraph in fiscal year 1997-1998.
490 Moneys in excess of the \$10 million specified in this paragraph
491 shall not be available for appropriation under this paragraph if
492 the State Board of Administration finds that an appropriation of
493 investment income from the fund would jeopardize the actuarial

20091950e1

494 soundness of the fund.

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

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

505 (f) The board may require insurers to notarize documents
506 submitted to the board.

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

508 (a) *Findings and intent.*—

509 1. The Legislature finds that:

510 a. Because of temporary disruptions in the market for
511 catastrophic reinsurance, many property insurers were unable to
512 procure sufficient amounts of reinsurance for the 2006 hurricane
513 season or were able to procure such reinsurance only by
514 incurring substantially higher costs than in prior years.

515 b. The reinsurance market problems were responsible, at
516 least in part, for substantial premium increases to many
517 consumers and increases in the number of policies issued by
518 Citizens Property Insurance Corporation.

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

521 2. It is the intent of the Legislature to create options
522 for insurers to purchase a temporary increased coverage limit

20091950e1

523 above the statutorily determined limit in subparagraph (4)(c)1.,
524 applicable for the 2007, 2008, ~~and 2009~~, 2010, 2011, 2012, and
525 2013 hurricane seasons, to address market disruptions and enable
526 insurers, at their option, to procure additional coverage from
527 the Florida Hurricane Catastrophe Fund.

528 (b) *Applicability of other provisions of this section.*—All
529 provisions of this section and the rules adopted under this
530 section apply to the coverage created by this subsection unless
531 specifically superseded by provisions in this subsection.

532 (c) *Optional coverage.*—For the contract year commencing
533 June 1, 2007, and ending May 31, 2008, the contract year
534 commencing June 1, 2008, and ending May 31, 2009, ~~and~~ the
535 contract year commencing June 1, 2009, and ending May 31, 2010,
536 the contract year commencing June 1, 2010, and ending December
537 31, 2010, the contract year commencing January 1, 2011, and
538 ending December 31, 2011, the contract year commencing January
539 1, 2012, and ending December 31, 2012, and the contract year
540 commencing January 1, 2013, and ending December 31, 2013, the
541 board shall offer, for each of such years, the optional coverage
542 as provided in this subsection.

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

- 545 1. "FHCF" means Florida Hurricane Catastrophe Fund.
- 546 2. "FHCF reimbursement premium" means the premium paid by
547 an insurer for its coverage as a mandatory participant in the
548 FHCF, but does not include additional premiums for optional
549 coverages.
- 550 3. "Payout multiple" means the number or multiple created
551 by dividing the statutorily defined claims-paying capacity as

20091950e1

552 determined in subparagraph (4)(c)1. by the aggregate
553 reimbursement premiums paid by all insurers estimated or
554 projected as of calendar year-end.

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

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

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

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

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

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

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

20091950e1

581 the 2007-2008 contract year, and the 2008-2009 contract year,
582 ~~and the 2009-2010 contract year.~~

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

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

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

606 e. For the 2012 contract year, the board shall calculate
607 and report to each TICL insurer the TICL coverage multiples
608 based on four options for increasing the insurer's FHCF coverage
609 limit. Each TICL coverage multiple shall be calculated by

20091950e1

610 dividing \$1 billion, \$2 billion, \$3 billion, and \$4 billion by
611 the total estimated aggregate FHCF reimbursement premiums for
612 the 2012 contract year.

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

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

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

633 (e) *TICL options addendum.*—

634 1. The TICL options addendum shall provide for
635 reimbursement of TICL insurers for covered events occurring
636 between June 1, 2007, and May 31, 2008, ~~and~~ between June 1,
637 2008, and May 31, 2009, ~~or~~ between June 1, 2009, and May 31,
638 2010, between June 1, 2010, and December 31, 2010, between

20091950e1

639 January 1, 2011, and December 31, 2011, between January 1, 2012,
640 and December 31, 2012, or between January 1, 2013, and December
641 31, 2013, in exchange for the TICL reimbursement premium paid
642 into the fund under paragraph (f). Any insurer writing covered
643 policies has the option of selecting an increased limit of
644 coverage under the TICL options addendum and shall select such
645 coverage at the time that it executes the FHCF reimbursement
646 contract.

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

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

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

660 (f) *TICL reimbursement premiums.*—Each TICL insurer shall
661 pay to the fund, in the manner and at the time provided in the
662 reimbursement contract for payment of reimbursement premiums, a
663 TICL reimbursement premium determined as specified in subsection
664 (5), except that a cash build-up factor does not apply to the
665 TICL reimbursement premiums. However, the TICL reimbursement
666 premium shall be increased in contract year 2009-2010 by a
667 factor of two, in the contract year beginning June 1, 2010, and

20091950e1

668 ending December 31, 2010, by a factor of three, in the 2011
669 contract year by a factor of four, in the 2012 contract year by
670 a factor of five, and in the 2013 contract year by a factor of
671 six.

672 (g) *Effect on claims-paying capacity of the fund.*—For the
673 contract terms commencing June 1, 2007, June 1, 2008, ~~and~~ June
674 1, 2009, June 1, 2010, January 1, 2011, January 1, 2012, and
675 January 1, 2013, the program created by this subsection shall
676 increase the claims-paying capacity of the fund as provided in
677 subparagraph (4)(c)1. by an amount not to exceed \$12 billion and
678 shall depend on the TICL coverage options selected and the
679 number of insurers that select the TICL optional coverage. The
680 additional capacity shall apply only to the additional coverage
681 provided under the TICL options and shall not otherwise affect
682 any insurer's reimbursement from the fund if the insurer chooses
683 not to select the temporary option to increase its limit of
684 coverage under the FHCF.

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

20091950e1

697 ~~additional coverage provided in this paragraph shall be~~
698 ~~determined as specified in subsection (5).~~

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

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

719 (1) HURRICANE MITIGATION INSPECTIONS.

720 (a) Certified inspectors to provide ~~free~~ home-retrofit
721 inspections of site-built, single-family, residential property
722 may ~~shall~~ be offered ~~throughout the state~~ to determine what
723 mitigation measures are needed, what insurance premium discounts
724 may be available, and what improvements to existing residential
725 properties are needed to reduce the property's vulnerability to

20091950e1

726 hurricane damage. The Department of Financial Services shall
727 contract with wind certification entities to provide ~~free~~
728 hurricane mitigation inspections. The inspections provided to
729 homeowners, at a minimum, must include:

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

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

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

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

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

748 1. Use hurricane mitigation inspectors who:

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

750 b. Are licensed as a general or residential contractor
751 under s. 489.111;

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

20091950e1

755 d. Are licensed as a professional architect under s.
756 481.213; or

757 e. Have at least 2 years of experience in residential
758 construction or residential building inspection and have
759 received specialized training in hurricane mitigation
760 procedures. Such training may be provided by a class offered
761 online or in person.

762 2. Use hurricane mitigation inspectors who also:

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

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

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

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

782 (d) An application for an inspection must contain a signed
783 or electronically verified statement made under penalty of

20091950e1

784 perjury that the applicant has submitted only a single
785 application for that home.

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

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

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

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

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

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

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

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

811

812 An application for a grant must contain a signed or

20091950e1

813 electronically verified statement made under penalty of perjury
814 that the applicant has submitted only a single application and
815 must have attached documents demonstrating the applicant meets
816 the requirements of this paragraph.

817 (b) All grants must be matched on a dollar-for-dollar basis
818 up to ~~for~~ a total of \$10,000 for the actual cost of the
819 mitigation project with the state's contribution not to exceed
820 \$5,000.

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

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

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

841 1. Opening protection.

20091950e1

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

848
849 The department may require that improvements be made to all
850 openings, including exterior doors and garage doors, as a
851 condition of reimbursing a homeowner approved for a grant. The
852 department may adopt, by rule, the maximum grant allowances for
853 any improvement allowable under this paragraph.

854 (f) Grants may be used on a previously inspected existing
855 structure or on a rebuild. A rebuild is defined as a site-built,
856 single-family dwelling under construction to replace a home that
857 was destroyed or significantly damaged by a hurricane and deemed
858 unlivable by a regulatory authority. The homeowner must be a
859 low-income homeowner as defined in paragraph (g), must have had
860 a homestead exemption for that home prior to the hurricane, and
861 must be intending to rebuild the home as that homeowner's
862 homestead.

863 (g) Low-income homeowners, as defined in s. 420.0004(10),
864 who otherwise meet the requirements of paragraphs (a), (c), (e),
865 and (f) are eligible for a grant of up to \$5,000 and are not
866 required to provide a matching amount to receive the grant.
867 Additionally, for low-income homeowners, grant funding may be
868 used for repair to existing structures leading to any of the
869 mitigation improvements provided in paragraph (e), limited to 20
870 percent of the grant value. The program may accept a

20091950e1

871 certification directly from a low-income homeowner that the
872 homeowner meets the requirements of s. 420.0004(10) if the
873 homeowner provides such certification in a signed or
874 electronically verified statement made under penalty of perjury.

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

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

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

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

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

898 (b) A representative of residential property insurers,
899 selected by the Financial Services Commission from a list of at

20091950e1

900 least three persons recommended by the Florida Insurance
901 Council.

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

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

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

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

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

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

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

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

920
921 Members appointed under paragraphs (a)-(d) shall serve at the
922 pleasure of the Financial Services Commission. Members appointed
923 under paragraphs (e) and (f) shall serve at the pleasure of the
924 appointing officer. All other members shall serve as voting ex
925 officio members. Members of the advisory council shall serve
926 without compensation but may receive reimbursement as provided
927 in s. 112.061 for per diem and travel expenses incurred in the
928 performance of their official duties.

20091950e1

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

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

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

943 ~~(8) NO INTEREST LOANS.—The department shall implement a no-~~
944 ~~interest loan program by October 1, 2008, contingent upon the~~
945 ~~selection of a qualified vendor and execution of a contract~~
946 ~~acceptable to the department and the vendor. The department~~
947 ~~shall enter into partnerships with the private sector to provide~~
948 ~~loans to owners of site-built, single-family, residential~~
949 ~~property to pay for mitigation measures listed in subsection~~
950 ~~(2). A loan eligible for interest payments pursuant to this~~
951 ~~subsection may be for a term of up to 3 years and cover up to~~
952 ~~\$5,000 in mitigation measures. The department shall pay the~~
953 ~~creditor the market rate of interest using funds appropriated~~
954 ~~for the My Safe Florida Home Program. In no case shall the~~
955 ~~department pay more than the interest rate set by s. 687.03. To~~
956 ~~be eligible for a loan, a loan applicant must first obtain a~~
957 ~~home inspection and report that specifies what improvements are~~

20091950e1

958 ~~needed to reduce the property's vulnerability to windstorm~~
959 ~~damage pursuant to this section and meet loan underwriting~~
960 ~~requirements set by the lender. The department may adopt rules~~
961 ~~pursuant to ss. 120.536(1) and 120.54 to implement this~~
962 ~~subsection which may include eligibility criteria.~~

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

977 (9) ~~(10)~~ CONTRACT MANAGEMENT.—The department may contract
978 with third parties for grants management, inspection services,
979 contractor services for low-income homeowners, information
980 technology, educational outreach, and auditing services. Such
981 contracts shall be considered direct costs of the program and
982 shall not be subject to administrative cost limits, but
983 contracts valued at \$1 million ~~\$500,000~~ or more shall be subject
984 to review and approval by the Legislative Budget Commission. The
985 department shall contract with providers that have a
986 demonstrated record of successful business operations in areas

20091950e1

987 directly related to the services to be provided and shall ensure
988 the highest accountability for use of state funds, consistent
989 with this section.

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

995 (11)~~(12)~~ REPORTS.—The department shall make an annual
996 report on the activities of the program that shall account for
997 the use of state funds and indicate the number of inspections
998 requested, the number of inspections performed, the number of
999 grant applications received, and the number and value of grants
1000 approved. The report shall be delivered to the President of the
1001 Senate and the Speaker of the House of Representatives by
1002 February 1 of each year.

1003 Section 3. Subsection (13) is added to section 626.854,
1004 Florida Statutes, to read:

1005 626.854 "Public adjuster" defined; prohibitions.—The
1006 Legislature finds that it is necessary for the protection of the
1007 public to regulate public insurance adjusters and to prevent the
1008 unauthorized practice of law.

1009 (13) A public adjuster, public adjuster apprentice, or any
1010 person acting on behalf of a public adjuster or apprentice may
1011 not accept referrals of business from any person with whom the
1012 public adjuster conducts business if there is any form or manner
1013 of agreement to compensate the person, whether directly or
1014 indirectly, for referring business to the public adjuster. A
1015 public adjuster may not compensate any person, except for

20091950e1

1016 another public adjuster, whether directly or indirectly, for the
1017 principal purpose of referring business to the public adjuster.

1018
1019 The provisions of subsections (5)-(13) ~~subsections (5)-(12)~~
1020 apply only to residential property insurance policies and
1021 condominium association policies as defined in s. 718.111(11).

1022 Section 4. Subsection (7) is added to section 627.7011,
1023 Florida Statutes, to read:

1024 627.7011 Homeowners' policies; offer of replacement cost
1025 coverage and law and ordinance coverage.—

1026 (7) This section does not prohibit an insurer from
1027 exercising its right to repair damaged property in compliance
1028 with its policy and s. 627.702(7).

1029 Section 5. Subsection (1) of section 626.865, Florida
1030 Statutes, is amended to read:

1031 626.865 Public adjuster's qualifications, bond.—

1032 (1) The department shall issue a license to an applicant
1033 for a public adjuster's license upon determining that the
1034 applicant has paid the applicable fees specified in s. 624.501
1035 and possesses the following qualifications:

1036 (a) Is a natural person at least 18 years of age.

1037 (b) Is a United States citizen or legal alien who possesses
1038 work authorization from the United States Bureau of Citizenship
1039 and Immigration Services and a bona fide resident of this state.

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

1044 (d) Has had sufficient experience, training, or instruction

20091950e1

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

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

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

1057 626.8651 Public adjuster apprentice license;
1058 qualifications.—

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

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

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

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

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

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

1073 (4) An applicant must have received designation as an

20091950e1

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

1081 (5) At the time of application for license as a public
1082 adjuster apprentice, the applicant shall file with the
1083 department a bond executed and issued by a surety insurer
1084 authorized to transact such business in this state in the amount
1085 of \$50,000, conditioned upon the faithful performance of his or
1086 her duties as a public adjuster apprentice under the license for
1087 which the applicant has applied, and thereafter maintain the
1088 bond unimpaired throughout the existence of the license and for
1089 at least 1 year after termination of the license. The bond shall
1090 be in favor of the department and shall specifically authorize
1091 recovery by the department of the damages sustained in case the
1092 licensee commits fraud or unfair practices in connection with
1093 his or her business as a public adjuster apprentice. The
1094 aggregate liability of the surety for all such damages may not
1095 exceed the amount of the bond, and the bond may not be
1096 terminated by the issuing insurer unless written notice of at
1097 least 30 days is given to the licensee and filed with the
1098 department.

1099 (6)~~(4)~~ A public adjuster apprentice shall complete at a
1100 minimum 100 hours of employment per month for 12 months of
1101 employment under the supervision of a licensed and appointed
1102 all-lines public adjuster in order to qualify for licensure as a

20091950e1

1103 public adjuster. The department may adopt rules that establish
1104 standards for such employment requirements.

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

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

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

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

20091950e1

1132 obtained a public adjuster license.

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

1145 Section 7. Subsections (2) and (5) of section 627.062,
1146 Florida Statutes, are amended to read:

1147 627.062 Rate standards.—

1148 (2) As to all such classes of insurance:

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

1157 1. If the filing is made at least 90 days before the
1158 proposed effective date and the filing is not implemented during
1159 the office's review of the filing and any proceeding and
1160 judicial review, then such filing shall be considered a "file

20091950e1

1161 and use" filing. In such case, the office shall finalize its
1162 review by issuance of a notice of intent to approve or a notice
1163 of intent to disapprove within 90 days after receipt of the
1164 filing. The notice of intent to approve and the notice of intent
1165 to disapprove constitute agency action for purposes of the
1166 Administrative Procedure Act. Requests for supporting
1167 information, requests for mathematical or mechanical
1168 corrections, or notification to the insurer by the office of its
1169 preliminary findings shall not toll the 90-day period during any
1170 such proceedings and subsequent judicial review. The rate shall
1171 be deemed approved if the office does not issue a notice of
1172 intent to approve or a notice of intent to disapprove within 90
1173 days after receipt of the filing.

1174 2. If the filing is not made in accordance with the
1175 provisions of subparagraph 1., such filing shall be made as soon
1176 as practicable, but no later than 30 days after the effective
1177 date, and shall be considered a "use and file" filing. An
1178 insurer making a "use and file" filing is potentially subject to
1179 an order by the office to return to policyholders portions of
1180 rates found to be excessive, as provided in paragraph (h).

1181 3. For all residential property insurance filings made or
1182 submitted after January 25, 2007, but before December 31, 2012
1183 ~~2009~~, an insurer seeking a rate that is greater than the rate
1184 most recently approved by the office shall make a "file and use"
1185 filing. For purposes of this subparagraph, motor vehicle
1186 collision and comprehensive coverages are not considered to be
1187 property coverages.

1188 (b) Upon receiving a rate filing, the office shall review
1189 the rate filing to determine if a rate is excessive, inadequate,

20091950e1

1190 or unfairly discriminatory. In making that determination, the
1191 office shall, in accordance with generally accepted and
1192 reasonable actuarial techniques, consider the following factors:

1193 1. Past and prospective loss experience within and without
1194 this state.

1195 2. Past and prospective expenses.

1196 3. The degree of competition among insurers for the risk
1197 insured.

1198 4. Investment income reasonably expected by the insurer,
1199 consistent with the insurer's investment practices, from
1200 investable premiums anticipated in the filing, plus any other
1201 expected income from currently invested assets representing the
1202 amount expected on unearned premium reserves and loss reserves.
1203 The commission may adopt rules using reasonable techniques of
1204 actuarial science and economics to specify the manner in which
1205 insurers shall calculate investment income attributable to such
1206 classes of insurance written in this state and the manner in
1207 which such investment income shall be used to calculate
1208 insurance rates. Such manner shall contemplate allowances for an
1209 underwriting profit factor and full consideration of investment
1210 income which produce a reasonable rate of return; however,
1211 investment income from invested surplus may not be considered.

1212 5. The reasonableness of the judgment reflected in the
1213 filing.

1214 6. Dividends, savings, or unabsorbed premium deposits
1215 allowed or returned to Florida policyholders, members, or
1216 subscribers.

1217 7. The adequacy of loss reserves.

1218 8. The cost of reinsurance. The office shall not disapprove

20091950e1

1219 a rate as excessive solely due to the insurer having obtained
1220 catastrophic reinsurance to cover the insurer's estimated 250-
1221 year probable maximum loss or any lower level of loss.

1222 9. Trend factors, including trends in actual losses per
1223 insured unit for the insurer making the filing.

1224 10. Conflagration and catastrophe hazards, if applicable.

1225 11. Projected hurricane losses, if applicable, which must
1226 be estimated using a model or method found to be acceptable or
1227 reliable by the Florida Commission on Hurricane Loss Projection
1228 Methodology, and as further provided in s. 627.0628.

1229 12. A reasonable margin for underwriting profit and
1230 contingencies.

1231 13. The cost of medical services, if applicable.

1232 14. Other relevant factors which impact upon the frequency
1233 or severity of claims or upon expenses.

1234 (c) In the case of fire insurance rates, consideration
1235 shall be given to the availability of water supplies and the
1236 experience of the fire insurance business during a period of not
1237 less than the most recent 5-year period for which such
1238 experience is available.

1239 (d) If conflagration or catastrophe hazards are given
1240 consideration by an insurer in its rates or rating plan,
1241 including surcharges and discounts, the insurer shall establish
1242 a reserve for that portion of the premium allocated to such
1243 hazard and shall maintain the premium in a catastrophe reserve.
1244 Any removal of such premiums from the reserve for purposes other
1245 than paying claims associated with a catastrophe or purchasing
1246 reinsurance for catastrophes shall be subject to approval of the
1247 office. Any ceding commission received by an insurer purchasing

20091950e1

1248 reinsurance for catastrophes shall be placed in the catastrophe
1249 reserve.

1250 (e) After consideration of the rate factors provided in
1251 paragraphs (b), (c), and (d), a rate may be found by the office
1252 to be excessive, inadequate, or unfairly discriminatory based
1253 upon the following standards:

1254 1. Rates shall be deemed excessive if they are likely to
1255 produce a profit from Florida business that is unreasonably high
1256 in relation to the risk involved in the class of business or if
1257 expenses are unreasonably high in relation to services rendered.

1258 2. Rates shall be deemed excessive if, among other things,
1259 the rate structure established by a stock insurance company
1260 provides for replenishment of surpluses from premiums, when the
1261 replenishment is attributable to investment losses.

1262 3. Rates shall be deemed inadequate if they are clearly
1263 insufficient, together with the investment income attributable
1264 to them, to sustain projected losses and expenses in the class
1265 of business to which they apply.

1266 4. A rating plan, including discounts, credits, or
1267 surcharges, shall be deemed unfairly discriminatory if it fails
1268 to clearly and equitably reflect consideration of the
1269 policyholder's participation in a risk management program
1270 adopted pursuant to s. 627.0625.

1271 5. A rate shall be deemed inadequate as to the premium
1272 charged to a risk or group of risks if discounts or credits are
1273 allowed which exceed a reasonable reflection of expense savings
1274 and reasonably expected loss experience from the risk or group
1275 of risks.

1276 6. A rate shall be deemed unfairly discriminatory as to a

20091950e1

1277 risk or group of risks if the application of premium discounts,
1278 credits, or surcharges among such risks does not bear a
1279 reasonable relationship to the expected loss and expense
1280 experience among the various risks.

1281 (f) In reviewing a rate filing, the office may require the
1282 insurer to provide at the insurer's expense all information
1283 necessary to evaluate the condition of the company and the
1284 reasonableness of the filing according to the criteria
1285 enumerated in this section.

1286 (g) The office may at any time review a rate, rating
1287 schedule, rating manual, or rate change; the pertinent records
1288 of the insurer; and market conditions. If the office finds on a
1289 preliminary basis that a rate may be excessive, inadequate, or
1290 unfairly discriminatory, the office shall initiate proceedings
1291 to disapprove the rate and shall so notify the insurer. However,
1292 the office may not disapprove as excessive any rate for which it
1293 has given final approval or which has been deemed approved for a
1294 period of 1 year after the effective date of the filing unless
1295 the office finds that a material misrepresentation or material
1296 error was made by the insurer or was contained in the filing.
1297 Upon being so notified, the insurer or rating organization
1298 shall, within 60 days, file with the office all information
1299 which, in the belief of the insurer or organization, proves the
1300 reasonableness, adequacy, and fairness of the rate or rate
1301 change. The office shall issue a notice of intent to approve or
1302 a notice of intent to disapprove pursuant to the procedures of
1303 paragraph (a) within 90 days after receipt of the insurer's
1304 initial response. In such instances and in any administrative
1305 proceeding relating to the legality of the rate, the insurer or

20091950e1

1306 rating organization shall carry the burden of proof by a
1307 preponderance of the evidence to show that the rate is not
1308 excessive, inadequate, or unfairly discriminatory. After the
1309 office notifies an insurer that a rate may be excessive,
1310 inadequate, or unfairly discriminatory, unless the office
1311 withdraws the notification, the insurer shall not alter the rate
1312 except to conform with the office's notice until the earlier of
1313 120 days after the date the notification was provided or 180
1314 days after the date of the implementation of the rate. The
1315 office may, subject to chapter 120, disapprove without the 60-
1316 day notification any rate increase filed by an insurer within
1317 the prohibited time period or during the time that the legality
1318 of the increased rate is being contested.

1319 (h) In the event the office finds that a rate or rate
1320 change is excessive, inadequate, or unfairly discriminatory, the
1321 office shall issue an order of disapproval specifying that a new
1322 rate or rate schedule which responds to the findings of the
1323 office be filed by the insurer. The office shall further order,
1324 for any "use and file" filing made in accordance with
1325 subparagraph (a)2., that premiums charged each policyholder
1326 constituting the portion of the rate above that which was
1327 actuarially justified be returned to such policyholder in the
1328 form of a credit or refund. If the office finds that an
1329 insurer's rate or rate change is inadequate, the new rate or
1330 rate schedule filed with the office in response to such a
1331 finding shall be applicable only to new or renewal business of
1332 the insurer written on or after the effective date of the
1333 responsive filing.

1334 (i) Except as otherwise specifically provided in this

20091950e1

1335 chapter, the office shall not prohibit any insurer, including
1336 any residual market plan or joint underwriting association, from
1337 paying acquisition costs based on the full amount of premium, as
1338 defined in s. 627.403, applicable to any policy, or prohibit any
1339 such insurer from including the full amount of acquisition costs
1340 in a rate filing.

1341 (j) With respect to residential property insurance rate
1342 filings, the rate filing must account for mitigation measures
1343 undertaken by policyholders to reduce hurricane losses.

1344 (k)1. An insurer may make a separate filing limited solely
1345 to an adjustment of its rates for reinsurance or financing costs
1346 to replace or finance payment of amounts covered by the Florida
1347 Hurricane Catastrophe Fund if:

1348 a. Reinsurance costs contained in the filing do not result
1349 in an overall premium increase of more than 10 percent for any
1350 individual policyholder. If the insurer elects to purchase a
1351 liquidity instrument or line of credit instead of reinsurance,
1352 the cost included in the filing for the liquidity instrument or
1353 line of credit may not result in a premium increase exceeding 3
1354 percent for any individual policyholder;

1355 b. The insurer includes in the filing a copy of all of its
1356 reinsurance, liquidity instrument, or line of credit contracts;
1357 proof of the billing or payment for the contracts; and the
1358 calculations upon which the proposed rate changes are based
1359 demonstrating that the costs meet the criteria of this section
1360 and are not loaded for expenses or profit;

1361 c. The insurer makes no other changes to its rates; and

1362 d. The insurer has not implemented an increase in its rate
1363 within the 6 months immediately preceding the filing.

20091950e1

1364 2. An insurer making a filing pursuant to this paragraph is
1365 not eligible to file for any additional rate increase for the
1366 same business for at least 12 months after implementation of the
1367 limited filing.

1368 3. This paragraph does not limit the authority of the
1369 office to disapprove the rate filing as excessive, inadequate,
1370 or unfairly discriminatory. All other standards of the rating
1371 law apply, including the standard of reasonableness.

1372 4. This paragraph does not apply to rate filings for any
1373 insurance other than residential property insurance.

1374
1375 The provisions of this subsection do ~~shall~~ not apply to workers'
1376 compensation and employer's liability insurance and to motor
1377 vehicle insurance.

1378 (5) With respect to a rate filing involving coverage of the
1379 type for which the insurer is required to pay a reimbursement
1380 premium to the Florida Hurricane Catastrophe Fund, the insurer
1381 may fully recoup in its property insurance premiums any
1382 reimbursement premiums paid to the Florida Hurricane Catastrophe
1383 Fund, together with reasonable costs of other reinsurance, but
1384 except as otherwise provided in this section, may not recoup
1385 reinsurance costs that duplicate coverage provided by the
1386 Florida Hurricane Catastrophe Fund. An insurer may not recoup
1387 more than 1 year of reimbursement premium at a time. Any under-
1388 recoupment from the prior year may be added to the following
1389 year's reimbursement premium and any over-recoupment shall be
1390 subtracted from the following year's reimbursement premium.

1391 Section 8. Section 627.0621, Florida Statutes, is amended
1392 to read:

20091950e1

1393 627.0621 Transparency in rate regulation.—

1394 (1) DEFINITIONS.—As used in this section, the term:

1395 (a) "Rate filing" means any original or amended rate
1396 residential property insurance filing.

1397 (b) "Recommendation" means any proposed, preliminary, or
1398 final recommendation from an office actuary reviewing a rate
1399 filing with respect to the issue of approval or disapproval of
1400 the rate filing or with respect to rate indications that the
1401 office would consider acceptable.

1402 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—

1403 (a) With respect to any residential property rate filing
1404 ~~made on or after July 1, 2008,~~ the office shall provide the
1405 following information on a publicly accessible Internet website:

1406 1. (a) The overall rate change requested by the insurer.

1407 2. The rate change approved by the office along with all of
1408 the actuary's assumptions and recommendations forming the basis
1409 of the office's decision.

1410 3. Certification by the office's actuary that, based on the
1411 actuary's knowledge, his or her recommendations are consistent
1412 with accepted actuarial principles.

1413 (b) For any rate filing, whether or not the filing is
1414 subject to a public hearing, the office shall provide on its
1415 website a means for any policyholder who may be affected by a
1416 proposed rate change to send an e-mail regarding the proposed
1417 rate change. Such e-mail must be accessible to the actuary
1418 assigned to review the rate filing.

1419 ~~(b) All assumptions made by the office's actuaries.~~

1420 ~~(c) A statement describing any assumptions or methods that~~
1421 ~~deviate from the actuarial standards of practice of the Casualty~~

20091950e1

1422 ~~Actuarial Society or the American Academy of Actuaries,~~
1423 ~~including an explanation of the nature, rationale, and effect of~~
1424 ~~the deviation.~~

1425 ~~(d) All recommendations made by any office actuary who~~
1426 ~~reviewed the rate filing.~~

1427 ~~(e) Certification by the office's actuary that, based on~~
1428 ~~the actuary's knowledge, his or her recommendations are~~
1429 ~~consistent with accepted actuarial principles.~~

1430 ~~(f) The overall rate change approved by the office.~~

1431 ~~(3) ATTORNEY-CLIENT PRIVILEGE; WORK PRODUCT. It is the~~
1432 ~~intent of the Legislature that the principles of the public~~
1433 ~~records and open meetings laws apply to the assertion of~~
1434 ~~attorney-client privilege and work product confidentiality by~~
1435 ~~the office in connection with a challenge to its actions on a~~
1436 ~~rate filing. Therefore, in any administrative or judicial~~
1437 ~~proceeding relating to a rate filing, attorney-client privilege~~
1438 ~~and work product exemptions from disclosure do not apply to~~
1439 ~~communications with office attorneys or records prepared by or~~
1440 ~~at the direction of an office attorney, except when the~~
1441 ~~conditions of paragraphs (a) and (b) have been met:~~

1442 ~~(a) The communication or record reflects a mental~~
1443 ~~impression, conclusion, litigation strategy, or legal theory of~~
1444 ~~the attorney or office that was prepared exclusively for civil~~
1445 ~~or criminal litigation or adversarial administrative~~
1446 ~~proceedings.~~

1447 ~~(b) The communication occurred or the record was prepared~~
1448 ~~after the initiation of an action in a court of competent~~
1449 ~~jurisdiction, after the issuance of a notice of intent to deny a~~
1450 ~~rate filing, or after the filing of a request for a proceeding~~

20091950e1

1451 ~~under ss. 120.569 and 120.57.~~

1452 Section 9. Section 627.0612, Florida Statutes, is repealed.

1453 Section 10. Subsection (5) of section 627.0629, Florida
1454 Statutes, is amended to read:

1455 627.0629 Residential property insurance; rate filings.—

1456 (5) In order to provide an appropriate transition period,
1457 an insurer may, in its sole discretion, implement an approved
1458 rate filing for residential property insurance over a period of
1459 years. An insurer electing to phase in its rate filing must
1460 provide an informational notice to the office setting out its
1461 schedule for implementation of the phased-in rate filing. An
1462 insurer may include in its rate the actual cost of private
1463 market reinsurance that corresponds to available coverage of the
1464 Temporary Increase in Coverage Limits, TICL, from the Florida
1465 Hurricane Catastrophe Fund. The insurer may also include the
1466 cost of reinsurance to replace the TICL reduction implemented
1467 pursuant to s. 215.555(17)(d)9. However, this cost for
1468 reinsurance may not include any expense or profit load or result
1469 in a total annual base rate increase in excess of 10 percent.

1470 Section 11. Paragraphs (a), (c), (m), and (x) of subsection
1471 (6) of section 627.351, Florida Statutes, are amended to read:

1472 627.351 Insurance risk apportionment plans.—

1473 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1474 (a)1. It is the public purpose of this subsection to ensure
1475 the existence of an orderly market for property insurance for
1476 Floridians and Florida businesses. The Legislature finds that
1477 private insurers are unwilling or unable to provide affordable
1478 property insurance coverage in this state to the extent sought
1479 and needed. The absence of affordable property insurance

20091950e1

1480 threatens the public health, safety, and welfare and likewise
1481 threatens the economic health of the state. The state therefore
1482 has a compelling public interest and a public purpose to assist
1483 in assuring that property in the state is insured and that it is
1484 insured at affordable rates so as to facilitate the remediation,
1485 reconstruction, and replacement of damaged or destroyed property
1486 in order to reduce or avoid the negative effects otherwise
1487 resulting to the public health, safety, and welfare, to the
1488 economy of the state, and to the revenues of the state and local
1489 governments which are needed to provide for the public welfare.
1490 It is necessary, therefore, to provide affordable property
1491 insurance to applicants who are in good faith entitled to
1492 procure insurance through the voluntary market but are unable to
1493 do so. The Legislature intends by this subsection that
1494 affordable property insurance be provided and that it continue
1495 to be provided, as long as necessary, through Citizens Property
1496 Insurance Corporation, a government entity that is an integral
1497 part of the state, and that is not a private insurance company.
1498 To that end, Citizens Property Insurance Corporation shall
1499 strive to increase the availability of affordable property
1500 insurance in this state, while achieving efficiencies and
1501 economies, and while providing service to policyholders,
1502 applicants, and agents which is no less than the quality
1503 generally provided in the voluntary market, for the achievement
1504 of the foregoing public purposes. Because it is essential for
1505 this government entity to have the maximum financial resources
1506 to pay claims following a catastrophic hurricane, it is the
1507 intent of the Legislature that Citizens Property Insurance
1508 Corporation continue to be an integral part of the state and

20091950e1

1509 that the income of the corporation be exempt from federal income
1510 taxation and that interest on the debt obligations issued by the
1511 corporation be exempt from federal income taxation.

1512 2. The Residential Property and Casualty Joint Underwriting
1513 Association originally created by this statute shall be known,
1514 as of July 1, 2002, as the Citizens Property Insurance
1515 Corporation. The corporation shall provide insurance for
1516 residential and commercial property, for applicants who are in
1517 good faith entitled, but are unable, to procure insurance
1518 through the voluntary market. The corporation shall operate
1519 pursuant to a plan of operation approved by order of the
1520 Financial Services Commission. The plan is subject to continuous
1521 review by the commission. The commission may, by order, withdraw
1522 approval of all or part of a plan if the commission determines
1523 that conditions have changed since approval was granted and that
1524 the purposes of the plan require changes in the plan. The
1525 corporation shall continue to operate pursuant to the plan of
1526 operation approved by the Office of Insurance Regulation until
1527 October 1, 2006. For the purposes of this subsection,
1528 residential coverage includes both personal lines residential
1529 coverage, which consists of the type of coverage provided by
1530 homeowner's, mobile home owner's, dwelling, tenant's,
1531 condominium unit owner's, and similar policies, and commercial
1532 lines residential coverage, which consists of the type of
1533 coverage provided by condominium association, apartment
1534 building, and similar policies.

1535 3. Effective January 1, 2009, a personal lines residential
1536 structure that has a dwelling replacement cost of \$2 million or
1537 more, or a single condominium unit that has a combined dwelling

20091950e1

1538 and content replacement cost of \$2 million or more is not
1539 eligible for coverage by the corporation. Such dwellings insured
1540 by the corporation on December 31, 2008, may continue to be
1541 covered by the corporation until the end of the policy term.
1542 However, such dwellings that are insured by the corporation and
1543 become ineligible for coverage due to the provisions of this
1544 subparagraph may reapply and obtain coverage if the property
1545 owner provides the corporation with a sworn affidavit from one
1546 or more insurance agents, on a form provided by the corporation,
1547 stating that the agents have made their best efforts to obtain
1548 coverage and that the property has been rejected for coverage by
1549 at least one authorized insurer and at least three surplus lines
1550 insurers. If such conditions are met, the dwelling may be
1551 insured by the corporation for up to 3 years, after which time
1552 the dwelling is ineligible for coverage. The office shall
1553 approve the method used by the corporation for valuing the
1554 dwelling replacement cost for the purposes of this subparagraph.
1555 If a policyholder is insured by the corporation prior to being
1556 determined to be ineligible pursuant to this subparagraph and
1557 such policyholder files a lawsuit challenging the determination,
1558 the policyholder may remain insured by the corporation until the
1559 conclusion of the litigation.

1560 4. It is the intent of the Legislature that policyholders,
1561 applicants, and agents of the corporation receive service and
1562 treatment of the highest possible level but never less than that
1563 generally provided in the voluntary market. It also is intended
1564 that the corporation be held to service standards no less than
1565 those applied to insurers in the voluntary market by the office
1566 with respect to responsiveness, timeliness, customer courtesy,

20091950e1

1567 and overall dealings with policyholders, applicants, or agents
1568 of the corporation.

1569 5. Effective January 1, 2009, a personal lines residential
1570 structure that is located in the "wind-borne debris region," as
1571 defined in s. 1609.2, International Building Code (2006), and
1572 that has an insured value on the structure of \$750,000 or more
1573 is not eligible for coverage by the corporation unless the
1574 structure has opening protections as required under the Florida
1575 Building Code for a newly constructed residential structure in
1576 that area. A residential structure shall be deemed to comply
1577 with the requirements of this subparagraph if it has shutters or
1578 opening protections on all openings and if such opening
1579 protections complied with the Florida Building Code at the time
1580 they were installed. ~~Effective January 1, 2010, for personal~~
1581 ~~lines residential property insured by the corporation that is~~
1582 ~~located in the wind-borne debris region and has an insured value~~
1583 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
1584 ~~any such residential property must be provided by the seller a~~
1585 ~~written disclosure that contains the structure's windstorm~~
1586 ~~mitigation rating based on the uniform home grading scale~~
1587 ~~adopted under s. 215.55865. Such rating shall be provided to the~~
1588 ~~purchaser at or before the time the purchaser executes a~~
1589 ~~contract for sale and purchase.~~

1590 (c) The plan of operation of the corporation:

1591 1. Must provide for adoption of residential property and
1592 casualty insurance policy forms and commercial residential and
1593 nonresidential property insurance forms, which forms must be
1594 approved by the office prior to use. The corporation shall adopt
1595 the following policy forms:

20091950e1

1596 a. Standard personal lines policy forms that are
1597 comprehensive multiperil policies providing full coverage of a
1598 residential property equivalent to the coverage provided in the
1599 private insurance market under an HO-3, HO-4, or HO-6 policy.

1600 b. Basic personal lines policy forms that are policies
1601 similar to an HO-8 policy or a dwelling fire policy that provide
1602 coverage meeting the requirements of the secondary mortgage
1603 market, but which coverage is more limited than the coverage
1604 under a standard policy.

1605 c. Commercial lines residential and nonresidential policy
1606 forms that are generally similar to the basic perils of full
1607 coverage obtainable for commercial residential structures and
1608 commercial nonresidential structures in the admitted voluntary
1609 market.

1610 d. Personal lines and commercial lines residential property
1611 insurance forms that cover the peril of wind only. The forms are
1612 applicable only to residential properties located in areas
1613 eligible for coverage under the high-risk account referred to in
1614 sub-subparagraph (b)2.a.

1615 e. Commercial lines nonresidential property insurance forms
1616 that cover the peril of wind only. The forms are applicable only
1617 to nonresidential properties located in areas eligible for
1618 coverage under the high-risk account referred to in sub-
1619 subparagraph (b)2.a.

1620 f. The corporation may adopt variations of the policy forms
1621 listed in sub-subparagraphs a.-e. that contain more restrictive
1622 coverage.

1623 2.a. Must provide that the corporation adopt a program in
1624 which the corporation and authorized insurers enter into quota

20091950e1

1625 share primary insurance agreements for hurricane coverage, as
1626 defined in s. 627.4025(2) (a), for eligible risks, and adopt
1627 property insurance forms for eligible risks which cover the
1628 peril of wind only. As used in this subsection, the term:

1629 (I) "Quota share primary insurance" means an arrangement in
1630 which the primary hurricane coverage of an eligible risk is
1631 provided in specified percentages by the corporation and an
1632 authorized insurer. The corporation and authorized insurer are
1633 each solely responsible for a specified percentage of hurricane
1634 coverage of an eligible risk as set forth in a quota share
1635 primary insurance agreement between the corporation and an
1636 authorized insurer and the insurance contract. The
1637 responsibility of the corporation or authorized insurer to pay
1638 its specified percentage of hurricane losses of an eligible
1639 risk, as set forth in the quota share primary insurance
1640 agreement, may not be altered by the inability of the other
1641 party to the agreement to pay its specified percentage of
1642 hurricane losses. Eligible risks that are provided hurricane
1643 coverage through a quota share primary insurance arrangement
1644 must be provided policy forms that set forth the obligations of
1645 the corporation and authorized insurer under the arrangement,
1646 clearly specify the percentages of quota share primary insurance
1647 provided by the corporation and authorized insurer, and
1648 conspicuously and clearly state that neither the authorized
1649 insurer nor the corporation may be held responsible beyond its
1650 specified percentage of coverage of hurricane losses.

1651 (II) "Eligible risks" means personal lines residential and
1652 commercial lines residential risks that meet the underwriting
1653 criteria of the corporation and are located in areas that were

20091950e1

1654 eligible for coverage by the Florida Windstorm Underwriting
1655 Association on January 1, 2002.

1656 b. The corporation may enter into quota share primary
1657 insurance agreements with authorized insurers at corporation
1658 coverage levels of 90 percent and 50 percent.

1659 c. If the corporation determines that additional coverage
1660 levels are necessary to maximize participation in quota share
1661 primary insurance agreements by authorized insurers, the
1662 corporation may establish additional coverage levels. However,
1663 the corporation's quota share primary insurance coverage level
1664 may not exceed 90 percent.

1665 d. Any quota share primary insurance agreement entered into
1666 between an authorized insurer and the corporation must provide
1667 for a uniform specified percentage of coverage of hurricane
1668 losses, by county or territory as set forth by the corporation
1669 board, for all eligible risks of the authorized insurer covered
1670 under the quota share primary insurance agreement.

1671 e. Any quota share primary insurance agreement entered into
1672 between an authorized insurer and the corporation is subject to
1673 review and approval by the office. However, such agreement shall
1674 be authorized only as to insurance contracts entered into
1675 between an authorized insurer and an insured who is already
1676 insured by the corporation for wind coverage.

1677 f. For all eligible risks covered under quota share primary
1678 insurance agreements, the exposure and coverage levels for both
1679 the corporation and authorized insurers shall be reported by the
1680 corporation to the Florida Hurricane Catastrophe Fund. For all
1681 policies of eligible risks covered under quota share primary
1682 insurance agreements, the corporation and the authorized insurer

20091950e1

1683 shall maintain complete and accurate records for the purpose of
1684 exposure and loss reimbursement audits as required by Florida
1685 Hurricane Catastrophe Fund rules. The corporation and the
1686 authorized insurer shall each maintain duplicate copies of
1687 policy declaration pages and supporting claims documents.

1688 g. The corporation board shall establish in its plan of
1689 operation standards for quota share agreements which ensure that
1690 there is no discriminatory application among insurers as to the
1691 terms of quota share agreements, pricing of quota share
1692 agreements, incentive provisions if any, and consideration paid
1693 for servicing policies or adjusting claims.

1694 h. The quota share primary insurance agreement between the
1695 corporation and an authorized insurer must set forth the
1696 specific terms under which coverage is provided, including, but
1697 not limited to, the sale and servicing of policies issued under
1698 the agreement by the insurance agent of the authorized insurer
1699 producing the business, the reporting of information concerning
1700 eligible risks, the payment of premium to the corporation, and
1701 arrangements for the adjustment and payment of hurricane claims
1702 incurred on eligible risks by the claims adjuster and personnel
1703 of the authorized insurer. Entering into a quota sharing
1704 insurance agreement between the corporation and an authorized
1705 insurer shall be voluntary and at the discretion of the
1706 authorized insurer.

1707 3. May provide that the corporation may employ or otherwise
1708 contract with individuals or other entities to provide
1709 administrative or professional services that may be appropriate
1710 to effectuate the plan. The corporation shall have the power to
1711 borrow funds, by issuing bonds or by incurring other

20091950e1

1712 indebtedness, and shall have other powers reasonably necessary
1713 to effectuate the requirements of this subsection, including,
1714 without limitation, the power to issue bonds and incur other
1715 indebtedness in order to refinance outstanding bonds or other
1716 indebtedness. The corporation may, but is not required to, seek
1717 judicial validation of its bonds or other indebtedness under
1718 chapter 75. The corporation may issue bonds or incur other
1719 indebtedness, or have bonds issued on its behalf by a unit of
1720 local government pursuant to subparagraph (p)2., in the absence
1721 of a hurricane or other weather-related event, upon a
1722 determination by the corporation, subject to approval by the
1723 office, that such action would enable it to efficiently meet the
1724 financial obligations of the corporation and that such
1725 financings are reasonably necessary to effectuate the
1726 requirements of this subsection. The corporation is authorized
1727 to take all actions needed to facilitate tax-free status for any
1728 such bonds or indebtedness, including formation of trusts or
1729 other affiliated entities. The corporation shall have the
1730 authority to pledge assessments, projected recoveries from the
1731 Florida Hurricane Catastrophe Fund, other reinsurance
1732 recoverables, market equalization and other surcharges, and
1733 other funds available to the corporation as security for bonds
1734 or other indebtedness. In recognition of s. 10, Art. I of the
1735 State Constitution, prohibiting the impairment of obligations of
1736 contracts, it is the intent of the Legislature that no action be
1737 taken whose purpose is to impair any bond indenture or financing
1738 agreement or any revenue source committed by contract to such
1739 bond or other indebtedness.

1740 4.a. Must require that the corporation operate subject to

20091950e1

1741 the supervision and approval of a board of governors consisting
1742 of eight individuals who are residents of this state, from
1743 different geographical areas of this state. The Governor, the
1744 Chief Financial Officer, the President of the Senate, and the
1745 Speaker of the House of Representatives shall each appoint two
1746 members of the board. At least one of the two members appointed
1747 by each appointing officer must have demonstrated expertise in
1748 insurance. The Chief Financial Officer shall designate one of
1749 the appointees as chair. All board members serve at the pleasure
1750 of the appointing officer. All members of the board of governors
1751 are subject to removal at will by the officers who appointed
1752 them. All board members, including the chair, must be appointed
1753 to serve for 3-year terms beginning annually on a date
1754 designated by the plan. However, for the first term beginning on
1755 or after July 1, 2009, each appointing officer shall appoint one
1756 member of the board for a 2-year term and one member for a 3-
1757 year term. Any board vacancy shall be filled for the unexpired
1758 term by the appointing officer. The Chief Financial Officer
1759 shall appoint a technical advisory group to provide information
1760 and advice to the board of governors in connection with the
1761 board's duties under this subsection. The executive director and
1762 senior managers of the corporation shall be engaged by the board
1763 and serve at the pleasure of the board. Any executive director
1764 appointed on or after July 1, 2006, is subject to confirmation
1765 by the Senate. The executive director is responsible for
1766 employing other staff as the corporation may require, subject to
1767 review and concurrence by the board.

1768 b. The board shall create a Market Accountability Advisory
1769 Committee to assist the corporation in developing awareness of

20091950e1

1770 its rates and its customer and agent service levels in
1771 relationship to the voluntary market insurers writing similar
1772 coverage. The members of the advisory committee shall consist of
1773 the following 11 persons, one of whom must be elected chair by
1774 the members of the committee: four representatives, one
1775 appointed by the Florida Association of Insurance Agents, one by
1776 the Florida Association of Insurance and Financial Advisors, one
1777 by the Professional Insurance Agents of Florida, and one by the
1778 Latin American Association of Insurance Agencies; three
1779 representatives appointed by the insurers with the three highest
1780 voluntary market share of residential property insurance
1781 business in the state; one representative from the Office of
1782 Insurance Regulation; one consumer appointed by the board who is
1783 insured by the corporation at the time of appointment to the
1784 committee; one representative appointed by the Florida
1785 Association of Realtors; and one representative appointed by the
1786 Florida Bankers Association. All members must serve for 3-year
1787 terms and may serve for consecutive terms. The committee shall
1788 report to the corporation at each board meeting on insurance
1789 market issues which may include rates and rate competition with
1790 the voluntary market; service, including policy issuance, claims
1791 processing, and general responsiveness to policyholders,
1792 applicants, and agents; and matters relating to depopulation.

1793 5. Must provide a procedure for determining the eligibility
1794 of a risk for coverage, as follows:

1795 a. Subject to the provisions of s. 627.3517, with respect
1796 to personal lines residential risks, if the risk is offered
1797 coverage from an authorized insurer at the insurer's approved
1798 rate under either a standard policy including wind coverage or,

20091950e1

1799 if consistent with the insurer's underwriting rules as filed
1800 with the office, a basic policy including wind coverage, for a
1801 new application to the corporation for coverage, the risk is not
1802 eligible for any policy issued by the corporation unless the
1803 premium for coverage from the authorized insurer is more than 15
1804 percent greater than the premium for comparable coverage from
1805 the corporation. If the risk is not able to obtain any such
1806 offer, the risk is eligible for either a standard policy
1807 including wind coverage or a basic policy including wind
1808 coverage issued by the corporation; however, if the risk could
1809 not be insured under a standard policy including wind coverage
1810 regardless of market conditions, the risk shall be eligible for
1811 a basic policy including wind coverage unless rejected under
1812 subparagraph 8. However, with regard to a policyholder of the
1813 corporation or a policyholder removed from the corporation
1814 through an assumption agreement until the end of the assumption
1815 period, the policyholder remains eligible for coverage from the
1816 corporation regardless of any offer of coverage from an
1817 authorized insurer or surplus lines insurer. The corporation
1818 shall determine the type of policy to be provided on the basis
1819 of objective standards specified in the underwriting manual and
1820 based on generally accepted underwriting practices.

1821 (I) If the risk accepts an offer of coverage through the
1822 market assistance plan or an offer of coverage through a
1823 mechanism established by the corporation before a policy is
1824 issued to the risk by the corporation or during the first 30
1825 days of coverage by the corporation, and the producing agent who
1826 submitted the application to the plan or to the corporation is
1827 not currently appointed by the insurer, the insurer shall:

20091950e1

1828 (A) Pay to the producing agent of record of the policy, for
1829 the first year, an amount that is the greater of the insurer's
1830 usual and customary commission for the type of policy written or
1831 a fee equal to the usual and customary commission of the
1832 corporation; or

1833 (B) Offer to allow the producing agent of record of the
1834 policy to continue servicing the policy for a period of not less
1835 than 1 year and offer to pay the agent the greater of the
1836 insurer's or the corporation's usual and customary commission
1837 for the type of policy written.

1838
1839 If the producing agent is unwilling or unable to accept
1840 appointment, the new insurer shall pay the agent in accordance
1841 with sub-sub-sub-subparagraph (A).

1842 (II) When the corporation enters into a contractual
1843 agreement for a take-out plan, the producing agent of record of
1844 the corporation policy is entitled to retain any unearned
1845 commission on the policy, and the insurer shall:

1846 (A) Pay to the producing agent of record of the corporation
1847 policy, for the first year, an amount that is the greater of the
1848 insurer's usual and customary commission for the type of policy
1849 written or a fee equal to the usual and customary commission of
1850 the corporation; or

1851 (B) Offer to allow the producing agent of record of the
1852 corporation policy to continue servicing the policy for a period
1853 of not less than 1 year and offer to pay the agent the greater
1854 of the insurer's or the corporation's usual and customary
1855 commission for the type of policy written.

1856

20091950e1

1857 If the producing agent is unwilling or unable to accept
1858 appointment, the new insurer shall pay the agent in accordance
1859 with sub-sub-sub-subparagraph (A).

1860 b. With respect to commercial lines residential risks, for
1861 a new application to the corporation for coverage, if the risk
1862 is offered coverage under a policy including wind coverage from
1863 an authorized insurer at its approved rate, the risk is not
1864 eligible for any policy issued by the corporation unless the
1865 premium for coverage from the authorized insurer is more than 15
1866 percent greater than the premium for comparable coverage from
1867 the corporation. If the risk is not able to obtain any such
1868 offer, the risk is eligible for a policy including wind coverage
1869 issued by the corporation. However, with regard to a
1870 policyholder of the corporation or a policyholder removed from
1871 the corporation through an assumption agreement until the end of
1872 the assumption period, the policyholder remains eligible for
1873 coverage from the corporation regardless of any offer of
1874 coverage from an authorized insurer or surplus lines insurer.

1875 (I) If the risk accepts an offer of coverage through the
1876 market assistance plan or an offer of coverage through a
1877 mechanism established by the corporation before a policy is
1878 issued to the risk by the corporation or during the first 30
1879 days of coverage by the corporation, and the producing agent who
1880 submitted the application to the plan or the corporation is not
1881 currently appointed by the insurer, the insurer shall:

1882 (A) Pay to the producing agent of record of the policy, for
1883 the first year, an amount that is the greater of the insurer's
1884 usual and customary commission for the type of policy written or
1885 a fee equal to the usual and customary commission of the

20091950e1

1886 corporation; or

1887 (B) Offer to allow the producing agent of record of the
1888 policy to continue servicing the policy for a period of not less
1889 than 1 year and offer to pay the agent the greater of the
1890 insurer's or the corporation's usual and customary commission
1891 for the type of policy written.

1892

1893 If the producing agent is unwilling or unable to accept
1894 appointment, the new insurer shall pay the agent in accordance
1895 with sub-sub-sub-subparagraph (A).

1896 (II) When the corporation enters into a contractual
1897 agreement for a take-out plan, the producing agent of record of
1898 the corporation policy is entitled to retain any unearned
1899 commission on the policy, and the insurer shall:

1900 (A) Pay to the producing agent of record of the corporation
1901 policy, for the first year, an amount that is the greater of the
1902 insurer's usual and customary commission for the type of policy
1903 written or a fee equal to the usual and customary commission of
1904 the corporation; or

1905 (B) Offer to allow the producing agent of record of the
1906 corporation policy to continue servicing the policy for a period
1907 of not less than 1 year and offer to pay the agent the greater
1908 of the insurer's or the corporation's usual and customary
1909 commission for the type of policy written.

1910

1911 If the producing agent is unwilling or unable to accept
1912 appointment, the new insurer shall pay the agent in accordance
1913 with sub-sub-sub-subparagraph (A).

1914 c. For purposes of determining comparable coverage under

20091950e1

1915 sub-subparagraphs a. and b., the comparison shall be based on
1916 those forms and coverages that are reasonably comparable. The
1917 corporation may rely on a determination of comparable coverage
1918 and premium made by the producing agent who submits the
1919 application to the corporation, made in the agent's capacity as
1920 the corporation's agent. A comparison may be made solely of the
1921 premium with respect to the main building or structure only on
1922 the following basis: the same coverage A or other building
1923 limits; the same percentage hurricane deductible that applies on
1924 an annual basis or that applies to each hurricane for commercial
1925 residential property; the same percentage of ordinance and law
1926 coverage, if the same limit is offered by both the corporation
1927 and the authorized insurer; the same mitigation credits, to the
1928 extent the same types of credits are offered both by the
1929 corporation and the authorized insurer; the same method for loss
1930 payment, such as replacement cost or actual cash value, if the
1931 same method is offered both by the corporation and the
1932 authorized insurer in accordance with underwriting rules; and
1933 any other form or coverage that is reasonably comparable as
1934 determined by the board. If an application is submitted to the
1935 corporation for wind-only coverage in the high-risk account, the
1936 premium for the corporation's wind-only policy plus the premium
1937 for the ex-wind policy that is offered by an authorized insurer
1938 to the applicant shall be compared to the premium for multiperil
1939 coverage offered by an authorized insurer, subject to the
1940 standards for comparison specified in this subparagraph. If the
1941 corporation or the applicant requests from the authorized
1942 insurer a breakdown of the premium of the offer by types of
1943 coverage so that a comparison may be made by the corporation or

20091950e1

1944 its agent and the authorized insurer refuses or is unable to
1945 provide such information, the corporation may treat the offer as
1946 not being an offer of coverage from an authorized insurer at the
1947 insurer's approved rate.

1948 6. Must include rules for classifications of risks and
1949 rates therefor.

1950 7. Must provide that if premium and investment income for
1951 an account attributable to a particular calendar year are in
1952 excess of projected losses and expenses for the account
1953 attributable to that year, such excess shall be held in surplus
1954 in the account. Such surplus shall be available to defray
1955 deficits in that account as to future years and shall be used
1956 for that purpose prior to assessing assessable insurers and
1957 assessable insureds as to any calendar year.

1958 8. Must provide objective criteria and procedures to be
1959 uniformly applied for all applicants in determining whether an
1960 individual risk is so hazardous as to be uninsurable. In making
1961 this determination and in establishing the criteria and
1962 procedures, the following shall be considered:

1963 a. Whether the likelihood of a loss for the individual risk
1964 is substantially higher than for other risks of the same class;
1965 and

1966 b. Whether the uncertainty associated with the individual
1967 risk is such that an appropriate premium cannot be determined.

1968
1969 The acceptance or rejection of a risk by the corporation shall
1970 be construed as the private placement of insurance, and the
1971 provisions of chapter 120 shall not apply.

1972 9. Must provide that the corporation shall make its best

20091950e1

1973 efforts to procure catastrophe reinsurance at reasonable rates,
1974 to cover its projected 100-year probable maximum loss as
1975 determined by the board of governors.

1976 10. The policies issued by the corporation must provide
1977 that, if the corporation or the market assistance plan obtains
1978 an offer from an authorized insurer to cover the risk at its
1979 approved rates, the risk is no longer eligible for renewal
1980 through the corporation, except as otherwise provided in this
1981 subsection.

1982 11. Corporation policies and applications must include a
1983 notice that the corporation policy could, under this section, be
1984 replaced with a policy issued by an authorized insurer that does
1985 not provide coverage identical to the coverage provided by the
1986 corporation. The notice shall also specify that acceptance of
1987 corporation coverage creates a conclusive presumption that the
1988 applicant or policyholder is aware of this potential.

1989 12. May establish, subject to approval by the office,
1990 different eligibility requirements and operational procedures
1991 for any line or type of coverage for any specified county or
1992 area if the board determines that such changes to the
1993 eligibility requirements and operational procedures are
1994 justified due to the voluntary market being sufficiently stable
1995 and competitive in such area or for such line or type of
1996 coverage and that consumers who, in good faith, are unable to
1997 obtain insurance through the voluntary market through ordinary
1998 methods would continue to have access to coverage from the
1999 corporation. When coverage is sought in connection with a real
2000 property transfer, such requirements and procedures shall not
2001 provide for an effective date of coverage later than the date of

20091950e1

2002 the closing of the transfer as established by the transferor,
2003 the transferee, and, if applicable, the lender.

2004 13. Must provide that, with respect to the high-risk
2005 account, any assessable insurer with a surplus as to
2006 policyholders of \$25 million or less writing 25 percent or more
2007 of its total countrywide property insurance premiums in this
2008 state may petition the office, within the first 90 days of each
2009 calendar year, to qualify as a limited apportionment company. A
2010 regular assessment levied by the corporation on a limited
2011 apportionment company for a deficit incurred by the corporation
2012 for the high-risk account in 2006 or thereafter may be paid to
2013 the corporation on a monthly basis as the assessments are
2014 collected by the limited apportionment company from its insureds
2015 pursuant to s. 627.3512, but the regular assessment must be paid
2016 in full within 12 months after being levied by the corporation.
2017 A limited apportionment company shall collect from its
2018 policyholders any emergency assessment imposed under sub-
2019 subparagraph (b)3.d. The plan shall provide that, if the office
2020 determines that any regular assessment will result in an
2021 impairment of the surplus of a limited apportionment company,
2022 the office may direct that all or part of such assessment be
2023 deferred as provided in subparagraph (p)4. However, there shall
2024 be no limitation or deferment of an emergency assessment to be
2025 collected from policyholders under sub-subparagraph (b)3.d.

2026 14. Must provide that the corporation appoint as its
2027 licensed agents only those agents who also hold an appointment
2028 as defined in s. 626.015(3) with an insurer who at the time of
2029 the agent's initial appointment by the corporation is authorized
2030 to write and is actually writing personal lines residential

20091950e1

2031 property coverage, commercial residential property coverage, or
2032 commercial nonresidential property coverage within the state.

2033 15. Must provide, by July 1, 2007, a premium payment plan
2034 option to its policyholders which allows at a minimum for
2035 quarterly and semiannual payment of premiums. A monthly payment
2036 plan may, but is not required to, be offered.

2037 16. Must limit coverage on mobile homes or manufactured
2038 homes built prior to 1994 to actual cash value of the dwelling
2039 rather than replacement costs of the dwelling.

2040 17. May provide such limits of coverage as the board
2041 determines, consistent with the requirements of this subsection.

2042 18. May require commercial property to meet specified
2043 hurricane mitigation construction features as a condition of
2044 eligibility for coverage.

2045 (m)1. Rates for coverage provided by the corporation shall
2046 be actuarially sound and subject to the requirements of s.
2047 627.062, except as otherwise provided in this paragraph. The
2048 corporation shall file its recommended rates with the office at
2049 least annually. The corporation shall provide any additional
2050 information regarding the rates which the office requires. The
2051 office shall consider the recommendations of the board and issue
2052 a final order establishing the rates for the corporation within
2053 45 days after the recommended rates are filed. The corporation
2054 may not pursue an administrative challenge or judicial review of
2055 the final order of the office.

2056 2. In addition to the rates otherwise determined pursuant
2057 to this paragraph, the corporation shall impose and collect an
2058 amount equal to the premium tax provided for in s. 624.509 to
2059 augment the financial resources of the corporation.

20091950e1

2060 3. After the public hurricane loss-projection model under
2061 s. 627.06281 has been found to be accurate and reliable by the
2062 Florida Commission on Hurricane Loss Projection Methodology,
2063 that model shall serve as the minimum benchmark for determining
2064 the windstorm portion of the corporation's rates. This
2065 subparagraph does not require or allow the corporation to adopt
2066 rates lower than the rates otherwise required or allowed by this
2067 paragraph.

2068 4. The rate filings for the corporation which were approved
2069 by the office and which took effect January 1, 2007, are
2070 rescinded, except for those rates that were lowered. As soon as
2071 possible, the corporation shall begin using the lower rates that
2072 were in effect on December 31, 2006, and shall provide refunds
2073 to policyholders who have paid higher rates as a result of that
2074 rate filing. The rates in effect on December 31, 2006, shall
2075 remain in effect for the 2007 and 2008 calendar years except for
2076 any rate change that results in a lower rate. The next rate
2077 change that may increase rates shall take effect pursuant to a
2078 new rate filing recommended by the corporation and established
2079 by the office, subject to the requirements of this paragraph.

2080 5. Beginning on July 15, 2009, and each year thereafter,
2081 the corporation must make a recommended actuarially sound rate
2082 filing for each personal and commercial line of business it
2083 writes, to be effective no earlier than January 1, 2010.

2084 6. Notwithstanding the board's recommended rates and the
2085 office's final order regarding the corporation's filed rates
2086 under subparagraph 1., the corporation shall implement a rate
2087 increase each year which does not exceed 5 percent for any
2088 single policy issued by the corporation, excluding coverage

20091950e1

2089 changes and surcharges.

2090 7. The corporation may also implement an increase to
2091 reflect the effect on the corporation of the cash buildup factor
2092 pursuant to s. 215.555(5) (b).

2093 8. The corporation's implementation of rates as prescribed
2094 in subparagraph 6. shall cease upon the corporation's
2095 implementation of actuarially sound rates.

2096 9. Beginning January 1, 2010, and each quarter thereafter,
2097 the corporation shall transfer an amount equal to 10 percent of
2098 the funds projected to be collected from the rate increase
2099 prescribed by subparagraph 6. to the General Revenue Fund. The
2100 corporation shall cease such transfers upon the implementation
2101 of actuarially sound rates or the existence of a deficit in any
2102 account as described in subparagraph (b)3.

2103 (x) It is the intent of the Legislature that the amendments
2104 to this subsection enacted in 2002 should, over time, reduce the
2105 probable maximum windstorm losses in the residual markets and
2106 should reduce the potential assessments to be levied on property
2107 insurers and policyholders statewide. In furtherance of this
2108 intent:

2109 1. The board shall, on or before February 1 of each year,
2110 provide a report to the President of the Senate and the Speaker
2111 of the House of Representatives showing the reduction or
2112 increase in the 100-year probable maximum loss attributable to
2113 wind-only coverages and the quota share program under this
2114 subsection combined, as compared to the benchmark 100-year
2115 probable maximum loss of the Florida Windstorm Underwriting
2116 Association. For purposes of this paragraph, the benchmark 100-
2117 year probable maximum loss of the Florida Windstorm Underwriting

20091950e1

2118 Association shall be the calculation dated February 2001 and
2119 based on November 30, 2000, exposures. In order to ensure
2120 comparability of data, the board shall use the same methods for
2121 calculating its probable maximum loss as were used to calculate
2122 the benchmark probable maximum loss.

2123 2. Beginning December 1, 2010 ~~February 1, 2010~~, if the
2124 report under subparagraph 1. for any year indicates that the
2125 100-year probable maximum loss attributable to wind-only
2126 coverages and the quota share program combined does not reflect
2127 a reduction of at least 25 percent from the benchmark, the board
2128 shall reduce the boundaries of the high-risk area eligible for
2129 wind-only coverages under this subsection in a manner calculated
2130 to reduce such probable maximum loss to an amount at least 25
2131 percent below the benchmark.

2132 3. Beginning February 1, 2015, if the report under
2133 subparagraph 1. for any year indicates that the 100-year
2134 probable maximum loss attributable to wind-only coverages and
2135 the quota share program combined does not reflect a reduction of
2136 at least 50 percent from the benchmark, the boundaries of the
2137 high-risk area eligible for wind-only coverages under this
2138 subsection shall be reduced by the elimination of any area that
2139 is not seaward of a line 1,000 feet inland from the Intracoastal
2140 Waterway.

2141 Section 12. Section 627.3512, Florida Statutes, is amended
2142 to read:

2143 627.3512 Recoupment of residual market deficit
2144 assessments.—

2145 (1) The Legislature finds and declares that all assessments
2146 paid by an insurer or insurer group as a result of a levy by any

20091950e1

2147 residual market entity, including regular assessments levied on
2148 insurers by Citizens Property Insurance Corporation and any
2149 other assessments levied on insurers by an insurance risk
2150 apportionment plan or assigned risk plan under s. 627.311 or s.
2151 627.351 constitute advances of funds from the insurer to the
2152 residual market entity, and that the insurer is entitled to
2153 fully recoup such advances. An insurer or insurer group may
2154 recoup any assessments that have been paid during or after 1995
2155 by the insurer or insurer group to defray deficits of an
2156 insurance risk apportionment plan or assigned risk plan under
2157 ss. 627.311 and 627.351, net of any earnings returned to the
2158 insurer or insurer group by the association or plan for any year
2159 after 1993. A limited apportionment company as defined in s.
2160 627.351(6)(c) may recoup any regular assessment that has been
2161 levied by, or paid to, Citizens Property Insurance Corporation.

2162 (2) The recoupment shall be made by applying a separate
2163 recoupment ~~assessment~~ factor on policies of the same line or
2164 type as were considered by the residual markets in determining
2165 the assessment liability of the insurer or insurer group. An
2166 insurer or insurer group shall calculate a separate assessment
2167 factor for personal lines and commercial lines. The separate
2168 assessment factor shall provide for full recoupment of the
2169 assessments over a period of 1 year, unless the insurer or
2170 insurer group, at its option, elects to recoup the assessments
2171 over a longer period. The assessment factor expires upon
2172 collection of the full amount allowed to be recouped. Amounts
2173 recouped under this section are not subject to premium taxes,
2174 fees, or commissions.

2175 (3) ~~(2)~~ The recoupment ~~assessment~~ factor may ~~must~~ not be

20091950e1

2176 more than 3 percentage points above the ratio of the deficit
2177 assessment to the Florida direct written premium for policies
2178 for the lines or types of business as to which the assessment
2179 was calculated, as written in the year the deficit assessment
2180 was paid. If an insurer or insurer group does not ~~fails to~~
2181 collect the full amount of the deficit assessment during one 12-
2182 month period, the insurer or insurer group may apply
2183 recalculated recoupment factors to policies issued or renewed
2184 during one or more succeeding 12-month periods ~~must carry~~
2185 ~~forward the amount of the deficit and adjust the deficit~~
2186 ~~assessment to be recouped in a subsequent year by that amount.~~

2187 (4) ~~(3)~~ The insurer or insurer group shall file with the
2188 office a statement for informational purposes only setting forth
2189 the amount of the recoupment ~~assessment~~ factor and an
2190 explanation of how the factor will be applied, at least 15 days
2191 prior to the factor being applied to any policies. The
2192 informational statement shall include documentation of the
2193 assessment paid by the insurer or insurer group and the
2194 arithmetic calculations supporting the recoupment ~~assessment~~
2195 factor. ~~The office shall complete its review within 15 days~~
2196 ~~after receipt of the filing and shall limit its review to~~
2197 ~~verification of the arithmetic calculations.~~ The insurer or
2198 insurer group may use the recoupment ~~assessment~~ factor at any
2199 time after the expiration of the 15-day period ~~unless the office~~
2200 ~~has notified the insurer or insurer group in writing that the~~
2201 ~~arithmetic calculations are incorrect.~~ The recoupment factor
2202 shall apply to all policies described in subsection (3) that are
2203 issued or renewed by the insurer or insurer group during a 12-
2204 month period. If full recoupment requires the insurer or insurer

20091950e1

2205 group to apply a recoupment factor over a subsequent 12-month
2206 period, the insurer or insurer group must file a supplemental
2207 informational statement pursuant to this subsection.

2208 (5) No later than 90 days after the insurer or insurer
2209 group has completed the recoupment process, it shall file with
2210 the office a final accounting report documenting the recoupment.
2211 The report shall provide the amounts of assessments paid by the
2212 insurer or insurer group, the amounts and percentages recouped
2213 by year from each affected line of business, and the direct
2214 written premium subject to recoupment by year.

2215 (6)~~(4)~~ The commission may adopt rules to implement this
2216 section.

2217 Section 13. Subsection (2) of section 627.711, Florida
2218 Statutes, is amended, and subsection (3) is added to that
2219 section, to read:

2220 627.711 Notice of premium discounts for hurricane loss
2221 mitigation; uniform mitigation verification inspection form.—

2222 (2) By July 1, 2007, the Financial Services Commission
2223 shall develop by rule a uniform mitigation verification
2224 inspection form that shall be used by all insurers when
2225 submitted by policyholders for the purpose of factoring
2226 discounts for wind insurance. In developing the form, the
2227 commission shall seek input from insurance, construction, and
2228 building code representatives. Further, the commission shall
2229 provide guidance as to the length of time the inspection results
2230 are valid. An insurer shall accept as valid a uniform mitigation
2231 verification form certified by the Department of Financial
2232 Services or signed by:

2233 (a) A hurricane mitigation inspector certified ~~employed~~ by

20091950e1

2234 ~~the an approved My Safe Florida Home program wind certification~~
2235 ~~entity;~~

2236 (b) A building code inspector certified under s. 468.607;

2237 (c) A general or residential contractor licensed under s.
2238 489.111;

2239 (d) A professional engineer licensed under s. 471.015 who
2240 has passed the appropriate equivalency test of the Building Code
2241 Training Program as required by s. 553.841; ~~or~~

2242 (e) A professional architect licensed under s. 481.213; or

2243 (f) Any other individual or entity recognized by the
2244 insurer as possessing the necessary qualifications to properly
2245 complete a uniform mitigation verification form.

2246 (3) An individual or entity who knowingly provides or
2247 utters a false or fraudulent mitigation verification form with
2248 the intent to obtain or receive a discount on an insurance
2249 premium to which the individual or entity is not entitled
2250 commits a misdemeanor of the first degree, punishable as
2251 provided in s. 775.082 or s. 775.083.

2252 Section 14. Subsections (1) and (2) of section 627.712,
2253 Florida Statutes, are amended to read:

2254 627.712 Residential windstorm coverage required;
2255 availability of exclusions for windstorm or contents.—

2256 (1) An insurer issuing a residential property insurance
2257 policy must provide windstorm coverage. Except as provided in
2258 paragraph (2) (c), this section does not apply with respect to
2259 risks that are eligible for wind-only coverage from Citizens
2260 Property Insurance Corporation under s. 627.351(6), and with
2261 respect to risks that are not eligible for coverage from
2262 Citizens Property Insurance Corporation under s. 627.351(6) (a)3.

20091950e1

2263 or s. 627.351(6)(a)5. A risk ineligible for Citizens coverage
2264 under s. 627.351(6)(a)3. or s. 627.351(6)(a)5. is exempt from
2265 the requirements of this section only if the risk is located
2266 within the boundaries of the high-risk account of the
2267 corporation.

2268 (2) A property insurer must make available, at the option
2269 of the policyholder, an exclusion of windstorm coverage.

2270 (a) The coverage may be excluded only if:

2271 1. When the policyholder is a natural person, the
2272 policyholder personally writes and provides to the insurer the
2273 following statement in his or her own handwriting and signs his
2274 or her name, which must also be signed by every other named
2275 insured on the policy, and dated: "I do not want the insurance
2276 on my (home/mobile home/condominium unit) to pay for damage from
2277 windstorms. I will pay those costs. My insurance will not."

2278 2. When the policyholder is other than a natural person,
2279 the policyholder provides to the insurer on the policyholder's
2280 letterhead the following statement that must be signed by the
2281 policyholder's authorized representative and dated: "... (Name of
2282 entity)... does not want the insurance on its ... (type of
2283 structure)... to pay for damage from windstorms. ... (Name of
2284 entity)... will be responsible for these costs. ... (Name of
2285 entity's)... insurance will not."

2286 (b) If the structure insured by the policy is subject to a
2287 mortgage or lien, the policyholder must provide the insurer with
2288 a written statement from the mortgageholder or lienholder
2289 indicating that the mortgageholder or lienholder approves the
2290 policyholder electing to exclude windstorm coverage or hurricane
2291 coverage from his or her or its property insurance policy.

20091950e1

2292 (c) ~~If the residential structure is eligible for wind only~~
2293 ~~coverage from Citizens Property Insurance Corporation, An~~
2294 insurer nonrenewing a policy and issuing a replacement policy,
2295 or issuing a new policy, that does not provide wind coverage
2296 shall provide a notice to the mortgageholder or lienholder
2297 indicating the policyholder has elected coverage that does not
2298 cover wind.

2299 Section 15. Section 631.65, Florida Statutes, is amended to
2300 read:

2301 631.65 Prohibited advertisement or solicitation.—No person
2302 shall make, publish, disseminate, circulate, or place before the
2303 public, or cause, directly or indirectly, to be made, published,
2304 disseminated, circulated, or placed before the public, in a
2305 newspaper, magazine, or other publication, or in the form of a
2306 notice, circular, pamphlet, letter, or poster, or over any radio
2307 station or television station, or in any other way, any
2308 advertisement, announcement, or statement which uses the
2309 existence of the insurance guaranty association for the purpose
2310 of sales, solicitation, or inducement to purchase any form of
2311 insurance covered under this part. However, this section does
2312 not prohibit a duly licensed insurance agent from explaining the
2313 existence or function of the insurance guaranty association to
2314 policyholders, prospects, or applicants for coverage.

2315 Section 16. Upon receipt of funds transferred to the
2316 General Revenue fund pursuant to s. 627.351(6)(m)8., Florida
2317 Statutes, the funds transferred are appropriated on a
2318 nonrecurring basis from the General Revenue Fund to the
2319 Insurance Regulatory Trust Fund in the Department of Financial
2320 Services for purposes of the My Safe Florida Home Program

20091950e1

2321 specified in s. 215.5586, Florida Statutes. The My Safe Florida
2322 Home Program shall use the funds solely for the provision of
2323 mitigation grants pursuant to s. 215.5586(2), Florida Statutes,
2324 for single-family homes insured by the Citizens Property
2325 Insurance Corporation on June 1, 2009. The department shall
2326 establish a separate account within the trust fund for
2327 accounting purposes.

2328 Section 17. This act shall take effect June 1, 2009.