



559146

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 2/AD/RM	.	Floor: C
04/30/2010 10:25 AM	.	04/30/2010 05:29 PM
	.	

---

---

Senator Richter moved the following:

1           **Senate Amendment to House Amendment (203343) (with title**  
2 **amendment)**

3  
4           Delete lines 4 - 5  
5 and insert:

6  
7           Delete lines 427 - 3679  
8 and insert:

9           (g) For a residential property insurer having a certificate  
10 of authority before July 1, 2010, \$5 million until July 1, 2015,  
11 \$10 million after July 1, 2015, and \$15 million after July 1,  
12 2020. The office may reduce this surplus requirement if the  
13 insurer is not writing new business, has premiums in force of



559146

14 less than \$1 million per year in residential property insurance,  
15 or is a mutual insurance company. following amounts apply  
16 instead of the \$4 million required by subparagraph (a)5.:

17 1. ~~On December 31, 2001, and until December 30, 2002, \$3~~  
18 ~~million.~~

19 2. ~~On December 31, 2002, and until December 30, 2003, \$3.25~~  
20 ~~million.~~

21 3. ~~On December 31, 2003, and until December 30, 2004, \$3.6~~  
22 ~~million.~~

23 4. ~~On December 31, 2004, and thereafter, \$4 million.~~

24 (2) For purposes of this section, liabilities do ~~shall~~ not  
25 include liabilities required under s. 625.041(4). For purposes  
26 of computing minimum surplus as to policyholders pursuant to s.  
27 625.305(1), liabilities shall include liabilities required under  
28 s. 625.041(4).

29 (3) This section does not require any ~~No~~ insurer ~~shall be~~  
30 ~~required under this section~~ to have surplus as to policyholders  
31 greater than \$100 million.

32 (4) A mortgage guaranty insurer shall maintain a minimum  
33 surplus as required by s. 635.042.

34 Section 3. Present paragraph (q) of subsection (1) of  
35 section 624.4085, Florida Statutes, is redesignated as paragraph  
36 (r), and a new paragraph (q) is added to that subsection,  
37 paragraph (b) of subsection (3) of that section is amended, and  
38 subsections (7) through (13) of that section are redesignated as  
39 subsections (9) through (15), respectively, and new subsections  
40 (7) and (8) are added to that section, to read:

41 624.4085 Risk-based capital requirements for insurers.—

42 (1) As used in this section, the term:



559146

43           (g) "Surplus action level" means a loss of surplus on any  
44 quarterly or annual financial report which exceeds 15 percent,  
45 or which cumulatively for the calendar year exceeds 15 percent  
46 as of the most recent filed quarterly or annual report.

47           (3)

48           (b) If a company action level event occurs, the insurer  
49 shall prepare and submit to the office a risk-based capital  
50 plan, which must:

51           1. Identify the conditions that contribute to the company  
52 action level event;

53           2. Contain proposals of corrective actions that the insurer  
54 intends to take and that are reasonably expected to result in  
55 the elimination of the company action level event;

56           3. Provide projections of the insurer's financial results  
57 in the current year and at least the 4 succeeding years, both in  
58 the absence of proposed corrective actions and giving effect to  
59 the proposed corrective actions, including projections of  
60 statutory operating income, net income, capital, and surplus.  
61 The projections for both new and renewal business may include  
62 separate projections for each major line of business and, if  
63 separate projections are provided, must separately identify each  
64 significant income, expense, and benefit component;

65           4. Identify the key assumptions affecting the insurer's  
66 projections and the sensitivity of the projections to the  
67 assumptions; ~~and~~

68           5. Identify the quality of, and problems associated with,  
69 the insurer's business, including, but not limited to, its  
70 assets, anticipated business growth and associated surplus  
71 strain, extraordinary exposure to risk, mix of business, and any



559146

72 use of reinsurance; and-

73 6. Include, at the request of the office, for a residential  
74 property insurer that conducts any business with affiliates, a  
75 columnar worksheet, which shall include all affiliates who have  
76 contracted with, done business with, or otherwise received  
77 remuneration from the insurer and shall list the following  
78 financial information from the immediately preceding calendar  
79 year, listed separately for each affiliate:

80 a. Total assets;

81 b. Total liabilities;

82 c. Surplus or shareholders equity;

83 d. Net income after taxes or distributions made solely for  
84 satisfying tax liabilities;

85 e. Total amounts received or receivable from parents,  
86 subsidiaries, and affiliates;

87 f. Total amounts paid or payable to any parent,  
88 subsidiaries, and affiliates;

89 g. Dividends paid or payable to shareholders of common  
90 stock;

91 h. Debt service, including principle and interest, paid on  
92 debt incurred to capitalize or recapitalize insurance companies  
93 or fund other insurance-related activities; and

94 i. Payments made for other contractual obligations to  
95 support insurance-related activities.

96 (7) (a) A surplus action level event includes:

97 1. The filing of a quarterly or annual statutory financial  
98 statement by an insurer, which indicates that the insurer's  
99 total surplus has declined by more than 15 percent from the  
100 previous year's annual statement, or cumulatively for the



559146

101 current year through the most recent quarterly financial  
102 statement;

103 2. The notification by the office to the insurer of an  
104 adjusted quarterly or annual financial statement that indicates  
105 an event in subparagraph 1., unless the insurer challenges the  
106 adjusted quarterly or annual financial statement under  
107 subsection (9); or

108 3. The notification by the office to the insurer that the  
109 office has, after a hearing, rejected the insurer's challenge if  
110 an insurer challenges, under subsection (9), an adjusted  
111 quarterly or annual financial statement that indicates an event  
112 in subparagraph 1.

113 (b) If a surplus action level event occurs, the insurer  
114 must prepare and submit to the office a risk-based capital plan,  
115 which must:

116 1. Identify the conditions that contribute to the surplus  
117 action level event;

118 2. Contain proposals of corrective actions that the insurer  
119 intends to take and that are reasonably expected to ultimately  
120 result in the elimination of additional surplus losses;

121 3. Provide projections of the insurer's financial results  
122 in the current year and at least the 2 succeeding years, both in  
123 the absence of proposed corrective actions and giving effect to  
124 the proposed corrective actions, including projections of  
125 statutory operating income, net income, capital, and surplus.  
126 The projections for both new and renewal business may include  
127 separate projections for each major line of business and, if  
128 separate projections are provided, must separately identify each  
129 significant income, expense, and benefit component;



559146

130           4. Identify the key assumptions affecting the insurer's  
131 projections and the sensitivity of the projections to the  
132 assumptions;

133           5. Identify the quality of, and problems associated with,  
134 the insurer's business, including, but not limited to, its  
135 assets, anticipated business growth and associated surplus  
136 strain, extraordinary exposure to risk, mix of business, and any  
137 use of reinsurance;

138           6. Include, at the request of the office, for a residential  
139 property insurer that conducts any business with affiliates, a  
140 columnar worksheet, which shall include all affiliates who have  
141 received remuneration from the insurer and shall list the  
142 following financial information from the immediately preceding  
143 calendar year listed separately for each affiliate:

144           a. Total assets;

145           b. Total liabilities;

146           c. Surplus or shareholders equity;

147           d. Net income after taxes or distributions made solely for  
148 satisfying tax liabilities;

149           e. Total amounts received or receivable from parents,  
150 subsidiaries, and affiliates;

151           f. Total amounts paid or payable to any parent,  
152 subsidiaries, and affiliates;

153           g. Dividends paid or payable to shareholders of common  
154 stock;

155           h. Debt service, including principle and interest, paid on  
156 debt incurred to capitalize or recapitalize insurance companies  
157 or fund other insurance-related activities; and

158           i. Payments made for other contractual obligations to



559146

159 support insurance-related activities.

160 7. Contain, at the request of the office, a recertification  
161 of reserves for the insurer prepared by an actuary.

162 (c) The risk-based capital plan must be submitted:

163 1. Within 45 days after the surplus action level event; or

164 2. If the insurer challenges an adjusted quarterly or  
165 annual financial statement under subsection (9), within 45 days  
166 after notification to the insurer that the office has, after a  
167 hearing, rejected the insurer's challenge.

168 (8) This section does not limit any existing authority of  
169 the office.

170 Section 4. Subsection (7) is added to section 624.4095,  
171 Florida Statutes, to read:

172 624.4095 Premiums written; restrictions.—

173 (7) For purposes of this section, s. 624.407, and s.  
174 624.408, with regard to capital and surplus requirements, gross  
175 written premiums for federal multiple-peril crop insurance which  
176 are ceded to the Federal Crop Insurance Corporation or  
177 authorized reinsurers may not be included in the calculation of  
178 an insurer's gross writing ratio. The liabilities for ceded  
179 reinsurance premiums payable for federal multiple-peril crop  
180 insurance ceded to the Federal Crop Insurance Corporation and  
181 authorized reinsurers shall be netted against the asset for  
182 amounts recoverable from reinsurers. Each insurer that writes  
183 other insurance products together with federal multiple-peril  
184 crop insurance shall disclose in the notes to its annual and  
185 quarterly financial statements, or in a supplement to those  
186 statements, the gross written premiums for federal multiple-  
187 peril crop insurance.



559146

188 Section 5. Paragraph (n) is added to subsection (2) of  
189 section 626.221, Florida Statutes, to read:

190 626.221 Examination requirement; exemptions.—

191 (2) However, no such examination shall be necessary in any  
192 of the following cases:

193 (n) An applicant for license as a customer representative  
194 with respect to property insurance who has earned the  
195 designation of Certified Insurance Representative (CIR) from the  
196 National Association of Christian Catastrophe Insurance  
197 Adjusters.

198 Section 6. Subsection (8) of section 624.424, Florida  
199 Statutes, is amended to read:

200 624.424 Annual statement and other information.—

201 (8) (a) All authorized insurers must have conducted an  
202 annual audit by an independent certified public accountant and  
203 must file an audited financial report with the office on or  
204 before June 1 for the preceding year ending December 31. The  
205 office may require an insurer to file an audited financial  
206 report earlier than June 1 upon 90 days' advance notice to the  
207 insurer. The office may immediately suspend an insurer's  
208 certificate of authority by order if an insurer's failure to  
209 file required reports, financial statements, or information  
210 required by this subsection or rule adopted pursuant thereto  
211 creates a significant uncertainty as to the insurer's continuing  
212 eligibility for a certificate of authority.

213 (b) Any authorized insurer otherwise subject to this  
214 section having direct premiums written in this state of less  
215 than \$1 million in any calendar year and fewer than 1,000  
216 policyholders or certificateholders of directly written policies





559146

217 nationwide at the end of such calendar year is exempt from this  
218 section for such year unless the office makes a specific finding  
219 that compliance is necessary in order for the office to carry  
220 out its statutory responsibilities. However, any insurer having  
221 assumed premiums pursuant to contracts or treaties or  
222 reinsurance of \$1 million or more is not exempt. Any insurer  
223 subject to an exemption must submit by March 1 following the  
224 year to which the exemption applies an affidavit sworn to by a  
225 responsible officer of the insurer specifying the amount of  
226 direct premiums written in this state and number of  
227 policyholders or certificateholders.

228 (c) The board of directors of an insurer shall hire the  
229 certified public accountant that prepares the audit required by  
230 this subsection and the board shall establish an audit committee  
231 of three or more directors of the insurer or an affiliated  
232 company. The audit committee shall be responsible for discussing  
233 audit findings and interacting with the certified public  
234 accountant with regard to her or his findings. The audit  
235 committee shall be comprised solely of members who are free from  
236 any relationship that, in the opinion of its board of directors,  
237 would interfere with the exercise of independent judgment as a  
238 committee member. The audit committee shall report to the board  
239 any findings of adverse financial conditions or significant  
240 deficiencies in internal controls that have been noted by the  
241 accountant. The insurer may request the office to waive this  
242 requirement of the audit committee membership based upon unusual  
243 hardship to the insurer.

244 (d) An insurer may not use the same accountant or partner  
245 of an accounting firm responsible for preparing the report



559146

246 required by this subsection for more than 5 7 consecutive years.  
247 Following this period, the insurer may not use such accountant  
248 or partner for a period of 5 2 years, but may use another  
249 accountant or partner of the same firm. An insurer may request  
250 the office to waive this prohibition based upon an unusual  
251 hardship to the insurer and a determination that the accountant  
252 is exercising independent judgment that is not unduly influenced  
253 by the insurer considering such factors as the number of  
254 partners, expertise of the partners or the number of insurance  
255 clients of the accounting firm; the premium volume of the  
256 insurer; and the number of jurisdictions in which the insurer  
257 transacts business.

258 (e) The commission shall adopt rules to implement this  
259 subsection, which rules must be in substantial conformity with  
260 the 1998 Model Rule Requiring Annual Audited Financial Reports  
261 adopted by the National Association of Insurance Commissioners  
262 or subsequent amendments, except where inconsistent with the  
263 requirements of this subsection. Any exception to, waiver of, or  
264 interpretation of accounting requirements of the commission must  
265 be in writing and signed by an authorized representative of the  
266 office. No insurer may raise as a defense in any action, any  
267 exception to, waiver of, or interpretation of accounting  
268 requirements, unless previously issued in writing by an  
269 authorized representative of the office.

270 Section 7. Section 626.7452, Florida Statutes, is amended  
271 to read:

272 626.7452 Managing general agents; examination authority.—  
273 The acts of the managing general agent are considered to be the  
274 acts of the insurer on whose behalf it is acting. A managing



559146

275 general agent may be examined as if it were the insurer ~~except~~  
276 ~~in the case where the managing general agent solely represents a~~  
277 ~~single domestic insurer.~~

278 Section 8. Effective June 1, 2010, subsection (11) of  
279 section 626.854, Florida Statutes, is amended to read:

280 626.854 "Public adjuster" defined; prohibitions.—The  
281 Legislature finds that it is necessary for the protection of the  
282 public to regulate public insurance adjusters and to prevent the  
283 unauthorized practice of law.

284 (11) (a) If a public adjuster enters into a contract with an  
285 insured or claimant to reopen a claim or to file a supplemental  
286 claim that seeks additional payments for a claim that has been  
287 previously paid in part or in full or settled by the insurer,  
288 the public adjuster may not charge, agree to, or accept any  
289 compensation, payment, commission, fee, or other thing of value  
290 based on a previous settlement or previous claim payments by the  
291 insurer for the same cause of loss. The charge, compensation,  
292 payment, commission, fee, or other thing of value may be based  
293 only on the claim payments or settlement obtained through the  
294 work of the public adjuster after entering into the contract  
295 with the insured or claimant. Compensation for a reopened or  
296 supplemental claim may not exceed 20 percent of the reopened or  
297 supplemental claim payment. The contracts described in this  
298 paragraph are not subject to the limitations in paragraph (b).

299 (b) A public adjuster may not charge, agree to, or accept  
300 any compensation, payment, commission, fee, or other thing of  
301 value in excess of:

302 1. Ten percent of the amount of insurance claim payments by  
303 the insurer for claims based on events that are the subject of a



559146

304 declaration of a state of emergency by the Governor. This  
305 provision applies to claims made during the period of 1 year  
306 after the declaration of emergency. After the period of 1 year,  
307 the limitations in subparagraph 2. apply.

308 2. Twenty percent of the amount of ~~all other~~ insurance  
309 claim payments by the insurer for claims that are not based on  
310 events that are the subject of a declaration of a state of  
311 emergency by the Governor.

312  
313 The provisions of subsections (5)-(13) apply only to residential  
314 property insurance policies and condominium association policies  
315 as defined in s. 718.111(11).

316 Section 9. Effective January 1, 2011, section 626.854,  
317 Florida Statutes, as amended by this act, is amended to read:

318 626.854 "Public adjuster" defined; prohibitions.—The  
319 Legislature finds that it is necessary for the protection of the  
320 public to regulate public insurance adjusters and to prevent the  
321 unauthorized practice of law.

322 (1) A "public adjuster" is any person, except a duly  
323 licensed attorney at law as hereinafter in s. 626.860 provided,  
324 who, for money, commission, or any other thing of value,  
325 prepares, completes, or files an insurance claim form for an  
326 insured or third-party claimant or who, for money, commission,  
327 or any other thing of value, acts or aids in any manner on  
328 behalf of an insured or third-party claimant in negotiating for  
329 or effecting the settlement of a claim or claims for loss or  
330 damage covered by an insurance contract or who advertises for  
331 employment as an adjuster of such claims, and also includes any  
332 person who, for money, commission, or any other thing of value,



559146

333 solicits, investigates, or adjusts such claims on behalf of any  
334 such public adjuster.

335 (2) This definition does not apply to:

336 (a) A licensed health care provider or employee thereof who  
337 prepares or files a health insurance claim form on behalf of a  
338 patient.

339 (b) A person who files a health claim on behalf of another  
340 and does so without compensation.

341 (3) A public adjuster may not give legal advice. A public  
342 adjuster may not act on behalf of or aid any person in  
343 negotiating or settling a claim relating to bodily injury,  
344 death, or noneconomic damages.

345 (4) For purposes of this section, the term "insured"  
346 includes only the policyholder and any beneficiaries named or  
347 similarly identified in the policy.

348 (5) A public adjuster may not directly or indirectly  
349 through any other person or entity solicit an insured or  
350 claimant by any means except on Monday through Saturday of each  
351 week and only between the hours of 8 a.m. and 8 p.m. on those  
352 days.

353 (6) A public adjuster may not directly or indirectly  
354 through any other person or entity initiate contact or engage in  
355 face-to-face or telephonic solicitation or enter into a contract  
356 with any insured or claimant under an insurance policy until at  
357 least 48 hours after the occurrence of an event that may be the  
358 subject of a claim under the insurance policy unless contact is  
359 initiated by the insured or claimant.

360 (7) An insured or claimant may cancel a public adjuster's  
361 contract to adjust a claim without penalty or obligation within



559146

362 3 business days after the date on which the contract is executed  
363 or within 3 business days after the date on which the insured or  
364 claimant has notified the insurer of the claim, by phone or in  
365 writing, whichever is later. The public adjuster's contract  
366 shall disclose to the insured or claimant his or her right to  
367 cancel the contract and advise the insured or claimant that  
368 notice of cancellation must be submitted in writing and sent by  
369 certified mail, return receipt requested, or other form of  
370 mailing which provides proof thereof, to the public adjuster at  
371 the address specified in the contract; provided, during any  
372 state of emergency as declared by the Governor and for a period  
373 of 1 year after the date of loss, the insured or claimant shall  
374 have 5 business days after the date on which the contract is  
375 executed to cancel a public adjuster's contract.

376 (8) It is an unfair and deceptive insurance trade practice  
377 pursuant to s. 626.9541 for a public adjuster or any other  
378 person to circulate or disseminate any advertisement,  
379 announcement, or statement containing any assertion,  
380 representation, or statement with respect to the business of  
381 insurance which is untrue, deceptive, or misleading.

382 (a) For purposes of this section, the following statements,  
383 if made in any public adjuster's advertisement or solicitation,  
384 shall be considered deceptive or misleading:

385 1. A statement or representation that invites an insured  
386 policyholder to submit a claim when the policyholder does not  
387 have covered damage to insured property.

388 2. Any statement or representation that invites an insured  
389 policyholder to submit a claim by offering monetary or other  
390 valuable inducement.



559146

391           3. A statement or representation that invites an insured  
392 policyholder to submit a claim by stating that there is "no  
393 risk" to the policyholder by submitting such claim.

394           4. Any statement or representation, or use of a logo or  
395 shield, that would imply or could be mistakenly construed that  
396 the solicitation was issued or distributed by a governmental  
397 agency or is sanctioned or endorsed by a governmental agency.

398           (b) For purposes of this paragraph, the term "written  
399 advertisement" includes only newspapers, magazines, flyers, and  
400 bulk mailers. The following disclaimer, which is not required to  
401 be printed on standard size business cards, shall be added in  
402 bold print and capital letters in typeface no smaller than the  
403 typeface of the body of the text to all written advertisements  
404 by any public adjuster:

405           "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD  
406 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU  
407 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU  
408 MAY DISREGARD THIS ADVERTISEMENT."

409           (9) A public adjuster, a public adjuster apprentice, or any  
410 person or entity acting on behalf of a public adjuster or public  
411 adjuster apprentice may not give or offer to give a monetary  
412 loan or advance to a client or prospective client.

413           (10) A public adjuster, public adjuster apprentice, or any  
414 individual or entity acting on behalf of a public adjuster or  
415 public adjuster apprentice may not give or offer to give,  
416 directly or indirectly, any article of merchandise having a  
417 value in excess of \$25 to any individual for the purpose of  
418 advertising or as an inducement to entering into a contract with  
419 a public adjuster.



559146

420 (11) (a) If a public adjuster enters into a contract with an  
421 insured or claimant to reopen a claim or to file a supplemental  
422 claim that seeks additional payments for a claim that has been  
423 previously paid in part or in full or settled by the insurer,  
424 the public adjuster may not charge, agree to, or accept any  
425 compensation, payment, commission, fee, or other thing of value  
426 based on a previous settlement or previous claim payments by the  
427 insurer for the same cause of loss. The charge, compensation,  
428 payment, commission, fee, or other thing of value may be based  
429 only on the claim payments or settlement obtained through the  
430 work of the public adjuster after entering into the contract  
431 with the insured or claimant. Compensation for a reopened or  
432 supplemental claim may not exceed 20 percent of the reopened or  
433 supplemental claim payment. The contracts described in this  
434 paragraph are not subject to the limitations in paragraph (b).

435 (b) A public adjuster may not charge, agree to, or accept  
436 any compensation, payment, commission, fee, or other thing of  
437 value in excess of:

438 1. Ten percent of the amount of insurance claim payments by  
439 the insurer for claims based on events that are the subject of a  
440 declaration of a state of emergency by the Governor. This  
441 provision applies to claims made during the period of 1 year  
442 after the declaration of emergency. After the period of 1 year,  
443 the limitations in subparagraph 2. apply.

444 2. Twenty percent of the amount of insurance claim payments  
445 by the insurer for claims that are not based on events that are  
446 the subject of a declaration of a state of emergency by the  
447 Governor.

448 (12) Each public adjuster shall provide to the claimant or





559146

449 insured a written estimate of the loss to assist in the  
450 submission of a proof of loss or any other claim for payment of  
451 insurance proceeds. The public adjuster shall retain such  
452 written estimate for at least 5 years and shall make such  
453 estimate available to the claimant or insured and the department  
454 upon request.

455 (13) A public adjuster, public adjuster apprentice, or any  
456 person acting on behalf of a public adjuster or apprentice may  
457 not accept referrals of business from any person with whom the  
458 public adjuster conducts business if there is any form or manner  
459 of agreement to compensate the person, whether directly or  
460 indirectly, for referring business to the public adjuster. A  
461 public adjuster may not compensate any person, except for  
462 another public adjuster, whether directly or indirectly, for the  
463 principal purpose of referring business to the public adjuster.

464 (14) A company employee adjuster, independent adjuster,  
465 attorney, investigator, or other persons acting on behalf of an  
466 insurer that needs access to an insured or claimant or to the  
467 insured property that is the subject of a claim shall provide at  
468 least 48 hours' notice to the insured or claimant, public  
469 adjuster, or legal representative before scheduling a meeting  
470 with the claimant or an onsite inspection of the insured  
471 property. The insured or claimant may deny access to the  
472 property if this notice has not been provided. The insured or  
473 claimant may waive this 48-hour notice.

474 (15) (a) A public adjuster shall ensure prompt notice of any  
475 property loss claim submitted to an insurer by or through a  
476 public adjuster or on which a public adjuster represents the  
477 insured at the time the claim or notice of loss is submitted to



559146

478 the insurer. The public adjuster shall ensure that notice is  
479 given to the insurer, the public adjuster's contract is provided  
480 to the insurer, the property is made available for inspection of  
481 the loss or damage by the insurer, and the insurer is given an  
482 opportunity to interview the insured directly about the loss and  
483 claim. The insurer shall be allowed to obtain necessary  
484 information to investigate and respond to the claim. The insurer  
485 may not exclude the public adjuster from its in-person meetings  
486 with the insured. The insurer shall meet or communicate with the  
487 public adjuster in an effort to reach agreement as to the scope  
488 of the covered loss under the insurance policy. This section  
489 does not impair the terms and conditions of the insurance policy  
490 in effect at the time the claim is filed.

491 (b) A public adjuster may not restrict or prevent an  
492 insurer, company employee adjuster, independent adjuster,  
493 attorney, investigator, or other person acting on behalf of the  
494 insurer from having reasonable access at reasonable times to any  
495 insured or claimant or to the insured property that is the  
496 subject of a claim.

497 (c) A public adjuster may not act or fail to reasonably act  
498 in any manner that would obstruct or prevent an insurer or  
499 insurer's adjuster from timely gaining access to conduct an  
500 inspection of any part of the insured property for which there  
501 is a claim for loss or damage to the property. The public  
502 adjuster that represents the insured may be present for the  
503 insurer's inspection of the property loss or damage but, if the  
504 lack of availability of the public adjuster would otherwise  
505 delay the access to or the inspection of the insured property by  
506 the insurer, the public adjuster or the insured must allow the



559146

507 insurer to gain access to the insured property to facilitate the  
508 insurer's prompt inspection of the loss or damage without the  
509 participation or presence of the public adjuster or insured.

510 (16) A licensed contractor under part I of chapter 489, or  
511 a subcontractor, may not adjust a claim on behalf of an insured  
512 without being licensed and compliant as a public adjuster under  
513 this chapter. However, if asked by the residential property  
514 owner who has suffered loss or damage covered by a property  
515 insurance policy, or the insurer of such property, a licensed  
516 contractor may discuss or explain a bid for construction or  
517 repair of covered property if the contractor is doing so for  
518 usual and customary fees applicable to the work to be performed  
519 as stated in the contract between the contractor and the  
520 insured.

521  
522 The provisions of subsections (5)-(16) ~~(5)-(13)~~ apply only to  
523 residential property insurance policies and condominium unit  
524 owner association policies as defined in s. 718.111(11).

525 Section 10. Effective January 1, 2011, present subsections  
526 (7) through (11) of section 626.8651, Florida Statutes, are  
527 redesignated as subsections (8) through (12), respectively, and  
528 a new subsection (7) is added to that section, to read:

529 626.8651 Public adjuster apprentice license;  
530 qualifications.-

531 (7) A public adjuster apprentice shall complete a minimum  
532 of 8 hours of continuing education specific to the practice of a  
533 public adjuster, 2 hours of which must relate to ethics, in  
534 order to qualify for licensure as a public adjuster. The  
535 continuing education must be in subjects designed to inform the



559146

536 licensee regarding the current insurance laws of this state for  
537 the purpose of enabling him or her to engage in business as an  
538 insurance adjuster fairly and without injury to the public and  
539 to adjust all claims in accordance with the insurance contract  
540 and the laws of this state.

541 Section 11. Effective January 1, 2011, section 626.8796,  
542 Florida Statutes, is amended to read:

543 626.8796 Public adjuster contracts; fraud statement.—

544 (1) All contracts for public adjuster services must be in  
545 writing and must prominently display the following statement on  
546 the contract: "Pursuant to s. 817.234, Florida Statutes, any  
547 person who, with the intent to injure, defraud, or deceive any  
548 insurer or insured, prepares, presents, or causes to be  
549 presented a proof of loss or estimate of cost or repair of  
550 damaged property in support of a claim under an insurance policy  
551 knowing that the proof of loss or estimate of claim or repairs  
552 contains any false, incomplete, or misleading information  
553 concerning any fact or thing material to the claim commits a  
554 felony of the third degree, punishable as provided in s.  
555 775.082, s. 775.083, or s. 775.084, Florida Statutes."

556 (2) A public adjuster contract must contain the following  
557 information: full name, permanent business address, and license  
558 number of the public adjuster, the full name of the public  
559 adjusting firm, and the insured's full name and street address,  
560 together with a brief description of the loss. The contract must  
561 state the percentage of compensation for the public adjuster's  
562 services, the type of claim, including an emergency claim,  
563 nonemergency claim, or supplemental claim, the signatures of the  
564 public adjuster and all named insureds, and the signature date.



559146

565 If all named insureds signatures are not available, the public  
566 adjuster shall submit an affidavit signed by the available named  
567 insureds attesting that they have authority to enter into the  
568 contract and to settle all claim issues on behalf of all named  
569 insureds. An unaltered copy of the executed contract must be  
570 remitted to the insurer within 30 days after execution.

571 Section 12. Effective June 1, 2010, section 626.70132,  
572 Florida Statutes, is created to read:

573 626.70132 Duty to file windstorm or hurricane claim.—A  
574 claim, supplemental claim, or reopened claim under an insurance  
575 policy that provides personal lines residential coverage, as  
576 defined in s. 627.4025, for loss or damage caused by the peril  
577 of windstorm or hurricane is barred unless notice of the claim,  
578 supplemental claim, or reopened claim was given to the insurer  
579 in accordance with the terms of the policy within 3 years after  
580 the hurricane first made landfall or the windstorm caused the  
581 covered damage. For purposes of this section, the term  
582 "supplemental claim" or "reopened claim" means any additional  
583 claim for recovery from the insurer for losses from the same  
584 hurricane or windstorm for which the insurer has previously  
585 adjusted pursuant to the initial claim. This section may not be  
586 interpreted to affect any applicable limitation on civil actions  
587 provided in s. 95.11 for claims, supplemental claims, or  
588 reopened claims timely filed under this section.

589 Section 13. Section 627.0613, Florida Statutes, is amended  
590 to read:

591 627.0613 Consumer advocate.—The Chief Financial Officer  
592 must appoint a consumer advocate who must represent the general  
593 public of the state before the department and the office. The



559146

594 consumer advocate must report directly to the Chief Financial  
595 Officer, but is not otherwise under the authority of the  
596 department or of any employee of the department. The consumer  
597 advocate has such powers as are necessary to carry out the  
598 duties of the office of consumer advocate, including, but not  
599 limited to, the powers to:

600 (1) Recommend to the department or office, by petition, the  
601 commencement of any proceeding or action; appear in any  
602 proceeding or action before the department or office; or appear  
603 in any proceeding before the Division of Administrative Hearings  
604 relating to subject matter under the jurisdiction of the  
605 department or office.

606 (2) Have access to and use of all files, records, and data  
607 of the department or office.

608 (3) Examine rate and form filings submitted to the office,  
609 hire consultants as necessary to aid in the review process, and  
610 recommend to the department or office any position deemed by the  
611 consumer advocate to be in the public interest.

612 (4) By June 1, 2012, and each June 1 thereafter, prepare an  
613 annual report card for each authorized personal residential  
614 property insurer, on a form and using a letter-grade scale  
615 developed by the commission by rule, which objectively grades  
616 each insurer based on the following factors:

617 (a) The number and nature of valid consumer complaints, as  
618 a market share ratio, received by the department against the  
619 insurer.

620 (b) The disposition of all valid consumer complaints  
621 received by the department.

622 (c) The average length of time for payment of claims by the



559146

623 insurer.

624 (d) Any other measurable and objective factors the  
625 commission identifies as capable of assisting policyholders in  
626 making informed choices about homeowner's insurance.

627  
628 For purposes of this subsection, the term "valid consumer  
629 complaint" means a written communication, or oral communication  
630 that is subsequently converted to a written form, from a  
631 consumer that expresses dissatisfaction involving a personal  
632 residential insurance policy with a specific personal  
633 residential property insurer. However, a valid complaint does  
634 not arise if in the disposition thereof by the department the  
635 insurer or agent position is upheld, the policy provision is  
636 upheld, the coverage is explained, additional information is  
637 provided, the complaint is withdrawn, the complaint is referred  
638 outside the department, or if an inquiry has missing or  
639 insufficient information, is not within the jurisdiction of the  
640 department or requests mediation of a claim that is not eligible  
641 for mediation.

642 (5) Prepare an annual budget for presentation to the  
643 Legislature by the department, which budget must be adequate to  
644 carry out the duties of the office of consumer advocate.

645 Section 14. Section 627.062, Florida Statutes, is amended  
646 to read:

647 627.062 Rate standards.—

648 (1) The rates for all classes of insurance to which the  
649 provisions of this part are applicable shall not be excessive,  
650 inadequate, or unfairly discriminatory.

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



559146

652 (a) Insurers or rating organizations shall establish and  
653 use rates, rating schedules, or rating manuals to allow the  
654 insurer a reasonable rate of return on such classes of insurance  
655 written in this state. A copy of rates, rating schedules, rating  
656 manuals, premium credits or discount schedules, and surcharge  
657 schedules, and changes thereto, shall be filed with the office  
658 under one of the following procedures except as provided in  
659 subparagraph 3.:

660 1. If the filing is made at least 90 days before the  
661 proposed effective date and the filing is not implemented during  
662 the office's review of the filing and any proceeding and  
663 judicial review, then such filing shall be considered a "file  
664 and use" filing. In such case, the office shall finalize its  
665 review by issuance of an approval ~~a notice of intent to approve~~  
666 or a notice of intent to disapprove within 90 days after receipt  
667 of the filing. The approval ~~notice of intent to approve~~ and the  
668 notice of intent to disapprove constitute agency action for  
669 purposes of the Administrative Procedure Act. Requests for  
670 supporting information, requests for mathematical or mechanical  
671 corrections, or notification to the insurer by the office of its  
672 preliminary findings shall not toll the 90-day period during any  
673 such proceedings and subsequent judicial review. The rate shall  
674 be deemed approved if the office does not issue an approval ~~a~~  
675 ~~notice of intent to approve~~ or a notice of intent to disapprove  
676 within 90 days after receipt of the filing.

677 2. If the filing is not made in accordance with the  
678 provisions of subparagraph 1., such filing shall be made as soon  
679 as practicable, but no later than 30 days after the effective  
680 date, and shall be considered a "use and file" filing. An





559146

681 insurer making a "use and file" filing is potentially subject to  
682 an order by the office to return to policyholders portions of  
683 rates found to be excessive, as provided in paragraph (h).

684 3. For all property insurance filings made or submitted  
685 after January 25, 2007, but before December 31, 2011 ~~2010~~, an  
686 insurer seeking a rate that is greater than the rate most  
687 recently approved by the office shall make a "file and use"  
688 filing. For purposes of this subparagraph, motor vehicle  
689 collision and comprehensive coverages are not considered to be  
690 property coverages.

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

696 1. Past and prospective loss experience within and without  
697 this state.

698 2. Past and prospective expenses.

699 3. The degree of competition among insurers for the risk  
700 insured.

701 4. Investment income reasonably expected by the insurer,  
702 consistent with the insurer's investment practices, from  
703 investable premiums anticipated in the filing, plus any other  
704 expected income from currently invested assets representing the  
705 amount expected on unearned premium reserves and loss reserves.  
706 The commission may adopt rules using reasonable techniques of  
707 actuarial science and economics to specify the manner in which  
708 insurers shall calculate investment income attributable to such  
709 classes of insurance written in this state and the manner in



559146

710 which such investment income shall be used to calculate  
711 insurance rates. Such manner shall contemplate allowances for an  
712 underwriting profit factor and full consideration of investment  
713 income which produce a reasonable rate of return; however,  
714 investment income from invested surplus may not be considered.

715 5. The reasonableness of the judgment reflected in the  
716 filing.

717 6. Dividends, savings, or unabsorbed premium deposits  
718 allowed or returned to Florida policyholders, members, or  
719 subscribers.

720 7. The adequacy of loss reserves.

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

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

727 10. Conflagration and catastrophe hazards, if applicable.

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

732 12. A reasonable margin for underwriting profit and  
733 contingencies.

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

735 14. Other relevant factors which impact upon the frequency  
736 or severity of claims or upon expenses.

737 (c) In the case of fire insurance rates, consideration  
738 shall be given to the availability of water supplies and the



559146

739 experience of the fire insurance business during a period of not  
740 less than the most recent 5-year period for which such  
741 experience is available.

742 (d) If conflagration or catastrophe hazards are given  
743 consideration by an insurer in its rates or rating plan,  
744 including surcharges and discounts, the insurer shall establish  
745 a reserve for that portion of the premium allocated to such  
746 hazard and shall maintain the premium in a catastrophe reserve.  
747 Any removal of such premiums from the reserve for purposes other  
748 than paying claims associated with a catastrophe or purchasing  
749 reinsurance for catastrophes shall be subject to approval of the  
750 office. Any ceding commission received by an insurer purchasing  
751 reinsurance for catastrophes shall be placed in the catastrophe  
752 reserve.

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

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

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

765 3. Rates shall be deemed inadequate if they are clearly  
766 insufficient, together with the investment income attributable  
767 to them, to sustain projected losses and expenses in the class



559146

768 of business to which they apply.

769 4. A rating plan, including discounts, credits, or  
770 surcharges, shall be deemed unfairly discriminatory if it fails  
771 to clearly and equitably reflect consideration of the  
772 policyholder's participation in a risk management program  
773 adopted pursuant to s. 627.0625.

774 5. A rate shall be deemed inadequate as to the premium  
775 charged to a risk or group of risks if discounts or credits are  
776 allowed which exceed a reasonable reflection of expense savings  
777 and reasonably expected loss experience from the risk or group  
778 of risks.

779 6. A rate shall be deemed unfairly discriminatory as to a  
780 risk or group of risks if the application of premium discounts,  
781 credits, or surcharges among such risks does not bear a  
782 reasonable relationship to the expected loss and expense  
783 experience among the various risks.

784 (f) In reviewing a rate filing, the office may require the  
785 insurer to provide at the insurer's expense all information  
786 necessary to evaluate the condition of the company and the  
787 reasonableness of the filing according to the criteria  
788 enumerated in this section.

789 (g) The office may at any time review a rate, rating  
790 schedule, rating manual, or rate change; the pertinent records  
791 of the insurer; and market conditions. If the office finds on a  
792 preliminary basis that a rate may be excessive, inadequate, or  
793 unfairly discriminatory, the office shall initiate proceedings  
794 to disapprove the rate and shall so notify the insurer. However,  
795 the office may not disapprove as excessive any rate for which it  
796 has given final approval or which has been deemed approved for a



559146

797 period of 1 year after the effective date of the filing unless  
798 the office finds that a material misrepresentation or material  
799 error was made by the insurer or was contained in the filing.  
800 Upon being so notified, the insurer or rating organization  
801 shall, within 60 days, file with the office all information  
802 which, in the belief of the insurer or organization, proves the  
803 reasonableness, adequacy, and fairness of the rate or rate  
804 change. The office shall issue a notice of intent to approve or  
805 a notice of intent to disapprove pursuant to the procedures of  
806 paragraph (a) within 90 days after receipt of the insurer's  
807 initial response. In such instances and in any administrative  
808 proceeding relating to the legality of the rate, the insurer or  
809 rating organization shall carry the burden of proof by a  
810 preponderance of the evidence to show that the rate is not  
811 excessive, inadequate, or unfairly discriminatory. After the  
812 office notifies an insurer that a rate may be excessive,  
813 inadequate, or unfairly discriminatory, unless the office  
814 withdraws the notification, the insurer shall not alter the rate  
815 except to conform with the office's notice until the earlier of  
816 120 days after the date the notification was provided or 180  
817 days after the date of the implementation of the rate. The  
818 office may, subject to chapter 120, disapprove without the 60-  
819 day notification any rate increase filed by an insurer within  
820 the prohibited time period or during the time that the legality  
821 of the increased rate is being contested.

822 (h) ~~If In the event~~ the office finds that a rate or rate  
823 change is excessive, inadequate, or unfairly discriminatory, the  
824 office shall issue an order of disapproval specifying that a new  
825 rate or rate schedule which responds to the findings of the



559146

826 office be filed by the insurer. The office shall further order,  
827 for any "use and file" filing made in accordance with  
828 subparagraph (a)2., that premiums charged each policyholder  
829 constituting the portion of the rate above that which was  
830 actuarially justified be returned to such policyholder in the  
831 form of a credit or refund. If the office finds that an  
832 insurer's rate or rate change is inadequate, the new rate or  
833 rate schedule filed with the office in response to such a  
834 finding shall be applicable only to new or renewal business of  
835 the insurer written on or after the effective date of the  
836 responsive filing.

837 (i) 1. Except as otherwise specifically provided in this  
838 chapter, the office shall not, directly or indirectly, prohibit  
839 any insurer, including any residual market plan or joint  
840 underwriting association, from paying acquisition costs based on  
841 the full amount of premium, as defined in s. 627.403, applicable  
842 to any policy, or directly or indirectly prohibit any such  
843 insurer from including the full amount of acquisition costs in a  
844 rate filing.

845 2. The office shall not, directly or indirectly, impede,  
846 abridge, or otherwise compromise an insurer's right to acquire  
847 policyholders, advertise, or appoint agents, including the  
848 calculation, manner, or amount of such agent commissions, if  
849 any.

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

853 (k) 1.a. An insurer may make a separate filing limited  
854 solely to an adjustment of its rates for reinsurance, the cost



559146

855 of financing products used as a replacement for reinsurance, or  
856 financing costs incurred in the purchase of reinsurance, and an  
857 inflation trend factor published by the office pursuant to  
858 subparagraph 4. If an insurer chooses to make a separate filing  
859 under this paragraph, it must implement the rate in such a  
860 manner that all rate increases implemented as a result of the  
861 separate filing, together with rate increases associated with  
862 any other rate filing, do ~~or financing products to replace or~~  
863 finance the payment of the amount covered by the Temporary  
864 Increase in Coverage Limits (TICL) portion of the Florida  
865 Hurricane Catastrophe Fund including replacement reinsurance for  
866 the TICL reductions made pursuant to s. 215.555(17)(e); the  
867 actual cost paid due to the application of the TICL premium  
868 factor pursuant to s. 215.555(17)(f); and the actual cost paid  
869 due to the application of the cash build-up factor pursuant to  
870 s. 215.555(5)(b) if the insurer:

871 a. Elects to purchase financing products such as a  
872 liquidity instrument or line of credit, in which case the cost  
873 included in the filing for the liquidity instrument or line of  
874 credit may not result in a premium increase exceeding 3 percent  
875 for any individual policyholder. All costs contained in the  
876 filing may not result in an overall premium increase of more  
877 than 10 percent for any individual policyholder, excluding  
878 coverage changes and surcharges, within the same policy year.

879 b. An insurer that makes a filing relating to reinsurance  
880 or financing products must include the following ~~includes~~ in the  
881 filing: a copy of all of its reinsurance, liquidity instrument,  
882 or line of credit contracts; proof of the billing or payment for  
883 the contracts; and the calculation upon which the proposed rate



559146

884 change is based demonstrating ~~demonstrates~~ that the costs meet  
885 the criteria of this section ~~and are not loaded for expenses or~~  
886 ~~profit for the insurer making the filing.~~

887 c. Any filing made pursuant this paragraph may include only  
888 the Includes no other changes to its rates which are expressly  
889 authorized by this paragraph in the filing.

890 d. ~~Has not implemented a rate increase within the 6 months~~  
891 ~~immediately preceding the filing.~~

892 e. ~~Does not file for a rate increase under any other~~  
893 ~~paragraph within 6 months after making a filing under this~~  
894 ~~paragraph.~~

895 d.f. An insurer that purchases reinsurance or financing  
896 products from an affiliated company may make a filing pursuant  
897 to in compliance with this paragraph ~~does so~~ only if the costs  
898 for such reinsurance or financing products are charged at or  
899 below charges made for comparable coverage by nonaffiliated  
900 reinsurers or financial entities making such coverage or  
901 financing products available in this state.

902 e. An insurer that makes a filing as the result of a change  
903 in an inflation trend factor published by the office need  
904 support that filing only with rates and rating examples and an  
905 explanation demonstrating the insurer's eligibility to adopt the  
906 inflation trend factor.

907 2. An insurer may ~~only~~ make only one filing in any 12-month  
908 period under this paragraph.

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





559146

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

916 4. Beginning January 1, 2011, the office shall publish an  
917 annual informational memorandum to establish one or more  
918 inflation trend factors that may be stated separately for  
919 personal and residential property and for building coverage,  
920 contents coverage, additional living expense coverage, and  
921 liability coverage, if applicable. These factors shall represent  
922 an estimate of cost increases or decreases based upon publicly  
923 available relevant data and economic indices that are identified  
924 in the memorandum. Such factors are exempt from the rulemaking  
925 requirements of chapter 120, and insurers are not required to  
926 adopt the factors. The office may publish factors for any line  
927 of insurance, but is required to publish a factor only for  
928 residential property insurance.

929  
930 The provisions of this subsection do ~~shall~~ not apply to workers'  
931 compensation and employer's liability insurance and to motor  
932 vehicle insurance.

933 (3) (a) For individual risks that are not rated in  
934 accordance with the insurer's rates, rating schedules, rating  
935 manuals, and underwriting rules filed with the office and which  
936 have been submitted to the insurer for individual rating, the  
937 insurer must maintain documentation on each risk subject to  
938 individual risk rating. The documentation must identify the  
939 named insured and specify the characteristics and classification  
940 of the risk supporting the reason for the risk being  
941 individually risk rated, including any modifications to existing



559146

942 approved forms to be used on the risk. The insurer must maintain  
943 these records for a period of at least 5 years after the  
944 effective date of the policy.

945 (b) Individual risk rates and modifications to existing  
946 approved forms are not subject to this part or part II, except  
947 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,  
948 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,  
949 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,  
950 627.4265, 627.427, and 627.428, but are subject to all other  
951 applicable provisions of this code and rules adopted thereunder.

952 (c) This subsection does not apply to private passenger  
953 motor vehicle insurance.

954 (4) (a) Contingent on specific appropriations made to  
955 implement this subsection, in order to enhance the ability of  
956 consumers to compare premiums and to increase the accuracy and  
957 usefulness of rate and product comparison information for  
958 homeowners' insurance, the office shall develop or contract with  
959 a private entity to develop a comprehensive program for  
960 providing the consumer with all available information necessary  
961 to make an informed purchase of the insurance product that best  
962 serves the needs of the individual.

963 (b) In developing the comprehensive program, the office  
964 shall rely as much as is practical on information that is  
965 currently available and shall consider:

966 1. The most efficient means for developing, hosting, and  
967 operating a separate website that consolidates all consumer  
968 information for price comparisons, filed complaints, financial  
969 strength, underwriting, and receivership information and other  
970 data useful to consumers;



559146

971           2. Whether all admitted insurers should be required to  
972 submit additional information to populate the composite website  
973 and how often such submissions must be made;

974           3. Whether all admitted insurers should be required to  
975 provide links from the website into each individual insurer's  
976 website in order to enable consumers to access product rate  
977 information and apply for quotations;

978           4. Developing a plan to publicize the existence,  
979 availability, and value of the website; and

980           5. Any other provision that would make relevant homeowners'  
981 insurance information more readily available so that consumers  
982 can make informed product comparisons and purchasing decisions.

983           (c) Before establishing the program or website, the office  
984 shall conduct a cost-benefit analysis to determine the most  
985 effective approach for establishing and operating the program  
986 and website. Based on the results of the analysis, the office  
987 shall submit a proposed implementation plan for review and  
988 approval by the Financial Services Commission. The  
989 implementation plan shall include an estimated timeline for  
990 establishing the program and website; a description of the data  
991 and functionality to be provided by the site, a strategy for  
992 publicizing the website to consumers; a recommended approach for  
993 developing, hosting, and operating the website; and an estimate  
994 of all major nonrecurring and recurring costs required to  
995 establish and operate the website. Upon approval of the plan,  
996 the office may initiate the establishment of the program.

997           (5)-(4) The establishment of any rate, rating  
998 classification, rating plan or schedule, or variation thereof in  
999 violation of part IX of chapter 626 is also in violation of this



559146

1000 section. ~~In order to enhance the ability of consumers to compare~~  
1001 ~~premiums and to increase the accuracy and usefulness of rate-~~  
1002 ~~comparison information provided by the office to the public, the~~  
1003 ~~office shall develop a proposed standard rating territory plan~~  
1004 ~~to be used by all authorized property and casualty insurers for~~  
1005 ~~residential property insurance. In adopting the proposed plan,~~  
1006 ~~the office may consider geographical characteristics relevant to~~  
1007 ~~risk, county lines, major roadways, existing rating territories~~  
1008 ~~used by a significant segment of the market, and other relevant~~  
1009 ~~factors. Such plan shall be submitted to the President of the~~  
1010 ~~Senate and the Speaker of the House of Representatives by~~  
1011 ~~January 15, 2006. The plan may not be implemented unless~~  
1012 ~~authorized by further act of the Legislature.~~

1013       (6)(5) With respect to a rate filing involving coverage of  
1014 the type for which the insurer is required to pay a  
1015 reimbursement premium to the Florida Hurricane Catastrophe Fund,  
1016 the insurer may fully recoup in its property insurance premiums  
1017 any reimbursement premiums paid to the Florida Hurricane  
1018 Catastrophe Fund, together with reasonable costs of other  
1019 reinsurance, but except as otherwise provided in this section,  
1020 may not recoup reinsurance costs that duplicate coverage  
1021 provided by the Florida Hurricane Catastrophe Fund. An insurer  
1022 may not recoup more than 1 year of reimbursement premium at a  
1023 time. Any under-recoupment from the prior year may be added to  
1024 the following year's reimbursement premium, and any over-  
1025 recoupment shall be subtracted from the following year's  
1026 reimbursement premium.

1027       (7)(6)(a) If an insurer requests an administrative hearing  
1028 pursuant to s. 120.57 related to a rate filing under this



559146

1029 section, the director of the Division of Administrative Hearings  
1030 shall expedite the hearing and assign an administrative law  
1031 judge who shall commence the hearing within 30 days after the  
1032 receipt of the formal request and shall enter a recommended  
1033 order within 30 days after the hearing or within 30 days after  
1034 receipt of the hearing transcript by the administrative law  
1035 judge, whichever is later. Each party shall be allowed 10 days  
1036 in which to submit written exceptions to the recommended order.  
1037 The office shall enter a final order within 30 days after the  
1038 entry of the recommended order. The provisions of this paragraph  
1039 may be waived upon stipulation of all parties.

1040 (b) Upon entry of a final order, the insurer may request a  
1041 expedited appellate review pursuant to the Florida Rules of  
1042 Appellate Procedure. It is the intent of the Legislature that  
1043 the First District Court of Appeal grant an insurer's request  
1044 for an expedited appellate review.

1045 ~~(8)(7)~~(a) The provisions of this subsection apply only with  
1046 respect to rates for medical malpractice insurance and shall  
1047 control to the extent of any conflict with other provisions of  
1048 this section.

1049 (b) Any portion of a judgment entered or settlement paid as  
1050 a result of a statutory or common-law bad faith action and any  
1051 portion of a judgment entered which awards punitive damages  
1052 against an insurer may not be included in the insurer's rate  
1053 base, and shall not be used to justify a rate or rate change.  
1054 Any common-law bad faith action identified as such, any portion  
1055 of a settlement entered as a result of a statutory or common-law  
1056 action, or any portion of a settlement wherein an insurer agrees  
1057 to pay specific punitive damages may not be used to justify a



559146

1058 rate or rate change. The portion of the taxable costs and  
1059 attorney's fees which is identified as being related to the bad  
1060 faith and punitive damages in these judgments and settlements  
1061 may not be included in the insurer's rate base and may not be  
1062 used ~~utilized~~ to justify a rate or rate change.

1063 (c) Upon reviewing a rate filing and determining whether  
1064 the rate is excessive, inadequate, or unfairly discriminatory,  
1065 the office shall consider, in accordance with generally accepted  
1066 and reasonable actuarial techniques, past and present  
1067 prospective loss experience, either using loss experience solely  
1068 for this state or giving greater credibility to this state's  
1069 loss data after applying actuarially sound methods of assigning  
1070 credibility to such data.

1071 (d) Rates shall be deemed excessive if, among other  
1072 standards established by this section, the rate structure  
1073 provides for replenishment of reserves or surpluses from  
1074 premiums when the replenishment is attributable to investment  
1075 losses.

1076 (e) The insurer must apply a discount or surcharge based on  
1077 the health care provider's loss experience or shall establish an  
1078 alternative method giving due consideration to the provider's  
1079 loss experience. The insurer must include in the filing a copy  
1080 of the surcharge or discount schedule or a description of the  
1081 alternative method used, and must provide a copy of such  
1082 schedule or description, as approved by the office, to  
1083 policyholders at the time of renewal and to prospective  
1084 policyholders at the time of application for coverage.

1085 (f) Each medical malpractice insurer must make a rate  
1086 filing under this section, sworn to by at least two executive



559146

1087 officers of the insurer, at least once each calendar year.

1088 ~~(8)(a)1. No later than 60 days after the effective date of~~  
1089 ~~medical malpractice legislation enacted during the 2003 Special~~  
1090 ~~Session D of the Florida Legislature, the office shall calculate~~  
1091 ~~a presumed factor that reflects the impact that the changes~~  
1092 ~~contained in such legislation will have on rates for medical~~  
1093 ~~malpractice insurance and shall issue a notice informing all~~  
1094 ~~insurers writing medical malpractice coverage of such presumed~~  
1095 ~~factor. In determining the presumed factor, the office shall use~~  
1096 ~~generally accepted actuarial techniques and standards provided~~  
1097 ~~in this section in determining the expected impact on losses,~~  
1098 ~~expenses, and investment income of the insurer. To the extent~~  
1099 ~~that the operation of a provision of medical malpractice~~  
1100 ~~legislation enacted during the 2003 Special Session D of the~~  
1101 ~~Florida Legislature is stayed pending a constitutional~~  
1102 ~~challenge, the impact of that provision shall not be included in~~  
1103 ~~the calculation of a presumed factor under this subparagraph.~~

1104 ~~2. No later than 60 days after the office issues its notice~~  
1105 ~~of the presumed rate change factor under subparagraph 1., each~~  
1106 ~~insurer writing medical malpractice coverage in this state shall~~  
1107 ~~submit to the office a rate filing for medical malpractice~~  
1108 ~~insurance, which will take effect no later than January 1, 2004,~~  
1109 ~~and apply retroactively to policies issued or renewed on or~~  
1110 ~~after the effective date of medical malpractice legislation~~  
1111 ~~enacted during the 2003 Special Session D of the Florida~~  
1112 ~~Legislature. Except as authorized under paragraph (b), the~~  
1113 ~~filing shall reflect an overall rate reduction at least as great~~  
1114 ~~as the presumed factor determined under subparagraph 1. With~~  
1115 ~~respect to policies issued on or after the effective date of~~



559146

1116 ~~such legislation and prior to the effective date of the rate~~  
1117 ~~filing required by this subsection, the office shall order the~~  
1118 ~~insurer to make a refund of the amount that was charged in~~  
1119 ~~excess of the rate that is approved.~~

1120 ~~(b) Any insurer or rating organization that contends that~~  
1121 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~  
1122 ~~or unfairly discriminatory shall separately state in its filing~~  
1123 ~~the rate it contends is appropriate and shall state with~~  
1124 ~~specificity the factors or data that it contends should be~~  
1125 ~~considered in order to produce such appropriate rate. The~~  
1126 ~~insurer or rating organization shall be permitted to use all of~~  
1127 ~~the generally accepted actuarial techniques provided in this~~  
1128 ~~section in making any filing pursuant to this subsection. The~~  
1129 ~~office shall review each such exception and approve or~~  
1130 ~~disapprove it prior to use. It shall be the insurer's burden to~~  
1131 ~~actuarially justify any deviations from the rates required to be~~  
1132 ~~filed under paragraph (a). The insurer making a filing under~~  
1133 ~~this paragraph shall include in the filing the expected impact~~  
1134 ~~of medical malpractice legislation enacted during the 2003~~  
1135 ~~Special Session D of the Florida Legislature on losses,~~  
1136 ~~expenses, and rates.~~

1137 ~~(c) If any provision of medical malpractice legislation~~  
1138 ~~enacted during the 2003 Special Session D of the Florida~~  
1139 ~~Legislature is held invalid by a court of competent~~  
1140 ~~jurisdiction, the office shall permit an adjustment of all~~  
1141 ~~medical malpractice rates filed under this section to reflect~~  
1142 ~~the impact of such holding on such rates so as to ensure that~~  
1143 ~~the rates are not excessive, inadequate, or unfairly~~  
1144 ~~discriminatory.~~





559146

1145           ~~(d) Rates approved on or before July 1, 2003, for medical~~  
1146 ~~malpractice insurance shall remain in effect until the effective~~  
1147 ~~date of a new rate filing approved under this subsection.~~

1148           ~~(e) The calculation and notice by the office of the~~  
1149 ~~presumed factor pursuant to paragraph (a) is not an order or~~  
1150 ~~rule that is subject to chapter 120. If the office enters into a~~  
1151 ~~contract with an independent consultant to assist the office in~~  
1152 ~~calculating the presumed factor, such contract shall not be~~  
1153 ~~subject to the competitive solicitation requirements of s.~~  
1154 ~~287.057.~~

1155           (9) (a) The chief executive officer or chief financial  
1156 officer of a property insurer and the chief actuary of a  
1157 property insurer must certify under oath and subject to the  
1158 penalty of perjury, on a form approved by the commission, the  
1159 following information, which must accompany a rate filing:

1160           1. The signing officer and actuary have reviewed the rate  
1161 filing;

1162           2. Based on the signing officer's and actuary's knowledge,  
1163 the rate filing does not contain any untrue statement of a  
1164 material fact or omit to state a material fact necessary in  
1165 order to make the statements made, in light of the circumstances  
1166 under which such statements were made, not misleading;

1167           3. Based on the signing officer's and actuary's knowledge,  
1168 the information and other factors described in paragraph (2) (b),  
1169 including, but not limited to, investment income, fairly present  
1170 in all material respects the basis of the rate filing for the  
1171 periods presented in the filing; and

1172           4. Based on the signing officer's and actuary's knowledge,  
1173 the rate filing reflects all premium savings that are reasonably



559146

1174 expected to result from legislative enactments and are in  
1175 accordance with generally accepted and reasonable actuarial  
1176 techniques.

1177 (b) A signing officer or actuary knowingly making a false  
1178 certification under this subsection commits a violation of s.  
1179 626.9541(1)(e) and is subject to the penalties under s.  
1180 626.9521.

1181 (c) Failure to provide such certification by the officer  
1182 and actuary shall result in the rate filing being disapproved  
1183 without prejudice to be refiled.

1184 (d) A certification made pursuant to paragraph (a) is not  
1185 rendered false if, after making the subject rate filing, the  
1186 insurer provides the office with additional or supplementary  
1187 information pursuant to a formal or informal request from the  
1188 office.

1189 (e) ~~(d)~~ The commission may adopt rules and forms pursuant to  
1190 ss. 120.536(1) and 120.54 to administer this subsection.

1191 (10) The burden is on the office to establish that rates  
1192 are excessive for personal lines residential coverage with a  
1193 dwelling replacement cost of \$1 million or more or for a single  
1194 condominium unit with a combined dwelling and contents  
1195 replacement cost of \$1 million or more. Upon request of the  
1196 office, the insurer shall provide to the office such loss and  
1197 expense information as the office reasonably needs to meet this  
1198 burden.

1199 (11) Any interest paid pursuant to s. 627.70131(5) may not  
1200 be included in the insurer's rate base and may not be used to  
1201 justify a rate or rate change.

1202 Section 15. Section 627.0629, Florida Statutes, is amended



559146

1203 to read:

1204 627.0629 Residential property insurance; rate filings.—

1205 (1)~~(a)~~ It is the intent of the Legislature that insurers  
1206 ~~must~~ provide the most accurate pricing signals available ~~savings~~  
1207 to encourage consumers to ~~who~~ install or implement windstorm  
1208 damage mitigation techniques, alterations, or solutions to their  
1209 properties to prevent windstorm losses. It is also the intent of  
1210 the Legislature that implementation of mitigation discounts not  
1211 result in a loss of income to the insurers granting the  
1212 discounts, so that the aggregate of mitigation discounts should  
1213 not exceed the aggregate of the expected reduction in loss that  
1214 is attributable to the mitigation efforts for which discounts  
1215 are granted. A rate filing for residential property insurance  
1216 must include actuarially reasonable discounts, credits, debits,  
1217 or other rate differentials, or appropriate reductions in  
1218 deductibles, which provide the proper pricing for all  
1219 properties. The rate filing must take into account the presence  
1220 or absence of ~~on which~~ fixtures or construction techniques  
1221 demonstrated to reduce the amount of loss in a windstorm have  
1222 been installed or implemented. The fixtures or construction  
1223 techniques shall include, but not be limited to, fixtures or  
1224 construction techniques that ~~which~~ enhance roof strength, roof  
1225 covering performance, roof-to-wall strength, wall-to-floor-to-  
1226 foundation strength, opening protection, and window, door, and  
1227 skylight strength. Credits, debits, discounts, or other rate  
1228 differentials, or appropriate reductions or increases in  
1229 deductibles, which recognize the presence or absence of ~~for~~  
1230 fixtures and construction techniques that ~~which~~ meet the minimum  
1231 requirements of the Florida Building Code must be included in



559146

1232 the rate filing. If an insurer demonstrates that the aggregate  
1233 of its mitigation discounts results in a reduction to revenue  
1234 which exceeds the reduction of the aggregate loss that is  
1235 expected to result from the mitigation, that insurer may recover  
1236 the lost revenue through an increase in its base rates. All  
1237 ~~insurance companies must make a rate filing which includes the~~  
1238 ~~credits, discounts, or other rate differentials or reductions in~~  
1239 ~~deductibles by February 28, 2003.~~ By July 1, 2007, the office  
1240 shall reevaluate the discounts, credits, other rate  
1241 differentials, and appropriate reductions in deductibles for  
1242 fixtures and construction techniques that meet the minimum  
1243 requirements of the Florida Building Code, based upon actual  
1244 experience or any other loss relativity studies available to the  
1245 office. The office shall determine the discounts, credits,  
1246 debts, other rate differentials, and appropriate reductions or  
1247 increases in deductibles that reflect the full actuarial value  
1248 of such revaluation, which may be used by insurers in rate  
1249 filings.

1250 ~~(b) By February 1, 2011, the Office of Insurance~~  
1251 ~~Regulation, in consultation with the Department of Financial~~  
1252 ~~Services and the Department of Community Affairs, shall develop~~  
1253 ~~and make publicly available a proposed method for insurers to~~  
1254 ~~establish discounts, credits, or other rate differentials for~~  
1255 ~~hurricane mitigation measures which directly correlate to the~~  
1256 ~~numerical rating assigned to a structure pursuant to the uniform~~  
1257 ~~home grading scale adopted by the Financial Services Commission~~  
1258 ~~pursuant to s. 215.55865, including any proposed changes to the~~  
1259 ~~uniform home grading scale. By October 1, 2011, the commission~~  
1260 ~~shall adopt rules requiring insurers to make rate filings for~~



559146

1261 ~~residential property insurance which revise insurers' discounts,~~  
1262 ~~credits, or other rate differentials for hurricane mitigation~~  
1263 ~~measures so that such rate differentials correlate directly to~~  
1264 ~~the uniform home grading scale. The rules may include such~~  
1265 ~~changes to the uniform home grading scale as the commission~~  
1266 ~~determines are necessary, and may specify the minimum required~~  
1267 ~~discounts, credits, or other rate differentials. Such rate~~  
1268 ~~differentials must be consistent with generally accepted~~  
1269 ~~actuarial principles and wind-loss mitigation studies. The rules~~  
1270 ~~shall allow a period of at least 2 years after the effective~~  
1271 ~~date of the revised mitigation discounts, credits, or other rate~~  
1272 ~~differentials for a property owner to obtain an inspection or~~  
1273 ~~otherwise qualify for the revised credit, during which time the~~  
1274 ~~insurer shall continue to apply the mitigation credit that was~~  
1275 ~~applied immediately prior to the effective date of the revised~~  
1276 ~~credit. Discounts, credits, and other rate differentials~~  
1277 ~~established for rate filings under this paragraph shall~~  
1278 ~~supersede, after adoption, the discounts, credits, and other~~  
1279 ~~rate differentials included in rate filings under paragraph (a).~~

1280 (2) (a) A rate filing for residential property insurance  
1281 made on or before the implementation of paragraph (b) may  
1282 include rate factors that reflect the manner in which building  
1283 code enforcement in a particular jurisdiction addresses the risk  
1284 of wind damage. However, such a rate filing must also provide  
1285 for variations from such rate factors on an individual basis  
1286 based on an inspection of a particular structure by a licensed  
1287 home inspector, which inspection may be at the cost of the  
1288 insured.

1289 (b) A rate filing for residential property insurance made



559146

1290 more than 150 days after approval by the office of a building  
1291 code rating factor plan submitted by a statewide rating  
1292 organization shall include positive and negative rate factors  
1293 that reflect the manner in which building code enforcement in a  
1294 particular jurisdiction addresses risk of wind damage. The rate  
1295 filing shall include variations from standard rate factors on an  
1296 individual basis based on inspection of a particular structure  
1297 by a licensed home inspector. If an inspection is requested by  
1298 the insured, the insurer may require the insured to pay the  
1299 reasonable cost of the inspection. This paragraph applies to  
1300 structures constructed or renovated after the implementation of  
1301 this paragraph.

1302 (c) The premium notice shall specify the amount by which  
1303 the rate has been adjusted as a result of this subsection and  
1304 shall also specify the maximum possible positive and negative  
1305 adjustments that are approved for use by the insurer under this  
1306 subsection.

1307 (3) A rate filing ~~made on or after July 1, 1995,~~ for mobile  
1308 home owner's insurance must include appropriate discounts,  
1309 credits, or other rate differentials for mobile homes  
1310 constructed to comply with American Society of Civil Engineers  
1311 Standard ANSI/ASCE 7-88, adopted by the United States Department  
1312 of Housing and Urban Development on July 13, 1994, and that also  
1313 comply with all applicable tie-down requirements provided by  
1314 state law.

1315 (4) The Legislature finds that separate consideration and  
1316 notice of hurricane insurance premiums will assist consumers by  
1317 providing greater assurance that hurricane premiums are lawful  
1318 and by providing more complete information regarding the



559146

1319 components of property insurance premiums. ~~Effective January 1,~~  
1320 ~~1997,~~ A rate filing for residential property insurance shall be  
1321 separated into two components, rates for hurricane coverage and  
1322 rates for all other coverages. A premium notice reflecting a  
1323 rate implemented on the basis of such a filing shall separately  
1324 indicate the premium for hurricane coverage and the premium for  
1325 all other coverages.

1326 (5) In order to provide an appropriate transition period,  
1327 an insurer may, in its sole discretion, implement an approved  
1328 rate filing for residential property insurance over a period of  
1329 years. An insurer electing to phase in its rate filing must  
1330 provide an informational notice to the office setting out its  
1331 schedule for implementation of the phased-in rate filing. An  
1332 insurer may include in its rate the actual cost of private  
1333 market reinsurance that corresponds to available coverage of the  
1334 Temporary Increase in Coverage Limits, TICL, from the Florida  
1335 Hurricane Catastrophe Fund. The insurer may also include the  
1336 cost of reinsurance to replace the TICL reduction implemented  
1337 pursuant to s. 215.555(17)(d)9. However, this cost for  
1338 reinsurance may not ~~include any expense or profit load or~~ result  
1339 in a total annual base rate increase in excess of 10 percent.

1340 (6) Any rate filing that is based in whole or part on data  
1341 from a computer model may not exceed 15 percent unless there is  
1342 a public hearing.

1343 (7) An insurer may implement appropriate discounts or other  
1344 rate differentials of up to 10 percent of the annual premium to  
1345 mobile home owners who provide to the insurer evidence of a  
1346 current inspection of tie-downs for the mobile home, certifying  
1347 that the tie-downs have been properly installed and are in good



559146

1348 condition.

1349 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL  
1350 SOUNDNESS.—

1351 (a) It is the intent of the Legislature to provide a  
1352 program whereby homeowners may obtain an evaluation of the wind  
1353 resistance of their homes with respect to preventing damage from  
1354 hurricanes, together with a recommendation of reasonable steps  
1355 that may be taken to upgrade their homes to better withstand  
1356 hurricane force winds.

1357 (b) To the extent that funds are provided for this purpose  
1358 in the General Appropriations Act, the Legislature hereby  
1359 authorizes the establishment of a program to be administered by  
1360 the Citizens Property Insurance Corporation for homeowners  
1361 insured in the high-risk account.

1362 (c) The program shall provide grants to homeowners, for the  
1363 purpose of providing homeowner applicants with funds to conduct  
1364 an evaluation of the integrity of their homes with respect to  
1365 withstanding hurricane force winds, recommendations to retrofit  
1366 the homes to better withstand damage from such winds, and the  
1367 estimated cost to make the recommended retrofits.

1368 (d) The Department of Community Affairs shall establish by  
1369 rule standards to govern the quality of the evaluation, the  
1370 quality of the recommendations for retrofitting, the eligibility  
1371 of the persons conducting the evaluation, and the selection of  
1372 applicants under the program. In establishing the rule, the  
1373 Department of Community Affairs shall consult with the advisory  
1374 committee to minimize the possibility of fraud or abuse in the  
1375 evaluation and retrofitting process, and to ensure that funds  
1376 spent by homeowners acting on the recommendations achieve





559146

1377 positive results.

1378 (e) The Citizens Property Insurance Corporation shall  
1379 identify areas of this state with the greatest wind risk to  
1380 residential properties and recommend annually to the Department  
1381 of Community Affairs priority target areas for such evaluations  
1382 and inclusion with the associated residential construction  
1383 mitigation program.

1384 (9) A property insurance rate filing that includes any  
1385 adjustments related to premiums paid to the Florida Hurricane  
1386 Catastrophe Fund must include a complete calculation of the  
1387 insurer's catastrophe load, and the information in the filing  
1388 may not be limited solely to recovery of moneys paid to the  
1389 fund.

1390 Section 16. Paragraphs (b), (c), (d), and (y) of subsection  
1391 (6) of section 627.351, Florida Statutes, are amended to read:

1392 627.351 Insurance risk apportionment plans.—

1393 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1394 (b)1. All insurers authorized to write one or more subject  
1395 lines of business in this state are subject to assessment by the  
1396 corporation and, for the purposes of this subsection, are  
1397 referred to collectively as "assessable insurers." Insurers  
1398 writing one or more subject lines of business in this state  
1399 pursuant to part VIII of chapter 626 are not assessable  
1400 insurers, but insureds who procure one or more subject lines of  
1401 business in this state pursuant to part VIII of chapter 626 are  
1402 subject to assessment by the corporation and are referred to  
1403 collectively as "assessable insureds." An authorized insurer's  
1404 assessment liability begins ~~shall begin~~ on the first day of the  
1405 calendar year following the year in which the insurer was issued



559146

1406 a certificate of authority to transact insurance for subject  
1407 lines of business in this state and terminates ~~shall terminate~~ 1  
1408 year after the end of the first calendar year during which the  
1409 insurer no longer holds a certificate of authority to transact  
1410 insurance for subject lines of business in this state.

1411 2.a. All revenues, assets, liabilities, losses, and  
1412 expenses of the corporation are ~~shall be~~ divided into three  
1413 separate accounts as follows:

1414 (I) A personal lines account for personal residential  
1415 policies issued by the corporation or issued by the Residential  
1416 Property and Casualty Joint Underwriting Association and renewed  
1417 by the corporation which provides ~~that provide~~ comprehensive,  
1418 multiperil coverage on risks that are not located in areas  
1419 eligible for coverage in the Florida Windstorm Underwriting  
1420 Association as those areas were defined on January 1, 2002, and  
1421 for ~~such~~ policies that do not provide coverage for the peril of  
1422 wind on risks that are located in such areas;

1423 (II) A commercial lines account for commercial residential  
1424 and commercial nonresidential policies issued by the corporation  
1425 or issued by the Residential Property and Casualty Joint  
1426 Underwriting Association and renewed by the corporation which  
1427 ~~that~~ provide coverage for basic property perils on risks which  
1428 ~~that~~ are not located in areas eligible for coverage in the  
1429 Florida Windstorm Underwriting Association as those areas were  
1430 defined on January 1, 2002, and for ~~such~~ policies that do not  
1431 provide coverage for the peril of wind on risks that are located  
1432 in such areas; and

1433 (III) A coastal ~~high-risk~~ account for personal residential  
1434 policies and commercial residential and commercial



559146

1435 nonresidential property policies issued by the corporation or  
1436 transferred to the corporation which provides ~~that provide~~  
1437 coverage for the peril of wind on risks that are located in  
1438 areas eligible for coverage in the Florida Windstorm  
1439 Underwriting Association as those areas were defined on January  
1440 1, 2002. The corporation may offer policies that provide  
1441 multiperil coverage and the corporation shall continue to offer  
1442 policies that provide coverage only for the peril of wind for  
1443 risks located in areas eligible for coverage in the coastal  
1444 ~~high-risk~~ account. In issuing multiperil coverage, the  
1445 corporation may use its approved policy forms and rates for the  
1446 personal lines account. An applicant or insured who is eligible  
1447 to purchase a multiperil policy from the corporation may  
1448 purchase a multiperil policy from an authorized insurer without  
1449 prejudice to the applicant's or insured's eligibility to  
1450 prospectively purchase a policy that provides coverage only for  
1451 the peril of wind from the corporation. An applicant or insured  
1452 who is eligible for a corporation policy that provides coverage  
1453 only for the peril of wind may elect to purchase or retain such  
1454 policy and also purchase or retain coverage excluding wind from  
1455 an authorized insurer without prejudice to the applicant's or  
1456 insured's eligibility to prospectively purchase a policy that  
1457 provides multiperil coverage from the corporation. It is the  
1458 goal of the Legislature that there ~~would~~ be an overall average  
1459 savings of 10 percent or more for a policyholder who currently  
1460 has a wind-only policy with the corporation, and an ex-wind  
1461 policy with a voluntary insurer or the corporation, and who ~~then~~  
1462 obtains a multiperil policy from the corporation. It is the  
1463 intent of the Legislature that the offer of multiperil coverage



559146

1464 in the coastal ~~high-risk~~ account be made and implemented in a  
1465 manner that does not adversely affect the tax-exempt status of  
1466 the corporation or creditworthiness of or security for currently  
1467 outstanding financing obligations or credit facilities of the  
1468 coastal ~~high-risk~~ account, the personal lines account, or the  
1469 commercial lines account. The coastal ~~high-risk~~ account must  
1470 also include quota share primary insurance under subparagraph  
1471 (c)2. The area eligible for coverage under the coastal ~~high-risk~~  
1472 account also includes the area within Port Canaveral, which is  
1473 bordered on the south by the City of Cape Canaveral, bordered on  
1474 the west by the Banana River, and bordered on the north by  
1475 Federal Government property.

1476 b. The three separate accounts must be maintained as long  
1477 as financing obligations entered into by the Florida Windstorm  
1478 Underwriting Association or Residential Property and Casualty  
1479 Joint Underwriting Association are outstanding, in accordance  
1480 with the terms of the corresponding financing documents. If ~~When~~  
1481 the financing obligations are no longer outstanding, in  
1482 accordance with the terms of the corresponding financing  
1483 documents, the corporation may use a single account for all  
1484 revenues, assets, liabilities, losses, and expenses of the  
1485 corporation. Consistent with ~~the requirement of~~ this  
1486 subparagraph and prudent investment policies that minimize the  
1487 cost of carrying debt, the board shall exercise its best efforts  
1488 to retire existing debt or to obtain approval of necessary  
1489 parties to amend the terms of existing debt, so as to structure  
1490 the most efficient plan to consolidate the three separate  
1491 accounts into a single account. ~~By February 1, 2007, the board~~  
1492 ~~shall submit a report to the Financial Services Commission, the~~



559146

1493 ~~President of the Senate, and the Speaker of the House of~~  
1494 ~~Representatives which includes an analysis of consolidating the~~  
1495 ~~accounts, the actions the board has taken to minimize the cost~~  
1496 ~~of carrying debt, and its recommendations for executing the most~~  
1497 ~~efficient plan.~~

1498 c. Creditors of the Residential Property and Casualty Joint  
1499 Underwriting Association and ~~of~~ the accounts specified in sub-  
1500 sub-subparagraphs a.(I) and (II) may have a claim against, and  
1501 recourse to, the accounts referred to in sub-sub-subparagraphs  
1502 a.(I) and (II) and ~~shall~~ have no claim against, or recourse to,  
1503 the account referred to in sub-sub-subparagraph a.(III).

1504 Creditors of the Florida Windstorm Underwriting Association  
1505 ~~shall~~ have a claim against, and recourse to, the account  
1506 referred to in sub-sub-subparagraph a.(III) and ~~shall~~ have no  
1507 claim against, or recourse to, the accounts referred to in sub-  
1508 sub-subparagraphs a.(I) and (II).

1509 d. Revenues, assets, liabilities, losses, and expenses not  
1510 attributable to particular accounts shall be prorated among the  
1511 accounts.

1512 e. The Legislature finds that the revenues of the  
1513 corporation are revenues that are necessary to meet the  
1514 requirements set forth in documents authorizing the issuance of  
1515 bonds under this subsection.

1516 f. No part of the income of the corporation may inure to  
1517 the benefit of any private person.

1518 3. With respect to a deficit in an account:

1519 a. After accounting for the Citizens policyholder surcharge  
1520 imposed under sub-subparagraph i., if ~~when~~ the remaining  
1521 projected deficit incurred in a particular calendar year is not



559146

1522 greater than 6 percent of the aggregate statewide direct written  
1523 premium for the subject lines of business for the prior calendar  
1524 year, the entire deficit shall be recovered through regular  
1525 assessments of assessable insurers under paragraph (p) and  
1526 assessable insureds.

1527       b. After accounting for the Citizens policyholder surcharge  
1528 imposed under sub-subparagraph i., when the remaining projected  
1529 deficit incurred in a particular calendar year exceeds 6 percent  
1530 of the aggregate statewide direct written premium for the  
1531 subject lines of business for the prior calendar year, the  
1532 corporation shall levy regular assessments on assessable  
1533 insurers under paragraph (q) ~~(p)~~ and on assessable insureds in  
1534 an amount equal to the greater of 6 percent of the deficit or 6  
1535 percent of the aggregate statewide direct written premium for  
1536 the subject lines of business for the prior calendar year. Any  
1537 remaining deficit shall be recovered through emergency  
1538 assessments under sub-subparagraph d.

1539       c. Each assessable insurer's share of the amount being  
1540 assessed under sub-subparagraph a. or sub-subparagraph b. must  
1541 ~~shall~~ be in the proportion that the assessable insurer's direct  
1542 written premium for the subject lines of business for the year  
1543 preceding the assessment bears to the aggregate statewide direct  
1544 written premium for the subject lines of business for that year.  
1545 The assessment percentage applicable to each assessable insured  
1546 is the ratio of the amount being assessed under sub-subparagraph  
1547 a. or sub-subparagraph b. to the aggregate statewide direct  
1548 written premium for the subject lines of business for the prior  
1549 year. Assessments levied by the corporation on assessable  
1550 insurers under sub-subparagraphs a. and b. shall be paid as



559146

1551 required by the corporation's plan of operation and paragraph  
1552 (g) ~~(p)~~. Assessments levied by the corporation on assessable  
1553 insureds under sub-subparagraphs a. and b. shall be collected by  
1554 the surplus lines agent at the time the surplus lines agent  
1555 collects the surplus lines tax required by s. 626.932 and ~~shall~~  
1556 ~~be~~ paid to the Florida Surplus Lines Service Office at the time  
1557 the surplus lines agent pays the surplus lines tax to the  
1558 Florida Surplus Lines Service Office. Upon receipt of regular  
1559 assessments from surplus lines agents, the Florida Surplus Lines  
1560 Service Office shall transfer the assessments directly to the  
1561 corporation as determined by the corporation.

1562 d. Upon a determination by the board of governors that a  
1563 deficit in an account exceeds the amount that will be recovered  
1564 through regular assessments under sub-subparagraph a. or sub-  
1565 subparagraph b., plus the amount that is expected to be  
1566 recovered through surcharges under sub-subparagraph i., ~~as to~~  
1567 ~~the remaining projected deficit~~ the board shall levy, after  
1568 verification by the office, emergency assessments, for as many  
1569 years as necessary to cover the deficits, to be collected by  
1570 assessable insurers and the corporation and collected from  
1571 assessable insureds upon issuance or renewal of policies for  
1572 subject lines of business, excluding National Flood Insurance  
1573 policies. The amount of the emergency assessment collected in a  
1574 particular year shall be a uniform percentage of that year's  
1575 direct written premium for subject lines of business and all  
1576 accounts of the corporation, excluding National Flood Insurance  
1577 Program policy premiums, as annually determined by the board and  
1578 verified by the office. The office shall verify the arithmetic  
1579 calculations involved in the board's determination within 30



559146

1580 days after receipt of the information on which the determination  
1581 was based. Notwithstanding any other provision of law, the  
1582 corporation and each assessable insurer that writes subject  
1583 lines of business shall collect emergency assessments from its  
1584 policyholders without such obligation being affected by any  
1585 credit, limitation, exemption, or deferment. Emergency  
1586 assessments levied by the corporation on assessable insureds  
1587 shall be collected by the surplus lines agent at the time the  
1588 surplus lines agent collects the surplus lines tax required by  
1589 s. 626.932 and shall be paid to the Florida Surplus Lines  
1590 Service Office at the time the surplus lines agent pays the  
1591 surplus lines tax to the Florida Surplus Lines Service Office.  
1592 The emergency assessments ~~so~~ collected shall be transferred  
1593 directly to the corporation on a periodic basis as determined by  
1594 the corporation and ~~shall be~~ held by the corporation solely in  
1595 the applicable account. The aggregate amount of emergency  
1596 assessments levied for an account under this sub-subparagraph in  
1597 any calendar year may, at the discretion of the board of  
1598 governors, be less than but may not exceed the greater of 10  
1599 percent of the amount needed to cover the deficit, plus  
1600 interest, fees, commissions, required reserves, and other costs  
1601 associated with financing of the original deficit, or 10 percent  
1602 of the aggregate statewide direct written premium for subject  
1603 lines of business and for all accounts of the corporation for  
1604 the prior year, plus interest, fees, commissions, required  
1605 reserves, and other costs associated with financing the deficit.  
1606 e. The corporation may pledge the proceeds of assessments,  
1607 projected recoveries from the Florida Hurricane Catastrophe  
1608 Fund, other insurance and reinsurance recoverables, policyholder





559146

1609 surcharges and other surcharges, and other funds available to  
1610 the corporation as the source of revenue for and to secure bonds  
1611 issued under paragraph (p), bonds or other indebtedness issued  
1612 under subparagraph (c)3., or lines of credit or other financing  
1613 mechanisms issued or created under this subsection, or to retire  
1614 any other debt incurred as a result of deficits or events giving  
1615 rise to deficits, or in any other way that the board determines  
1616 will efficiently recover such deficits. The purpose of the lines  
1617 of credit or other financing mechanisms is to provide additional  
1618 resources to assist the corporation in covering claims and  
1619 expenses attributable to a catastrophe. As used in this  
1620 subsection, the term "assessments" includes regular assessments  
1621 under sub-subparagraph a., sub-subparagraph b., or subparagraph  
1622 (p)1. and emergency assessments under sub-subparagraph d.  
1623 Emergency assessments collected under sub-subparagraph d. are  
1624 not part of an insurer's rates, are not premium, and are not  
1625 subject to premium tax, fees, or commissions; however, failure  
1626 to pay the emergency assessment shall be treated as failure to  
1627 pay premium. The emergency assessments under sub-subparagraph d.  
1628 shall continue as long as any bonds issued or other indebtedness  
1629 incurred with respect to a deficit for which the assessment was  
1630 imposed remain outstanding, unless adequate provision has been  
1631 made for the payment of such bonds or other indebtedness  
1632 pursuant to the documents governing such bonds or other  
1633 indebtedness.

1634 f. As used in this subsection for purposes of any deficit  
1635 incurred on or after January 25, 2007, the term "subject lines  
1636 of business" means insurance written by assessable insurers or  
1637 procured by assessable insureds for all property and casualty



559146

1638 lines of business in this state, but not including workers'  
1639 compensation or medical malpractice. As used in the sub-  
1640 subparagraph, the term "property and casualty lines of business"  
1641 includes all lines of business identified on Form 2, Exhibit of  
1642 Premiums and Losses, in the annual statement required of  
1643 authorized insurers by s. 624.424 and any rule adopted under  
1644 this section, except for those lines identified as accident and  
1645 health insurance and except for policies written under the  
1646 National Flood Insurance Program or the Federal Crop Insurance  
1647 Program. For purposes of this sub-subparagraph, the term  
1648 "workers' compensation" includes both workers' compensation  
1649 insurance and excess workers' compensation insurance.

1650 g. The Florida Surplus Lines Service Office shall determine  
1651 annually the aggregate statewide written premium in subject  
1652 lines of business procured by assessable insureds and shall  
1653 report that information to the corporation in a form and at a  
1654 time the corporation specifies to ensure that the corporation  
1655 can meet the requirements of this subsection and the  
1656 corporation's financing obligations.

1657 h. The Florida Surplus Lines Service Office shall verify  
1658 the proper application by surplus lines agents of assessment  
1659 percentages for regular assessments and emergency assessments  
1660 levied under this subparagraph on assessable insureds and shall  
1661 assist the corporation in ensuring the accurate, timely  
1662 collection and payment of assessments by surplus lines agents as  
1663 required by the corporation.

1664 i. (I) If a deficit is incurred in any account in 2008 or  
1665 thereafter, the board of governors shall levy a Citizens  
1666 policyholder surcharge against all policyholders of the



559146

1667 corporation. ~~for a 12-month period, which~~

1668 (II) The Citizens policyholder surcharge shall be levied  
1669 ~~collected at the time of issuance or renewal of a policy,~~ as a  
1670 uniform percentage of the premium for the policy of up to 15  
1671 percent of such premium, which funds shall be used to offset the  
1672 deficit.

1673 (III) The Citizens policyholder surcharge is payable upon  
1674 cancellation or termination of the policy, upon renewal of the  
1675 policy, or upon issuance of a new policy by Citizens within the  
1676 first 12 months after the date of the levy or the period of time  
1677 necessary to fully collect the Citizens policyholder surcharge  
1678 amount.

1679 (IV) The corporation may not levy any regular assessments  
1680 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
1681 subparagraph b. with respect to a particular year's deficit  
1682 until the corporation has first levied a Citizens policyholder  
1683 surcharge under this sub-subparagraph in the full amount  
1684 authorized by this sub-subparagraph.

1685 (V) Citizens policyholder surcharges under this sub-  
1686 subparagraph are not considered premium and are not subject to  
1687 commissions, fees, or premium taxes. However, failure to pay  
1688 such surcharges shall be treated as failure to pay premium.

1689 j. If the amount of any assessments or surcharges collected  
1690 from corporation policyholders, assessable insurers or their  
1691 policyholders, or assessable insureds exceeds the amount of the  
1692 deficits, such excess amounts shall be remitted to and retained  
1693 by the corporation in a reserve to be used by the corporation,  
1694 as determined by the board of governors and approved by the  
1695 office, to pay claims or reduce any past, present, or future



559146

1696 plan-year deficits or to reduce outstanding debt.

1697 (c) The plan of operation of the corporation:

1698 1. Must provide for adoption of residential property and  
1699 casualty insurance policy forms and commercial residential and  
1700 nonresidential property insurance forms, which forms must be  
1701 approved by the office prior to use. The corporation shall adopt  
1702 the following policy forms:

1703 a. Standard personal lines policy forms that are  
1704 comprehensive multiperil policies providing full coverage of a  
1705 residential property equivalent to the coverage provided in the  
1706 private insurance market under an HO-3, HO-4, or HO-6 policy.

1707 b. Basic personal lines policy forms that are policies  
1708 similar to an HO-8 policy or a dwelling fire policy that provide  
1709 coverage meeting the requirements of the secondary mortgage  
1710 market, but which coverage is more limited than the coverage  
1711 under a standard policy.

1712 c. Commercial lines residential and nonresidential policy  
1713 forms that are generally similar to the basic perils of full  
1714 coverage obtainable for commercial residential structures and  
1715 commercial nonresidential structures in the admitted voluntary  
1716 market.

1717 d. Personal lines and commercial lines residential property  
1718 insurance forms that cover the peril of wind only. The forms are  
1719 applicable only to residential properties located in areas  
1720 eligible for coverage under the coastal ~~high-risk~~ account  
1721 referred to in sub-subparagraph (b)2.a.

1722 e. Commercial lines nonresidential property insurance forms  
1723 that cover the peril of wind only. The forms are applicable only  
1724 to nonresidential properties located in areas eligible for



559146

1725 coverage under the coastal ~~high-risk~~ account referred to in sub-  
1726 subparagraph (b)2.a.

1727 f. The corporation may adopt variations of the policy forms  
1728 listed in sub-subparagraphs a.-e. that contain more restrictive  
1729 coverage.

1730 2.a. Must provide that the corporation adopt a program in  
1731 which the corporation and authorized insurers enter into quota  
1732 share primary insurance agreements for hurricane coverage, as  
1733 defined in s. 627.4025(2) (a), for eligible risks, and adopt  
1734 property insurance forms for eligible risks which cover the  
1735 peril of wind only. As used in this subsection, the term:

1736 (I) "Quota share primary insurance" means an arrangement in  
1737 which the primary hurricane coverage of an eligible risk is  
1738 provided in specified percentages by the corporation and an  
1739 authorized insurer. The corporation and authorized insurer are  
1740 each solely responsible for a specified percentage of hurricane  
1741 coverage of an eligible risk as set forth in a quota share  
1742 primary insurance agreement between the corporation and an  
1743 authorized insurer and the insurance contract. The  
1744 responsibility of the corporation or authorized insurer to pay  
1745 its specified percentage of hurricane losses of an eligible  
1746 risk, as set forth in the quota share primary insurance  
1747 agreement, may not be altered by the inability of the other  
1748 party to the agreement to pay its specified percentage of  
1749 hurricane losses. Eligible risks that are provided hurricane  
1750 coverage through a quota share primary insurance arrangement  
1751 must be provided policy forms that set forth the obligations of  
1752 the corporation and authorized insurer under the arrangement,  
1753 clearly specify the percentages of quota share primary insurance



559146

1754 provided by the corporation and authorized insurer, and  
1755 conspicuously and clearly state that neither the authorized  
1756 insurer nor the corporation may be held responsible beyond its  
1757 specified percentage of coverage of hurricane losses.

1758 (II) "Eligible risks" means personal lines residential and  
1759 commercial lines residential risks that meet the underwriting  
1760 criteria of the corporation and are located in areas that were  
1761 eligible for coverage by the Florida Windstorm Underwriting  
1762 Association on January 1, 2002.

1763 b. The corporation may enter into quota share primary  
1764 insurance agreements with authorized insurers at corporation  
1765 coverage levels of 90 percent and 50 percent.

1766 c. If the corporation determines that additional coverage  
1767 levels are necessary to maximize participation in quota share  
1768 primary insurance agreements by authorized insurers, the  
1769 corporation may establish additional coverage levels. However,  
1770 the corporation's quota share primary insurance coverage level  
1771 may not exceed 90 percent.

1772 d. Any quota share primary insurance agreement entered into  
1773 between an authorized insurer and the corporation must provide  
1774 for a uniform specified percentage of coverage of hurricane  
1775 losses, by county or territory as set forth by the corporation  
1776 board, for all eligible risks of the authorized insurer covered  
1777 under the quota share primary insurance agreement.

1778 e. Any quota share primary insurance agreement entered into  
1779 between an authorized insurer and the corporation is subject to  
1780 review and approval by the office. However, such agreement shall  
1781 be authorized only as to insurance contracts entered into  
1782 between an authorized insurer and an insured who is already



559146

1783 insured by the corporation for wind coverage.

1784 f. For all eligible risks covered under quota share primary  
1785 insurance agreements, the exposure and coverage levels for both  
1786 the corporation and authorized insurers shall be reported by the  
1787 corporation to the Florida Hurricane Catastrophe Fund. For all  
1788 policies of eligible risks covered under quota share primary  
1789 insurance agreements, the corporation and the authorized insurer  
1790 shall maintain complete and accurate records for the purpose of  
1791 exposure and loss reimbursement audits as required by Florida  
1792 Hurricane Catastrophe Fund rules. The corporation and the  
1793 authorized insurer shall each maintain duplicate copies of  
1794 policy declaration pages and supporting claims documents.

1795 g. The corporation board shall establish in its plan of  
1796 operation standards for quota share agreements which ensure that  
1797 there is no discriminatory application among insurers as to the  
1798 terms of quota share agreements, pricing of quota share  
1799 agreements, incentive provisions if any, and consideration paid  
1800 for servicing policies or adjusting claims.

1801 h. The quota share primary insurance agreement between the  
1802 corporation and an authorized insurer must set forth the  
1803 specific terms under which coverage is provided, including, but  
1804 not limited to, the sale and servicing of policies issued under  
1805 the agreement by the insurance agent of the authorized insurer  
1806 producing the business, the reporting of information concerning  
1807 eligible risks, the payment of premium to the corporation, and  
1808 arrangements for the adjustment and payment of hurricane claims  
1809 incurred on eligible risks by the claims adjuster and personnel  
1810 of the authorized insurer. Entering into a quota sharing  
1811 insurance agreement between the corporation and an authorized



559146

1812 insurer shall be voluntary and at the discretion of the  
1813 authorized insurer.

1814         3. May provide that the corporation may employ or otherwise  
1815 contract with individuals or other entities to provide  
1816 administrative or professional services that may be appropriate  
1817 to effectuate the plan. The corporation shall have the power to  
1818 borrow funds, by issuing bonds or by incurring other  
1819 indebtedness, and shall have other powers reasonably necessary  
1820 to effectuate the requirements of this subsection, including,  
1821 without limitation, the power to issue bonds and incur other  
1822 indebtedness in order to refinance outstanding bonds or other  
1823 indebtedness. The corporation may, but is not required to, seek  
1824 judicial validation of its bonds or other indebtedness under  
1825 chapter 75. The corporation may issue bonds or incur other  
1826 indebtedness, or have bonds issued on its behalf by a unit of  
1827 local government pursuant to subparagraph (p)2., in the absence  
1828 of a hurricane or other weather-related event, upon a  
1829 determination by the corporation, subject to approval by the  
1830 office, that such action would enable it to efficiently meet the  
1831 financial obligations of the corporation and that such  
1832 financings are reasonably necessary to effectuate the  
1833 requirements of this subsection. The corporation is authorized  
1834 to take all actions needed to facilitate tax-free status for any  
1835 such bonds or indebtedness, including formation of trusts or  
1836 other affiliated entities. The corporation shall have the  
1837 authority to pledge assessments, projected recoveries from the  
1838 Florida Hurricane Catastrophe Fund, other reinsurance  
1839 recoverables, market equalization and other surcharges, and  
1840 other funds available to the corporation as security for bonds





559146

1841 or other indebtedness. In recognition of s. 10, Art. I of the  
1842 State Constitution, prohibiting the impairment of obligations of  
1843 contracts, it is the intent of the Legislature that no action be  
1844 taken whose purpose is to impair any bond indenture or financing  
1845 agreement or any revenue source committed by contract to such  
1846 bond or other indebtedness.

1847 4.a. Must require that the corporation operate subject to  
1848 the supervision and approval of a board of governors consisting  
1849 of eight individuals who are residents of this state, from  
1850 different geographical areas of this state. The Governor, the  
1851 Chief Financial Officer, the President of the Senate, and the  
1852 Speaker of the House of Representatives shall each appoint two  
1853 members of the board. At least one of the two members appointed  
1854 by each appointing officer must have demonstrated expertise in  
1855 insurance, and is deemed to be within the scope of the exemption  
1856 provided in s. 112.313(7) (b). The Chief Financial Officer shall  
1857 designate one of the appointees as chair. All board members  
1858 serve at the pleasure of the appointing officer. All members of  
1859 the board of governors are subject to removal at will by the  
1860 officers who appointed them. All board members, including the  
1861 chair, must be appointed to serve for 3-year terms beginning  
1862 annually on a date designated by the plan. However, for the  
1863 first term beginning on or after July 1, 2009, each appointing  
1864 officer shall appoint one member of the board for a 2-year term  
1865 and one member for a 3-year term. Any board vacancy shall be  
1866 filled for the unexpired term by the appointing officer. The  
1867 Chief Financial Officer shall appoint a technical advisory group  
1868 to provide information and advice to the board of governors in  
1869 connection with the board's duties under this subsection. The



559146

1870 executive director and senior managers of the corporation shall  
1871 be engaged by the board and serve at the pleasure of the board.  
1872 Any executive director appointed on or after July 1, 2006, is  
1873 subject to confirmation by the Senate. The executive director is  
1874 responsible for employing other staff as the corporation may  
1875 require, subject to review and concurrence by the board.

1876         b. The board shall create a Market Accountability Advisory  
1877 Committee to assist the corporation in developing awareness of  
1878 its rates and its customer and agent service levels in  
1879 relationship to the voluntary market insurers writing similar  
1880 coverage. The members of the advisory committee shall consist of  
1881 the following 11 persons, one of whom must be elected chair by  
1882 the members of the committee: four representatives, one  
1883 appointed by the Florida Association of Insurance Agents, one by  
1884 the Florida Association of Insurance and Financial Advisors, one  
1885 by the Professional Insurance Agents of Florida, and one by the  
1886 Latin American Association of Insurance Agencies; three  
1887 representatives appointed by the insurers with the three highest  
1888 voluntary market share of residential property insurance  
1889 business in the state; one representative from the Office of  
1890 Insurance Regulation; one consumer appointed by the board who is  
1891 insured by the corporation at the time of appointment to the  
1892 committee; one representative appointed by the Florida  
1893 Association of Realtors; and one representative appointed by the  
1894 Florida Bankers Association. All members must serve for 3-year  
1895 terms and may serve for consecutive terms. The committee shall  
1896 report to the corporation at each board meeting on insurance  
1897 market issues which may include rates and rate competition with  
1898 the voluntary market; service, including policy issuance, claims



559146

1899 processing, and general responsiveness to policyholders,  
1900 applicants, and agents; and matters relating to depopulation.  
1901 5. Must provide a procedure for determining the eligibility  
1902 of a risk for coverage, as follows:  
1903 a. Subject to the provisions of s. 627.3517, with respect  
1904 to personal lines residential risks, if the risk is offered  
1905 coverage from an authorized insurer at the insurer's approved  
1906 rate under either a standard policy including wind coverage or,  
1907 if consistent with the insurer's underwriting rules as filed  
1908 with the office, a basic policy including wind coverage, for a  
1909 new application to the corporation for coverage, the risk is not  
1910 eligible for any policy issued by the corporation unless the  
1911 premium for coverage from the authorized insurer is more than 15  
1912 percent greater than the premium for comparable coverage from  
1913 the corporation. If the risk is not able to obtain any such  
1914 offer, the risk is eligible for either a standard policy  
1915 including wind coverage or a basic policy including wind  
1916 coverage issued by the corporation; however, if the risk could  
1917 not be insured under a standard policy including wind coverage  
1918 regardless of market conditions, the risk shall be eligible for  
1919 a basic policy including wind coverage unless rejected under  
1920 subparagraph 8. However, with regard to a policyholder of the  
1921 corporation or a policyholder removed from the corporation  
1922 through an assumption agreement until the end of the assumption  
1923 period, the policyholder remains eligible for coverage from the  
1924 corporation regardless of any offer of coverage from an  
1925 authorized insurer or surplus lines insurer. The corporation  
1926 shall determine the type of policy to be provided on the basis  
1927 of objective standards specified in the underwriting manual and



559146

1928 based on generally accepted underwriting practices.

1929 (I) If the risk accepts an offer of coverage through the  
1930 market assistance plan or an offer of coverage through a  
1931 mechanism established by the corporation before a policy is  
1932 issued to the risk by the corporation or during the first 30  
1933 days of coverage by the corporation, and the producing agent who  
1934 submitted the application to the plan or to the corporation is  
1935 not currently appointed by the insurer, the insurer shall:

1936 (A) Pay to the producing agent of record of the policy, for  
1937 the first year, an amount that is the greater of the insurer's  
1938 usual and customary commission for the type of policy written or  
1939 a fee equal to the usual and customary commission of the  
1940 corporation; or

1941 (B) Offer to allow the producing agent of record of the  
1942 policy to continue servicing the policy for a period of not less  
1943 than 1 year and offer to pay the agent the greater of the  
1944 insurer's or the corporation's usual and customary commission  
1945 for the type of policy written.

1946  
1947 If the producing agent is unwilling or unable to accept  
1948 appointment, the new insurer shall pay the agent in accordance  
1949 with sub-sub-sub-subparagraph (A).

1950 (II) When the corporation enters into a contractual  
1951 agreement for a take-out plan, the producing agent of record of  
1952 the corporation policy is entitled to retain any unearned  
1953 commission on the policy, and the insurer shall:

1954 (A) Pay to the producing agent of record of the corporation  
1955 policy, for the first year, an amount that is the greater of the  
1956 insurer's usual and customary commission for the type of policy



559146

1957 written or a fee equal to the usual and customary commission of  
1958 the corporation; or

1959 (B) Offer to allow the producing agent of record of the  
1960 corporation policy to continue servicing the policy for a period  
1961 of not less than 1 year and offer to pay the agent the greater  
1962 of the insurer's or the corporation's usual and customary  
1963 commission for the type of policy written.

1964  
1965 If the producing agent is unwilling or unable to accept  
1966 appointment, the new insurer shall pay the agent in accordance  
1967 with sub-sub-sub-subparagraph (A).

1968 b. With respect to commercial lines residential risks, for  
1969 a new application to the corporation for coverage, if the risk  
1970 is offered coverage under a policy including wind coverage from  
1971 an authorized insurer at its approved rate, the risk is not  
1972 eligible for any policy issued by the corporation unless the  
1973 premium for coverage from the authorized insurer is more than 15  
1974 percent greater than the premium for comparable coverage from  
1975 the corporation. If the risk is not able to obtain any such  
1976 offer, the risk is eligible for a policy including wind coverage  
1977 issued by the corporation. However, with regard to a  
1978 policyholder of the corporation or a policyholder removed from  
1979 the corporation through an assumption agreement until the end of  
1980 the assumption period, the policyholder remains eligible for  
1981 coverage from the corporation regardless of any offer of  
1982 coverage from an authorized insurer or surplus lines insurer.

1983 (I) If the risk accepts an offer of coverage through the  
1984 market assistance plan or an offer of coverage through a  
1985 mechanism established by the corporation before a policy is



559146

1986 issued to the risk by the corporation or during the first 30  
1987 days of coverage by the corporation, and the producing agent who  
1988 submitted the application to the plan or the corporation is not  
1989 currently appointed by the insurer, the insurer shall:

1990 (A) Pay to the producing agent of record of the policy, for  
1991 the first year, an amount that is the greater of the insurer's  
1992 usual and customary commission for the type of policy written or  
1993 a fee equal to the usual and customary commission of the  
1994 corporation; or

1995 (B) Offer to allow the producing agent of record of the  
1996 policy to continue servicing the policy for a period of not less  
1997 than 1 year and offer to pay the agent the greater of the  
1998 insurer's or the corporation's usual and customary commission  
1999 for the type of policy written.

2000  
2001 If the producing agent is unwilling or unable to accept  
2002 appointment, the new insurer shall pay the agent in accordance  
2003 with sub-sub-sub-subparagraph (A).

2004 (II) When the corporation enters into a contractual  
2005 agreement for a take-out plan, the producing agent of record of  
2006 the corporation policy is entitled to retain any unearned  
2007 commission on the policy, and the insurer shall:

2008 (A) Pay to the producing agent of record of the corporation  
2009 policy, for the first year, an amount that is the greater of the  
2010 insurer's usual and customary commission for the type of policy  
2011 written or a fee equal to the usual and customary commission of  
2012 the corporation; or

2013 (B) Offer to allow the producing agent of record of the  
2014 corporation policy to continue servicing the policy for a period



559146

2015 of not less than 1 year and offer to pay the agent the greater  
2016 of the insurer's or the corporation's usual and customary  
2017 commission for the type of policy written.

2018  
2019 If the producing agent is unwilling or unable to accept  
2020 appointment, the new insurer shall pay the agent in accordance  
2021 with sub-sub-sub-subparagraph (A).

2022 c. For purposes of determining comparable coverage under  
2023 sub-subparagraphs a. and b., the comparison shall be based on  
2024 those forms and coverages that are reasonably comparable. The  
2025 corporation may rely on a determination of comparable coverage  
2026 and premium made by the producing agent who submits the  
2027 application to the corporation, made in the agent's capacity as  
2028 the corporation's agent. A comparison may be made solely of the  
2029 premium with respect to the main building or structure only on  
2030 the following basis: the same coverage A or other building  
2031 limits; the same percentage hurricane deductible that applies on  
2032 an annual basis or that applies to each hurricane for commercial  
2033 residential property; the same percentage of ordinance and law  
2034 coverage, if the same limit is offered by both the corporation  
2035 and the authorized insurer; the same mitigation credits, to the  
2036 extent the same types of credits are offered both by the  
2037 corporation and the authorized insurer; the same method for loss  
2038 payment, such as replacement cost or actual cash value, if the  
2039 same method is offered both by the corporation and the  
2040 authorized insurer in accordance with underwriting rules; and  
2041 any other form or coverage that is reasonably comparable as  
2042 determined by the board. If an application is submitted to the  
2043 corporation for wind-only coverage in the coastal ~~high-risk~~



559146

2044 account, the premium for the corporation's wind-only policy plus  
2045 the premium for the ex-wind policy that is offered by an  
2046 authorized insurer to the applicant shall be compared to the  
2047 premium for multiperil coverage offered by an authorized  
2048 insurer, subject to the standards for comparison specified in  
2049 this subparagraph. If the corporation or the applicant requests  
2050 from the authorized insurer a breakdown of the premium of the  
2051 offer by types of coverage so that a comparison may be made by  
2052 the corporation or its agent and the authorized insurer refuses  
2053 or is unable to provide such information, the corporation may  
2054 treat the offer as not being an offer of coverage from an  
2055 authorized insurer at the insurer's approved rate.

2056 6. Must include rules for classifications of risks and  
2057 rates therefor.

2058 7. Must provide that if premium and investment income for  
2059 an account attributable to a particular calendar year are in  
2060 excess of projected losses and expenses for the account  
2061 attributable to that year, such excess shall be held in surplus  
2062 in the account. Such surplus shall be available to defray  
2063 deficits in that account as to future years and shall be used  
2064 for that purpose prior to assessing assessable insurers and  
2065 assessable insureds as to any calendar year.

2066 8. Must provide objective criteria and procedures to be  
2067 uniformly applied for all applicants in determining whether an  
2068 individual risk is so hazardous as to be uninsurable. In making  
2069 this determination and in establishing the criteria and  
2070 procedures, the following shall be considered:

2071 a. Whether the likelihood of a loss for the individual risk  
2072 is substantially higher than for other risks of the same class;





559146

2073 and

2074           b. Whether the uncertainty associated with the individual  
2075 risk is such that an appropriate premium cannot be determined.

2076  
2077 The acceptance or rejection of a risk by the corporation shall  
2078 be construed as the private placement of insurance, and the  
2079 provisions of chapter 120 shall not apply.

2080           9. Must provide that the corporation shall make its best  
2081 efforts to procure catastrophe reinsurance at reasonable rates,  
2082 to cover its projected 100-year probable maximum loss as  
2083 determined by the board of governors.

2084           10. The policies issued by the corporation must provide  
2085 that, if the corporation or the market assistance plan obtains  
2086 an offer from an authorized insurer to cover the risk at its  
2087 approved rates, the risk is no longer eligible for renewal  
2088 through the corporation, except as otherwise provided in this  
2089 subsection.

2090           11. Corporation policies and applications must include a  
2091 notice that the corporation policy could, under this section, be  
2092 replaced with a policy issued by an authorized insurer that does  
2093 not provide coverage identical to the coverage provided by the  
2094 corporation. The notice shall also specify that acceptance of  
2095 corporation coverage creates a conclusive presumption that the  
2096 applicant or policyholder is aware of this potential.

2097           12. May establish, subject to approval by the office,  
2098 different eligibility requirements and operational procedures  
2099 for any line or type of coverage for any specified county or  
2100 area if the board determines that such changes to the  
2101 eligibility requirements and operational procedures are



559146

2102 justified due to the voluntary market being sufficiently stable  
2103 and competitive in such area or for such line or type of  
2104 coverage and that consumers who, in good faith, are unable to  
2105 obtain insurance through the voluntary market through ordinary  
2106 methods would continue to have access to coverage from the  
2107 corporation. When coverage is sought in connection with a real  
2108 property transfer, such requirements and procedures shall not  
2109 provide for an effective date of coverage later than the date of  
2110 the closing of the transfer as established by the transferor,  
2111 the transferee, and, if applicable, the lender.

2112 13. Must provide that, with respect to the coastal high-  
2113 ~~risk~~ account, any assessable insurer with a surplus as to  
2114 policyholders of \$25 million or less writing 25 percent or more  
2115 of its total countrywide property insurance premiums in this  
2116 state may petition the office, within the first 90 days of each  
2117 calendar year, to qualify as a limited apportionment company. A  
2118 regular assessment levied by the corporation on a limited  
2119 apportionment company for a deficit incurred by the corporation  
2120 for the coastal high-risk account in 2006 or thereafter may be  
2121 paid to the corporation on a monthly basis as the assessments  
2122 are collected by the limited apportionment company from its  
2123 insureds pursuant to s. 627.3512, but the regular assessment  
2124 must be paid in full within 12 months after being levied by the  
2125 corporation. A limited apportionment company shall collect from  
2126 its policyholders any emergency assessment imposed under sub-  
2127 subparagraph (b)3.d. The plan shall provide that, if the office  
2128 determines that any regular assessment will result in an  
2129 impairment of the surplus of a limited apportionment company,  
2130 the office may direct that all or part of such assessment be



559146

2131 deferred as provided in subparagraph (p)4. However, there shall  
2132 be no limitation or deferment of an emergency assessment to be  
2133 collected from policyholders under sub-subparagraph (b)3.d.

2134 14. Must provide that the corporation appoint as its  
2135 licensed agents only those agents who also hold an appointment  
2136 as defined in s. 626.015(3) with an insurer who at the time of  
2137 the agent's initial appointment by the corporation is authorized  
2138 to write and is actually writing personal lines residential  
2139 property coverage, commercial residential property coverage, or  
2140 commercial nonresidential property coverage within the state.

2141 15. Must provide, by July 1, 2007, a premium payment plan  
2142 option to its policyholders which allows at a minimum for  
2143 quarterly and semiannual payment of premiums. A monthly payment  
2144 plan may, but is not required to, be offered.

2145 16. Must limit coverage on mobile homes or manufactured  
2146 homes built prior to 1994 to actual cash value of the dwelling  
2147 rather than replacement costs of the dwelling.

2148 17. May provide such limits of coverage as the board  
2149 determines, consistent with the requirements of this subsection.

2150 18. May require commercial property to meet specified  
2151 hurricane mitigation construction features as a condition of  
2152 eligibility for coverage.

2153 (d)1. All prospective employees for senior management  
2154 positions, as defined by the plan of operation, are subject to  
2155 background checks as a prerequisite for employment. The office  
2156 shall conduct background checks on such prospective employees  
2157 pursuant to ss. 624.34, 624.404(3), and 628.261.

2158 2. On or before July 1 of each year, employees of the  
2159 corporation are required to sign and submit a statement



559146

2160 attesting that they do not have a conflict of interest, as  
2161 defined in part III of chapter 112. As a condition of  
2162 employment, all prospective employees are required to sign and  
2163 submit to the corporation a conflict-of-interest statement.

2164 3. Senior managers and members of the board of governors  
2165 are subject to ~~the provisions of~~ part III of chapter 112,  
2166 including, but not limited to, the code of ethics and public  
2167 disclosure and reporting of financial interests, pursuant to s.  
2168 112.3145. Notwithstanding s. 112.3143(2), a board member may not  
2169 vote on any measure that would inure to his or her special  
2170 private gain or loss; that he or she knows would inure to the  
2171 special private gain or loss of any principal by whom he or she  
2172 is retained or to the parent organization or subsidiary of a  
2173 corporate principal by which he or she is retained, other than  
2174 an agency as defined in s. 112.312; or that he or she knows  
2175 would inure to the special private gain or loss of a relative or  
2176 business associate of the public officer. Before the vote is  
2177 taken, such member shall publicly state to the assembly the  
2178 nature of the his or her interest in the matter from which he or  
2179 she is abstaining from voting and, within 15 days after the vote  
2180 occurs, disclose the nature of his or her interest as a public  
2181 record in a memorandum filed with the person responsible for  
2182 recording the minutes of the meeting, who shall incorporate the  
2183 memorandum in the minutes. Senior managers and board members are  
2184 also required to file such disclosures with the Commission on  
2185 Ethics and the Office of Insurance Regulation. The executive  
2186 director of the corporation or ~~his or her~~ designee shall notify  
2187 each existing and newly appointed and ~~existing appointed~~ member  
2188 of the board of governors and senior managers of their duty to



559146

2189 comply with the reporting requirements of part III of chapter  
2190 112. At least quarterly, the executive director or ~~his or her~~  
2191 designee shall submit to the Commission on Ethics a list of  
2192 names of the senior managers and members of the board of  
2193 governors who are subject to the public disclosure requirements  
2194 under s. 112.3145.

2195 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other  
2196 provision of law, an employee or board member may not knowingly  
2197 accept, directly or indirectly, any gift or expenditure from a  
2198 person or entity, or an employee or representative of such  
2199 person or entity, that has a contractual relationship with the  
2200 corporation or who is under consideration for a contract. An  
2201 employee or board member who fails to comply with subparagraph  
2202 3. or this subparagraph is subject to penalties provided under  
2203 ss. 112.317 and 112.3173.

2204 5. Any senior manager of the corporation who is employed on  
2205 or after January 1, 2007, regardless of the date of hire, who  
2206 subsequently retires or terminates employment is prohibited from  
2207 representing another person or entity before the corporation for  
2208 2 years after retirement or termination of employment from the  
2209 corporation.

2210 6. Any senior manager of the corporation who is employed on  
2211 or after January 1, 2007, regardless of the date of hire, who  
2212 subsequently retires or terminates employment is prohibited from  
2213 having any employment or contractual relationship for 2 years  
2214 with an insurer that has entered into a take-out bonus agreement  
2215 with the corporation.

2216 (y) It is the intent of the Legislature that the amendments  
2217 to this subsection enacted in 2002 should, over time, reduce the



559146

2218 probable maximum windstorm losses in the residual markets and  
2219 should reduce the potential assessments to be levied on property  
2220 insurers and policyholders statewide. In furtherance of this  
2221 intent:

2222 1. The board shall, on or before February 1 of each year,  
2223 provide a report to the President of the Senate and the Speaker  
2224 of the House of Representatives showing the reduction or  
2225 increase in the 100-year probable maximum loss attributable to  
2226 wind-only coverages and the quota share program under this  
2227 subsection combined, as compared to the benchmark 100-year  
2228 probable maximum loss of the Florida Windstorm Underwriting  
2229 Association. For purposes of this paragraph, the benchmark 100-  
2230 year probable maximum loss of the Florida Windstorm Underwriting  
2231 Association shall be the calculation dated February 2001 and  
2232 based on November 30, 2000, exposures. In order to ensure  
2233 comparability of data, the board shall use the same methods for  
2234 calculating its probable maximum loss as were used to calculate  
2235 the benchmark probable maximum loss.

2236 2. Beginning December 1, 2012 ~~2010~~, if the report under  
2237 subparagraph 1. for any year indicates that the 100-year  
2238 probable maximum loss attributable to wind-only coverages and  
2239 the quota share program combined does not reflect a reduction of  
2240 at least 25 percent from the benchmark, the board shall reduce  
2241 the boundaries of the high-risk area eligible for wind-only  
2242 coverages under this subsection in a manner calculated to reduce  
2243 such probable maximum loss to an amount at least 25 percent  
2244 below the benchmark.

2245 3. Beginning February 1, 2015, if the report under  
2246 subparagraph 1. for any year indicates that the 100-year



559146

2247 probable maximum loss attributable to wind-only coverages and  
2248 the quota share program combined does not reflect a reduction of  
2249 at least 50 percent from the benchmark, the boundaries of the  
2250 high-risk area eligible for wind-only coverages under this  
2251 subsection shall be reduced by the elimination of any area that  
2252 is not seaward of a line 1,000 feet inland from the Intracoastal  
2253 Waterway.

2254       Section 17. The Division of Statutory Revision is directed  
2255 to prepare a reviser's bill for introduction at the next regular  
2256 session of the Legislature to change the term "high-risk  
2257 account" to "coastal account" to conform the Florida Statutes to  
2258 the amendment to s. 627.351(6)(b)2.a.(III), Florida Statutes,  
2259 made by the this act.

2260       Section 18. Subsection (2) of section 627.4133, Florida  
2261 Statutes, is amended to read:

2262       627.4133 Notice of cancellation, nonrenewal, or renewal  
2263 premium.—

2264       (2) With respect to any personal lines or commercial  
2265 residential property insurance policy, including, but not  
2266 limited to, any homeowner's, mobile home owner's, farmowner's,  
2267 condominium association, condominium unit owner's, apartment  
2268 building, or other policy covering a residential structure or  
2269 its contents:

2270       (a) The insurer shall give the named insured at least 45  
2271 days' advance written notice of the renewal premium.

2272       (b) The insurer shall give the named insured written notice  
2273 of nonrenewal, cancellation, or termination at least 100 days  
2274 before ~~prior to~~ the effective date of the nonrenewal,  
2275 cancellation, or termination. However, the insurer shall give at



559146

2276 least 100 days' written notice, or written notice by June 1,  
2277 whichever is earlier, for any nonrenewal, cancellation, or  
2278 termination that would be effective between June 1 and November  
2279 30. The notice must include the reason or reasons for the  
2280 nonrenewal, cancellation, or termination, except that:

2281 1. The insurer must ~~shall~~ give the named insured written  
2282 notice of nonrenewal, cancellation, or termination at least 180  
2283 days before ~~prior to~~ the effective date of the nonrenewal,  
2284 cancellation, or termination for a named insured whose  
2285 residential structure has been insured by that insurer or an  
2286 affiliated insurer for at least a 5-year period immediately  
2287 prior to the date of the written notice.

2288 2. When cancellation is for nonpayment of premium, at least  
2289 10 days' written notice of cancellation accompanied by the  
2290 reason therefor must ~~shall~~ be given. As used in this  
2291 subparagraph, the term "nonpayment of premium" means failure of  
2292 the named insured to discharge when due any of her or his  
2293 obligations in connection with the payment of premiums on a  
2294 policy or any installment of such premium, whether the premium  
2295 is payable directly to the insurer or its agent or indirectly  
2296 under any premium finance plan or extension of credit, or  
2297 failure to maintain membership in an organization if such  
2298 membership is a condition precedent to insurance coverage.  
2299 "Nonpayment of premium" also means the failure of a financial  
2300 institution to honor an insurance applicant's check after  
2301 delivery to a licensed agent for payment of a premium, even if  
2302 the agent has previously delivered or transferred the premium to  
2303 the insurer. If a dishonored check represents the initial  
2304 premium payment, the contract and all contractual obligations





559146

2305 are ~~shall be~~ void ab initio unless the nonpayment is cured  
2306 within the earlier of 5 days after actual notice by certified  
2307 mail is received by the applicant or 15 days after notice is  
2308 sent to the applicant by certified mail or registered mail, and  
2309 if the contract is void, any premium received by the insurer  
2310 from a third party must ~~shall~~ be refunded to that party in full.

2311 3. When such cancellation or termination occurs during the  
2312 first 90 days during which the insurance is in force and the  
2313 insurance is canceled or terminated for reasons other than  
2314 nonpayment of premium, at least 20 days' written notice of  
2315 cancellation or termination accompanied by the reason therefor  
2316 must ~~shall~~ be given except if ~~where~~ there has been a material  
2317 misstatement or misrepresentation or failure to comply with the  
2318 underwriting requirements established by the insurer.

2319 4. The requirement for providing written notice of  
2320 nonrenewal by June 1 of any nonrenewal that would be effective  
2321 between June 1 and November 30 does not apply to the following  
2322 situations, but the insurer remains subject to the requirement  
2323 to provide such notice at least 100 days before ~~prior to~~ the  
2324 effective date of nonrenewal:

2325 a. A policy that is nonrenewed due to a revision in the  
2326 coverage for sinkhole losses and catastrophic ground cover  
2327 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~  
2328 ~~2007-1, Laws of Florida.~~

2329 b. A policy that is nonrenewed by Citizens Property  
2330 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
2331 that has been assumed by an authorized insurer offering  
2332 replacement ~~or renewal~~ coverage to the policyholder is exempt  
2333 from the notice requirements of paragraph (a) and this



559146

2334 paragraph. In such cases, Citizens Property Insurance  
2335 Corporation shall give the named insured written notice of  
2336 nonrenewal at least 45 days before the effective date of the  
2337 nonrenewal.

2338

2339 After the policy has been in effect for 90 days, the policy may  
2340 ~~shall~~ not be canceled by the insurer except if ~~when~~ there has  
2341 been a material misstatement, a nonpayment of premium, a failure  
2342 to comply with underwriting requirements established by the  
2343 insurer within 90 days of the date of effectuation of coverage,  
2344 or a substantial change in the risk covered by the policy or if  
2345 ~~when~~ the cancellation is for all insureds under such policies  
2346 for a given class of insureds. This paragraph does not apply to  
2347 individually rated risks having a policy term of less than 90  
2348 days.

2349 5. Notwithstanding any other provision of law, an insurer  
2350 may cancel or nonrenew a property insurance policy upon a  
2351 minimum of 45 days' notice if the office finds that the early  
2352 cancellation of some or all of the insurer's policies is  
2353 necessary to protect the best interests of the public or  
2354 policyholders and the office approves the insurer's plan for  
2355 early cancellation or nonrenewal of some or all of its policies.  
2356 The office may base such a finding upon the financial condition  
2357 of the insurer, lack of adequate reinsurance coverage for  
2358 hurricane risk, or other relevant factors. The office may  
2359 condition its finding on the consent of the insurer to be placed  
2360 in administrative supervision pursuant to s. 624.81 or consent  
2361 to the appointment of a receiver under chapter 631.

2362 (c) If the insurer fails to provide the notice required by



559146

2363 this subsection, other than the 10-day notice, the coverage  
2364 provided to the named insured shall remain in effect until the  
2365 effective date of replacement coverage or until the expiration  
2366 of a period of days after the notice is given equal to the  
2367 required notice period, whichever occurs first. The premium for  
2368 the coverage shall remain the same during any such extension  
2369 period except that, in the event of failure to provide notice of  
2370 nonrenewal, if the rate filing then in effect would have  
2371 resulted in a premium reduction, the premium during such  
2372 extension must ~~shall~~ be calculated based on the later rate  
2373 filing.

2374 (d)1. Upon a declaration of an emergency pursuant to s.  
2375 252.36 and the filing of an order by the Commissioner of  
2376 Insurance Regulation, an insurer may not cancel or nonrenew a  
2377 personal residential or commercial residential property  
2378 insurance policy covering a dwelling or residential property  
2379 located in this state which has been damaged as a result of a  
2380 hurricane or wind loss that is the subject of the declaration of  
2381 emergency for a period of 90 days after the dwelling or  
2382 residential property has been repaired. A structure is deemed to  
2383 be repaired when substantially completed and restored to the  
2384 extent that it is insurable by another authorized insurer that  
2385 is writing policies in this state.

2386 2. However, an insurer or agent may cancel or nonrenew such  
2387 a policy before ~~prior to~~ the repair of the dwelling or  
2388 residential property:

- 2389 a. Upon 10 days' notice for nonpayment of premium; or  
2390 b. Upon 45 days' notice:

2391 (I) For a material misstatement or fraud related to the



559146

2392 claim;

2393 (II) If the insurer determines that the insured has  
2394 unreasonably caused a delay in the repair of the dwelling; or

2395 (III) If the insurer has paid policy limits.

2396 3. If the insurer elects to nonrenew a policy covering a  
2397 property that has been damaged, the insurer shall provide at  
2398 least 90 days' notice to the insured that the insurer intends to  
2399 nonrenew the policy 90 days after the dwelling or residential  
2400 property has been repaired. Nothing in this paragraph shall  
2401 prevent the insurer from canceling or nonrenewing the policy 90  
2402 days after the repairs are complete for the same reasons the  
2403 insurer would otherwise have canceled or nonrenewed the policy  
2404 but for the limitations of subparagraph 1. The Financial  
2405 Services Commission may adopt rules, and the Commissioner of  
2406 Insurance Regulation may issue orders, necessary to implement  
2407 this paragraph.

2408 4. This paragraph ~~shall~~ also applies ~~apply~~ to personal  
2409 residential and commercial residential policies covering  
2410 property that was damaged as the result of Tropical Storm  
2411 Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan, or  
2412 Hurricane Jeanne.

2413 (e) If any cancellation or nonrenewal of a policy subject  
2414 to this subsection is to take effect during the duration of a  
2415 hurricane as defined in s. 627.4025(2)(c), the effective date of  
2416 such cancellation or nonrenewal is extended until the end of the  
2417 duration of such hurricane. The insurer may collect premium at  
2418 the prior rates or the rates then in effect for the period of  
2419 time for which coverage is extended. This paragraph does not  
2420 apply to any property with respect to which replacement coverage



559146

2421 has been obtained and which is in effect for a claim occurring  
2422 during the duration of the hurricane.

2423 Section 19. Section 627.43141, Florida Statutes, is created  
2424 to read:

2425 627.43141 Notice of change in policy terms.-

2426 (1) As used in this section, the term:

2427 (a) "Change in policy terms" means the modification,  
2428 addition, or deletion of any term, coverage, duty, or condition  
2429 from the previous policy. The correction of typographical or  
2430 scrivener's errors or the application of mandated legislative  
2431 changes is not a change in policy terms.

2432 (b) "Policy" means a written contract of personal lines  
2433 property insurance or a written agreement for insurance, or the  
2434 certificate of such insurance, by whatever name called, and  
2435 includes all clauses, riders, endorsements, and papers that are  
2436 a part of such policy. The term does not include a binder as  
2437 defined in s. 627.420 unless the duration of the binder period  
2438 exceeds 60 days.

2439 (c) "Renewal" means the issuance and delivery by an insurer  
2440 of a policy superseding at the end of the policy period a policy  
2441 previously issued and delivered by the same insurer or the  
2442 issuance and delivery of a certificate or notice extending the  
2443 term of a policy beyond its policy period or term. Any policy  
2444 that has a policy period or term of less than 6 months or any  
2445 policy that does not have a fixed expiration date shall, for  
2446 purposes of this section, be considered as written for  
2447 successive policy periods or terms of 6 months.

2448 (2) A renewal policy may contain a change in policy terms.  
2449 If a renewal policy contains a change in policy terms, the



559146

2450 insurer shall give the named insured a written notice of the  
2451 change in policy terms, which must be enclosed along with the  
2452 written notice of renewal premium required by ss. 627.4133 and  
2453 627.728. Such notice should be entitled "Notice of Change in  
2454 Policy Terms."

2455 (3) Although not required, proof of mailing or registered  
2456 mailing through the United States Postal Service of the Notice  
2457 of Change in Policy Terms to the named insured at the address  
2458 shown in the policy is sufficient proof of notice.

2459 (4) Receipt of payment of the premium for the renewal  
2460 policy by the insurer is deemed to be acceptance of the new  
2461 policy terms by the named insured.

2462 (5) If an insurer fails to provide the notice required in  
2463 subsection (2), the original policy terms shall remain in effect  
2464 until the next renewal and the proper service of the notice or  
2465 until the effective date of replacement coverage obtained by the  
2466 named insured, whichever occurs first.

2467 (6) The intent of this section is to:

2468 (a) Allow an insurer to make a change in policy terms  
2469 without nonrenewing policyholders that the insurer wishes to  
2470 continue insuring.

2471 (b) Alleviate concern and confusion to the policyholder  
2472 caused by the required policy nonrenewal for the limited issue  
2473 when an insurer intends to renew the insurance policy but the  
2474 new policy contains a change in policy terms.

2475 (c) Encourage policyholders to discuss their coverages with  
2476 their insurance agents.

2477 Section 20. Section 627.7011, Florida Statutes, is amended  
2478 to read:



559146

2479           627.7011 Homeowners' policies; offer of replacement cost  
2480 coverage and law and ordinance coverage.-

2481           (1) Before ~~Prior to~~ issuing or renewing a homeowner's  
2482 insurance policy ~~on or after October 1, 2005, or prior to the~~  
2483 ~~first renewal of a homeowner's insurance policy on or after~~  
2484 ~~October 1, 2005~~, the insurer must offer each of the following:

2485           (a) A policy or endorsement providing that any loss which  
2486 is repaired or replaced will be adjusted on the basis of  
2487 replacement costs not exceeding policy limits as to the  
2488 dwelling, rather than actual cash value, but not including costs  
2489 necessary to meet applicable laws and ordinances regulating the  
2490 construction, use, or repair of any property or requiring the  
2491 tearing down of any property, including the costs of removing  
2492 debris.

2493           (b) A policy or endorsement providing that, subject to  
2494 other policy provisions, any loss which is repaired or replaced  
2495 at any location will be adjusted on the basis of replacement  
2496 costs not exceeding policy limits as to the dwelling, rather  
2497 than actual cash value, and also including costs necessary to  
2498 meet applicable laws and ordinances regulating the construction,  
2499 use, or repair of any property or requiring the tearing down of  
2500 any property, including the costs of removing debris. ~~+~~ However,  
2501 such additional costs necessary to meet applicable laws and  
2502 ordinances may be limited to either 25 percent or 50 percent of  
2503 the dwelling limit, as selected by the policyholder, and such  
2504 coverage shall apply only to repairs of the damaged portion of  
2505 the structure unless the total damage to the structure exceeds  
2506 50 percent of the replacement cost of the structure.

2507



559146

2508 An insurer is not required to make the offers required by this  
2509 subsection with respect to the issuance or renewal of a  
2510 homeowner's policy that contains the provisions specified in  
2511 paragraph (b) for law and ordinance coverage limited to 25  
2512 percent of the dwelling limit, except that the insurer must  
2513 offer the law and ordinance coverage limited to 50 percent of  
2514 the dwelling limit. This subsection does not prohibit the offer  
2515 of a guaranteed replacement cost policy.

2516 (2) Unless the insurer obtains the policyholder's written  
2517 refusal of the policies or endorsements specified in subsection  
2518 (1), any policy covering the dwelling is deemed to include the  
2519 law and ordinance coverage limited to 25 percent of the dwelling  
2520 limit. The rejection or selection of alternative coverage shall  
2521 be made on a form approved by the office. The form shall fully  
2522 advise the applicant of the nature of the coverage being  
2523 rejected. If this form is signed by a named insured, it will be  
2524 conclusively presumed that there was an informed, knowing  
2525 rejection of the coverage or election of the alternative  
2526 coverage on behalf of all insureds. Unless the policyholder  
2527 requests in writing the coverage specified in this section, it  
2528 need not be provided in or supplemental to any other policy that  
2529 renews, insures, extends, changes, supersedes, or replaces an  
2530 existing policy when the policyholder has rejected the coverage  
2531 specified in this section or has selected alternative coverage.  
2532 The insurer must provide such policyholder with notice of the  
2533 availability of such coverage in a form approved by the office  
2534 at least once every 3 years. The failure to provide such notice  
2535 constitutes a violation of this code, but does not affect the  
2536 coverage provided under the policy.





559146

2537           (3) (a) In the event of a loss for which a dwelling is  
2538 insured on the basis of replacement costs, the insurer initially  
2539 must pay at least the actual cash value of the insured loss,  
2540 less any applicable deductible. An insured shall subsequently  
2541 enter into a contract for the performance of building and  
2542 structural repairs. The insurer shall pay any remaining amounts  
2543 incurred to perform such repairs as the work is performed. With  
2544 the exception of incidental expenses to mitigate further damage,  
2545 the insurer or any contractor or subcontractor may not require  
2546 the policyholder to advance payment for such repairs or  
2547 expenses. The insurer may waive the requirement for a contract  
2548 as provided in this paragraph. An insured shall have a period of  
2549 one 1 year after the date the insurer pays actual cash value to  
2550 make a claim for replacement cost. If a total loss of a dwelling  
2551 occurs, the insurer shall pay the replacement cost coverage  
2552 without reservation or holdback of any depreciation in value,  
2553 pursuant to s. 627.702.

2554           (b) In the event of a loss for which a ~~dwelling~~ or personal  
2555 property is insured on the basis of replacement costs, the  
2556 insurer shall pay the replacement cost without reservation or  
2557 holdback of any depreciation in value, whether or not the  
2558 insured replaces or repairs the ~~dwelling~~ or property.

2559           (4) ~~A~~ Any homeowner's insurance policy ~~issued or renewed on~~  
2560 or after October 1, 2005, must include in bold type no smaller  
2561 than 18 points the following statement:

2562  
2563           "LAW AND ORDINANCE COUVERAGE IS AN IMPORTANT COUVERAGE  
2564           THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO  
2565           CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE



559146

2566 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS  
2567 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE  
2568 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

2569 The intent of this subsection is to encourage policyholders to  
2570 purchase sufficient coverage to protect them in case events  
2571 excluded from the standard homeowners policy, such as law and  
2572 ordinance enforcement and flood, combine with covered events to  
2573 produce damage or loss to the insured property. The intent is  
2574 also to encourage policyholders to discuss these issues with  
2575 their insurance agent.

2576 (5) ~~Nothing in~~ This section does not ~~shall be construed to~~  
2577 apply to policies not considered to be "homeowners' policies,"  
2578 as that term is commonly understood in the insurance industry.  
2579 This section specifically does not apply to mobile home  
2580 policies. ~~Nothing in~~ This section does not limit ~~shall be~~  
2581 ~~construed as limiting~~ the ability of any insurer to reject or  
2582 nonrenew any insured or applicant on the grounds that the  
2583 structure does not meet underwriting criteria applicable to  
2584 replacement cost or law and ordinance policies or for other  
2585 lawful reasons.

2586 (6) This section does not prohibit an insurer from limiting  
2587 its liability under a policy or endorsement providing that loss  
2588 will be adjusted on the basis of replacement costs to the lesser  
2589 of:

2590 (a) The limit of liability shown on the policy declarations  
2591 page;

2592 (b) The reasonable and necessary cost to repair the  
2593 damaged, destroyed, or stolen covered property; or

2594 (c) The reasonable and necessary cost to replace the



559146

2595 damaged, destroyed, or stolen covered property.

2596 (7) This section does not prohibit an insurer from  
2597 exercising its right to repair damaged property in compliance  
2598 with its policy and s. 627.702(7).

2599 Section 21. Paragraph (a) of subsection (5) of section  
2600 627.70131, Florida Statutes, is amended to read:

2601 627.70131 Insurer's duty to acknowledge communications  
2602 regarding claims; investigation.—

2603 (5) (a) Within 90 days after an insurer receives notice of  
2604 an initial or supplemental a property insurance claim from a  
2605 policyholder, the insurer shall pay or deny such claim or a  
2606 portion of the claim unless the failure to pay such claim or a  
2607 portion of the claim is caused by factors beyond the control of  
2608 the insurer which reasonably prevent such payment. Any payment  
2609 of an initial or supplemental a claim or portion of such a claim  
2610 made ~~paid~~ 90 days after the insurer receives notice of the  
2611 claim, or made ~~paid~~ more than 15 days after there are no longer  
2612 factors beyond the control of the insurer which reasonably  
2613 prevented such payment, whichever is later, shall bear interest  
2614 at the rate set forth in s. 55.03. Interest begins to accrue  
2615 from the date the insurer receives notice of the claim. The  
2616 provisions of this subsection may not be waived, voided, or  
2617 nullified by the terms of the insurance policy. If there is a  
2618 right to prejudgment interest, the insured shall select whether  
2619 to receive prejudgment interest or interest under this  
2620 subsection. Interest is payable when the claim or portion of the  
2621 claim is paid. Failure to comply with this subsection  
2622 constitutes a violation of this code. However, failure to comply  
2623 with this subsection shall not form the sole basis for a private



559146

2624 cause of action.

2625

2626 ===== T I T L E A M E N D M E N T =====

2627 And the title is amended as follows:

2628 Delete lines 2 - 243

2629 and insert:

2630 An act relating to insurance; amending s. 215.555,  
2631 F.S.; delaying the repeal of a provision exempting  
2632 medical malpractice insurance premiums from emergency  
2633 assessments to the Hurricane Catastrophe Fund;  
2634 delaying the date on and after which medical  
2635 malpractice insurance premiums become subject to  
2636 emergency assessments; amending s. 624.408, F.S.;  
2637 revising the minimum surplus as to policyholders which  
2638 must be maintained by certain insurers; authorizing  
2639 the Office of Insurance Regulation to reduce the  
2640 surplus requirement under specified circumstances;  
2641 amending s. 624.4085, F.S.; defining the term "surplus  
2642 action level"; expanding the list of items that must  
2643 be included in an insurer's risk-based capital plan;  
2644 specifying actions constituting a surplus action level  
2645 event; requiring that an insurer submit to the office  
2646 a risk-based capital plan upon the occurrence of such  
2647 event; providing requirements for such plan;  
2648 preserving the existing authority of the office;  
2649 amending s. 624.4095, F.S.; excluding certain premiums  
2650 for federal multiple-peril crop insurance from  
2651 calculations for an insurer's gross writing ratio;  
2652 requiring insurers to disclose the gross written



559146

2653 premiums for federal multiple-peril crop insurance in  
2654 a financial statement; amending s. 626.221, F.S.;

2655 exempting certain individuals from the requirement to  
2656 pass an examination before being issued a license as  
2657 an agent, customer representative, or adjuster;

2658 amending s. 624.424, F.S.; revising the frequency that  
2659 an insurer may use the same accountant or partner to  
2660 prepare an annual audited financial report; amending  
2661 s. 626.7452, F.S.; removing an exception relating to  
2662 the examination of managing general agents; amending  
2663 s. 626.854, F.S.; providing statements that may be  
2664 considered deceptive or misleading if made in any  
2665 public adjuster's advertisement or solicitation;

2666 providing a definition for the term "written  
2667 advertisement"; requiring that a disclaimer be  
2668 included in any public adjuster's written  
2669 advertisement; providing requirements for such  
2670 disclaimer; providing limitations on the amount of  
2671 compensation that may be received for a reopened or  
2672 supplemental claim; requiring certain persons who act  
2673 on behalf of an insurer to provide notice to the  
2674 insurer, claimant, public adjuster, or legal  
2675 representative for an onsite inspection of the insured  
2676 property; authorizing the insured or claimant to deny  
2677 access to the property if notice is not provided;

2678 requiring the public adjuster to ensure prompt notice  
2679 of certain property loss claims; providing that an  
2680 insurer be allowed to interview the insured directly  
2681 about the loss claim; prohibiting the insurer from



559146

2682 obstructing or preventing the public adjuster from  
2683 communicating with the insured; requiring that the  
2684 insurer communicate with the public adjuster in an  
2685 effort to reach agreement as to the scope of the  
2686 covered loss under the insurance policy; prohibiting a  
2687 public adjuster from restricting or preventing persons  
2688 acting on behalf of the insured from having reasonable  
2689 access to the insured or the insured's property;  
2690 prohibiting a public adjuster from restricting or  
2691 preventing the insured's adjuster from having  
2692 reasonable access to or inspecting the insured's  
2693 property; authorizing the insured's adjuster to be  
2694 present for the inspection; prohibiting a licensed  
2695 contractor or subcontractor from adjusting a claim on  
2696 behalf of an insured if such contractor or  
2697 subcontractor is not a licensed public adjuster;  
2698 providing an exception; amending s. 626.8651, F.S.;  
2699 requiring that a public adjuster apprentice complete a  
2700 minimum number of hours of continuing education to  
2701 qualify for licensure; amending s. 626.8796, F.S.;  
2702 providing requirements for a public adjuster contract;  
2703 creating s. 626.70132, F.S.; requiring that notice of  
2704 a claim, supplemental claim, or reopened claim be  
2705 given to the insurer within a specified period after a  
2706 windstorm or hurricane occurs; providing a definition  
2707 for the terms "supplemental claim" or "reopened  
2708 claim"; providing applicability; amending s. 627.0613,  
2709 F.S.; requiring the office of the consumer advocate to  
2710 objectively grade insurers annually based on the



559146

2711 number of valid consumer complaints and other  
2712 measurable and objective factors; defining the term  
2713 "valid consumer complaint"; amending s. 627.062, F.S.;  
2714 requiring that the office issue an approval rather  
2715 than a notice of intent to approve following its  
2716 approval of a file and use filing; prohibiting the  
2717 Office of Insurance Regulation from, directly or  
2718 indirectly, prohibiting an insurer from paying  
2719 acquisition costs based on the full amount of the  
2720 premium; prohibiting the Office of Insurance  
2721 Regulation from, directly or indirectly, impeding the  
2722 right of an insurer to acquire policyholders,  
2723 advertise or appoint agents, or regulate agent  
2724 commissions; authorizing an insurer to make a rate  
2725 filing limited to changes in the cost of reinsurance,  
2726 the cost of financing products used as a replacement  
2727 for reinsurance, or changes in an inflation trend  
2728 factor published annually by the Office of Insurance  
2729 Regulation; providing that an insurer may use this  
2730 provision only if the increase from such filing and  
2731 any other rate filing does not exceed 10 percent for  
2732 any policyholder in a policy year; deleting provisions  
2733 relating to a rate filing for financing products  
2734 relating to the Temporary Increase in Coverage Limits;  
2735 revising the information that must be included in a  
2736 rate filing relating to certain reinsurance or  
2737 financing products; deleting a provision that  
2738 prohibited an insurer from making certain rate filings  
2739 within a certain period of time after a rate increase;



559146

2740 deleting a provision prohibiting an insurer from  
2741 filing for a rate increase within 6 months after it  
2742 makes certain rate filings; specifying the information  
2743 that an insurer must include in a rate filing based on  
2744 the change in an inflation trend factor published by  
2745 the Office of Insurance Regulation; requiring that the  
2746 office annually publish one or more inflation trend  
2747 factors; exempting the inflation trend factors from  
2748 rulemaking; providing that an insurer is not required  
2749 to adopt an inflation trend factor; requiring the  
2750 Office of Insurance Regulation to propose a plan for  
2751 developing a website, contingent upon an  
2752 appropriation, which provides consumers with  
2753 information necessary to make an informed decision  
2754 when purchasing homeowners' insurance; requiring that  
2755 the Financial Services Commission review the proposed  
2756 plan to implement the website; specifying matters that  
2757 the Office of Insurance Regulation must consider in  
2758 developing the website; deleting obsolete provisions  
2759 relating to legislation enacted during the 2003  
2760 Special Session D of the Legislature; amending s.  
2761 627.0629, F.S.; providing legislative intent that  
2762 insurers provide consumers with accurate pricing  
2763 signals for alterations in order to minimize losses,  
2764 but that mitigation discounts not result in a loss of  
2765 income for the insurer; requiring rate filings for  
2766 residential property insurance to include actuarially  
2767 reasonable debits that provide proper pricing;  
2768 deleting provisions that require the office to develop





559146

2769 certain rate differentials for hurricane mitigation  
2770 measures; providing for an increase in base rates if  
2771 mitigation discounts exceed the aggregate reduction in  
2772 expected losses; requiring the Office of Insurance  
2773 Regulation to reevaluate discounts, debits, credits,  
2774 and other rate differentials by a certain date;  
2775 requiring the Office of Insurance Regulation, in  
2776 consultation with the Department of Financial Services  
2777 and the Department of Community Affairs, to develop a  
2778 method for insurers to establish debits for certain  
2779 hurricane mitigation measures by a certain date;  
2780 requiring the Financial Services Commission to adopt  
2781 rules relating to such debits by a certain date;  
2782 deleting a provision that prohibits an insurer from  
2783 including an expense or profit load in the cost of  
2784 reinsurance to replace the Temporary Increase in  
2785 Coverage Limits; amending s. 627.351, F.S.; renaming  
2786 the "high-risk account" as the "coastal account";  
2787 revising the conditions under which the Citizens  
2788 policyholder surcharge may be imposed; providing that  
2789 members of the Citizens Property Insurance Corporation  
2790 Board of Governors are not prohibited from practicing  
2791 in a certain profession if not prohibited by law or  
2792 ordinance; prohibiting board members from voting on  
2793 certain measures; changing the date on which the  
2794 boundaries of high-risk areas eligible for certain  
2795 wind-only coverages will be reduced if certain  
2796 circumstances exist; providing a directive to the  
2797 Division of Statutory Revision; amending s. 627.4133,



559146

2798 F.S.; authorizing an insurer to cancel policies after  
2799 45 days' notice if the Office of Insurance Regulation  
2800 determines that the cancellation of policies is  
2801 necessary to protect the interests of the public or  
2802 policyholders; authorizing the Office of Insurance  
2803 Regulation to place an insurer under administrative  
2804 supervision or appoint a receiver upon the consent of  
2805 the insurer under certain circumstances; creating s.  
2806 627.41341, F.S.; providing definitions; requiring the  
2807 delivery of a "Notice of Change in Policy Terms" under  
2808 certain circumstances; specifying requirements for  
2809 such notice; specifying actions constituting proof of  
2810 notice; authorizing policy renewals to contain a  
2811 change in policy terms; providing that receipt of  
2812 payment by an insurer is deemed acceptance of new  
2813 policy terms by an insured; providing that the  
2814 original policy remains in effect until the occurrence  
2815 of specified events if an insurer fails to provide  
2816 notice; providing intent; amending s. 627.7011, F.S.;  
2817 requiring that an insurer pay the actual cash value of  
2818 an insured loss, less any applicable deductible, under  
2819 certain circumstances; requiring that a policyholder  
2820 enter into a contract for the performance of building  
2821 and structural repairs; requiring that an insurer pay  
2822 certain remaining amounts; restricting insurers and  
2823 contractors from requiring advance payments for  
2824 certain repairs and expenses; authorizing an insured  
2825 to make a claim for replacement costs within a certain  
2826 period after the insurer pays actual cash value to



559146

2827        make a claim for replacement costs; requiring an  
2828        insurer to pay the replacement costs if a total loss  
2829        occurs; amending s. 627.70131, F.S.; specifying  
2830        application of certain time periods to initial or  
2831        supplemental property insurance claim notices and  
2832        payments;