Amendment No.

CHAMBER ACTION

Senate House

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Representative Proctor offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(b) *Emergency assessments.*—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct

premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

2. A premium is not subject to an annual assessment under this paragraph in excess of 6 percent of premium with respect to obligations arising out of losses attributable to any one contract year, and a premium is not subject to an aggregate annual assessment under this paragraph in excess of 10 percent of premium. An annual assessment under this paragraph shall continue as long as the revenue bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund the revenue bonds, unless adequate provision has been made for the payment

of the bonds under the documents authorizing issuance of the bonds.

3. Emergency assessments shall be collected from policyholders. Emergency assessments shall be remitted by insurers as a percentage of direct written premium for the preceding calendar quarter as specified in the order from the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The

Florida Surplus Lines Service Office shall verify the proper application of such emergency assessments and shall assist the board in ensuring the accurate and timely collection and remittance of assessments as required by the board. The Florida Surplus Lines Service Office shall annually calculate the aggregate written premium on property and casualty business, other than workers' compensation and medical malpractice, procured through surplus lines agents and insureds procuring coverage and filing under s. 626.938 and shall report the information to the board in a form and at a time specified by the board.

5. Any assessment authority not used for a particular contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 4 percent provided that the assessments in the aggregate do not exceed the limits specified in subparagraph 2.

6. The assessments otherwise payable to the corporation under this paragraph shall be paid to the fund unless and until the Office of Insurance Regulation and the Florida Surplus Lines Service Office have received from the corporation and the fund a

notice, which shall be conclusive and upon which they may rely without further inquiry, that the corporation has issued bonds and the fund has no agreements in effect with local governments under paragraph (c). On or after the date of the notice and until the date the corporation has no bonds outstanding, the fund shall have no right, title, or interest in or to the assessments, except as provided in the fund's agreement with the corporation.

7. Emergency assessments are not premium and are not subject to the premium tax, to the surplus lines tax, to any fees, or to any commissions. An insurer is liable for all assessments that it collects and must treat the failure of an insured to pay an assessment as a failure to pay the premium. An insurer is not liable for uncollectible assessments.

8. When an insurer is required to return an unearned premium, it shall also return any collected assessment attributable to the unearned premium. A credit adjustment to the collected assessment may be made by the insurer with regard to future remittances that are payable to the fund or corporation, but the insurer is not entitled to a refund.

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

10. The exemption of medical malpractice insurance premiums from emergency assessments under this paragraph is repealed May 31, 2013 ~~2010~~, and medical malpractice insurance premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2013 ~~2010~~.

Section 2. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Capital funds required; new insurers.—

(1) To receive authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer applying for its original certificate of authority in this state after the effective date of this section shall possess surplus as to policyholders not less than the greater of:

(a) Except as otherwise provided in this subsection, $5 ~~five~~ million ~~dollars~~ for a property and casualty insurer~~,~~ or $2.5 million for any other insurer;

(b) For life insurers, 4 percent of the insurer's total liabilities;

(c) For life and health insurers, 4 percent of the insurer's total liabilities, plus 6 percent of the insurer's liabilities relative to health insurance; ~~or~~

(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities; or

(e) For a domestic insurer initially licensed on or after July 1, 2010, that transacts residential property insurance and

is not a wholly owned subsidiary of an insurer domiciled in any other state, $15 million;

however, a domestic insurer that transacts residential property insurance and is a wholly owned subsidiary of an insurer domiciled in any other state shall possess surplus as to policyholders of at least $50 million, but no insurer shall be required under this subsection to have surplus as to policyholders greater than $100 million.

Section 3. Section 624.408, Florida Statutes, is amended to read:

624.408 Surplus as to policyholders required; new and existing insurers.—

(1)~~(a)~~ To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state shall at all times maintain surplus as to policyholders at least ~~not less than~~ the greater of:

(a)~~1.~~ Except as provided in paragraphs (e), (f), and (g) ~~subparagraph 5. and paragraph (b)~~, $1.5 million;

(b)~~2.~~ For life insurers, 4 percent of the insurer's total liabilities;

(c)~~3.~~ For life and health insurers, 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance; or

(d)~~4.~~ For all insurers other than mortgage guaranty insurers, life insurers, and life and health insurers, 10 percent of the insurer's total liabilities.

(e)~~5.~~ For property and casualty insurers, $4 million, except property and casualty insurers authorized to underwrite any line of residential property insurance.

(f)~~(b)~~ For a residential ~~any~~ property ~~and casualty~~ insurer not holding a certificate of authority before July 1, 2010 ~~on December 1, 1993~~, $12 million. ~~the~~

(g) For a residential property insurer having a certificate of authority before July 1, 2010, $5 million until July 1, 2015, and $10 million after July 1, 2015. The office may reduce this surplus requirement if the insurer is not writing new business, has premiums in force of less than $1 million per year in residential property insurance, or is a mutual insurance company. ~~following amounts apply instead of the $4 million required by subparagraph (a)5.:~~

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

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

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

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

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

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

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

Section 4. Present paragraph (q) of subsection (1) of section 624.4085, Florida Statutes, is redesignated as paragraph (r), and a new paragraph (q) is added to that subsection, paragraph (b) of subsection (3) of that section is amended, and subsections (7) through (13) of that section are redesignated as subsections (9) through (15), respectively, and new subsections (7) and (8) are added to that section, to read:

624.4085 Risk-based capital requirements for insurers.—

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

(q) "Surplus action level" means, for a residential property insurer, a loss of surplus on any quarterly or annual financial report which exceeds 20 percent, or which cumulatively for the calendar year exceeds 20 percent as of the most recent filed quarterly or annual report.

(3)

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

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

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

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

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

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

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

a. Total assets;

b. Total liabilities;

c. Surplus or shareholders equity;

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

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

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

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

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

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

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

1. The filing of a quarterly or annual statutory financial statement by an insurer, which indicates that the insurer's total surplus has declined by more than 20 percent from the previous year's annual statement, or cumulatively for the current year through the most recent quarterly financial statement;

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

3. The notification by the office to the insurer that the office has, after a hearing, rejected the insurer's challenge if an insurer challenges, under subsection (9), an adjusted

quarterly or annual financial statement that indicates an event in subparagraph 1.

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

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

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

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

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

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

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

a. Total assets;

b. Total liabilities;

c. Surplus or shareholders equity;

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

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

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

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

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

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

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

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

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

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

(8) Subsections (3) and (7) do not limit any existing authority of the office.

Section 5. Subsection (7) is added to section 624.4095, Florida Statutes, to read:

624.4095 Premiums written; restrictions.—

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

Section 6. Section 624.611, Florida Statutes, is created to read:

624.611 Catastrophe contracts.—An insurer may submit to the Office of Insurance Regulation, in advance of the hurricane

season, a plan to use financial contracts other than reinsurance contracts to provide catastrophe loss funding with respect to catastrophic losses in excess of the insurer's 100-year probable maximum loss. In such a plan, the insurer must demonstrate that the coverage, together with its reinsurance program, will provide adequate protection for policyholders in the event of a natural catastrophe. If the contract does not provide for coverage that is highly correlated with the actual losses of the insurer, the insurer must demonstrate its ability to cover the risk created by such lack of correlation. If the office approves the plan, the insurer may purchase the contracts and take credit for reinsurance for amounts expected or due from other parties to the contracts in accordance with any terms, conditions, or limitations established by the office.

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

626.7452 Managing general agents; examination authority.—The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting. A managing general agent may be examined as if it were the insurer ~~except in the case where the managing general agent solely represents a single domestic insurer~~.

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

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

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

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

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

2. Twenty percent of the amount of ~~all other~~ insurance claim payments by the insurer for claims that are not based on

events that are the subject of a declaration of a state of emergency by the Governor.

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

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

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

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

(2) This definition does not apply to:

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

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

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

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

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

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

(7) An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 3 business days after the date on which the contract is executed or within 3 business days after the date on which the insured or

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

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

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

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

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

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

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

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

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

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

(10) A public adjuster, public adjuster apprentice, or any individual or entity acting on behalf of a public adjuster or public adjuster apprentice may not give or offer to give, directly or indirectly, any article of merchandise having a value in excess of $25 to any individual for the purpose of

advertising or as an inducement to entering into a contract with a public adjuster.

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

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

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

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

(12) Each public adjuster shall provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or any other claim for payment of insurance proceeds. The public adjuster shall retain such written estimate for at least 5 years and shall make such estimate available to the claimant or insured and the department upon request.

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

(14) A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim shall provide at least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the

property if this notice has not been provided. The insured or claimant may waive this 48-hour notice.

(15)(a) A public adjuster shall ensure prompt notice of any property loss claim submitted to an insurer by or through a public adjuster or on which a public adjuster represents the insured at the time the claim or notice of loss is submitted to the insurer. The public adjuster shall ensure that notice is given to the insurer, the public adjuster's contract is provided to the insurer, the property is made available for inspection of the loss or damage by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer shall be allowed to obtain necessary information to investigate and respond to the claim. The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

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

(c) A public adjuster may not act or fail to reasonably act in any manner that would obstruct or prevent an insurer or insurer's adjuster from timely gaining access to conduct an

inspection of any part of the insured property for which there is a claim for loss or damage to the property. The public adjuster that represents the insured may be present for the insurer's inspection of the property loss or damage but, if the lack of availability of the public adjuster would otherwise delay the access to or the inspection of the insured property by the insurer, the public adjuster or the insured must allow the insurer to gain access to the insured property to facilitate the insurer's prompt inspection of the loss or damage without the participation or presence of the public adjuster or insured.

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

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

Section 10. Effective January 1, 2011, present subsections (7) through (11) of section 626.8651, Florida Statutes, are

redesignated as subsections (8) through (12), respectively, and a new subsection (7) is added to that section, to read:

626.8651 Public adjuster apprentice license; qualifications.—

(7) A public adjuster apprentice shall complete a minimum of 8 hours of continuing education specific to the practice of adjusting property and casualty claims, 2 hours of which must relate to ethics, in order to qualify for licensure as a public adjuster. The continuing education must be in subjects designed to inform the licensee regarding the current insurance laws of this state for the purpose of enabling him or her to engage in business as an insurance adjuster fairly and without injury to the public and to adjust all claims in accordance with the insurance contract and the laws of this state.

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

626.8796 Public adjuster contracts; fraud statement.—

(1) All contracts for public adjuster services must be in writing and must prominently display the following statement on the contract: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a

felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

(2) A public adjuster contract involving a property and casualty claim must contain the following information: full name, permanent business address, and license number of the public adjuster, the full name of the public adjusting firm, and the insured's full name and street address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services, the type of claim, including an emergency claim, nonemergency claim, or supplemental claim, the signatures of the public adjuster and all named insureds, and the signature date. If all named insureds signatures are not available, the public adjuster shall submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and to settle all claim issues on behalf of all named insureds. An unaltered copy of the executed contract must be remitted to the insurer within 30 days after execution.

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

626.70132 Duty to file windstorm or hurricane claim.—A claim, supplemental claim, or reopened claim under an insurance policy that provides personal lines residential coverage, as defined in s. 627.4025, for loss or damage caused by the peril of windstorm or hurricane is barred unless notice of the claim, supplemental claim, or reopened claim was given to the insurer in accordance with the terms of the policy within 3 years after the hurricane first made landfall or the windstorm caused the

covered damage. For purposes of this section, the term "supplemental claim" or "reopened claim" means any additional claim for recovery from the insurer for losses from the same hurricane or windstorm for which the insurer has previously adjusted pursuant to the initial claim. This section may not be interpreted to affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 13. Section 626.9744, Florida Statutes, is amended to read:

626.9744 Claim settlement practices relating to property insurance.—Unless otherwise provided by the policy, if ~~when~~ a homeowner's insurance policy provides for the adjustment and settlement of first-party losses based on repair or replacement cost, the following requirements apply:

(1) When a loss requires repair or replacement of an item or part, any physical damage incurred in making such repair or replacement which is covered and not otherwise excluded by the policy shall be included in the loss to the extent of any applicable limits. The insured may not be required to pay for betterment required by ordinance or code except for the applicable deductible, unless specifically excluded or limited by the policy.

(2) When a loss requires replacement of items and the replaced items do not match in quality, color, or size, the insurer shall make reasonable repairs or replacement of items in adjoining areas. In determining the extent of the repairs or replacement of items in adjoining areas, the insurer may

consider the cost of repairing or replacing the undamaged portions of the property, the degree of uniformity that can be achieved without such cost, the remaining useful life of the undamaged portion, and other relevant factors.

(3)(a) In determining repair or replacement cost estimates, the insurer shall use the following:

1. The cost using quotations obtained from licensed contractors, a preferred vendor network, a replacement service, or establishments in the local market area;

2. Computer software, other databases, or estimates based on market prices for products, materials, and labor in the local geographic region, if the estimates are provided by the insurer to the first-party insured upon request and if allowable by the insurer's contract for the proprietary computer software or other database.

3. A method agreed to by all parties.

(b) This subsection does not impair the contractual obligations of the parties.

(4) ~~(3)~~ This section does ~~shall~~ not ~~be construed to~~ make the insurer a warrantor of the repairs made pursuant to this section.

(5) ~~(4)~~ ~~Nothing in~~ This section does not ~~shall be construed to~~ authorize or preclude enforcement of policy provisions relating to settlement disputes.

Section 14. Section 627.0613, Florida Statutes, is amended to read:

627.0613 Consumer advocate.—The Chief Financial Officer must appoint a consumer advocate who must represent the general

public of the state before the department and the office. The consumer advocate must report directly to the Chief Financial Officer, but is not otherwise under the authority of the department or of any employee of the department. The consumer advocate has such powers as are necessary to carry out the duties of the office of consumer advocate, including, but not limited to, the powers to:

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

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

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

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

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

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

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

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

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

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

Section 15. Section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

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

(2) As to all such classes of insurance:

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

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

~~notice of intent to approve~~ or a notice of intent to disapprove within 90 days after receipt of the filing.

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

3. For all property insurance filings made or submitted after January 25, 2007, but before July 1, 2011 ~~December 31, 2010~~, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing. For purposes of this subparagraph, motor vehicle collision and comprehensive coverages are not considered to be property coverages.

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

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

2. Past and prospective expenses.

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

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from

investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules using reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used to calculate insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus may not be considered.

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

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

7. The adequacy of loss reserves.

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

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

10. Conflagration and catastrophe hazards, if applicable.

11. Projected hurricane losses, if applicable, which must be estimated using a model or method found to be acceptable or

reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628.

12. A reasonable margin for underwriting profit and contingencies.

13. The cost of medical services, if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i)1. Except as otherwise specifically provided in this chapter, the office shall not, directly or indirectly, prohibit any property and casualty insurer, including any residual market

plan or joint underwriting association, from paying acquisition costs based on the full amount of premium, as defined in s. 627.403, applicable to any policy, or, directly or indirectly, prohibit any such insurer from including the full amount of acquisition costs in a rate filing.

2. The office shall not, directly or indirectly, impede, abridge, or otherwise compromise a property and casualty insurer's right to acquire policyholders, advertise, or appoint agents, including the calculation, manner, or amount of such agent commissions, if any.

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

(k)1.a. An insurer may make a separate filing for commercial or residential property insurance limited solely to an adjustment of its rates for reinsurance, financing products to replace insurance, or financing costs incurred in the purchase of reinsurance and may include an adjustment of its rates based upon an inflation trend factor as set forth in subparagraph 4. If an insurer chooses to make a separate filing under this paragraph, the insurer shall implement the rate in such a manner that all previously approved rate increases implemented as a result of a separate filing, together with the rate increase under a filing made under this paragraph, ~~or financing products to replace or finance the payment of the amount covered by the Temporary Increase in Coverage Limits (TICL) portion of the Florida Hurricane Catastrophe Fund including replacement reinsurance for the TICL reductions made~~

~~pursuant to s. 215.555(17)(e); the actual cost paid due to the application of the TICL premium factor pursuant to s. 215.555(17)(f); and the actual cost paid due to the application of the cash build-up factor pursuant to s. 215.555(5)(b) if the insurer:~~

~~a. Elects to purchase financing products such as a liquidity instrument or line of credit, in which case the cost included in the filing for the liquidity instrument or line of credit may not result in a premium increase exceeding 3 percent for any individual policyholder. All costs contained in the filing~~ may not result in an overall rate ~~premium~~ increase of more than 10 percent for any individual policyholder, excluding coverage changes and surcharges.

b. An insurer shall include ~~Includes~~ in the filing a copy of all of its reinsurance, liquidity instrument, or line of credit contracts; proof of the billing or payment for the contracts; and the calculation upon which the proposed rate change is based demonstrating ~~demonstrates~~ that the costs meet the criteria of this section ~~and are not loaded for expenses or profit for the insurer making the filing~~.

c. Any such filing may not include ~~Includes no~~ other changes to the insurer's ~~its~~ rates in the filing.

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

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

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

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

3. An insurer that elects to implement a rate change under this paragraph must file its rate filing with the office at least 45 days before the effective date of the rate change. After an insurer submits a complete filing that meets all of the requirements of this paragraph, the office has 45 days after the date of the filing to review the rate filing and determine if the rate is excessive, inadequate, or unfairly discriminatory.

4. Beginning January 1, 2011, the office shall publish an annual informational memorandum to establish one or more inflation trend factors which may be stated separately for personal and commercial residential property and for building coverage, contents coverage, additional living expense coverage, and liability coverage, if applicable. Such factors shall represent an estimate of cost increases or decreases based on publicly available relevant data and economic indices that are identified in the memorandum including, but not limited to, overall claim cost data. Such factors are exempt from the rulemaking requirements of chapter 120 and insurers may not be required to adopt the factors. The office may publish factors for any other property and casualty

line, but is required to annually publish a factor only for residential property insurance by March 1 of each year.

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

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

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

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

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

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

recoupment shall be subtracted from the following year's reimbursement premium.

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

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

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

(b) Any portion of a judgment entered or settlement paid as a result of a statutory or common-law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer may not be included in the insurer's rate

base, and shall not be used to justify a rate or rate change. Any common-law bad faith action identified as such, any portion of a settlement entered as a result of a statutory or common-law action, or any portion of a settlement wherein an insurer agrees to pay specific punitive damages may not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements may not be included in the insurer's rate base and may not be used ~~utilized~~ to justify a rate or rate change.

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

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

(e) The insurer must apply a discount or surcharge based on the health care provider's loss experience or shall establish an alternative method giving due consideration to the provider's loss experience. The insurer must include in the filing a copy of the surcharge or discount schedule or a description of the

alternative method used, and must provide a copy of such schedule or description, as approved by the office, to policyholders at the time of renewal and to prospective policyholders at the time of application for coverage.

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

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

~~2. No later than 60 days after the office issues its notice of the presumed rate change factor under subparagraph 1., each insurer writing medical malpractice coverage in this state shall submit to the office a rate filing for medical malpractice insurance, which will take effect no later than January 1, 2004,~~

~~and apply retroactively to policies issued or renewed on or after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature. Except as authorized under paragraph (b), the filing shall reflect an overall rate reduction at least as great as the presumed factor determined under subparagraph 1. With respect to policies issued on or after the effective date of such legislation and prior to the effective date of the rate filing required by this subsection, the office shall order the insurer to make a refund of the amount that was charged in excess of the rate that is approved.~~

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

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

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

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

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

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

2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in

order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

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

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

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

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

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

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

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

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

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

Section 16. Section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1)~~(a)~~ It is the intent of the Legislature that insurers ~~must~~ provide the most accurate pricing signals available ~~savings~~ to encourage consumers to ~~who~~ install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm losses. It is also the intent of the Legislature that implementation of mitigation discounts not result in a loss of income to the insurers granting the discounts, so that the aggregate of mitigation discounts should not exceed the aggregate of the expected reduction in loss that is attributable to the mitigation efforts for which discounts are granted. A rate filing for residential property insurance must include actuarially reasonable discounts, credits, debits, or other rate differentials, or appropriate reductions in deductibles, which provide the proper pricing for all properties. The rate filing must take into account the presence or absence of ~~on which~~ fixtures or construction techniques

demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques shall include, but not be limited to, fixtures or construction techniques that ~~which~~ enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, debits, discounts, or other rate differentials, or appropriate reductions or increases in deductibles, which recognize the presence or absence of ~~for~~ fixtures and construction techniques that ~~which~~ meet the minimum requirements of the Florida Building Code must be included in the rate filing. If an insurer demonstrates that the aggregate of its mitigation discounts results in a reduction to revenue which exceeds the reduction of the aggregate loss that is expected to result from the mitigation, that insurer may recover the lost revenue through an increase in its base rates. ~~All insurance companies must make a rate filing which includes the credits, discounts, or other rate differentials or reductions in deductibles by February 28, 2003.~~ By July 1, 2007, the office shall reevaluate the discounts, credits, other rate differentials, and appropriate reductions in deductibles for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code, based upon actual experience or any other loss relativity studies available to the office. The office shall determine the discounts, credits, debits, other rate differentials, and appropriate reductions or increases in deductibles that reflect the full actuarial value

of such revaluation, which may be used by insurers in rate filings.

~~(b) By February 1, 2011, the Office of Insurance Regulation, in consultation with the Department of Financial Services and the Department of Community Affairs, shall develop and make publicly available a proposed method for insurers to establish discounts, credits, or other rate differentials for hurricane mitigation measures which directly correlate to the numerical rating assigned to a structure pursuant to the uniform home grading scale adopted by the Financial Services Commission pursuant to s. 215.55865, including any proposed changes to the uniform home grading scale. By October 1, 2011, the commission shall adopt rules requiring insurers to make rate filings for residential property insurance which revise insurers' discounts, credits, or other rate differentials for hurricane mitigation measures so that such rate differentials correlate directly to the uniform home grading scale. The rules may include such changes to the uniform home grading scale as the commission determines are necessary, and may specify the minimum required discounts, credits, or other rate differentials. Such rate differentials must be consistent with generally accepted actuarial principles and wind-loss mitigation studies. The rules shall allow a period of at least 2 years after the effective date of the revised mitigation discounts, credits, or other rate differentials for a property owner to obtain an inspection or otherwise qualify for the revised credit, during which time the insurer shall continue to apply the mitigation credit that was applied immediately prior to the effective date of the revised~~

~~credit. Discounts, credits, and other rate differentials established for rate filings under this paragraph shall supersede, after adoption, the discounts, credits, and other rate differentials included in rate filings under paragraph (a).~~

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

(b) A rate filing for residential property insurance made more than 150 days after approval by the office of a building code rating factor plan submitted by a statewide rating organization shall include positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses risk of wind damage. The rate filing shall include variations from standard rate factors on an individual basis based on inspection of a particular structure by a licensed home inspector. If an inspection is requested by the insured, the insurer may require the insured to pay the reasonable cost of the inspection. This paragraph applies to structures constructed or renovated after the implementation of this paragraph.

(c) The premium notice shall specify the amount by which the rate has been adjusted as a result of this subsection and

shall also specify the maximum possible positive and negative adjustments that are approved for use by the insurer under this subsection.

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

(4) The Legislature finds that separate consideration and notice of hurricane insurance premiums will assist consumers by providing greater assurance that hurricane premiums are lawful and by providing more complete information regarding the components of property insurance premiums. ~~Effective January 1, 1997,~~ A rate filing for residential property insurance shall be separated into two components, rates for hurricane coverage and rates for all other coverages. A premium notice reflecting a rate implemented on the basis of such a filing shall separately indicate the premium for hurricane coverage and the premium for all other coverages.

(5) In order to provide an appropriate transition period, an insurer may, in its sole discretion, implement an approved rate filing for residential property insurance over a period of years. An insurer electing to phase in its rate filing must provide an informational notice to the office setting out its schedule for implementation of the phased-in rate filing. An

insurer may include in its rate the actual cost of private market reinsurance that corresponds to available coverage of the Temporary Increase in Coverage Limits, TICL, from the Florida Hurricane Catastrophe Fund. The insurer may also include the cost of reinsurance to replace the TICL reduction implemented pursuant to s. 215.555(17)(d)9. However, this cost for reinsurance may not ~~include any expense or profit load or~~ result in a total annual base rate increase in excess of 10 percent.

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

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

(8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL SOUNDNESS.—

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

(b) To the extent that funds are provided for this purpose in the General Appropriations Act, the Legislature hereby authorizes the establishment of a program to be administered by

the Citizens Property Insurance Corporation for homeowners insured in the high-risk account.

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

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

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

(9) A property insurance rate filing that includes any adjustments related to premiums paid to the Florida Hurricane Catastrophe Fund must include a complete calculation of the insurer's catastrophe load, and the information in the filing

may not be limited solely to recovery of moneys paid to the fund.

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

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

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

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

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

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

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

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

Section 17. Paragraphs (b), (c), (d), and (y) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state

pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability begins ~~shall begin~~ on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and terminates ~~shall terminate~~ 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

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

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

(II) A commercial lines account for commercial residential and commercial nonresidential policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation which

~~that~~ provide coverage for basic property perils on risks which ~~that~~ are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for ~~such~~ policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A coastal ~~high-risk~~ account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation which provides ~~that provide~~ coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. The corporation may offer policies that provide multiperil coverage and the corporation shall continue to offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage in the coastal ~~high-risk~~ account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for the personal lines account. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from

an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. It is the goal of the Legislature that there ~~would~~ be an overall average savings of 10 percent or more for a policyholder who currently has a wind-only policy with the corporation, and an ex-wind policy with a voluntary insurer or the corporation, and who ~~then~~ obtains a multiperil policy from the corporation. It is the intent of the Legislature that the offer of multiperil coverage in the coastal ~~high-risk~~ account be made and implemented in a manner that does not adversely affect the tax-exempt status of the corporation or creditworthiness of or security for currently outstanding financing obligations or credit facilities of the coastal ~~high-risk~~ account, the personal lines account, or the commercial lines account. The coastal ~~high-risk~~ account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the coastal ~~high-risk~~ account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property.

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. If ~~When~~ the financing obligations are no longer outstanding~~,~~ in accordance with the terms of the corresponding financing

documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with ~~the requirement of~~ this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. ~~By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.~~

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

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

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

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

3. With respect to a deficit in an account:

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

b. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph i., when the remaining projected deficit incurred in a particular calendar year exceeds 6 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (q) ~~(p)~~ and on assessable insureds in an amount equal to the greater of 6 percent of the deficit or 6 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year. Any

remaining deficit shall be recovered through emergency assessments under sub-subparagraph d.

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. must ~~shall~~ be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (q) ~~(p)~~. Assessments levied by the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-

subparagraph b., plus the amount that is expected to be recovered through surcharges under sub-subparagraph i., ~~as to the remaining projected deficit~~ the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments ~~so~~ collected shall be transferred

directly to the corporation on a periodic basis as determined by the corporation and ~~shall be~~ held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may, at the discretion of the board of governors, be less than but may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

e. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (p), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments

under sub-subparagraph a., sub-subparagraph b., or subparagraph (p)1. and emergency assessments under sub-subparagraph d. Emergency assessments collected under sub-subparagraph d. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments under sub-subparagraph d. shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or other indebtedness.

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

"workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.

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

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

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

(II) The policyholder's liability for the Citizens policyholder surcharge attaches on the date of the event giving rise to an order levying the surcharge or the date of the order, whichever is earlier. The Citizens policyholder surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon issuance of a new policy by Citizens within the first 12 months after the date of the levy

or the period of time necessary to fully collect the Citizens policyholder surcharge amount.

(III) The Citizens policyholder surcharge ~~for a 12-month period, which~~ shall be levied ~~collected at the time of issuance or renewal of a policy,~~ as a uniform percentage of the premium for the policy of up to 15 percent of such premium, which funds shall be used to offset the deficit.

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

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

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

(c) The plan of operation of the corporation:

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

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

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

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

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

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

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

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

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

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement,

clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

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

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

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

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

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is

subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

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

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

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning

eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (p)2., in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any

such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance, and is deemed to be within the scope of the exemption provided in s. 112.313(7)(b). The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board of governors are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. However, for the

first term beginning on or after July 1, 2009, each appointing officer shall appoint one member of the board for a 2-year term and one member for a 3-year term. Any board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is

insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

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

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for

a basic policy including wind coverage unless rejected under subparagraph 8. However, with regard to a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

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

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

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

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

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

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

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

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

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from

the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. However, with regard to a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer.

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

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

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

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

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

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

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

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

c. For purposes of determining comparable coverage under sub-subparagraphs a. and b., the comparison shall be based on those forms and coverages that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent's capacity as the corporation's agent. A comparison may be made solely of the

premium with respect to the main building or structure only on the following basis: the same coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the corporation for wind-only coverage in the coastal ~~high-risk~~ account, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant shall be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the corporation or its agent and the authorized insurer refuses or is unable to provide such information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.

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

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

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

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

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

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

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

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

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

12. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

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

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

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

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

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

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

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

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

2. On or before July 1 of each year, employees of the corporation are required to sign and submit a statement attesting that they do not have a conflict of interest, as defined in part III of chapter 112. As a condition of employment, all prospective employees are required to sign and submit to the corporation a conflict-of-interest statement.

3. Senior managers and members of the board of governors are subject to ~~the provisions of~~ part III of chapter 112, including, but not limited to, the code of ethics and public

disclosure and reporting of financial interests, pursuant to s. 112.3145. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the assembly the nature of the his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. Senior managers and board members are also required to file such disclosures with the Commission on Ethics and the Office of Insurance Regulation. The executive director of the corporation or ~~his or her~~ designee shall notify each existing and newly appointed a~~nd existing appointed~~ member of the board of governors and senior managers of their duty to comply with the reporting requirements of part III of chapter 112. At least quarterly, the executive director or ~~his or her~~ designee shall submit to the Commission on Ethics a list of names of the senior managers and members of the board of governors who are subject to the public disclosure requirements under s. 112.3145.

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

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

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

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

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

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

3. Beginning February 1, 2015, if the report under subparagraph 1. for any year indicates that the 100-year probable maximum loss attributable to wind-only coverages and the quota share program combined does not reflect a reduction of at least 50 percent from the benchmark, the boundaries of the

high-risk area eligible for wind-only coverages under this subsection shall be reduced by the elimination of any area that is not seaward of a line 1,000 feet inland from the Intracoastal Waterway.

Section 18. The Division of Statutory Revision is directed to prepare a reviser's bill for introduction at the next regular session of the Legislature to change the term "high-risk account" to "coastal account" to conform the Florida Statutes to the amendment to s. 627.351(6)(b)2.a.(III), Florida Statutes, made by the this act.

Section 19. Subsection (2) of section 627.4133, Florida Statutes, is amended to read:

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

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

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

(b) The insurer shall give the named insured written notice of nonrenewal, cancellation, or termination at least 100 days before ~~prior to~~ the effective date of the nonrenewal, cancellation, or termination. However, the insurer shall give at least 100 days' written notice, or written notice by June 1, whichever is earlier, for any nonrenewal, cancellation, or

termination that would be effective between June 1 and November 30. The notice must include the reason or reasons for the nonrenewal, cancellation, or termination, except that:

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

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

within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the contract is void, any premium received by the insurer from a third party must ~~shall~~ be refunded to that party in full.

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

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

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

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

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

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

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

(c) If the insurer fails to provide the notice required by this subsection, other than the 10-day notice, the coverage provided to the named insured shall remain in effect until the effective date of replacement coverage or until the expiration of a period of days after the notice is given equal to the required notice period, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that, in the event of failure to provide notice of nonrenewal, if the rate filing then in effect would have resulted in a premium reduction, the premium during such extension must ~~shall~~ be calculated based on the later rate filing.

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

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

a. Upon 10 days' notice for nonpayment of premium; or

b. Upon 45 days' notice:

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

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

(III) If the insurer has paid policy limits.

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

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

(e) If any cancellation or nonrenewal of a policy subject to this subsection is to take effect during the duration of a hurricane as defined in s. 627.4025(2)(c), the effective date of such cancellation or nonrenewal is extended until the end of the duration of such hurricane. The insurer may collect premium at

the prior rates or the rates then in effect for the period of time for which coverage is extended. This paragraph does not apply to any property with respect to which replacement coverage has been obtained and which is in effect for a claim occurring during the duration of the hurricane.

Section 20. Section 627.43141, Florida Statutes, is created to read:

627.43141 Notice of change in policy terms.—

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

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

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

(c) "Renewal" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Any policy that has a policy period or term of less than 6 months or

any policy that does not have a fixed expiration date shall, for purposes of this section, be considered as written for successive policy periods or terms of 6 months.

(2) A renewal policy may contain a change in policy terms. If a renewal policy contains a change in policy terms, the insurer shall give the named insured a written notice of the change in policy terms, which must be enclosed along with the written notice of renewal premium required by ss. 627.4133 and 627.728. Such notice should be entitled "Notice of Change in Policy Terms."

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

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

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

(6) The intent of this section is to:

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

(b) Alleviate concern and confusion to the policyholder caused by the required policy nonrenewal for the limited issue

when an insurer intends to renew the insurance policy but the new policy contains a change in policy terms.

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

Section 21. Subsections (1), (3), (4), and (5) of section 627.7011, Florida Statutes, are amended to read:

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

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

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

(b) A policy or endorsement providing that, subject to other policy provisions, any loss which is repaired or replaced at any location will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, and also including costs necessary to meet applicable laws and ordinances regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris; however,

such additional costs necessary to meet applicable laws and ordinances may be limited to either 25 percent or 50 percent of the dwelling limit, as selected by the policyholder, and such coverage shall apply only to repairs of the damaged portion of the structure unless the total damage to the structure exceeds 50 percent of the replacement cost of the structure.

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

(3)(a) If ~~In the event of~~ a loss occurs for which a dwelling ~~or personal property~~ is insured on the basis of replacement costs, the insurer shall initially pay at least the actual cash value of the insured loss, less any applicable deductible. In order to receive payment from an insurer under this paragraph, a policyholder must enter into a contract for the performance of building and structural repairs. The insurer shall pay any remaining amounts necessary to perform such repairs as work is performed and expenses are incurred. Other than incidental expenses to mitigate further damage, the insurer or any contractor or subcontractor may not require the policyholder to advance payment for such repairs or expenses. The insurer may waive the requirement for a contract under this

paragraph. If a total loss for a dwelling occurs, the insurer shall pay the replacement cost coverage without reservation of holdback of any depreciation in value ~~replacement cost without reservation or holdback of any depreciation in value, whether or not the insured replaces or repairs the dwelling or property~~.

(b) If a loss occurs for which personal property is insured on the basis of replacement costs, the insurer may limit an initial payment to 50 percent of the replacement cost value of the personal property to be replaced, less any applicable deductible. An insurer may require an insured to provide the receipts for purchases of property financed by the initial 50-percent payment required by this paragraph, and the insurer shall use such receipts to make any remaining payments requested by the insured for the replacement of remaining insured personal property. If a total loss occurs, the insurer shall pay the replacement cost for content coverage without reservation or holdback of any depreciation in value. The insurer may not require the policyholder to advance payment for the replaced property. This paragraph may not be construed to impair the insured's ability to receive full replacement costs under the terms and conditions of the policy.

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

"LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE

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

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

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

Section 22. Paragraph (a) of subsection (5) of section 627.70131, Florida Statutes, is amended to read:

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

(5)(a) Within 90 days after an insurer receives notice of an initial, supplemental, or reopened ~~a~~ property insurance claim from a policyholder, the insurer shall pay or deny such claim or

a portion of the claim unless the failure to pay such claim or a portion of the claim is caused by factors beyond the control of the insurer which reasonably prevent such payment. Any payment of an initial, supplemental, or reopened ~~a~~ claim or portion of such ~~a~~ claim made ~~paid~~ 90 days after the insurer receives notice of the claim, or made ~~paid~~ more than 15 days after there are no longer factors beyond the control of the insurer which reasonably prevented such payment, whichever is later, shall bear interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured shall select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection shall not form the sole basis for a private cause of action.

Section 23. Section 627.7015, Florida Statutes, is amended to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(1) ~~PURPOSE AND SCOPE.—~~This section sets forth a nonadversarial alternative dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal,

nonthreatening forum for helping parties who elect this procedure to resolve their claims disputes because most homeowner's and commercial residential insurance policies obligate insureds to participate in a potentially expensive and time-consuming adversarial appraisal process before ~~prior to~~ litigation. The procedure set forth in this section is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process. Before resorting to these procedures, insureds and insurers are encouraged to resolve claims as quickly and fairly as possible. This section is available with respect to claims under personal lines and commercial residential policies for all claimants and insurers prior to commencing the appraisal process, or commencing litigation. If requested by the insured, participation by legal counsel shall be permitted. Mediation under this section is also available to litigants referred to the department by a county court or circuit court. This section does not apply to commercial coverages, to private passenger motor vehicle insurance coverages, or to disputes relating to liability coverages in policies of property insurance.

(2) At the time a first-party claim dispute within the scope of this section is filed, the insurer shall notify all first-party claimants of their right to participate in the mediation program under this section. The department shall prepare a statement or information relating to the mediation program which an insurer must include in the notice. The content of the statement or information must be adopted by rule of the

department ~~consumer information pamphlet for distribution to persons participating in mediation under this section~~.

(3) The costs of mediation shall be reasonable, and the insurer shall bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If an insured fails to appear at the conference, the conference shall be rescheduled upon the insured's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer shall pay the insured's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the administrator shall include a charge necessary to defray the expenses of the department related to its duties under this section and shall be deposited in the Insurance Regulatory Trust Fund.

(4) In a dispute over the cost to replace or repair insured property, the insurer and insured shall each provide documentation to the mediator which supports his or her estimate to repair or replace the property. The documentation must be provided before the beginning of the mediation conference. The insurer's documentation must include its reports or other evidence relating to the loss and show that the insurer's estimates were created in compliance with s. 626.9744(3). The

insured must submit quotes obtained from licensed contractors in the local market area, price quotes for products and materials, or other documentation specific to the loss which clearly documents the actual cost to repair or replace the property.

(5)~~(4)~~ The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee. The department may also adopt special rules that ~~which~~ are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules shall provide for:

(a) Reasonable requirement for processing and scheduling of requests for mediation.

(b) Qualifications of mediators as provided in s. 627.745 and in the Florida Rules of Certified and Court Appointed Mediators, and for such other individuals as are qualified by education, training, or experience as the department determines to be appropriate.

(c) Provisions governing who may attend mediation conferences.

(d) Selection of mediators.

(e) Criteria for the conduct of mediation conferences.

(f) Right to legal counsel.

(g) The types of documentation required to be submitted during the mediation process.

(6)~~(5)~~ All statements made and documents produced at a mediation conference shall be deemed to be settlement negotiations in anticipation of litigation within the scope of

s. 90.408. All parties to the mediation must negotiate in good faith and must have the authority to immediately settle the claim. Mediators are deemed to be agents of the department and shall have the immunity from suit provided in s. 44.107.

(7) ~~(6)~~ Mediation is nonbinding. ~~;~~ However, if a written settlement is reached, the insured has 3 business days within which the insured may rescind the settlement unless the insured has cashed or deposited any check or draft disbursed to the insured for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it shall be binding and act as a release of all specific claims that were presented in that mediation conference.

(8) ~~(7)~~ If the insurer fails to comply with subsection (2) by failing to notify a first-party claimant of its right to participate in the mediation program under this section or if the insurer requests the mediation, and the mediation results are rejected by either party, the insured may ~~shall~~ not be required to submit to or participate in any contractual loss appraisal process of the property loss damage as a precondition to legal action for breach of contract against the insurer for its failure to pay the policyholder's claims covered by the policy.

(9) ~~(8)~~ The department may designate an entity or person to serve as administrator to carry out any of the provisions of this section and may take this action by means of a written contract or agreement.

(10) ~~(9)~~ As used in ~~For purposes of~~ this section, the term "claim dispute" refers to any dispute between an insurer and an

insured relating to a material issue of fact other than a dispute:

(a) With respect to which the insurer has a reasonable basis to suspect fraud;

(b) Where, based on agreed-upon facts as to the cause of loss, there is no coverage under the policy;

(c) With respect to which the insurer has a reasonable basis to believe that the claimant has intentionally made a material misrepresentation of fact which is relevant to the claim, and the entire request for payment of a loss has been denied on the basis of the material misrepresentation; ~~or~~

(d) With respect to which the amount in controversy is less than $500, unless the parties agree to mediate a dispute involving a lesser amount; or~~.~~

(e) With respect to which the date of loss occurred more than 5 years before the request for mediation, unless the parties agree to mediate a dispute involving a longer period.

Section 24. Section 627.7065, Florida Statutes, is amended to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

(1) The Legislature finds that there has been a dramatic increase in the number of sinkholes and insurance claims for sinkhole damage in the state during the past 10 years. Accordingly, the Legislature recognizes the need to track current and past sinkhole activity and to make the information available for prevention and remediation activities. The

Legislature further finds that the Florida Geological Survey of the Department of Environmental Protection has created a partial database of some sinkholes identified in Florida, although the database is not reflective of all sinkholes or insurance claims for sinkhole damage. The Legislature determines that creating an ~~a complete~~ electronic database of sinkhole claims activity serves an important purpose in protecting the public and in studying property claims activities in the insurance industry.

(2) The Department of Financial Services, including the employee of the Division of Consumer Services designated as the primary contact for consumers on issues relating to sinkholes, and the Office of the Insurance Consumer Advocate shall consult with the Florida Geological Survey and the Department of Environmental Protection to implement a statewide automated database of property insurance sinkhole claims ~~sinkholes and related activity identified~~ in the state.

(3) Representatives of the Department of Financial Services, with the agreement of the Department of Environmental Protection, shall determine the form and content of the database. ~~The content may include standards for reporting and investigating sinkholes for inclusion in the database and requirements for insurers to report to the departments the receipt of claims involving sinkhole loss and other similar activities.~~ The Department of Financial Services shall ~~may~~ require insurers to report only the street address, if available, or other identifying information maintained by the insurer relating to the insured property for any insured property subject to a sinkhole claim for inclusion in the

database ~~present and past data of sinkhole claims~~. ~~The database also may include information of damage due to ground settling and other subsidence activity.~~

(4) The Department of Financial Services may manage the database or may contract for its management and maintenance. The Department of Environmental Protection shall investigate reports of sinkhole activity and include its findings and investigations in the database.

~~(5) The Department of Environmental Protection, in consultation with the Department of Financial Services, shall present a report of activities relating to the sinkhole database, including recommendations regarding the database and similar matters, to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Chief Financial Officer by December 31, 2005. The report may consider the need for the Legislature to create an entity to study the increase in sinkhole activity in the state and other similar issues relating to sinkhole damage, including recommendations and costs for staffing the entity. The report may include other information, as appropriate.~~

(5)~~(6)~~ The Department of Financial Services, in consultation with the Department of Environmental Protection, may adopt rules to implement this section.

Section 25. Effective June 1, 2010, and applying only to insurance claims made on or after that date, subsection (1), paragraph (b) of subsection (2), and subsections (5), (7), and (8) of section 627.707, Florida Statutes, are amended to read:

627.707 Standards for investigation of sinkhole claims by insurers; nonrenewals.—Upon receipt of a claim for a sinkhole loss, an insurer must meet the following standards in investigating a claim:

(1) The insurer must make an inspection of the insured's premises to determine if there has been physical damage to the structure which is consistent with ~~may be the result of~~ sinkhole loss ~~activity~~.

(2) Following the insurer's initial inspection, the insurer shall engage a professional engineer or a professional geologist to conduct testing as provided in s. 627.7072 to determine the cause of the loss within a reasonable professional probability and issue a report as provided in s. 627.7073, if:

(b) The policyholder demands testing in accordance with this section or s. 627.7072 and coverage under the policy is available if sinkhole loss is verified.

(5)(a) Subject to paragraph (b), if a sinkhole loss is verified, the insurer shall pay to stabilize the land and building and repair the foundation in accordance with the recommendations of the professional engineer as provided under s. 627.7073, with notice to ~~and in consultation with~~ the policyholder, subject to the coverage and terms of the policy. The insurer shall pay for other repairs to the structure and contents in accordance with the terms of the policy.

(b)1. After a ~~The insurer may limit its payment to the actual cash value of the sinkhole loss, not including underpinning or grouting or any other repair technique performed below the existing foundation of the building, until the~~

policyholder enters into a contract for the performance of building stabilization or foundation repairs, the claim shall be paid up to the full cost of the stabilization or foundation repairs and for above-ground repairs as set forth in this paragraph, less the insured's deductible. After the policyholder enters into a contract for the performance of building stabilization or foundation repairs in accordance with the recommendations set forth in s. 627.7073, the insurer may:

a. Limit its initial payment to 10 percent of the estimated costs to implement the building stabilization and foundation repairs.

b. Limit its initial payment to the actual cash value of the sinkhole loss for above-ground repairs to the structure.

2. However, after the policyholder enters into the contract for the performance of building stabilization or foundation repairs, the insurer shall pay the amounts necessary to ~~begin and~~ perform such stabilization and repairs as the work is performed and the expenses are incurred. Final payments for the structural or building stabilization and foundation repair work shall be remitted within 20 days after such work is complete in accordance with the terms of the policy and the report's recommendations and after final bills or receipts have been received by the insurer's claims adjuster who is primarily responsible for adjusting the loss. An insured shall have 1 year after the date the insurer pays actual cash value to make a claim for replacement cost. If a total loss of a dwelling occurs, the insurer shall pay the replacement cost coverage without reservation or holdback of any depreciation in value.

However, failure to comply with this subparagraph shall not form the sole basis for a private cause of action. The insurer may not require the policyholder to advance payment for such repairs. If repair covered by a personal lines residential property insurance policy has begun and the professional engineer selected or approved by the insurer determines that the repair cannot be completed within the policy limits, the insurer must either complete the professional engineer's recommended repair or tender the policy limits to the policyholder without a reduction for the repair expenses incurred. For purposes of this subparagraph, a total loss occurs when the repairs recommended in the insurer's report under. s. 627.7073 result in insurer repair costs that exceed the policy dwelling coverage limit.

(c) The policyholder shall enter into such contract for repairs within 90 days after the insurance company approves coverage for a sinkhole loss to prevent additional damage to the building or structure. The 90-day time period may be extended for an additional reasonable time period if the policyholder is unable to find a qualified person or entity to contract for such repairs within the 90-day time period based upon factors beyond the policyholder's control or the policyholder is actively seeking to retain a professional engineer or geologist as provided in s. 627.7073(1)(c). This time period is tolled if either party invokes neutral evaluation.

(d) The stabilization and all other repairs to the structure and contents must be completed within 12 months after entering into the contract for repairs as described in paragraph (c) unless:

1. There is a mutual agreement between the insurer and the insured;

2. The stabilization and all other repairs cannot be completed due to factors beyond the control of the insured which reasonably prevent completion;

3. The claim is involved with the neutral evaluation process under s. 627.7074;

4. The claim is in litigation; or

5. The claim is under appraisal.

(e) ~~(c)~~ Upon the insurer's obtaining the written approval of the policyholder and any lienholder, the insurer may make payment directly to the persons selected by the policyholder to perform the land and building stabilization and foundation repairs. The decision by the insurer to make payment to such persons does not hold the insurer liable for the work performed.

(7) If the insurer obtains, pursuant to s. 627.7073, written certification that there is no sinkhole loss ~~or that the cause of the damage was not sinkhole activity~~, and if the policyholder has submitted the sinkhole claim without good faith grounds for submitting such claim, the policyholder shall reimburse the insurer for 50 percent of the actual costs of the analyses and services provided under ss. 627.7072 and 627.7073; however, a policyholder is not required to reimburse an insurer more than $2,500 with respect to any claim. A policyholder is required to pay reimbursement under this subsection only if the insurer, prior to ordering the analysis under s. 627.7072, informs the policyholder in writing of the policyholder's

potential liability for reimbursement and gives the policyholder the opportunity to withdraw the claim.

(8) An ~~No~~ insurer may not ~~shall~~ nonrenew any policy of property insurance on the basis of filing of claims for partial loss caused by sinkhole damage or clay shrinkage as long as the total of such payments does not exceed the ~~current~~ policy limits of coverage for property damage for the policy in effect on the date of the loss, and provided the insured has repaired the structure in accordance with the engineering recommendations upon which any payment or policy proceeds were based.

Section 26. Effective June 1, 2010, and applying only to insurance claims made on or after that date, section 627.7073, Florida Statutes, is amended to read:

627.7073 Sinkhole reports.—

(1) Upon completion of testing as provided in s. 627.7072, the professional engineer or professional geologist shall issue a report and certification to the insurer, with an additional copy and certification for the insurer to forward to ~~and~~ the policyholder as provided in this section.

(a) Sinkhole loss is verified if, based upon tests performed in accordance with s. 627.7072, a professional engineer or a professional geologist issues a written report and certification stating:

1. That the cause of the actual physical and structural damage is sinkhole activity within a reasonable professional probability.

2. That the analyses conducted were of sufficient scope to identify sinkhole activity as the cause of damage within a reasonable professional probability.

3. A description of the tests performed.

4. A recommendation by the professional engineer of methods for stabilizing the land and building and for making repairs to the foundation.

(b) If sinkhole activity is eliminated as the cause of damage to the structure, the professional engineer or professional geologist shall issue a written report and certification to the policyholder and the insurer stating:

1. That the cause of the damage is not sinkhole activity within a reasonable professional probability.

2. That the analyses and tests conducted were of sufficient scope to eliminate sinkhole activity as the cause of damage within a reasonable professional probability.

3. A statement of the cause of the damage within a reasonable professional probability.

4. A description of the tests performed.

(c) If the policyholder disagrees with the findings, opinions, or recommendations of the professional engineer or professional geologist engaged by the insurer, the policyholder may engage a professional engineer or professional geologist, at the policyholder's expense, to conduct testing under s. 627.7072 and to render findings, opinions, and recommendations as to the cause of distress to the property and the appropriate method of land and building stabilization and foundation repair and certify such findings, opinions, and recommendations in a report

that meets the requirements of this section and forward a copy of the report to the insurer. Unless the policyholder engages a professional engineer or professional geologist as described in this paragraph who disputes the findings of the insurer's engineer or geologist, the respective findings, opinions, and recommendations of the professional engineer or professional geologist as to the cause of distress to the property and the findings, opinions, and recommendations of the insurer's professional engineer as to land and building stabilization and foundation repair as required by s. 627.707(2), shall be presumed correct, which presumption shall shift the burden of proof under s. 90.304.

(2)(a) Any insurer that has paid a claim for a sinkhole loss shall file a copy of the report and certification, prepared pursuant to subsection (1), including the legal description of the real property, ~~and~~ the name of the property owner, and the amount paid by the insurer, with the county clerk of court, who shall record the report and certification. The insurer shall also file a copy of any report prepared on behalf of the insured or the insured's representative that has been provided to the insurer that indicates that sinkhole loss caused the damage claimed. The insurer shall bear the cost of filing and recording of one or more reports ~~the report~~ and certifications ~~certification~~. There shall be no cause of action or liability against an insurer for compliance with this section. The recording of the report and certification does not:

1. Constitute a lien, encumbrance, or restriction on the title to the real property or constitute a defect in the title to the real property;

2. Create any cause of action or liability against any grantor of the real property for breach of any warranty of good title or warranty against encumbrances; or

3. Create any cause of action or liability against any title insurer that insures the title to the real property.

(b) The seller of real property upon which a sinkhole claim has been made by the seller and paid by the insurer shall disclose to the buyer of such property that a claim has been paid, the amount of the payment, and whether or not the full amount of the proceeds were used to repair the sinkhole damage. The seller shall also provide to the buyer a copy of the report prepared pursuant to subsection (1) and any report prepared on behalf of the insured.

Section 27. Effective June 1, 2010, and applying only to insurance claims made on or after that date, section 627.7074, Florida Statutes, is amended to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

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

(a) "Neutral evaluation" means the alternative dispute resolution provided for in this section.

(b) "Neutral evaluator" means a professional engineer or a professional geologist who has completed a course of study in alternative dispute resolution designed or approved by the

department for use in the neutral evaluation process, who is determined to be fair and impartial.

(2)(a) The department shall certify and maintain a list of persons who are neutral evaluators.

(b) The department shall prepare a consumer information pamphlet for distribution by insurers to policyholders which clearly describes the neutral evaluation process and includes information and forms necessary for the policyholder to request a neutral evaluation.

(3) Neutral evaluation is available to either party if a sinkhole report has been issued pursuant to s. 627.7073. Following the receipt of the report provided under s. 627.7073 or the denial of a claim for a sinkhole loss, the insurer shall notify the policyholder of his or her right to participate in the neutral evaluation program under this section. Neutral evaluation supersedes the alternative dispute resolution process under s. 627.7015 but does not invalidate the appraisal clause if an appraisal clause is provided by the insurance policy. The insurer shall provide to the policyholder the consumer information pamphlet prepared by the department pursuant to paragraph (2)(b).

(4) Neutral evaluation is nonbinding, but mandatory if requested by either party. A request for neutral evaluation may be filed with the department by the policyholder or the insurer on a form approved by the department. The request for neutral evaluation must state the reason for the request and must include an explanation of all the issues in dispute at the time of the request. Filing a request for neutral evaluation tolls

the applicable time requirements for filing suit for a period of 60 days following the conclusion of the neutral evaluation process or the time prescribed in s. 95.11, whichever is later.

(5) Neutral evaluation shall be conducted as an informal process in which formal rules of evidence and procedure need not be observed. A party to neutral evaluation is not required to attend neutral evaluation if a representative of the party attends and has the authority to make a binding decision on behalf of the party. All parties shall participate in the evaluation in good faith.

(6) The insurer shall pay the costs associated with the neutral evaluation.

(7)(a) Upon receipt of a request for neutral evaluation, the department shall ~~provide the parties a list of certified neutral evaluators. The parties shall mutually select a neutral evaluator from the list and promptly inform the department. If the parties cannot agree to a neutral evaluator within 10 business days, the department~~ allow the parties to submit requests to disqualify neutral evaluators on the list for cause. For purposes of this subsection, a ground for cause is required to be found by the department only if:

1. A familial relationship exists between the neutral evaluator and either party or a representative of either party within the third degree;

2. The proposed neutral evaluator has, in a professional capacity, previously represented either party or a representative of either party in the same or a substantially related matter;

3. The proposed neutral evaluator has, in a professional capacity, represented another person in the same or a substantially related matter and that person's interests are materially adverse to the interests of the parties;

4. The proposed neutral evaluator works in the same firm or corporation as a person who has, in a professional capacity, previously represented either party or a representative of either party in the same or a substantially related matter; or

5. The proposed neutral evaluator has, within the preceding 5 years, worked as an employee of any party to the case.

(b) The parties shall mutually appoint a neutral evaluator from the ~~department~~ list and promptly inform the department. If the parties cannot agree to a neutral evaluator within 10 business days, the department shall appoint a neutral evaluator from the department's list of certified neutral evaluators. The department shall allow each party to disqualify one neutral evaluator without cause. Upon selection or appointment, the department shall promptly refer the request to the neutral evaluator.

(c) Within 5 business days after the referral, the neutral evaluator shall notify the policyholder and the insurer of the date, time, and place of the neutral evaluation conference. The conference may be held by telephone, if feasible and desirable. The neutral evaluation conference shall be held within 90 ~~45~~ days after the receipt of the request by the department. If the neutral evaluator fails to hold a neutral evaluation conference in accordance with this paragraph, the neutral evaluator's fee

shall be reduced by 10 percent unless the failure was due to factors beyond the control of the neutral evaluator.

(d) As used in this subsection, the term "substantially related matter" means participation by the neutral evaluator on the same claim, property, or any adjacent property.

(8) The department shall adopt rules of procedure for the neutral evaluation process.

(9) For policyholders not represented by an attorney, a consumer affairs specialist of the department or an employee designated as the primary contact for consumers on issues relating to sinkholes under s. 20.121 shall be available for consultation to the extent that he or she may lawfully do so.

(10) Evidence of an offer to settle a claim during the neutral evaluation process, as well as any relevant conduct or statements made in negotiations concerning the offer to settle a claim, is inadmissible to prove liability or absence of liability for the claim or its value, except as provided in subsection (14) ~~(13)~~.

(11) Regardless of when invoked, any court proceeding related to the subject matter of the neutral evaluation shall be stayed pending completion of the neutral evaluation and for 5 days after the filing of the neutral evaluator's report with the court.

(12) If the neutral evaluator, based upon his or her professional training and credentials, is qualified only to determine the causation issue or the method of repair issue, the department shall allow the neutral evaluator to enlist the assistance of another professional from the qualified neutral

evaluators list, not previously stricken by parties with respect to the subject evaluation, who, based upon his or her professional training and credentials, is able to provide an opinion as to the other disputed issue. Any professional who, if appointed as the neutral evaluator, would be disqualified for any reason listed in subsection (7) must be disqualified. In addition, the neutral evaluator may use the service of other experts or professionals as necessary to ensure that all items in dispute are addressed in order to complete the neutral evaluation. Any experts or professionals retained by the neutral evaluator to provide an opinion may be disqualified for any of the reasons listed in subsection (7) and must be agreed upon by both parties to the neutral evaluation. The neutral evaluator may request that the entity that performed testing pursuant to s. 627.7072 perform such additional reasonable testing deemed necessary in the professional opinion of the neutral evaluator to complete the neutral evaluation.

(13)~~(12)~~ For all matters that are not resolved by the parties at the conclusion of the neutral evaluation, the neutral evaluator shall prepare a report stating that in his or her opinion the sinkhole loss has been verified or eliminated within a reasonable degree of professional probability and, if verified, whether the sinkhole loss has caused structural or cosmetic damage to the building and, if so, the need for and estimated costs of stabilizing the land and any covered structures or buildings and other appropriate remediation or structural repairs that are necessary due to the sinkhole loss.

The evaluator's report shall be sent to all parties in attendance at the neutral evaluation and to the department.

(14) ~~(13)~~ The recommendation of the neutral evaluator is not binding on any party, and the parties retain access to court. The neutral evaluator's written recommendation is admissible in any ~~subsequent~~ action or proceeding relating to the claim or to the cause of action giving rise to the claim.

(15) ~~(14)~~ If the neutral evaluator first verifies the existence of a sinkhole and, second, recommends the need for and estimates costs of stabilizing the land and any covered structures or buildings and other appropriate remediation or structural repairs, which costs exceed the amount that the insurer has offered to pay the policyholder, the insurer is liable to the policyholder for up to $2,500 in attorney's fees for the attorney's participation in the neutral evaluation process. For purposes of this subsection, the term "offer to pay" means a written offer signed by the insurer or its legal representative and delivered to the policyholder within 10 days after the insurer receives notice that a request for neutral evaluation has been made under this section.

(16) ~~(15)~~ If the insurer timely agrees in writing to comply and timely complies with the recommendation of the neutral evaluator, but the policyholder declines to resolve the matter in accordance with the recommendation of the neutral evaluator pursuant to this section:

(a) The insurer is not liable for extracontractual damages related to a claim for a sinkhole loss but only as related to the issues determined by the neutral evaluation process. This

section does not affect or impair claims for extracontractual damages unrelated to the issues determined by the neutral evaluation process contained in this section; and

(b) The insurer is not liable for attorney's fees under s. 627.428 or other provisions of the insurance code unless the policyholder obtains a judgment that is more favorable than the recommendation of the neutral evaluator.

(17) If the insurer agrees to comply with the neutral evaluator's report, payment for stabilizing the land and building and repairing the foundation shall be made in accordance with the terms and conditions of the applicable insurance policy.

Section 28. Section 627.711, Florida Statutes, is amended to read:

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

(1) Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles, and combinations of discounts, credits, rate differentials, or reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce

their windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

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

1.~~(a)~~ A home inspector licensed under s. 468.8314 who has completed at least 3 hours of hurricane mitigation training which includes hurricane mitigation techniques and compliance with the uniform mitigation verification form and completion of a proficiency exam. Thereafter, home inspectors licensed under s. 468.8314, must complete at least 2 hours of continuing education, as part of the existing licensure renewal

requirements each year, related to mitigation inspection and the uniform mitigation form ~~hurricane mitigation inspector certified by the My Safe Florida Home program~~;

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

3.~~(c)~~ A general, building, or residential contractor licensed under s. 489.111;

4.~~(d)~~ A professional engineer licensed under s. 471.015 who has passed the appropriate equivalency test of the building code training program as required by s. 553.841;

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

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

(b) An insurer may, but is not required to, accept a form from any other person possessing qualifications and experience acceptable to the insurer.

(3) A person who is authorized to sign a mitigation verification form must inspect the structures referenced by the form personally, not through employees or other persons, and must certify or attest to personal inspection of the structures referenced by the form. However, licensees under s. 471.015 or s. 489.111, may authorize a direct employee, who is not an independent contractor, and who possesses the requisite skill, knowledge and experience to conduct a mitigation verification inspection. Insurers shall have the right to request and obtain information from the authorized mitigation inspector under s.

471.015, or s. 489.111, regarding any authorized employee's qualifications prior to accepting a mitigation verification form performed by an employee that is not licensed under s. 471.015 or s. 489.111.

(4) An authorized mitigation inspector that signs a uniform mitigation form, and a direct employee authorized to conduct mitigation verification inspections under paragraph (3), may not commit misconduct in performing hurricane mitigation inspections or in completing a uniform mitigation form that causes financial harm to a customer or their insurer; or that jeopardizes a customer's health and safety. Misconduct occurs when an authorized mitigation inspector signs a uniform mitigation verification form that:

(a) Falsely indicates that he or she personally inspected the structures referenced by the form;

(b) Falsely indicates the existence of a feature which entitles an insured to a mitigation discount which the inspector knows does not exist or did not personally inspect;

(c) Contains erroneous information due to the gross negligence of the inspector; or

(d) Contains a pattern of demonstrably false information regarding the existence of mitigation features that could give an insured a false evaluation of the ability of the structure to withstand major damage from a hurricane endangering the safety of the insured's life and property.

(5) The licensing board of an authorized mitigation inspector that violates subsection (4) may commence disciplinary proceedings and impose administrative fines and other sanctions

authorized under the authorized mitigation inspector's licensing act. Authorized mitigation inspectors licensed under s. 471.015 or s. 489.111, shall be directly liable for the acts of employees that violate subsection (4) as if the authorized mitigation inspector personally performed the inspection.

(6) An insurer, person, or other entity that obtains evidence of fraud or evidence that an authorized mitigation inspector or an employee authorized to conduct mitigation verification inspections under paragraph (3), has made false statements in the completion of a mitigation inspection form shall file a report with the Division of Insurance Fraud, along with all of the evidence in its possession that supports the allegation of fraud or falsity. An insurer, person, or other entity making the report shall be immune from liability in accordance with s. 626.989(4), for any statements made in the report, during the investigation, or in connection with the report. The Division of Insurance Fraud shall issue an investigative report if it finds that probable cause exists to believe that the authorized mitigation inspector, or an employee authorized to conduct mitigation verification inspections under paragraph (3), made intentionally false or fraudulent statements in the inspection form. Upon conclusion of the investigation and a finding of probable cause that a violation has occurred, the Division of Insurance Fraud shall send a copy of the investigative report to the office and a copy to the agency responsible for the professional licensure of the authorized mitigation inspector, whether or not a prosecutor takes action based upon the report.

(7) At its expense, the insurer may require that any uniform mitigation verification form provided by an authorized mitigation inspector or inspection company be independently verified by an inspector, inspection company or an independent third-party quality assurance provider which does possess a quality assurance program prior to accepting the uniform mitigation verification form as valid.

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

Section 29. Section 628.252, Florida Statutes, is created to read:

628.252 Servicing affiliates of domestic property insurers.—Every domestic property insurer shall notify the office of its intention to enter into with affiliates all management agreements, service contracts, and cost-sharing arrangements. A domestic property insurer may not enter into such an agreement, contract, or arrangement unless the insurer has it has provided the office with at least 30 days' written notice of its intention to enter into such agreement, contract, or arrangement, or such shorter period as the office, in its discretion, may permit and the office has not disapproved such agreement, contract, or arrangement within such period. This section does not limit any existing authority of the office.

Section 30. Paragraph (b) of subsection (1) of section 628.4615, Florida Statutes, is amended to read:

628.4615 Specialty insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.—

(1) For the purposes of this section, the term "specialty insurer" means any person holding a license or certificate of authority as:

(b) A home warranty association authorized to issue "home warranties" as those terms are defined in s. 634.301~~(3) and (4)~~;

Section 31. Subsection (8) of section 634.011, Florida Statutes, is amended to read:

634.011 Definitions.—As used in this part, the term:

(8) "Motor vehicle service agreement" or "service agreement" means any contract or agreement indemnifying the service agreement holder for the motor vehicle listed on the service agreement and arising out of the ownership, operation, and use of the motor vehicle against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended; however, nothing in this part shall prohibit or affect the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of motor vehicles. Transactions exempt under s. 624.125 are expressly excluded from this definition and are exempt from the provisions of this part. Service agreements that are sold to persons other than consumers and that cover motor vehicles used for commercial purposes are excluded from this definition and are exempt from

regulation under the Florida Insurance Code. The term "motor vehicle service agreement" includes any contract or agreement that provides:

(a) For the coverage or protection defined in this subsection and which is issued or provided in conjunction with an additive product applied to the motor vehicle that is the subject of such contract or agreement;

(b) For payment of vehicle protection expenses.

1.a. "Vehicle protection expenses" means a preestablished flat amount payable for the loss of or damage to a vehicle or expenses incurred by the service agreement holder for loss or damage to a covered vehicle, including, but not limited to, applicable deductibles under a motor vehicle insurance policy; temporary vehicle rental expenses; expenses for a replacement vehicle that is at least the same year, make, and model of the stolen motor vehicle; sales taxes or registration fees for a replacement vehicle that is at least the same year, make, and model of the stolen vehicle; or other incidental expenses specified in the agreement.

b. "Vehicle protection product" means a product or system installed or applied to a motor vehicle or designed to prevent the theft of the motor vehicle or assist in the recovery of the stolen motor vehicle.

2. Vehicle protection expenses shall be payable in the event of loss or damage to the vehicle as a result of the failure of the vehicle protection product to prevent the theft of the motor vehicle or to assist in the recovery of the stolen motor vehicle. Vehicle protection expenses covered under the

agreement shall be clearly stated in the service agreement form, unless the agreement provides for the payment of a preestablished flat amount, in which case the service agreement form shall clearly identify such amount.

3. Motor vehicle service agreements providing for the payment of vehicle protection expenses shall either:

a. Reimburse a service agreement holder for the following expenses, at a minimum: deductibles applicable to comprehensive coverage under the service agreement holder's motor vehicle insurance policy; temporary vehicle rental expenses; sales taxes and registration fees on a replacement vehicle that is at least the same year, make, and model of the stolen motor vehicle; and the difference between the benefits paid to the service agreement holder for the stolen vehicle under the service agreement holder's comprehensive coverage and the actual cost of a replacement vehicle that is at least the same year, make, and model of the stolen motor vehicle; or

b. Pay a preestablished flat amount to the service agreement holder.

Payments shall not duplicate any benefits or expenses paid to the service agreement holder by the insurer providing comprehensive coverage under a motor vehicle insurance policy covering the stolen motor vehicle; however, the payment of vehicle protection expenses at a preestablished flat amount of $5,000 or less does not duplicate any benefits or expenses payable under any comprehensive motor vehicle insurance policy; or

(c)1. For the payment for paintless dent-removal services provided by a company whose primary business is providing such services.

2. "Paintless dent-removal" means the process of removing dents, dings, and creases, including hail damage, from a vehicle without affecting the existing paint finish, but does not include services that involve the replacement of vehicle body panels or sanding, bonding, or painting.

Section 32. Subsection (7) is added to section 634.031, Florida Statutes, to read:

634.031 License required.—

(7) Any person who violates this section commits, in addition to any other violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 33. Paragraph (b) of subsection (8) and paragraph (b) of subsection (11) of section 634.041, Florida Statutes, are amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it purchases and maintains contractual liability insurance in accordance with the following:

1. The insurance covers 100 percent of its claim exposure and is obtained from an insurer approved by the office which holds a certificate of authority to do business within this state.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3)~~(5)~~. The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

(11)

(b) Notwithstanding any other requirement of this part, a service agreement company maintaining an unearned premium reserve on all service agreements in accordance with paragraph (8)(a) may offer service agreements providing vehicle protection expenses if it maintains contractual liability insurance only on all service agreements providing vehicle protection expenses and continues to maintain the 50-percent reserve for all service agreements not providing vehicle protection expenses. A service agreement company maintaining contractual liability insurance for all service agreements providing vehicle protection expenses and the 50-percent reserve for all other service agreements must, in the service agreement register as required under s. 634.136(2) ~~(4)~~, distinguish between insured service agreements providing vehicle protection expenses and service agreements not providing vehicle protection expenses.

Section 34. Paragraph (d) is added to subsection (3) of section 634.095, Florida Statutes, and subsection (7) is added to that section, to read:

634.095 Prohibited acts.—Any service agreement company or salesperson that engages in one or more of the following acts is, in addition to any applicable denial, suspension, revocation, or refusal to renew or continue any appointment or license, guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

(3) Issuing or causing to be issued any advertisement which:

(d) Is false, deceptive, or misleading with respect to:

1. The service agreement company's affiliation with a motor vehicle manufacturer;

2. The service agreement company's possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;

3. The expiration of a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty; or

4. Any requirement that the motor vehicle owner register for a new motor vehicle service agreement with the company in order to maintain coverage under the current motor vehicle service agreement or manufacturer's original equipment warranty.

(7) Remitting premiums received on motor vehicle service agreements sold to any person other than the licensed service agreement company that is obligated to perform under such agreement, if the agreement between such company and the

salesperson requires that premiums be submitted directly to the service agreement company.

Section 35. Section 634.121, Florida Statutes, is amended to read:

634.121 ~~Filing of~~ Forms, required procedures, provisions.—

~~(1) A service agreement form or related form may not be issued or used in this state unless it has been filed with and approved by the office. Upon application for a license, the office shall require the applicant to submit for approval each brochure, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution. The office shall disapprove any document which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material facts.~~

~~(a) After an application has been approved, a licensee is not required to submit brochures or advertisement to the office for approval; however, a licensee may not have published, and a person may not publish, any brochure or advertisement which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material fact.~~

~~(b) For purposes of this section, brochures and advertising includes, but is not limited to, any report, circular, public announcement, certificate, or other printed matter or advertising material which is designed or used to solicit or induce any persons to enter into any motor vehicle service agreement.~~

~~(c) The office shall disapprove any service agreement form providing vehicle protection expenses which does not clearly~~

~~indicate either the method for calculating the benefit to be paid or provided to the service agreement holder or the preestablished flat amount payable pursuant to the terms of the service agreement. All service agreement forms providing vehicle protection expenses shall clearly indicate the term of the service agreement, whether new or used cars are eligible for the vehicle protection product, and that the service agreement holder may not make any claim against the Florida Insurance Guarantee Association for vehicle protection expenses. The service agreement shall be provided to a service agreement holder on a form that provides only vehicle protection expenses. A service agreement form providing vehicle protection expenses must state that the service agreement holder must have in force at the time of loss comprehensive motor vehicle insurance coverage as a condition precedent to requesting payment of vehicle protection expenses.~~

~~(2) Every filing required under this section must be made not less than 30 days in advance of issuance or use. At the expiration of 30 days from the date of filing, a form so filed becomes approved unless prior thereto it has been affirmatively disapproved by written notice of the office. The office may extend by not more than an additional 15 days the period within which it may affirmatively approve or disapprove any form by giving notice of extension before the expiration of the initial 30-day period. At the expiration of any period as so extended and in the absence of prior affirmative disapproval, the form becomes approved.~~

(1)~~(3)~~ Before the sale of any service agreement, written notice must be given to the prospective purchaser by the service agreement company or its agent or salesperson~~, on an office-approved form,~~ that purchase of the service agreement is not required in order to purchase or obtain financing for a motor vehicle.

(2)~~(4)~~ All motor vehicle service agreements are assignable in a consumer transaction and must contain a statement in conspicuous, boldfaced type, informing the purchaser of the service agreement of her or his right to assign it to a subsequent retail purchaser of the motor vehicle covered by the service agreement and all conditions on such right of transfer. The assignment must occur within a period of time specified in the agreement, which period may not expire earlier than 15 days after the date of the sale or transfer of the motor vehicle. The service agreement company may charge an assignment fee not to exceed $40.

(3)~~(5)~~(a) Each service agreement must contain a cancellation provision. Any service agreement is cancelable by the purchaser within 60 days after purchase. The refund must be 100 percent of the gross premium paid, less any claims paid on the agreement. A reasonable administrative fee may be charged not to exceed 5 percent of the gross premium paid by the agreement holder.

(b) After the service agreement has been in effect for 60 days, it may not be canceled by the insurer or service agreement company unless:

1. There has been a material misrepresentation or fraud at the time of sale of the service agreement;

2. The agreement holder has failed to maintain the motor vehicle as prescribed by the manufacturer;

3. The odometer has been tampered with or disabled and the agreement holder has failed to repair the odometer; or

4. For nonpayment of premium by the agreement holder, in which case the service agreement company shall provide the agreement holder notice of cancellation by certified mail.

If the service agreement is canceled by the insurer or service agreement company, the return of premium must not be less than 100 percent of the paid unearned pro rata premium, less any claims paid on the agreement. If, after 60 days, the service agreement is canceled by the service agreement holder, the insurer or service agreement company shall return directly to the agreement holder not less than 90 percent of the unearned pro rata premium, less any claims paid on the agreement. The service agreement company remains responsible for full refunds to the consumer on canceled service agreements. However, the salesperson and agent are responsible for the refund of the unearned pro rata commission. A service agreement company may effectuate refunds through the issuing salesperson or agent.

(4) ~~(6)~~ If the service agreement is canceled, pursuant to an order of liquidation, the salesperson or agent is responsible for refunding, and must refund, to the receiver the unearned pro rata commission.

(5) ~~(7)~~ If a service agreement company violates any lawful order of the office or fails to meet its contractual obligations under this part, upon notice from the office, the sales representative or agent must refund to the service agreement holder the unearned pro rata commission, unless the sales representative or agent has made other arrangements, satisfactory to the office, with the service agreement holder.

(6) ~~(8)~~ Each service agreement, which includes a copy of the application form, must be mailed or delivered to the agreement holder within 45 days after the date of purchase.

(7) ~~(9)~~ Each service agreement form must contain in conspicuous, boldfaced type any statement or clause that places restrictions or limitations on the benefits offered or disclose such restrictions or limitations in regular type in a section of the service agreement containing a conspicuous, boldfaced type heading.

(8) ~~(10)~~ If an insurer or service agreement company intends to use or require the use of remanufactured or used replacement parts, each service agreement form as well as all service agreement brochures must contain in conspicuous, boldfaced type a statement to that effect.

(9) ~~(11)~~ Each service agreement form as well as all service agreement company sales brochures must clearly identify the name, address, and Florida license number of the licensed insurer or service agreement company.

(10) ~~(12)~~ If a service agreement contains a rental car provision, it must disclose the terms and conditions of this benefit in conspicuous, boldfaced type or disclose such

restrictions or limitations in regular type in a section of the service agreement containing a conspicuous, boldfaced type heading.

(11) By July 1, 2011, each service agreement sold in this state must be accompanied by a written disclosure to the consumer that the rate charged for the service agreement is not subject to regulation by the office. A service agreement company may comply with this requirement by including such disclosure in its service agreement form or in a separate written notice provided to the consumer at the time of sale.

Section 36. Section 634.1213, Florida Statutes, is amended to read:

634.1213 Noncompliant forms ~~Grounds for disapproval~~.—The office may order a service agreement company to stop using ~~disapprove~~ any service agreement form that ~~or service agreement company sales brochures filed under s. 634.121, or withdraw any previous approval thereof, if the form or brochure~~:

(1) Is in any respect in violation of or does not comply with this part, any applicable provision of the Florida Insurance Code, or any applicable rule of the office ~~commission~~.

(2) Contains or incorporates by reference when such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the service agreement.

(3) Has any title, heading, or other indication of its provisions which is misleading.

(4) Is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible.

(5) Contains any provision which is unfair or inequitable or which encourages misrepresentation.

(6) Contains any provision which makes it difficult to determine the actual insurer or service agreement company issuing the form.

(7) Contains any provision for reducing claim payments due to depreciation of parts, except for marine engines.

Section 37. Subsection (1) of section 634.137, Florida Statutes, is amended to read:

634.137 Financial and statistical reporting requirements.—

(1) By March 1 of each year, each service agreement company shall submit to the office annual financial reports on forms prescribed by the commission and furnished by the office ~~as follows:~~

~~(a) Reports for a period ending December 31 are due by March 1.~~

~~(b) Reports for a period ending March 31 are due by May 15.~~

~~(c) Reports for a period ending June 30 are due by August 15.~~

~~(d) Reports for a period ending September 30 are due by November 15~~.

Section 38. Section 634.141, Florida Statutes, is amended to read:

634.141 Examination of companies.—

(1) Motor vehicle service agreement companies licensed under this part may ~~shall~~ be subject to periodic examination by the office in the same manner and subject to the same terms and conditions as applies to insurers under part II of chapter 624. The commission may by rule establish provisions whereby a company may be exempted from examination.

(2) The office shall determine whether to conduct an examination of a company by considering:

(a) The amount of time that the company has been continuously licensed and operating under the same management and control.

(b) The company's history of compliance with applicable law.

(c) The number of consumer complaints against the company.

(d) The financial condition of the company, demonstrated by the financial reports submitted pursuant to s. 634.137.

Section 39. Paragraph (b) of subsection (1) of section 634.1815, Florida Statutes, is amended to read:

634.1815 Rebating; when allowed.—

(1) No salesperson shall rebate any portion of his or her commission except as follows:

(b) The rebate shall be in accordance with a rebating schedule filed with and approved by the ~~salesperson with the~~ service agreement company issuing the service agreement to which the rebate applies. The service agreement company shall maintain a copy of all rebating schedules for a period of 3 years.

Section 40. Subsection (13) of section 634.282, Florida Statutes, is amended, and subsection (17) is added to that section, to read:

634.282 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following methods, acts, or practices are defined as unfair methods of competition and unfair or deceptive acts or practices:

(13) ILLEGAL DEALINGS IN PREMIUMS; EXCESS OR REDUCED CHARGES FOR MOTOR VEHICLE SERVICE AGREEMENTS.—

(a) Knowingly collecting any sum as a premium or charge for a motor vehicle service agreement, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by a service agreement company or an insurer, by a motor vehicle service agreement issued by a service agreement company or an insurer as permitted by this part.

(b) Knowingly collecting as a premium or charge for a motor vehicle service agreement any sum in excess of or less than the premium or charge applicable to such motor vehicle service agreement, ~~in accordance with the applicable classifications and rates as filed with the office, and~~ as specified in the motor vehicle service agreement. However, there is no violation of this subsection if excess premiums or charges are refunded to the service agreement holder within 45 days after receipt of the agreement by the service agreement company or if the licensed sales representative's commission is reduced by the amount of any premium undercharge.

(17) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO SALE.—Failing to provide a consumer with a complete sample copy of the terms and conditions of the service agreement prior to the time of sale upon a request for the same by the consumer. A service agreement company may comply with this subsection by providing the consumer with a sample copy of the terms and conditions of the service agreement or by directing the consumer to a website that displays a complete sample of the terms and conditions of the service agreement.

No provision of this section shall be deemed to prohibit a service agreement company or a licensed insurer from giving to service agreement holders, prospective service agreement holders, and others for the purpose of advertising, any article of merchandise having a value of not more than $25.

Section 41. Section 634.301, Florida Statutes, as amended by section 1 of chapter 2007-235, Laws of Florida, is amended to read:

634.301 Definitions.—As used in this part, the term:

(1) "Gross written premiums" means the total amount of premiums, paid for the entire period of the home warranty, inclusive of commissions, for which the association is obligated under home warranties issued.

~~(2) "Home improvement" means major remodeling, enclosure of a garage, addition of a room, addition of a pool, and other like items that add value to the residential property. The term does not include normal maintenance for items such as painting, reroofing, and other like items subject to normal wear and tear.~~

(2)~~(3)~~ "Home warranty" or "warranty" means any contract or agreement~~:~~

~~(a) Offered in connection with the sale of residential property;~~

~~(b) Offered in connection with a loan of $5,000 or more which is secured by residential property that is the subject of the warranty, but not in connection with the sale of such property;~~

~~(c) Offered in connection with a home improvement of $7,500 or more for residential property that is the subject of the warranty, but not in connection with the sale of such property; or~~

~~(d) Offered in connection with a home inspection service as defined under s. 468.8311(4) or a mold assessment as defined under s. 468.8411(3);~~

whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss. However, this part does not prohibit the giving of usual performance guarantees by either the builder of a home or the manufacturer or seller of an appliance, as long as no identifiable charge is made for such guarantee. This part does not permit the provision of indemnification against consequential damages arising from the failure of any structural

component or appliance of a home, which practice constitutes the transaction of insurance subject to all requirements of the insurance code. This part does not apply to service contracts entered into between consumers and nonprofit organizations or cooperatives the members of which consist of condominium associations and condominium owners and which perform repairs and maintenance for appliances or maintenance of the residential property. This part does not apply to a contract or agreement offered ~~in connection with a sale of residential property~~ by a warranty association in compliance with part III, provided such contract or agreement only relates to the systems and appliances of the covered residential property and does not cover any structural component of the residential property.

(3)~~(4)~~ "Home warranty association" means any corporation or any other organization, other than an authorized insurer, issuing home warranties.

(4)~~(5)~~ "Impaired" means having liabilities in excess of assets.

(5)~~(6)~~ "Insolvent" means the inability of a corporation to pay its debts as they become due in the usual course of its business.

(6)~~(7)~~ "Insurance code" means the Florida Insurance Code.

(7)~~(8)~~ "Insurer" means any property or casualty insurer duly authorized to transact such business in this state.

(8)~~(9)~~ "Listing period" means the period of time residential property is listed for sale with a licensed real estate broker, beginning on the date the residence is first listed for sale and ending on either the date the sale of the

residence is closed, the date the residence is taken off the market, or the date the listing contract with the real estate broker expires.

(9) ~~(10)~~ "Net assets" means the amount by which the total statutory assets of an association exceed the total liabilities of the association.

(10) ~~(11)~~ "Person" includes an individual, company, corporation, association, insurer, agent, and every other legal entity.

(11) ~~(12)~~ "Premium" means the total consideration received, or to be received, by an insurer or home warranty association for or related to the issuance and delivery of any binder or warranty, including any charges designated as assessments or fees for policies, surveys, inspections, or service or any other charges.

(12) ~~(13)~~ "Sales representative" means any person with whom an insurer or home inspection or warranty association has a contract and who is utilized by such insurer or association for the purpose of selling or issuing home warranties. The term includes all employees of an insurer or association engaged directly in the sale or issuance of home warranties.

(13) ~~(14)~~ "Structural component" means the roof, plumbing system, electrical system, foundation, basement, walls, ceilings, or floors of a home.

Section 42. Subsection (4) is added to section 634.303, Florida Statutes, to read:

634.303 License required.—

(4) Any person who provides, offers to provide, or holds oneself out as providing or offering to provide home warranties in this state or from this state without holding a subsisting license commits, in addition to any other violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 43. Paragraph (f) of subsection (2) of section 634.308, Florida Statutes, is amended to read:

634.308 Grounds for suspension or revocation of license.—

(2) The license of any home warranty association shall be suspended, revoked, or not renewed if it is determined that such association:

(f) Has issued warranty contracts which renewal contracts provide that the cost of renewal exceeds the then-current cost for new warranty contracts, unless the increase is supported by the claims history or claims cost data, or impose a fee for inspection of the premises.

Section 44. Section 634.312, Florida Statutes, is amended to read:

634.312 Forms; required provisions and procedures ~~Filing; approval of forms~~.—

~~(1) No warranty form or related form shall be issued or used in this state unless it has been filed with and approved by the office. Also upon application for a license, the office shall require the applicant to submit for approval each brochure, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution. Approval of the application~~

~~constitutes approval of such documents, unless the applicant has consented otherwise in writing. The office shall disapprove any document which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material facts.~~

~~(a) After an application has been approved, a licensee is not required to submit brochures or advertisement to the office for approval; however, a licensee may not have published, and a person may not publish, any brochure or advertisement which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material fact.~~

~~(b) For purposes of this section, brochures and advertising includes, but is not limited to, any report, circular, public announcement, certificate, or other printed matter or advertising material which is designed or used to solicit or induce any persons to enter into any home warranty agreement.~~

~~(2) Every such filing shall be made not less than 30 days in advance of issuance or use. At the expiration of 30 days from date of filing, a form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by written order of the office.~~

~~(3) The office shall not approve any such form that imposes a fee for inspection of the premises.~~

(1)~~(4)~~ All home warranty contracts are assignable in a consumer transaction and must contain a statement informing the purchaser of the home warranty of her or his right to assign it, at least within 15 days from the date the home is sold or transferred, to a subsequent retail purchaser of the home

covered by the home warranty and all conditions on such right of transfer. The home warranty company may charge an assignment fee not to exceed $40. Home warranty assignments include, but are not limited to, the assignment from a home builder who purchased the home warranty to a subsequent home purchaser.

(2)~~(5)~~ Subject to the insurer's or home warranty association's requirement as to payment of premium, every home warranty shall be mailed or delivered to the warranty holder not later than 45 days after the effectuation of coverage, and the application is part of the warranty contract document.

(3)~~(6)~~ All home warranty contracts must state in conspicuous, boldfaced type that the home warranty may not provide listing period coverage free of charge.

(4)~~(7)~~ All home warranty contracts must disclose any exclusions, restrictions, or limitations on the benefits offered or the coverage provided by the home warranty contract in boldfaced type, and must contain, in boldfaced type, a statement on the front page of the contract substantially similar to the following: "Certain items and events are not covered by this contract. Please refer to the exclusions listed on page .... of this document."

(5)~~(8)~~ Each home warranty contract shall contain a cancellation provision. Any home warranty agreement may be canceled by the purchaser within 10 days after purchase. The refund must be 100 percent of the gross premium paid, less any claims paid on the agreement. A reasonable administrative fee may be charged, not to exceed 5 percent of the gross premium paid by the warranty agreement holder. After the home warranty

agreement has been in effect for 10 days, if the contract is canceled by the warranty holder, a return of premium shall be based upon 90 percent of unearned pro rata premium less any claims that have been paid. If the contract is canceled by the association for any reason other than for fraud or misrepresentation, a return of premium shall be based upon 100 percent of unearned pro rata premium, less any claims paid on the agreement.

(6) By July 1, 2011, each home warranty contract sold in this state must be accompanied by a written disclosure to the consumer that the rate charged for the contract is not subject to regulation by the office. A home warranty association may comply with this requirement by including such disclosure in its home warranty contract form or in a separate written notice provided to the consumer at the time of sale.

Section 45. Section 634.3123, Florida Statutes, is amended to read:

634.3123 Noncompliant ~~Grounds for disapproval of~~ forms.—The office may order a home warranty association to stop using any contract ~~shall disapprove~~ ~~any~~ form that ~~filed under s. 634.312 or withdraw any previous approval if the form~~:

(1) Is in violation of or does not comply with this part.

(2) Contains or incorporates by reference, when such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions or conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(3) Has any title, heading, or other indication of its provisions which is misleading.

(4) Is printed or otherwise reproduced in such a manner as to render any material provision of the form illegible.

(5) Provides that the cost of renewal exceeds the then-current cost for new warranty contracts, unless the increase is supported by the claims history or claims cost data, or impose a fee for inspection of the premises.

Section 46. Section 634.314, Florida Statutes, is amended to read:

634.314 Examination of associations.—

(1) Home warranty associations licensed under this part may ~~shall~~ be subject to periodic examinations by the office, in the same manner and subject to the same terms and conditions as apply to insurers under part II of chapter 624 of the insurance code.

(2) The office shall determine whether to conduct an examination of a home warranty association by considering:

(a) The amount of time that the association has been continuously licensed and operating under the same management and control.

(b) The association's history of compliance with applicable law.

(c) The number of consumer complaints against the association.

(d) The financial condition of the association, demonstrated by the financial reports submitted pursuant to s. 634.313.

Section 47. Paragraph (b) of subsection (1) of section 634.3205, Florida Statutes, is amended to read:

634.3205 Rebating; when allowed.—

(1) No sales representative shall rebate any portion of his or her commission except as follows:

(b) The rebate shall be in accordance with a rebating schedule filed with and approved by the ~~sales representative with the~~ home warranty association issuing the home warranty to which the rebate applies. The home warranty association shall maintain a copy of all rebating schedules for a period of 3 years.

Section 48. Subsection (8) of section 634.336, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

634.336 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following methods, acts, or practices are defined as unfair methods of competition and unfair or deceptive acts or practices:

(8) COERCION OF DEBTORS.—When a home warranty is sold ~~as authorized by s. 634.301(3)(b)~~:

(a) Requiring, as a condition precedent or condition subsequent to the lending of the money or the extension of the credit or any renewal thereof, that the person to whom such credit is extended purchase a home warranty; or

(b) Failing to provide the advice required by s. 634.344.

(9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO SALE.—Failing to provide a consumer with a complete sample copy of the terms and conditions of the home warranty contract prior

to the time of sale upon a request for the same by the consumer. A home warranty association may comply with this subsection by providing the consumer with a sample copy of the terms and conditions of the home warranty contract or by directing the consumer to a website that displays a complete sample of the terms and conditions of the contract.

Section 49. Section 634.344, Florida Statutes, is amended to read:

634.344 Coercion of debtor prohibited.—

(1) When a home warranty is sold in connection with the lending of money ~~as authorized by s. 634.301(3)(b)~~, a ~~no~~ person may not require, as a condition precedent or condition subsequent to the lending of the money or the extension of the credit or any renewal thereof, that the person to whom such money or credit is extended purchase a home warranty.

(2) When a home warranty is purchased in connection with the lending of money ~~as authorized by s. 634.301(3)(b)~~, the insurer or home warranty association or the sales representative of the insurer or home warranty association shall advise the borrower or purchaser in writing that Florida law prohibits the lender from requiring the purchase of a home warranty as a condition precedent or condition subsequent to the making of the loan.

Section 50. Subsection (5) of section 634.401, Florida Statutes, is amended to read:

634.401 Definitions.—As used in this part, the term:

(5) "Indemnify" means to undertake repair or replacement of a consumer product, or pay compensation for such repair or

replacement by cash, check, store credit, gift card, or other similar means, in return for the payment of a segregated premium, when such consumer product suffers operational failure.

Section 51. Subsection (5) is added to section 634.403, Florida Statutes, to read:

634.403 License required.—

(5) Any person who provides, offers to provide, or holds oneself out as providing or offering to provide a service warranty in this state or from this state without holding a subsisting license commits, in addition to any other violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 52. Paragraph (e) of subsection (3) of section 634.406, Florida Statutes, is amended to read:

634.406 Financial requirements.—

(3) An association will not be required to establish an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such policy. The contractual liability insurance shall be obtained from an insurer that holds a certificate of authority to do business within the state. For the purposes of this subsection, the contractual liability policy shall contain the following provisions:

(e) In the event the issuer of the contractual liability policy is fulfilling the service warranty covered by policy and in the event the service warranty holder cancels the service warranty, it is the responsibility of the contractual liability

policy issuer to effectuate a full refund of unearned premium to the consumer. This refund shall be subject to the cancellation fee provisions of s. 634.414~~(3)~~. The salesperson or agent shall refund to the contractual liability policy issuer the unearned pro rata commission.

Section 53. Section 634.414, Florida Statutes, is amended to read:

634.414 Forms; required provisions ~~Filing; approval of forms~~.—

~~(1) No service warranty form or related form shall be issued or used in this state unless it has been filed with and approved by the office. Upon application for a license, the office shall require the applicant to submit for approval each brochure, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution. The office shall disapprove any document which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material facts.~~

~~(a) After an application has been approved, a licensee is not required to submit brochures or advertisement to the office for approval; however, a licensee may not have published, and a person may not publish, any brochure or advertisement which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material fact.~~

~~(b) For purposes of this section, brochures and advertising includes, but is not limited to, any report, circular, public announcement, certificate, or other printed matter or advertising material which is designed or used to~~

~~solicit or induce any persons to enter into any service warranty agreement.~~

~~(2) Each filing shall be made not less than 30 days in advance of its issuance or use. At the expiration of 30 days from date of filing, a form so filed shall be deemed approved unless prior thereto it has been affirmatively disapproved by written order of the office.~~

(1)~~(3)~~ Each service warranty contract shall contain a cancellation provision. If ~~In the event~~ the contract is canceled by the warranty holder, return of premium shall be based upon no less than 90 percent of unearned pro rata premium less any claims that have been paid or less the cost of repairs made on behalf of the warranty holder. If ~~In the event~~ the contract is canceled by the association, return of premium shall be based upon 100 percent of unearned pro rata premium, less any claims paid or the cost of repairs made on behalf of the warranty holder.

(2) By July 1, 2011, each service warranty contract sold in this state must be accompanied by a written disclosure to the consumer that the rate charged for the contract is not subject to regulation by the office. A service warranty association may comply with this requirement by including such disclosure in its service warranty contract form or in a separate written notice provided to the consumer at the time of sale.

~~(4) The name of the service warranty association issuing the contract must be more prominent than any other company name or program name on the service warranty form or sales brochure.~~

Section 54. Section 634.4145, Florida Statutes, is amended to read:

634.4145 Noncompliant ~~Grounds for disapproval of~~ forms.—The office may order a service warranty association to stop using any contract ~~shall disapprove any~~ form that ~~filed under s. 634.414 if the form~~:

(1) Violates this part;

(2) Is misleading in any respect;

(3) Is reproduced so that any material provision is substantially illegible; or

(4) Contains provisions which are unfair or inequitable or which encourage misrepresentation.

Section 55. Section 634.415, Florida Statutes, is amended to read:

634.415 Tax on premiums; annual statement; reports~~; quarterly statements~~.—

(1) In addition to the license fees provided in this part for service warranty associations and license taxes as provided in the insurance code as to insurers, each such association and insurer shall, annually on or before March 1, file with the office its annual statement, in the form prescribed by the commission, showing all premiums or assessments received by it in connection with the issuance of service warranties in this state during the preceding calendar year and using accounting principles which will enable the office to ascertain whether the financial requirements set forth in s. 634.406 have been satisfied.

(2) The gross amount of premiums and assessments is subject to the sales tax imposed by s. 212.0506.

(3) The office may levy a fine of up to $100 a day for each day an association neglects to file the annual statement in the form and within the time provided by this part. The amount of the fine shall be established by rules adopted by the commission. The office shall deposit all sums collected by it under this section to the credit of the Insurance Regulatory Trust Fund.

~~(4) In addition to an annual statement, the office may require of licensees, under oath and in the form prescribed by it, quarterly statements or special reports which it deems necessary to the proper supervision of licensees under this part. For manufacturers as defined in s. 634.401, the office shall require only the annual audited financial statements of the warranty operations and corporate reports as filed by the manufacturer with the Securities and Exchange Commission, provided that the office may require additional reporting by manufacturers upon a showing by the office that annual reporting is insufficient to protect the interest of purchasers of service warranty agreements in this state or fails to provide sufficient proof of the financial status required by this part.~~

(4) ~~(5)~~ The office may suspend or revoke the license of a service warranty association failing to file its annual statement ~~or quarterly report~~ when due.

(5) ~~(6)~~ The commission may by rule require each service warranty association to submit to the office, as the commission may designate, all or part of the information contained in the

financial statements and reports required by this section in a computer-readable form compatible with the electronic data processing system specified by the office.

Section 56. Section 634.416, Florida Statutes, is amended to read:

634.416 Examination of associations.—

(1)(a) Service warranty associations licensed under this part may be ~~are~~ subject to periodic examination by the office, in the same manner and subject to the same terms and conditions that apply to insurers under part II of chapter 624.

(b) The office shall determine whether to conduct an examination of a service warranty association by considering:

1. The amount of time that the association has been continuously licensed and operating under the same management and control.

2. The association's history of compliance with applicable law.

3. The number of consumer complaints against the association.

4. The financial condition of the association, demonstrated by the financial reports submitted pursuant to s. 634.313.

(2) ~~However,~~ The rate charged a service warranty association by the office for examination may be adjusted to reflect the amount collected for the Form 10-K filing fee as provided in this section.

(3) On or before May 1 of each year, an association may submit to the office the Form 10-K, as filed with the United

States Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended. Upon receipt and review of the most current Form 10-K, the office may waive the examination requirement; if the office determines not to waive the examination, such examination will be limited to that examination necessary to ensure compliance with this part. The Form 10-K shall be accompanied by a filing fee of $2,000 to be deposited into the Insurance Regulatory Trust Fund.

(4) ~~(2)~~ The office is not required to examine an association that has less than $20,000 in gross written premiums as reflected in its most recent annual statement. The office may examine such an association if it has reason to believe that the association may be in violation of this part or is otherwise in an unsound financial condition. If the office examines an association that has less than $20,000 in gross written premiums, the examination fee may not exceed 5 percent of the gross written premiums of the association.

Section 57. Paragraph (b) of subsection (1) of section 634.4225, Florida Statutes, is amended to read:

634.4225 Rebating; when allowed.—

(1) No sales representative shall rebate any portion of his or her commission except as follows:

(b) The rebate shall be in accordance with a rebating schedule filed with and approved by the ~~sales representative with the~~ association issuing the service warranty to which the rebate applies. The association shall maintain a copy of all rebating schedules for a period of 3 years.

Section 58. Subsection (9) is added to section 634.436, Florida Statutes, to read:

634.436 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following methods, acts, or practices are defined as unfair methods of competition and unfair or deceptive acts or practices:

(9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO SALE.—Failing to provide a consumer with a complete sample copy of the terms and conditions of the service warranty prior to before the time of sale upon a request for the same by the consumer. A service warranty association may comply with this subsection by providing the consumer with a sample copy of the terms and conditions of the warranty contract or by directing the consumer to a website that displays a complete sample of the terms and conditions of the contract.

Section 59. Subsections (2), (3), (4), and (5) of section 634.136, Florida Statutes, are amended to read:

634.136 Office records required.—Each licensed motor vehicle service contract company, as a minimum requirement for permanent office records, shall maintain:

~~(2) Memorandum journals showing the blank service agreement forms issued to the company salespersons and recording the delivery of the forms to the dealer.~~

~~(3) Memorandum journals showing the service contract forms received by the motor vehicle dealers and indicating the disposition of the forms by the dealer.~~

(2)~~(4)~~ A detailed service agreement register, in numerical order by service agreement number, of agreements in force, which

register shall include the following information: service agreement number, date of issue, issuing dealer, name of agreement holder, whether the agreement is covered by contractual liability insurance or the unearned premium reserve account, description of motor vehicle, service agreement period and mileage, gross premium, commission to salespersons, commission to dealer, and net premium.

(3)~~(5)~~ A detailed claims register, in numerical order by service agreement number, which register shall include the following information: service agreement number, date of issue, date of claim, type of claim, issuing dealer, amount of claim, date claim paid, and, if applicable, disposition other than payment and reason therefor.

Section 60. Subsections (4) and (5) of section 634.313, Florida Statutes, are amended to read:

634.313 Tax on premiums; annual statement; reports.—

~~(4) In addition to an annual statement, the office may require of licensees, under oath and in the form prescribed by it, such additional regular or special reports as it may deem necessary to the proper supervision of licensees under this part.~~

(4)~~(5)~~ The commission may by rule require each home warranty association to submit to the office, as the commission may designate, all or part of the information contained in the financial reports required by this section in a computer-readable form compatible with the electronic data processing system specified by the office.

Section 61. Sections 634.1216 and 634.3126, Florida Statutes, are repealed.

Section 62. Except as otherwise expressly provided in this act and except for this section, which shall take effect June 1, 2010, this act shall take effect July 1, 2010.

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

Remove the entire title and insert:

A bill to be entitled

An act relating to property and casualty insurance; amending s. 215.555, F.S.; delaying the repeal of a provision exempting medical malpractice insurance premiums from emergency assessments to the Hurricane Catastrophe Fund; delaying the date on and after which medical malpractice insurance premiums become subject to emergency assessments; amending s. 624.407, F.S.; specifying an additional surplus requirement for certain domestic insurers; amending s. 624.408, F.S.; revising the minimum surplus as to policyholders which must be maintained by certain insurers; authorizing the Office of Insurance Regulation to reduce the surplus requirement under specified circumstances; amending s. 624.4085, F.S.; defining the term "surplus action level"; expanding the list of items that must be included in an insurer's risk-based capital plan; specifying actions constituting a surplus action level event; requiring that an insurer submit to the office a risk-based capital plan upon the occurrence of such event; providing requirements for such plan; preserving the existing authority of the office; amending s.

624.4095, F.S.; excluding certain premiums for federal multiple-peril crop insurance from calculations for an insurer's gross writing ratio; requiring insurers to disclose the gross written premiums for federal multiple-peril crop insurance in a financial statement; creating s. 624.611, F.S.; authorizing an insurer to submit to the Office of Insurance Regulation a plan to use financial contracts other than reinsurance contracts to provide catastrophe loss funding; providing requirements for such a plan; authorizing an insurer to take certain action if the office approves such plan; amending s. 626.7452, F.S.; removing an exception relating to the examination of managing general agents; amending s. 626.854, F.S.; providing statements that may be considered deceptive or misleading if made in any public adjuster's advertisement or solicitation; providing a definition for the term "written advertisement"; requiring that a disclaimer be included in any public adjuster's written advertisement; providing requirements for such disclaimer; providing limitations on the amount of compensation that may be received for a reopened or supplemental claim; requiring certain persons who act on behalf of an insurer to provide notice to the insurer, claimant, public adjuster, or legal representative for an onsite inspection of the insured property; authorizing the insured or claimant to deny access to the property if notice is not provided; requiring the public adjuster to ensure prompt notice of certain property loss claims; providing that an insurer be allowed to interview the insured directly about the loss claim; prohibiting the insurer from obstructing or preventing the public adjuster from communicating with the

insured; requiring that the insurer communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy; prohibiting a public adjuster from restricting or preventing persons acting on behalf of the insured from having reasonable access to the insured or the insured's property; prohibiting a public adjuster from restricting or preventing the insured's adjuster from having reasonable access to or inspecting the insured's property; authorizing the insured's adjuster to be present for the inspection; prohibiting a licensed contractor or subcontractor from adjusting a claim on behalf of an insured if such contractor or subcontractor is not a licensed public adjuster; providing an exception; amending s. 626.8651, F.S.; requiring that a public adjuster apprentice complete a minimum number of hours of continuing education to qualify for licensure; amending s. 626.8796, F.S.; providing requirements for a public adjuster contract; creating s. 626.70132, F.S.; requiring that notice of a claim, supplemental claim, or reopened claim be given to the insurer within a specified period after a windstorm or hurricane occurs; providing a definition for the terms "supplemental claim" or "reopened claim"; providing applicability; amending s. 626.9744, F.S.; requiring insurers to use retail cost quotations or estimates based on current market prices in determining repair or replacement cost estimates; amending s. 627.0613, F.S.; requiring the office of the consumer advocate to objectively grade insurers annually based on the number of valid consumer complaints and other measurable and objective factors; defining the term "valid consumer complaint"; amending s.

627.062, F.S.; requiring that the office issue an approval rather than a notice of intent to approve following its approval of a file and use filing; prohibiting the Office of Insurance Regulation from, directly or indirectly, prohibiting an insurer from paying acquisition costs based on the full amount of the premium; prohibiting the Office of Insurance Regulation from, directly or indirectly, impeding the right of an insurer to acquire policyholders, advertise or appoint agents, or regulate agent commissions; authorizing an insurer to make a rate filing limited to changes in the cost of reinsurance, the cost of financing products used as a replacement for reinsurance, or changes in an inflation trend factor published annually by the Office of Insurance Regulation; providing that an insurer may use this provision only if the increase from such filing and any other rate filing does not exceed 10 percent for any policyholder in a policy year; deleting provisions relating to a rate filing for financing products relating to the Temporary Increase in Coverage Limits; revising the information that must be included in a rate filing relating to certain reinsurance or financing products; deleting a provision that prohibited an insurer from making certain rate filings within a certain period of time after a rate increase; deleting a provision prohibiting an insurer from filing for a rate increase within 6 months after it makes certain rate filings; specifying the information that an insurer must include in a rate filing based on the change in an inflation trend factor published by the Office of Insurance Regulation; requiring that the office annually publish one or more inflation trend factors; exempting the inflation trend

factors from rulemaking; providing that an insurer is not required to adopt an inflation trend factor; deleting certain obsolete provisions relating to legislation enacted during the 2003 Special Session D of the Legislature; amending s. 627.0629, F.S.; providing legislative intent that insurers provide consumers with accurate pricing signals for alterations in order to minimize losses, but that mitigation discounts not result in a loss of income for the insurer; requiring rate filings for residential property insurance to include actuarially reasonable debits that provide proper pricing; deleting provisions that require the office to develop certain rate differentials for hurricane mitigation measures; providing for an increase in base rates if mitigation discounts exceed the aggregate reduction in expected losses; requiring the Office of Insurance Regulation to reevaluate discounts, debits, credits, and other rate differentials by a certain date; requiring the Office of Insurance Regulation, in consultation with the Department of Financial Services and the Department of Community Affairs, to develop a method for insurers to establish debits for certain hurricane mitigation measures by a certain date; requiring the Financial Services Commission to adopt rules relating to such debits by a certain date; deleting a provision that prohibits an insurer from including an expense or profit load in the cost of reinsurance to replace the Temporary Increase in Coverage Limits; requiring the office to contract with a private entity to develop a comprehensive consumer information program; specifying program criteria; requiring the office to conduct a cost-benefit analysis on a program implementation plan;

requiring review and approval by the Financial Services Commission; amending s. 627.351, F.S.; renaming the "high-risk account" as the "coastal account"; providing requirements for attachment and payment of the Citizens policyholder surcharge; prohibiting the corporation from levying certain regular assessments until after levying the full amount of a Citizens policyholder surcharge; providing that members of the Citizens Property Insurance Corporation Board of Governors are not prohibited from practicing in a certain profession if not prohibited by law or ordinance; prohibiting board members from voting on certain measures; changing the date on which the boundaries of high-risk areas eligible for certain wind-only coverages will be reduced if certain circumstances exist; providing a directive to the Division of Statutory Revision; amending s. 627.4133, F.S.; authorizing an insurer to cancel policies after 45 days' notice if the Office of Insurance Regulation determines that the cancellation of policies is necessary to protect the interests of the public or policyholders; authorizing the Office of Insurance Regulation to place an insurer under administrative supervision or appoint a receiver upon the consent of the insurer under certain circumstances; creating s. 627.41341, F.S.; providing definitions; requiring the delivery of a "Notice of Change in Policy Terms" under certain circumstances; specifying requirements for such notice; specifying actions constituting proof of notice; authorizing policy renewals to contain a change in policy terms; providing that receipt of payment by an insurer is deemed acceptance of new policy terms by an insured;

providing that the original policy remains in effect until the occurrence of specified events if an insurer fails to provide notice; providing intent; amending s. 627.7011, F.S.; requiring that an insurer pay the actual cash value of an insured loss, less any applicable deductible, under certain circumstances; requiring that a policyholder enter into a contract for the performance of building and structural repairs; requiring that an insurer pay certain remaining amounts; prohibiting a mortgagor from retaining payments from an insurer for a loss; restricting insurers and contractors from requiring advance payments for certain repairs and expenses; authorizing an insured to make a claim for replacement costs within a certain period after the insurer pays actual cash value to make a claim for replacement costs; requiring an insurer to pay the replacement costs if a total loss occurs; amending s. 627.70131, F.S.; specifying application of certain time periods to initial, supplemental, or reopened property insurance claim notices and payments; amending s. 627.7015, F.S.; requiring the Department of Financial Services to prepare a statement or information by rule which must be included in a notice by an insurer informing claimants of the right to participate in a mediation program; specifying documentation that an insurer and insured must provide to a mediator in a dispute over an estimate to repair or replace property; requiring the Department of Financial Services to adopt rules specifying the type of documentation that must be submitted during a mediation; defining the term "claim dispute" as it relates to disputes between an insurer and insured; amending s. 627.7065, F.S.; revising requirements for agency

maintenance of a statewide database of property insurance sinkhole claims; deleting reporting requirements of the Department of Environmental Protection; amending s. 627.707, F.S.; revising standards for investigation of sinkhole claims by insurers; specifying requirements for contracts for repairs to prevent additional damage to buildings or structures; providing application; amending s. 627.7073, F.S.; revising requirements for sinkhole reports; providing application; amending s. 627.7074, F.S.; revising requirements and procedures for an alternative procedure for resolution of disputed sinkhole insurance claims; providing a definition; providing criteria and procedures for disqualification of neutral evaluators; providing requirements and procedures for neutral evaluators to enlist assistance from other professionals under certain circumstances; providing application; amending s. 627.711, F.S.; revising the list of persons qualified to sign certain mitigation verification forms for certain purposes; authorizing insurers to accept forms from certain other persons; providing requirements for persons authorized to sign mitigation forms; prohibiting misconduct in performing hurricane mitigation inspection or completing uniform mitigation forms causing certain harm; specifying what constitutes misconduct; authorizing certain licensing boards to commence disciplinary proceedings and impose administrative fines and sanctions; providing for liability of mitigation inspectors; requiring certain entities to file reports of evidence of fraud; providing for immunity from liability for reporting fraud; providing for investigative reports from the Division of Insurance Fraud; providing

penalties; authorizing insurers to require independent verification of uniform mitigation verification forms; creating s. 628.252, F.S.; requiring that every domestic property insurer notify the office of its intention to enter into certain agreements, contracts, and arrangements; prohibiting a domestic property insurer from entering into such agreements, contracts, or arrangements unless specified criteria are met; preserving the existing authority of the office; amending s. 628.4615, F.S., relating to specialty insurers; conforming a cross-reference; amending s. 634.011, F.S.; revising the definition of the term "motor vehicle service agreement"; amending s. 634.031, F.S.; providing penalties for certain licensure violations; amending s. 634.041, F.S., relating to qualifications for licensure; conforming cross-references; amending s. 634.095, F.S.; prohibiting service agreement companies from issuing certain deceptive advertisements, operating without a subsisting license, or remitting premiums to a person other than the obligated service agreement company; amending s. 634.121, F.S.; deleting a requirement that certain service agreement forms be approved by the Office of Insurance Regulation of the Financial Services Commission; requiring service agreements to be accompanied by a written disclosure to the consumer; specifying disclosure contents; specifying a service agreement company compliance criterion; amending s. 634.1213, F.S.; authorizing the office to order a service agreement company to stop using forms that do not comply with specified requirements; amending s. 634.137, F.S.; deleting a schedule for the submissions of certain reports; amending s. 634.141, F.S.; providing guidelines

for the office to use in determining whether to examine a company; amending s. 634.1815, F.S.; requiring certain rebates to be approved by the company issuing a service agreement; amending s. 634.282, F.S.; clarifying provisions relating to the refund of excess premiums or charges; requiring that a consumer receive a sample copy of the service agreement prior to the sale of a service agreement; amending s. 634.301, F.S.; revising certain definitions relating home warranties; amending s. 634.303, F.S.; providing that it is a first-degree misdemeanor for a person without a subsisting license to provide or offer to provide home warranties; amending s. 634.308, F.S.; providing an exception to certain grounds for licensure suspension or revocation; amending s. 634.312, F.S.; deleting a requirement that certain home warranty agreement forms be approved by the office; requiring home warranty agreements to be accompanied by a written disclosure to the consumer; specifying disclosure contents; specifying a home warranty agreement company compliance criterion; amending s. 634.3123, F.S.; authorizing the office to order a home warranty association to stop using forms that do not comply with specified requirements; amending s. 634.314, F.S.; providing guidelines for the office to use in determining whether to examine an association; amending s. 634.3205, F.S.; requiring certain rebates to be approved by the association issuing a service agreement; amending s. 634.336, F.S.; requiring that a consumer receive a sample copy of the service agreement prior to the sale of a service agreement; amending s. 634.344, F.S.; prohibiting certain coercive actions relating to the sale of a home warranty in connection with the

lending of money; amending s. 634.401, F.S.; redefining the term "indemnify"; amending s. 634.403, F.S.; providing that it is a first-degree misdemeanor for a person without a subsisting license to provide or offer to provide service warranties; amending s. 634.406, F.S., relating to financial requirements; conforming a cross-reference; amending s. 634.414, F.S.; deleting a requirement that certain service warranty forms be approved by the office; deleting certain requirements relating to the display of the issuing association's name on literature; requiring service warranty contracts to be accompanied by a written disclosure to the consumer; specifying disclosure contents; specifying a service warranty association compliance criterion; amending s. 634.4145, F.S.; authorizing the office to order a service warranty association to stop using forms that do not comply with specified requirements; amending s. 634.415, F.S.; deleting a requirement that associations file certain quarterly statements and special reports; amending s. 634.416, F.S.; providing guidelines for the office to use in determining whether to examine an service warranty association; amending s. 634.4225, F.S.; requiring certain rebates to be approved by the association issuing a service warranty; amending s. 634.436, F.S.; requiring that a consumer receive a sample copy of the service agreement prior to the sale of a service agreement; amending s. 634.136, F.S.; deleting certain provisions requiring records to be maintained by motor vehicle service contract companies; amending s. 634.313, F.S.; deleting certain requirements for reports relating to taxes on premiums; repealing s. 634.1216, F.S., relating to required rate filings;

repealing s. 634.3126, F.S., relating to required rate filings;

providing effective dates.